



SUPPLEMENT

TO THE NEW SOUTH WALES GOVERNMENT GAZETTE

OF WEDNESDAY, NOVEMBER 21, 1838.

Published by Authority.

SATURDAY, NOVEMBER 24, 1838.

ANNO SECUNDO
VICTORIÆ REGINÆ.
No. 19.

By His Excellency Sir George Gipps, Knight, Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, with the advice of the Legislative Council.

*"An Act to continue and amend an Act intituled
"An Act to restrain the unauthorised occupation of Crown Lands."*

WHEREAS the unauthorised occupation of the unalienated Lands of New South Wales is derogatory to the rights of the Crown, and conducive to many illegal and dishonest practices; and whereas an Act was passed by the Governor and Council of New South Wales, in the seventh year of the reign of His late Majesty King William the Fourth, intituled, "*An Act to restrain the unauthorised occupation of Crown Lands*," which Act will expire on the thirty-first day of December, One thousand eight hundred and thirty-eight; and whereas the said recited Act has been found beneficial in its operation, and it is expedient to continue and amend the same in manner hereinafter provided: Be it

Penalties for unauthorised occupation of Crown Lands. therefore enacted by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, That from and after the first day of January, One thousand eight hundred and thirty-nine, any person who shall be found occupying any Crown Lands lying waste in New South Wales, within the limits which have been or shall hereafter be allotted for location to settlers by any proclamation or order of the Governor published in that behalf, either by residing or by erecting any hut or building

thereon; or by clearing, enclosing, or cultivating any part thereof, and shall not hold a valid lease from the Government of New South Wales for the occupation of such lands, shall, on conviction thereof, forfeit and pay the following penalties; that is to say, for the first offence, any sum not exceeding ten pounds, at the discretion of the Justice or Justices before whom the complaint shall be heard; for the second offence, twenty pounds; and for the third, and any subsequent offence, fifty pounds, to be recovered in a summary way before any one or more Justice or Justices of the Peace, upon the information and complaint on oath of any Justice of the Peace any Commissioner Proviso as to of Crown Lands, any proprietor or subsequent lessee of lands, or the Chief Constable of any District: Provided always that no information shall lie for any second or subsequent offence until fourteen clear days after a conviction for the former offence.

(Penalty for occupying Crown Lands beyond the limits of location without a license.)

11. And be it declared and enacted, That from and after the said first day of January next ensuing, it shall not be lawful for any person to occupy any Crown Lands in New South Wales beyond the limits allotted as aforesaid, without having first obtained a Lease or License for such purpose, in conformity with the Government Regulations, in such case made and provided; and that any person who shall be found occupying as aforesaid any Crown Land in New South Wales beyond the limits allotted as aforesaid, and shall not hold a valid License from the Government of New South Wales for depasturing cattle and other animals beyond the limits as aforesaid, every such person, on conviction thereof, shall forfeit and pay the penalties hereinbefore imposed, in the case of persons unlawfully occupying waste lands of the

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Crown, within the said limits of location, to be recovered in a summary way before any one or more Justice or Justices of the Peace; upon the information and complaint, on oath, of any Justice of the Peace, or of any person holding any such License for the occupation of Crown Lands, or the overseer or manager of any station belonging to any such licensed person, or any constable duly appointed for any district beyond the limits as aforesaid.

(As to cutting Timber on Crown Lands.)

III. And be it declared and enacted, That it shall not be lawful for any person to cut, saw, split, or remove any timber, the produce of any Crown Land, whether within or beyond the limits allotted as aforesaid, upon or from the same, without having first obtained a License for such purpose, in conformity with the Government regulations in such case made and provided; and that any person who shall cut, saw, split, or remove any timber, the produce of such Crown Land, upon or from the same, every person, on conviction thereof, shall forfeit and pay the penalties hereinbefore imposed in the case of persons unlawfully occupying waste lands of the Crown, within the said limits of location; provided that nothing herein contained shall be construed to prevent any licensed occupier of land, or his or her overseer or manager, from cutting such timber as is ordinarily used and as may be necessary for the domestic uses of such station, for fire bote, fencing, stock-yards, or other conveniences for the enjoyment of the same, and which shall be actually used thereon.

(Penalty for forging any Lease or License to occupy Crown Lands.)

IV. And be it enacted, That if any person shall forge, counterfeit, or alter, or shall utter, or make use of, knowing the same to be forged, counterfeited, or altered, any Lease, License, or other Document purporting to be an authority from the Government of New South Wales, to occupy any Crown Lands within the same, with intent to evade any of the provisions of this Act, such person shall, if free, be guilty of a misdemeanor, and being convicted thereof shall be liable to be transported for any term not exceeding Seven Years, or to be imprisoned for any term not exceeding Four Years, at the discretion of the Court; and if such offender shall be a Convict under sentence of transportation, he shall be liable to be transported for any term not exceeding Seven Years, or to be worked on the Roads or Public Works for any term not exceeding Four years.

(A Justice may declare a Lease or License void.)

V. And be it enacted, That it shall be lawful for any Justice or Justices, before whom any person holding a Lease, or License, for any of the purposes aforesaid, shall be convicted on the oath of any one or more credible witness or witnesses, of any offence which in the opinion of such Justice or Justices, shall render such person unfit to continue to hold such Lease or License, to declare the same to be null and void, and such Lease or License shall thereupon become null and void accordingly, and shall not be pleaded in justification of any offence committed against any of the provisions of this Act.

(Commissioner to dispossess such disqualified person from occupancy of Crown Lands.)

VI. And be it enacted, That in case any such person or persons, after being served with notice of cancellation of his or her Lease or License, and shall refuse or neglect to deliver up, and quit the possession of such Lands, for the space of Ten days after service of such Notice, upon him, her, or them, or upon his, her, or their agent or agents, overseer or overseers, it shall and may be lawful for any Justice of the Peace, or any Commissioner of Crown Lands, for the District in which such Lands shall be situated, to enter upon such Lands, with such assistance as may be necessary, and to take possession of the same, for, and on behalf of the Crown, together with any houses, or other improvements that may have been made thereon, and the same to deal with as he or they shall deem most expedient for the purpose of expelling such person or persons therefrom, and also to drive off and impound any Cattle that may be found thereon.

(Proceedings not to affect titles to land.)

VII. And be it enacted, That no proceeding had, or conviction obtained under this Act, shall be held to determine the title to any Lands or Tenements.

(For protecting persons acting in the execution of this Act.)

VIII. And for the protection of persons acting in the execution of this Act, be it enacted, That all actions and prosecutions against any such person, or persons under this Act, shall be commenced within three calendar months after the fact was committed, and not otherwise; and notice in writing of such action, and the cause thereof, shall be given to the defendant one calendar month at the least before the commencement of the action; and in such action, the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought; or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, together with costs incurred up to that time; and if a verdict shall pass for the defendant, or the plaintiff become nonsuit, or discontinue any such action after issue joined, or if upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; 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 proceedings.)

IX. And be it enacted, That no proceeding shall be had or conviction take place against any person for any offence committed against any of the provisions of this Act, after the expiration of three months from the date on which the offence shall be alleged to have been committed.

(Appropriation of Fines.)

X. And be it enacted, That all fines recovered under this Act, shall be levied in the manner

provided by an Act of the said Governor and Council, passed in the fifth year of the reign of His said late Majesty, intituled "An Act to regulate summary proceedings before Justices of the Peace," and shall be paid to the use of Her Majesty, Her Heirs, and Successors, for the public uses of the said Colony, and in support of the Government thereof.

(Commencement and duration of Act.)

