



ANNO DECIMO QUARTO

VICTORIÆ REGINÆ.

By His Excellency SIR CHARLES AUGUSTUS FITZ ROY, Knight Companion of the Royal Hanoverian Guelphic Order, 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 and consent of the Legislative Council