XI. And be it further enacted, That this law of Ordinance shall commence and take effect from the 1st day of January, one thousand eight hundred and thirty-nine next ensuing, and shall be and continue in force until the thirty-first day of December, in the year one thousand eight hundred and forty-one.

"GEORGE GIPPS."

Passed the Legislative Council this second day of October, one thousand eight hundred and thirty-eight.

WM. MACPHERSON,

Clerk of Council.

ANNO SECUNDO
VICTORIÆ REGINÆ
No. 20.

By His Excellency Sir George Gipps, Knight, Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, with the advice of the Legislative Council.

"An Act to amend an Act intituled, "An Act for preventing the Mischief arising from the Printing and Publishing Newspapers, and Papers of a like nature, by Persons not known, and for regulating the Printing and Publication of such Papers in other respects; and also for restraining the Abuses arising from the Publication of Blasphemous and Seditious Libels."

WHEREAS by an Act of the Governor and Council of New South Wales, passed in the eighth year of the Reign of his late Majesty King George the Fourth, intituled "An Act for preventing the mischief arising from the Printing and Publishing Newspapers and Papers of a like nature by persons not known, and for regulating the Printing and Publication of such Papers in other respects; and also for restraining the abuses arising from the publication of blasphemous and seditious Libels," certain affidavits and attestations therein required to be made, are thereby directed to be taken and made before the Colonial Secretary for the time being, of the said Colony of New South Wales, and certain recognizances thereby required to be entered into, by the Editors, Printers, and Publishers of Newspapers, are thereby directed to be entered into before one of the Judges of the Supreme Court of New South Wales: and whereas the said provisions of the said recited Act would cause great inconvenience and expense to parties wishing or intending to print, and publish newspapers in the distant parts of the said Colony and its Dependencies, and it is expedient that the same should

be remedied: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, That from and after the passing of this Act, the said affidavits and affirmations by the said recited Act required to be taken and made before the Colonial Secretary of the said Colony for the time being, and the said recognizances so thereby required to be entered into by the Editors, Printers or Publishers of any Newspapers, with the sureties therein mentioned, before one of the Judges of the said Court, may and shall be also respectively taken, made, and entered into before the Police Magistrate of the district in which such Newspaper or Newspapers is or are to be respectively printed and published, or other person appointed by the Governor for that purpose: Provided however, that such Police Magistrate or other person appointed as aforesaid, before whom such affidavits and affirmations shall be so taken and made, and before whom such recognizances shall be so entered into as aforesaid, shall and will forthwith transmit the same respectively to the Colonial Secretary of the said Colony, and to the Chief Clerk of the Supreme Court of the said Colony, that the same may be duly registered and recorded in the said Office and Court respectively, and shall have the same force and effect as if the same were made and taken under the provisions of the said recited Act. (Not to extend to Newspapers printed and published in Sydney.)

II. Provided further, however, and be it enacted, That nothing in this Act contained, shall be taken or in any way considered to extend to, or affect the Editors, Publishers, or Printers of Newspapers in the town or district of Sydney in the said Colony.

"GEORGE GIPPS."

Passed the Legislative Council this second day of October, one thousand eight hundred and thirty-eight.

WM. MACPHERSON,
Clerk of Councils.

ANNO SECUNDO.
VICTORIÆ REGINÆ.
No. 21.

By His Excellency Sir George Gipps, Knight, Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, with the advice of the Legislative Council.

"An Act to indemnify the Officers of Customs, and others, for having permitted the Importation of Liqueurs, Cordials, and Spirituous Syrups, on payment of less than the accustomed duty."

WHEREAS certain duties are by law imposed and levied on Spirits imported into the Colony of New South Wales, and whereas certain spirituous Syrups, Cordials, and Liqueurs the strength of which cannot be ascertained by the Hydrometer, have been

Affidavits, Affirmations, and Recognizances heretofore required to be made and entered into before Colonial Secretary and a Judge of Supreme Court, may henceforth in country districts be made and entered into before respective Police Magistrates, to be afterwards recorded at Sydney.

hitherto charged the same Duties as are levied on Spirits; and whereas on or about the Month of February, in the year One thousand eight hundred and thirty-seven, doubts were entertained as to the expediency of the same, and upon which the Governor of the said Colony authorised the Importation of all Spirituous Syrups, Cordials, and Liqueurs, as aforesaid, on the payment of five per cent. *ad valorem* duty, since which time the Officers of Her Majesty's Customs have levied no more than five per cent. *ad valorem* duty for the same, and whereas it is now deemed expedient that the same Duty shall be levied on such Liqueurs, Cordials, and Spirituous Syrups, as upon Spirits imported into the said Colony, and whereas it is also expedient to indemnify all Officers in any way concerned in permitting the importation of the said Liqueurs, Cordials, and Spirituous Syrups since the said Month of February, One thousand eight hundred and thirty-seven, at a less rate of duty than is chargeable upon Spirits imported into the said Colony: Be it

(Governors, Officers of Customs, and others, indemnified.)

II. And be it further enacted, That the Governors of the said Colony for the time being, and the respective Officers of the Customs in the said Colony, and all persons whatever, acting or having acted by or under the order and directions of the said Governors or Officers of Customs, shall be and are hereby indemnified for any orders which they may respectively have given or obeyed since the said Month of February, in the year aforesaid, by reason of which any duty or duties which was or were then, or has or have since become legally due or payable on the importation of the said Spirituous Syrups, Cordials, and Liqueurs, ceased to be levied and collected; and the said Governors and other persons aforesaid, are also hereby indemnified for any and every omission on the part of each and every of them respectively to cause such duty or duties to be levied and collected since the said Month of February in the year aforesaid.

“ GEORGE GIPPS.”

*Passed the Legislative Council
this second day of October,
One thousand eight hundred
and thirty-eight.*

WM. MACPHERSON,

Clerk of Council.

ANNO SECUNDO
VICTORIÆ REGINÆ.
No. 22.

By His Excellency Sir George Gipps, Knight, Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, with the Advice of the Legislative Council.

“ *An Act to define the qualifications of Medical Witnesses at Coroners' Inquests, and Inquiries held before Justices of the Peace in the Colony of New South Wales.*”

WHEREAS an Act was passed in the present Session of the Legislative Council, intituled “ *An Act to provide for the attendance of Medical Witnesses at Coroners' Inquests, and Inquiries held before Justices of the Peace;*” wherein it was, amongst other things, enacted, That whenever, upon the summoning or holding of any Coroner's Inquest, or the holding of any Inquiry before a Justice of the Peace, it should appear to the Coroner that the deceased person was not at, or immediately before, his or her death, attended by any legally qualified Medical Practitioner, then it should be lawful for such Coroner, or Justice or Justices, as the case may be, to issue a summons for the attendance, as a witness, at such Inquest, of such legally qualified Medical Practitioner, in actual practice, as should reside nearest to the place where such Inquest was holden; and whereas it has thereby become necessary to declare who shall, for the purposes of that Act, be deemed a “ *legally qualified Medical Practitioner* :” Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, that no person, from and after the First day of January next, shall, for the purposes of the said recited Act, be deemed a legally qualified Medical Practitioner, unless such

who shall be person shall have proved to the satisfaction of the President, and any legally qualified other Member of a Medical Board, to Medical Practitioner hereafter appointed, that he is a Doctor or Bachelor of Medicine of some University, or a Physician, or Surgeon, licensed or admitted as such, by some College of Physicians, or Surgeons, in Great Britain or Ireland, or a Member of the Company of Apothecaries of London, or who is, or has been a Medical Officer duly appointed and confirmed, of Her Majesty's Sea or Land Service.

(Governor, to appoint Medical Board, for whose examination and approval persons desirous of being declared legally qualified Medical Practitioners shall submit their Diplomas or other Certificates.)

II. And be it further enacted, That it shall and may be lawful for the Governor, or Acting Governor, for the time being, to appoint a Committee, consisting of at least three Members, being of the Medical Profession, one of whom shall be nominated President, together with a Secretary, under the style and description of “ *The New South Wales Medical Board;*” and it shall be lawful for the said Governor, or Acting Governor, for the time being, to remove the said Members, or any of them; and upon the removal, death, or resignation, of the said Members, or any of them, to appoint such other person or persons as he shall think fit; and any person desirous of being declared a

"legally qualified Medical Practitioner" as aforesaid, shall submit his Degree, Diploma, or other Certificate, or proof of his being so duly qualified, for the examination and approval of the said Medical Board, and shall obtain from the said Medical Board a Certificate of his being so qualified.

(Medical Board shall cause to be entered in a book the names of all legally qualified Medical Practitioners, &c., and shall also cause all names so registered to be published in the Government Gazette, on or about the first of January, in every year.)

III. And be it further enacted, That the said "Medical Board" shall, on or before the First day of January next, cause the names of all "legally qualified Medical Practitioners" as aforesaid, to be registered in a book to be kept by the said Board for that purpose, and shall also cause all the names so registered, to be published in the Government Gazette, on or about the said First day of January, and the same to be repeated annually, for the information of Coroners, Magistrates, and the Public.

"GEORGE GIPPS."

Passed the Legislative Council,
this twelfth day of October,
One thousand eight hundred and
thirty-eight.

WM. MACPHERSON,
Clerk of Councils.

ANNO SECUNDO
VICTORIÆ REGINÆ.

No. 23.

By His Excellency Sir George Gipps, Knight, Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, with the advice of the Legislative Council.

"An Act for the more effectual Appropriation of Fines and Penalties, in certain cases, in the Colony of New South Wales."

WHEREAS by an Act of the Imperial Parliament of Great Britain and Ireland, 9 Geo. IV. passed in the ninth year of the Reign of His late Majesty King George the Fourth, intituled "An Act to provide for the Administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes relating thereto," it was among other things enacted, that all Laws and Statutes in force within the Realm of England at the time of the passing of that Act, should be applied in the administration of Justice in the Courts of New South Wales, so far as the same can be applied within the said Colony; and whereas there are many statutes the provisions of which it is expedient and necessary should be applied in the administration of Justice in the said Colony, but which have been declared to be inapplicable thereto, by reason of the Fines, Forfeitures, and Penalties, therein respectively specified, being directed to be appropriated for the use or on behalf of the Poor of the Parish, Township, or Place respectively; and whereas it is expedient to remedy the same: Be it therefore

No. 371. November 21, 1838.

enacted, That whenever any Law or Statute that is or shall be in force within the Realm of England, and which shall be in other respects applicable to the said Colony, shall direct the appropriation of any money, or any part thereof, for the use or on behalf of the Poor of any Parish, Township, or other place, the same shall be and is hereby required to be paid at the discretion of the Justice, Judge, or Court imposing the Fine or Penalty, to the Treasurer or other authorised officer of any Benevolent or Charitable Society established or to be established in any District of the Colony, for the relief of such Poor Persons as through age, accident, or infirmity are unable to support themselves: Provided that in any District in which there is no Benevolent or Charitable Society, the same shall be paid towards the support of the Benevolent Society in the Town of Sydney.

(Justices having caused penalties to be levied to be protected from proceedings for having so done.)

II. And whereas Justices of the Peace for the Colony of New South Wales, have heretofore exercised a summary jurisdiction, under and by virtue of the Laws and Statutes hereinbefore recited; and whereas the said Justices, or some of them, have made, done, and caused to be executed, divers judgments, orders, acts, and things, and have caused divers penalties to be enforced, and sums of money to be levied, to and for the use and on behalf of the Poor, purporting to be according to the provisions of the said recited Laws and Statutes; and whereas it is expedient, that all persons should be protected and indemnified from vexatious proceedings for or by reason of any such judgment, sentence, order, act, or thing, made, passed, done, or executed by them: Be it therefore enacted, by the Governor of New South Wales, with the advice of the Legislative Council thereof, That no proceedings of a criminal nature shall be commenced, prosecuted, or maintained, by any person whatsoever, against any Justice of the Peace, for having exercised summary jurisdiction, under any such Laws or Statutes as aforesaid, by which any Penalty or Forfeiture was incurred, or sum of money directed to be appropriated for the use of the Poor of any Township, Parish, or place, or against any other person whatsoever, who may have done any act or thing under and by virtue of any judgment, sentence, or order of any Justice of the Peace exercising such jurisdiction; and if any action or suit, shall be brought against any Justice of the Peace, constable, or other person or persons, for any act or thing done, or purporting to be done, under and by virtue of any such Law or Statute as aforesaid, the defendant or defendants in every such action or suit may plead the general issue, and may give this Act and the special matter in evidence, at any trial to be had thereupon; and if the verdict shall be for the defendant or defendants, or if the plaintiff or plaintiffs be non-suited, or discontinue his, her, or their action or suit, after the defendant shall have appeared, or if upon demurrer, judgment shall be given against plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and shall have like remedy for the

same as any other defendant or defendants hath or have in any other case to recover costs by Law.

"GEORGE GIPPS."

Passed the Legislative Council,
this twelfth day of October,
One thousand eight hundred
and Thirty-eight.

WM. MACPHERSON.
Clerk of Councils

ANNO SECUNDO
VICTORIÆ REGINÆ.
No. 24.

By His Excellency Sir George Gipps, Knight, Captain-General and Governor-in-Chief of New South Wales and its Dependencies, and Vice-Admiral of the same, with the advice of the Legislative Council.

An Act to regulate the Distillation of Spirits in the Colony of New South Wales, and for the Issue of Licenses for Distilling, Rectifying, or Compounding Spirits therein.

WHEREAS it is necessary to provide rules and regulations for the Distillation of Spirits in the Colony of New South Wales, and to provide against the illicit Distillation of the same: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, that from and after the first day of November next, it shall not be lawful for any person, except as hereinafter excepted, to carry on the business of a Distiller or a Rectifier, or Compounder of Spirits, or to have, keep, or make use of, any Still, or other utensil for Distilling of Spirits, or for Rectifying or Compounding Spirits, save as hereinafter excepted, in any place or part of the said Colony of New South Wales or its Dependencies, save and except in the Town of Sydney, or in such other Towns or places as His Excellency the Governor of the said Colony shall appoint or direct, under a Penalty of not less than one hundred pounds nor more than five hundred pounds, to be recovered as hereinafter directed.

(Distillers to be licensed.)

II. And be it further enacted, That it shall not be lawful for any person, except as hereinafter excepted, to have, keep, or make use of, any Still, or other utensil for Distilling, or Rectifying, or Compounding of Spirits, in the said Colony of New South Wales or its Dependencies, without first having obtained a License for keeping or using the same, from the Governor for the time being, under a penalty of not less than one hundred pounds, nor more than five hundred pounds, together with a forfeiture of such Still and utensils, to be recovered as hereinafter is directed.

(How to be obtained.)

III. And be it enacted, That any person wishing to obtain a License for the purpose of Distilling, Rectifying, or Compounding Spirits, shall, by memorial, apply to the Governor to direct such License to be granted; and that such memorial shall state the premises

upon which such distilling, rectifying, or compounding is to be carried on respectively.

(Description of Still and Situation to be given.)

IV. And be it enacted, That before any License shall be granted for the distilling, rectifying, or compounding of Spirits respectively, a drawing or representation of the Still, setting forth its shape, dimensions, and proportions, as well as the place in which it is intended to erect the same, shall be transmitted to the Colonial Secretary of the Colony for the approval of the Governor; provided, however, that in case the Governor shall disapprove of the said Still, or the situation in which it is proposed to fix the same, the License so applied for shall not be granted.

(Security to be given.)

V. And be it enacted, That before any such License for the Distillation of Spirits shall be granted, the person or persons applying for the same, together with two sufficient sureties, shall enter into a recognizance before the Colonial Treasurer, or other person appointed by the Governor for that purpose, payable to Her Majesty, in the sum of five hundred pounds, conditioned for the due and faithful payment of the full duties payable upon all Spirits made and sold by him or them.

(Sum to be paid for License.)

VI. And be it enacted, That such Licenses shall be granted for the term of one year and no longer, and that the sum of fifty pounds sterling money of Great Britain, for every License granted for the Distillation of Spirits, and for every License granted for the rectifying or compounding of Spirits, the sum of twenty-five pounds, shall be paid by the party obtaining such License, to the Colonial Treasurer of the said Colony, or other person appointed as aforesaid, who, upon receiving the direction of the Governor, and upon the execution of the recognizance hereinbefore mentioned, and upon payment of the said sums respectively by the said party or parties applying for such Licenses respectively, is hereby authorised and directed to issue the same for the said term of one year and no longer: Provided, however, that no License shall be granted to any person or party for the purpose of distilling, who has not one Still capable of containing, at least, five hundred imperial gallons; nor to any Rectifier or Compounder of Spirits, who has not one Still capable of containing, at least, one hundred imperial gallons.

(Licenses to be renewed Annually.)

VII. And be it enacted, That such Licenses as aforesaid, granted under this Act, may be renewed annually, from year to year, upon the person or persons, so applying for such renewal, paying, or causing to be paid, the said sums of fifty pounds or twenty-five pounds respectively: Provided, however, that in case the party or parties, applying for such renewed License, shall have been convicted of any offence against the provisions of this Act or Ordinance, or shall have forfeited the said recognizance hereinbefore mentioned, and that the same shall have been estreated for any breach of the covenants

therein contained, it shall not be lawful for the said Colonial Treasurer, or other person appointed as aforesaid, to grant such renewal of said former License, but is hereby authorised and directed to refuse the same, unless specially directed to issue such License by the Governor.

(Apothecaries, Chemists, and Druggists may have Stills of eight gallons content on taking out License.)

VIII. And be it enacted, That it shall and may be lawful for the Colonial Treasurer, or other person appointed as aforesaid, to issue a License, free of all charge, to any Apothecary, Chemist, or Druggist applying for the same, to keep and use on his premises a Still of not more than eight gallons content, for the purposes of his Trade only: Provided that every person wishing to keep such Still shall notify his intention so to do to the Colonial Treasurer, or other person appointed as aforesaid, who shall thereupon require such person to give bond, with two sufficient sureties in the sum of two hundred pounds, that he will not make use of such Still, or suffer it to be made use of, except for the preparation of medicines, or other articles required *bonâ fide* for medical purposes; and every such person found to have in his possession any Still, without having entered into such bond and obtained such License, shall forfeit and pay not less than one hundred pounds nor more than five hundred pounds.

(Not to carry on the business of a Brewer and Distiller in the same premises.)

IX. And be it enacted, That it shall not be lawful for any person or persons, who shall have obtained any such Licenses as aforesaid, for the distilling, rectifying, or compounding of Spirits, or for any other person whatsoever to practise, follow, or use the trade or business of a Brewer of Ale, Porter, or Beer within the Premises so used for the distilling, rectifying, or compounding of Spirits, or on any part thereof, nor on any place or premises within one hundred yards of the premises so used for the distilling, rectifying, or compounding of Spirits, under a penalty of one hundred pounds.

(Description of Premises to be registered.)

X. And be it enacted, That a declaration in writing of the name or names of the party or parties so applying for any such License as aforesaid, and of all other persons interested in the said trade or business as partners in the same, or otherwise, shall be made out by the party or parties applying for any such License, and delivered to the said Colonial Treasurer, or other person appointed as aforesaid, to be registered by him.

(Distiller not to retail Spirits.)

XI. And be it enacted, That it shall not be lawful for any person who shall be owner, or part owner, or who has any interest or share in a licensed Distillery, or in any premises or concerns used for rectifying or compounding Spirits, to have or hold a License to retail spirituous or fermented liquors.

(Not to sell less than fifty gallons.)

XII. And be it enacted, That it shall not be lawful for any Licensed Distiller to sell or dispose of at any one time a smaller or less quantity of Spirits than fifty gallons, under a penalty of one hundred pounds; nor for any Rectifier or Compounder of Spirits to sell or dispose of at any one time a smaller or less quantity than two gallons, under a like penalty of one hundred pounds.

(Distance at which Stills licensed after the passing of this Act shall be from other Houses, and from surrounding walls enclosing them; not to affect Stills previously licensed.)

XIII. And be it enacted, That all Stills licensed for the distillation of Spirits, shall be erected and placed in houses distant not less than thirty-two yards from any other house, and that the premises in which the said business shall be carried on shall be surrounded by a wall not less than ten feet high and not less than forty-eight feet from the Still House enclosed thereby, and there shall not be more than one entrance into the said premises; Provided nevertheless, that such Stills as are licensed previously to the passing of this Act, shall not be affected by the provisions of this clause, as regards the distance from any other house, or from the surrounding wall.

(Store for spirits.)

XIV. And be it enacted, That there shall be erected within the walls of every licensed Distillery, a house or store, in which the Spirits when distilled shall be deposited, the door or doors of which is or are to be secured by three locks to each door, the key of one of which locks is to be kept by the owner of such Distillery, and the key of one other of the said locks is to be kept by the Inspector of Distilleries, and the key of the third lock by such other Officer as may be appointed for the purpose of keeping the same; and that it shall not be lawful for any person to open the said locks, or enter into the said store or warehouse, unless in the presence or by the permission of such Inspector of Distilleries, and other person so appointed as aforesaid.

(Store to be registered.)

XV. And be it enacted, That a particular description, as aforesaid, of the said stores or warehouses, so built for the purpose of keeping and depositing of the Spirits when distilled, shall be made and registered by the Inspector of Distilleries; and that all Spirits found in any store or place on the said premises, except in the said store or warehouse so registered as aforesaid, shall be forfeited, and the owner of such Distillery, on proof of Spirits being found in any other place or part of the said premises, save the store so registered as aforesaid, shall be liable to a penalty of forty shillings for every gallon of Spirits so found.

(Stills, &c., to be set in stone and mortar.)

XVI. And be it enacted, That all Stills so licensed are to be set in stone, or brick and mortar, and locks and keys to the heads and cocks of the said Stills, and to the furnace

door of such Stills, shall be provided at the expense of the owner.

(Coolers—how to be fixed.)

XVII. And be it enacted, That the coolers, belonging to each Distillery shall be screwed down and firmly fastened at both ends in the walls of the building, and that the same shall not be altered without giving four days notice thereof to the Inspector of Distilleries, under a penalty of ten pounds.

(Contents of coolers.)

XVIII. And be it enacted, That the cooler or back used for the worts in each Distillery, shall not be of less content than the full charge of the Still used in such Distillery, under a penalty of ten pounds, and that every such cooler and back so found of less contents than aforesaid, shall be seized and forfeited.

(Number of worms to be used.)

XIX. And be it enacted, That it shall not be lawful for any licensed Distiller to have or keep upon the said premises any worm or worms except one worm for each Still so licensed as aforesaid, under a penalty of twenty pounds for each and every worm exceeding the said number, so found on the same premises; Provided, however, that nothing herein contained shall prevent any numbers of worms being kept in the said store, under security of three locks.

(Return to be made to Inspector of Distilleries, when license obtained.)

XX. And be it enacted, That every licensed Distiller, Rectifier or Compounder, shall immediately on obtaining his said license, furnish to the Inspector of Distilleries, a return in writing, signed by him, of the Still or Stills to be used by him on the said premises so licensed, and of the content or contents thereof respectively, and of the worm or worms, coppers, vats, keeves, backs, and other utensils to be used therein, which said account so delivered in, shall be kept and registered by the Inspector of Distilleries, and that all Stills, worms, coppers, vats, keeves, backs, and all other utensils found on the said premises which shall not be stated and mentioned in the said return, shall be liable to be seized by any Inspector of Distilleries, Officer of Customs, or other person appointed as aforesaid, and forfeited in manner hereinafter mentioned.

(Vessels &c. to be marked.)

XXI. And be it enacted, That all vats, keeves, backs, and other utensils used in the premises of each Distillery shall be respectively marked and numbered in distinct, legible, and durable characters, so as to distinguish them the one from the other.

(Officers to have power to enter premises at all times.)

XXII. And be it enacted, That it shall and may be lawful for the Inspector of Distilleries in the said Colony, the Officers of the Customs and every other person or persons duly authorised by the Governor, to enter every house, distillery, still-house, out-house, or place belonging to or made use of by any Licensed Distiller or Rectifier or Compounder of Spirits,

and to gauge and measure all stills and utensils, and to gauge and take an account of all spirits, malt, sugar, molasses, or other ingredients used in the making of spirits, and of all wash, worts, pot ale, singlings, low wines, and materials whatsoever, and that any person or persons obstructing, refusing, or preventing the admission of such Inspector or other Officer or Officers, shall be liable to a penalty of not less than fifty nor more than two hundred pounds.

(License to be produced to Officers.)

XXIII. And be it enacted, That all and every still, and still-heads, worms, and all utensils or spirits found in any premises or place, shall be liable to be seized by the Inspector of Distilleries, Officer of Customs, or other person appointed as aforesaid, and forfeited, unless the owner of the same, shall, on the requisition of the Inspector of Distilleries, Officer of Customs, or other person as aforesaid, produce his License for using and making the same.

(Distiller to give notice of intention to distil.)

XXIV. And be it enacted, That it shall not be lawful for any Licensed Distiller to commence to distil without having previously given twenty-four hours notice of his intention so to commence, to the said Inspector of Distilleries, under a penalty of one hundred pounds; but that every licensed Distiller shall serve a notice in writing upon the said Inspector of Distilleries, of his intention to commence distillation, at least twenty-four hours previous, to such commencement; and also a like notice of his intention to recommence such distillation after any discontinuance thereof, under a penalty of one hundred pounds.

(Duty on Spirits from Grain, or produce of, the Colony.)

XXV. And be it enacted, That, upon all Spirits made or distilled in the Colony of New South Wales and its Dependencies, from Grain, whether grown within, or imported into, the Colony or its Dependencies, or from any article the produce of the said Colony or its Dependencies, there shall be levied and collected a rate or duty of three shillings for every gallon of Imperial measure of such Spirits, not exceeding the strength of hydrometer proof, and in the same proportion for Spirits of greater strength.

(Duty on Spirits made from Foreign Produce except Grain.)

XXVI. And be it enacted, That upon all Spirits made and distilled in the said Colony or its Dependencies, from any article not being the growth or produce of the said Colony or its Dependencies, excepting Grain as aforesaid, there shall be levied and collected, a rate or duty of four shillings and sixpence for every gallon of Imperial measure of such spirits, not exceeding the strength of hydrometer proof; and so in proportion for Spirits of greater strength.

(How Duties shall be charged.)

XXVII. And be enacted, That every licensed Distiller within the said Colony and its Depen-

dencies, shall be charged for so many gallons as each and every Still which he may have kept or made use of for the distilling of Spirits shall be found capable of producing from the greatest number of charges can be worked off in twenty-eight days; which number of charges shall be ascertained in such manner as the Governor shall direct: Provided, however, that it shall be lawful for the Governor, at any time, and in any case, if he shall see fit, to order and direct that the respective rates of duties as aforesaid, shall be charged at and after the rate of the actual quantity produced; and such duties shall thereupon be levied and collected accordingly.

(Penalty on Licensed Distiller having on his Premises Foreign Articles, except Grain, while claiming to pay the lower rate of duty.)

XXVIII. And be it enacted, that any Licensed Distiller who shall be desirous of paying the duty of three shillings per gallon, shall give at least twenty-four hours notice to the Inspector of Distilleries, or other person appointed by the Governor as aforesaid, of his intention to distil from Grain, or from any article the produce of the said Colony or its Dependencies, specifying the period during which he purposes so to distil, and if at any time during the same period there shall be found upon the licensed premises of the said Distiller, any article not the growth or produce of the said Colony or its Dependencies, excepting Grain, which may be used in the process of distilling, every such article shall be seized by the Inspector of Distilleries, Officer of Customs, or other person appointed as aforesaid, and forfeited in manner hereinafter directed, and every such Distiller shall be subject and liable to be charged payment at the full rate of four shillings and sixpence per gallon for so many gallons of Spirits as each and every Still shall be found capable of producing during the said period; and every such Distiller upon whose licensed premises there shall be found any such article, not the growth or produce of the said Colony or its Dependencies, excepting Grain, or who shall be proved to have distilled from any such article during the time he shall claim to pay the lower duty of three shillings per gallon, shall forfeit and pay the sum of five hundred pounds, and if a question shall arise as to whether any article so found be or be not, the produce of the said Colony or its Dependencies, the proof shall lie upon the Distiller upon whose premises the same shall be found.

(Duties to whom paid.)

XXIX. And be it enacted, That the said duties so chargeable as aforesaid on spirits distilled within the Colony of New South Wales and its Dependencies, shall be paid to the Colonial Treasurer of the said Colony or to such other person or persons as the Governor shall appoint to receive the same, who shall grant a certificate of such payment, to the party paying the same.

(Permits for removal of spirits required.)

XXX. And be it enacted, That it shall not be lawful to send, or take, or remove, any

spirits out of the premises of any Licensed Distiller, without having a permit to remove the same, signed by the Inspector of Distilleries; or other officer to be appointed by the Governor for such purpose, such permit to contain the Distiller's name, and place from whence the spirits are to be removed, the vessel or vessels, in which the said spirit is contained, and the quantity of spirits contained in each and every such vessel or vessels, and the name and residence of the person or persons to whom such spirits are to be sent and forwarded, and such permit shall also specify the time or duration such permit is to be in force: Provided that such permit shall not be granted by the Inspector of Distilleries, or other Officer appointed as aforesaid, for the removal of any spirits which shall not have been previously lodged and deposited in the registered stores hereinbefore mentioned, and provided that at the time such permit is required, the distiller or other person requiring such permit, shall produce to the Inspector of Distilleries or other Officer aforesaid the certificate of the said Colonial Treasurer or other person appointed as aforesaid, that the duty upon such spirits intended to be removed, has been duly paid.

(Spirits removed without Permit to be forfeited.)

XXXI. And be it enacted, That all spirits removed without such permit as aforesaid, or after the time limited in such permit shall have expired, shall be seized and forfeited, together with the cask or casks in which the same shall be contained, and the cars, carts, drays, or other conveyances, and the horses or other animals employed in removing the same.

(Officers taking Bribes or Persons offering the same to forfeit £200.)

XXXII. And be it enacted, That every person who shall give, offer, or promise to give, any Bribe, Recompense or Reward, or make any collusive agreement with any such Officer as aforesaid, to induce him in any way to neglect his duty, or to conceal, or connive at any act whereby any of the Provisions of this Act may be evaded, every such person, shall, whether the offer be accepted or performed or not, forfeit the sum of two hundred pounds.

(Illicit Spirits may be seized.)

XXXIII. And be it enacted, That it shall be lawful for any Officer of Her Majesty's Customs within the said Colony, and for the Inspector of Distilleries, and any other person or persons appointed by the Governor for that purpose, to seize all or any spirits within the said Colony and its Dependencies, on which the full amount of duty chargeable thereon has not been paid, and that such spirits so seized, shall be condemned, forfeited, and sold, within one month after the same shall be so seized, unless the owner thereof shall claim the same, and give satisfactory evidence to the Court, or the Justices of the Peace, before whom such claim shall be enquired into, that the duty to which the said spirits so seized was chargeable; had been fully paid off and satisfied before the same had been so seized as aforesaid.

(Officers may enter premises of distiller.)

XXXIV. And be it enacted, That it shall be lawful for any Officer of Her Majesty's Customs within the said Colony, or for the Inspector of Distilleries, or person or persons appointed for that purpose by the Governor, to enter into and upon the premises of any Licensed Distiller, Rectifier, or Compounder of Spirits, to search for, and seize any spirits thereon found, the duty of which has not been paid.

(And may seize goods.)

XXXV. And be it enacted, That it shall and may be lawful for any such Officer of the Customs or the Inspector of Distilleries, or any other person or persons, authorised by the Governor as aforesaid, having reasonable grounds to believe that spirits upon which the duty has not been paid, are kept or concealed, in any house, or place, in the said Colony or its Dependencies, to enter into such house or place in the day-time with Writ of Assistants, and accompanied by a Peace Officer, and search for, and seize, any such spirits found therein; and to deposit the same until claimed or sold; in the Queen's Warehouse at the Custom-house, or other place appointed by the Governor for that purpose.

(Grower of wine may distill for his own use on giving bond not to sell.)

XXXVI. And be it enacted, That nothing in this Act contained shall prevent the maker of Wine from Grapes, the produce of his own Vineyard in the Colony aforesaid, or its Dependencies, from keeping and using one Still of not more than Fifty nor less than Twenty-five gallons content, for the purpose of Distilling Brandy from such Wine, or the Lees of such Wine, for his own consumption: Provided he obtain for such Still a License from the Colonial Treasurer, or other Person appointed as aforesaid, which License shall be granted only on a Certificate, signed by two Magistrates, that the Person requiring the Still has in cultivation and bearing, a Vineyard of at least two acres in content: And Provided also, that every person wishing to keep such Still shall notify his intention so to do, to the Colonial Treasurer, or other person appointed as aforesaid, who shall thereupon require such person to give bond, with two sufficient Sureties in the Sum of Two hundred Pounds, that he will not sell or dispose of any Spirits so Distilled; And every such person found to have in his possession any Still, without having entered into such Bond and obtained such License, shall forfeit and pay not less than one hundred pounds, nor more than five hundred pounds.

(Spirits seized to be sold in one month.)

XXXVII. And be it enacted, That all spirits and other property seized under the provisions of this Act, shall be considered as condemned, unless claimed within one month after the same shall be seized; and shall be sold by Public Auction.

(Foreign and Colonial spirits to be kept in separate cellars.)

XXXVIII. And be it enacted, That all persons

dealing in the sale or purchase of Colonial and Foreign spirits, shall, and do keep the same respectively, in separate and distinct cellars, and shall mark in white paint on each cask or vessel containing each respectively, the kind or quality of spirits therein contained, and that they shall not mix the said spirits one with the other, under a penalty of one hundred pounds; and all such spirits mixed or sold contrary to the intent and meaning of this Act, together with the casks and packages containing the same, shall also be forfeited and lost, and shall and may be seized by the Inspector of Distilleries or other Officer as aforesaid.

(Seller and purchaser of illicit spirits subject to penalty.)

XXXIX. And be it enacted, That every person who shall sell or dispose of, or who shall offer to sell or dispose of, any quantity of illicit spirits, shall be liable to a penalty of one hundred pounds; and that every person who shall knowingly purchase any such spirits, shall be liable to a similar penalty of one hundred pounds, together with the forfeiture of the said spirits so purchased.

(Fines, forfeitures, and penalties, how to be recovered.)

XL. And be it enacted, That all fines, forfeitures, and penalties imposed by this Act, may be recovered before any two or more Justices of the Peace, or the Judges of the Supreme Court, or in the Court of Vice Admiralty of the said Colony, at the instance of the Inspector of Distilleries or any Superior Officer of Customs; and that Actions for recovery of the same, shall and may be instituted, in the name of some Superior Officer of the Customs of the said Colony, or of Her Majesty's Attorney-General for the said Colony, and that if a question should arise whether any person is an Officer of the Customs as aforesaid, viva voce evidence may be given of such fact, and shall be deemed legal and sufficient evidence.

(Onus probandi to lie on the parties.)

XLI. And be it enacted, That if any spirits or other property shall be seized for non-payment of the duties of such spirits; or any other cause of forfeiture, and any dispute shall arise whether the duties have been paid for the same, the proof thereof shall be on the owner or claimer and not on the Officer, who shall seize and stop the same.

(How claim to seized spirits shall be made.)

XLII. And be it enacted, That no claim to any spirits or other property seized under this Act, and returned into any of Her Majesty's Courts for adjudication, shall be admitted, unless such claim shall be entered in the name of the owner, with his residence and occupation, nor unless oath to the property in such spirits or other property, be made by the owner, by whom such claim shall be entered, and every person making a false oath thereto shall be deemed guilty of Perjury, and shall be liable to the pains and penalties to which persons are liable for Perjury.

(Punishment if fine not paid.)

XLIII. And be it enacted, That if in any suit or action brought before the Judges of the said Supreme Court or any two or more Justices of the Peace as aforesaid, for the recovery of any fines or penalties imposed by this Act, the party or parties shall be convicted and sentenced to pay such fine, it shall be lawful for the said Court or Justices to award and sentence the said party or parties to be imprisoned for the period of not less than three months nor exceeding twelve months, in case the said fine or penalties shall not be paid within a time to be limited by the said Court or Justices.

(Governor may remit or reduce penalties.)

XLIV. And be it enacted, That it shall and may be lawful for the Governor of the Colony, for the time being, to remit or reduce the said penalties, and also any portion of the said imprisonment as His Excellency shall deem meet.

(Governor may make rules for carrying regulations into effect.)

XLV. And be it enacted, That it shall and may be lawful for the said Governor to make such rules and regulations as he may think necessary to carry the provisions of this Act into effect; and to appoint such Officers and other persons for that purpose as he may deem fit and proper.

(Notice of action to be given to officer.)

XLVI. And be it enacted, That no writ shall be sued out nor a copy of any process served upon any Officer of the Customs or the Inspector of Distilleries, or other person or persons so appointed by the Governor as aforesaid, for any thing done in the exercise of his office; until one calendar month after notice in writing shall have been delivered to him or left at his usual place of abode by the Attorney or Agent to the party who intends to sue out such writ or process, in which notice shall be clearly and explicitly contained the cause of action, the name and place of abode of the person who is to bring such action, and the name and place of abode of the Attorney or Agent, and no evidence of the cause of such action shall be produced, except of such as shall be contained in such notice, and no verdict shall be given for the plaintiff unless he shall prove on the trial that such notice was given; and in default of such proof the defendant shall receive in such action a verdict and costs.

(Actions to be brought against officers within three calendar months.)

XLVII. And be it enacted, That every such action shall be brought within three calendar months after the cause thereof, and the defendant may plead the general issue and give the special matter in evidence, and if the plaintiff shall become nonsuited or shall discontinue the action, or if upon a verdict or demurrer, judgment shall be given against the plaintiff, the defendant shall receive treble costs, and have remedy of the plaintiff as any defendant can have in other cases where costs are given by law.

(Judge may certify probable cause of seizure.)

XLVIII. And be it enacted, That in case any information or suit shall be brought to trial on account of any seizure made under this Act, and a verdict shall be found for the claimant thereof, and the Judges or Court before whom the cause shall have been tried, shall certify upon the record, that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action, indictment, or other suit or prosecution, on account of such seizure, and if any action, indictment, or other suit, or prosecution, shall be brought to trial against any person on account of such seizure, wherein a verdict shall be given against such defendant, the plaintiff, besides the things seized or the value thereof, shall not be entitled to more than two-pence damages, nor to any cost of suit, nor shall the defendant in such prosecution be fined more than one shilling.

(Officer may tender amends.)

XLIX. And be it enacted, That it shall be lawful for such officer or other person or persons as aforesaid, within one calendar month after such notice, to tender amends to the party complaining or his agent, and to plead such tender in bar to any action, together with other pleas, and if the jury shall find the amends sufficient they shall give a verdict for the defendant, and in such case or in case the plaintiff shall become nonsuited, or discontinue his action, or judgment shall be given for the defendant upon demurrer; then such defendant shall be entitled to like costs, as he would have been entitled to in case he had pleaded the general issue only; Provided always, that it shall be lawful for such defendant, by leave of the Court where such action shall be brought at any time before issue joined to pay money into Court as in other cases.

(Limitation of damages when Judge certifies probable cause of seizure.)

L. And be it enacted, That in any such action, if the Judge or Court before whom such actions shall be tried, shall certify upon the record, that the defendant or defendants in such action acted upon probable cause, then the plaintiff in such action shall not be entitled to more than two-pence damages, nor to any costs of suit.

(Distribution of forfeitures and penalties.)

LI. And be it enacted, That all fines and penalties and forfeitures recovered under this Act, shall be paid to the said Colonial Treasurer, and shall be divided, paid, and applied as follows, (that is to say,) after deducting the charges of prosecution from the proceeds thereof, one-third part of the nett produce thereof shall be set apart or allotted for the use of Her Majesty, Her Heirs and Successors, to be applied to the public uses of the said Colony; one-third part thereof shall be paid to the informer, and one-third part thereof, to the person who shall sue for the same, where such fines, penalties, and forfeitures are recovered in consequence of information being given to the

seizing officer, and when the said fines, penalties and forfeitures are otherwise recovered, the same to be paid as follows, that is to say, the one moiety or half of the nett produce thereof as aforesaid to be paid to the said Colonial Treasurer, for the use of Her Majesty; Her Heirs and Successors, to be applied to the public use of the Colony, and the other moiety or half to be paid to the seizing officer or person suing for the said penalty.

(Actions to be commenced within one year.)

LII. And be it enacted, That actions or suits for the recovery of any of the penalties or forfeitures imposed by this Act may be commenced and prosecuted at any time within one year after the offence committed, by reason whereof such penalty or forfeiture shall be incurred.

(Touching suspension of decrees.)

LIII. And be it enacted, That no decree or sentence of any of the said Courts, touching any forfeiture or penalty imposed by this Act shall be suspended or stayed, unless an inhibition in due course of law shall be obtained and served upon the party or parties intended to be restrained thereby; within eighteen months from the time when such decree or sentence was pronounced.

(Commencement and duration of Act.)

LIV. And be it enacted, That this Act shall commence and take effect from and after the first day of November, one thousand eight hundred and thirty-eight, and shall be and continue in force for two years thereafter.

(Application of Fines.)

LV. And be it enacted, That the produce of all rates and duties imposed and made payable in virtue of this Act, shall be paid to the use of Her Majesty, Her Heirs and Successors, for the public uses of the said Colony, and in support of the Government thereof, and shall be applied in such manner, and to such purposes, as the said Governor, with the advice and consent of the said Legislative Council, shall by any law or ordinance appoint.

"GEORGE GIPPS."

Passed the Legislative Council,
this twelfth day of October,
one thousand eight hundred
and thirty-eight.

WM. MACPHERSON,
Clerk of Councils.

ANNO SECUNDO
VICTORIÆ REGINÆ.
No. 25.

By His Excellency Sir George Gipps, Knight,
Captain-General and Governor-in-Chief of the
Territory of New South Wales and its
Dependencies, and Vice Admiral of the same,
with the Advice of the Legislative Council.

An Act to amend an Act intituled, "*An Act
for regulating Buildings and Party-walls,
and for preventing Mischiefs by Fire, in the
Town of Sydney.*"

WHEREAS an Act was passed by the Governor and Council of New South Wales, in the Eighth year of the Reign of His late

Majesty King William the Fourth, intituled
8 Gul. IV., "*An Act for regulating Buildings
and Party-walls, and for preventing
No. 6. Mischiefs by Fire, in the Town of
Sydney;*" and whereas it is expedient to amend
the said recited Act, in manner hereinafter pro-

vided: Be it therefore enacted, by
Each rate of His Excellency the Governor of New
building to be increased South Wales, with the advice of the
one square. Legislative Council thereof, That, in
estimating the several Rates of Building, according
to the number of squares of building on the
ground floor, as in the said recited Act is provided,
there shall be added in the proportion of
one square to every such rate: Provided that such
increase in the number of squares of building
shall not be deemed otherwise to interfere with the
dimensions, or other regulations of the said recited
Act, as applicable to each such rate.

(What shall be deemed to be a sixth rate building.)

II. And be it enacted, That every dwelling-house, warehouse, stable, and other building, (except such buildings, not being dwelling-houses, as in the said recited Act, and in this Act, are declared to be of the first rate or class of building,) which is or shall be at the distance of eight feet from any public road, street, or causeway, and is or shall be detached from any other property not in the same possession therewith, at least twenty feet, or connected with any other building only by a fence or fence-wall, shall be deemed to be of the Sixth rate or class of building, and shall and may be built of any dimensions and with any materials whatever, anything in the said recited Act to the contrary notwithstanding.

(Thickness of Stone walls to be increased.)

III. And be it enacted, That in any case in which, by the provisions of the said recited Act, any wall shall be directed or permitted to be built of stone, the thickness of such wall shall be increased in the proportion of six inches above the dimensions required by the said recited Act, unless such wall be entirely built of thorough stone; wrought or hammered square on beds and faces.

(Proviso—Footings unnecessary on a rock foundation.)

IV. Provided always, and be it enacted, That nothing in the said recited Act contained, shall be deemed or taken to require any footing to a wall which shall be built upon a rock foundation, anything therein to the contrary notwithstanding.

(As to blinds and shutters.)

V. And be it enacted, That nothing in the said recited Act contained shall be deemed or construed to prevent the use of blinds or wooden shutters, provided the same do not project from the upright line of the building to which they belong more than the distance prescribed by the said recited Act for the cornice or covering thereof to any shop window, according to the width of the street, as is therein directed; Provided however, that no such blind or wooden shutter shall be allowed on the ground floor to project over the footway in any street, in the operation of opening or otherwise, so as to become a nuisance or obstruction to passers-by.

(Verandahs and balconies of hard wood permitted under certain restrictions.)

VI. And be it enacted, That nothing in the said

recited Act contained shall be deemed or construed to prevent the erection of verandahs or balconies, to any house within the town of Sydney, if wholly constructed of hard wood the produce of the said Colony, or of such hard wood and any incombustible material, provided the same are not permitted to approach nearer to the angle of the house to which they belong than the distance of two feet, or are separated from any adjoining verandah, balcony, or premises by a party-wall at least nine inches in thickness; provided also, that no such verandah or balcony be allowed to project into the street beyond the distance permitted by the provisions of the said recited Act.

(Regulating the materials for covering roofs.)

VII. And be it enacted, That every flat gutter and roof of every building of the first, second, third, fourth, or fifth rate or class of building within the said town of Sydney, which shall be built after the passing of this Act, and every turret, dormer, and lantern light or other erection which shall be in the flat or roof of any such building, and every external part of any flat, gutter, roof, dormer, and lantern in any building of the first, second, third, fourth, or fifth rate or class of building now built, or which shall at any time after the passing of this Act be ripped or uncovered, shall be covered with glass, copper, lead, tin, zinc, or other metal, slate, tile, artificial stone, or hard wood, the produce of the said Colony; except the doors, door-frames, windows, and window-frames of such dormers, turrets, lantern lights, or other erections: Provided always that nothing in the said recited Act contained shall be deemed or construed to prevent the use of shingles of hard wood, the produce of the said Colony, for the covering of any roof in any case in which slate or tile or any other incombustible material might be so used, notwithstanding that such shingles shall be laid nearer than four inches to the external surface of any external wall, anything in the said recited Act to the contrary notwithstanding.

(Not to prevent the use of hard wood for external inclosures.)

VIII. And be it enacted, That nothing in the said recited Act contained shall be deemed or construed to prevent the use of hard wood, the produce of the said Colony, as the external inclosure to any building of the first, second, third, fourth, or fifth rate or class of building, providing the same do not project into the street beyond the distance restricted by the said recited Act, anything therein to the contrary notwithstanding.

(Gateways may be secured, and arched with Colonial hard wood.)

IX. And be it enacted, That nothing in the said recited Act contained shall be deemed to require any passage or way on the ground for foot passengers, cattle, or carriages, to be arched over with brick or stone, but that the same may be secured or arched with hard wood, the produce of the said Colony, provided the same be covered with cemented plaster ceiling, anything in the said recited Act to the contrary notwithstanding, unless such passage or way shall form a thoroughfare to any building or buildings, not being an office or offices belonging to the buildings through which such passage may pass.

No. 372. November 24, 1838.

(Stair and landing of Colonial hard wood allowed to Offices.)

X. And be it enacted, That nothing in the said recited Act contained shall be deemed to prevent the erection of a stair and landing of hard wood, the produce of the said Colony, to any stable or other office attached to any building, notwithstanding that such stairs or landing be laid nearer than four inches to the external surface of any external wall, anything in the said recited Act to the contrary notwithstanding.

(No fee chargeable on detached offices.)

XI. And be it enacted, That it shall not be lawful for any Surveyor or Supervisor appointed under the provisions of the said recited Act, to charge any separate fee upon any office belonging to any building of the first, second, third, or fourth rate or class of building, provided such office shall be built at the same time as the building to which it may belong, or be finished within six months after such building be covered in; but that the same shall be deemed to be included in the fee which may be due to any such Surveyor or Supervisor for any such building: Provided however that no stable, warehouse, store, or workshop shall be deemed to be an office so as to exempt the owner or proprietor of the same from the payment of any fee on account thereof, which may be chargeable under the provisions of the said recited Act.

(As to fees chargeable on alterations or additions.)

XII. Provided always, and be it enacted and declared, that nothing in the said recited Act contained shall be deemed to authorise or require the payment of any fee to any Surveyor or Supervisor appointed under the provisions thereof, for any alteration or addition to any building which shall not interfere with the dimensions or materials as expressly regulated by the said recited Act, anything therein to the contrary notwithstanding.

(Oath required by 8 Wm. IV., No. 6, to be administered to and taken by Surveyor or Supervisor dispensed with.)

XIII. And whereas it is enacted by the said recited Act, that the Colonial Secretary shall administer to the Surveyors and Supervisors appointed by the Governor to see the rules and regulations of the said recited Act well and truly observed in and throughout the Town of Sydney, the oath for the true and impartial execution of their office in that behalf, and whereas it is expedient that the taking or administering of such oath should in future be dispensed with: Be it therefore enacted, that so much of the said recited Act as requires such oath to be taken or administered by, or to, any Surveyor or Supervisor as aforesaid, shall be and the same is hereby repealed, anything in the said recited Act to the contrary in any wise notwithstanding.

(Actions or proceedings to be in conformity with the Act 8 William IV. No. 6, only so far as the said Act is altered and amended by this Act.)

XIV. Provided always, and be it enacted, That any action or proceeding against any person for any thing which has been or shall be done against the provisions of the said recited Act, shall be commenced and carried on only in conformity with the

said provisions as the same are altered and amended by the provisions of the present Act.

"GEORGE GIPPS."

Passed the Legislative Council,
this twelfth day of October,
One thousand eight hundred
and thirty-eight.

WM. MACPHERSON,
Clerk of Council.

ANNO SECUNDO
VICTORIÆ REGINÆ.
No. 26.

By His Excellency Sir George Gipps, Knight, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, with the Advice of the Legislative Council.

"An Act to exempt from Duty and Wharfage Rates, for a certain time, Flour, and Meal, and Wheat, and other Grain, and Pulse, imported into New South Wales".

WHEREAS, by an Act of the Governor of New South Wales, with the Advice of the Legislative Council thereof, passed in the eleventh Year of the Reign of His late Majesty King George the Fourth, intituled, "An Act for confirming certain Rates and Duties heretofore levied and collected in the Colony, and for continuing the like Rates and Duties until further provision shall be made," it was amongst other things enacted, That all Goods, except those in the said recited Act particularly mentioned, not being the Growth, Produce, or Manufacture of the United Kingdom, imported into the said Colony, should be subject to a Rate or Duty of Five Pounds Sterling on every Hundred Pounds value: And whereas, by a certain other Act of the said Governor and

Council, passed in the third Year of the Reign of His late Majesty King William the Fourth, intituled, "An Act for the better Preservation of the Ports, Harbours, Havens, Roadsteads, Channels, Navigable Creeks, and Rivers in New South Wales, and the better Regulation of Shipping in the same," it was amongst other things enacted, That all Flour and Meal, and all Grain landed at the King's Wharf, Sydney, should be subject to certain Wharfage Rates therein-mentioned: And whereas, it is expedient for a certain period to exempt Flour and Meal, and Wheat and other Grain, and Pulse, from the said Duty and Wharfage Rates: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the Advice of the Legislative Council thereof, That from and after the passing of this Act, all Flour and Meal, and all Wheat and other Grain and Pulse, imported into the said Colony, on or before the first day of November, One thousand eight hundred and thirty-nine, shall be exempted from the said Duty; and all Flour and Meal, and all Wheat and other Grain and Pulse, landed at the King's Wharf, Sydney, within the same period, shall also be exempted from the said Wharfage Rates; anything in the said recited Acts to the contrary notwithstanding.

"GEORGE GIPPS."

Passed the Legislative Council,
this twenty-sixth day of Oc-
tober, One thousand eight
hundred and thirty-eight.

WM. MACPHERSON,
Clerk of Councils.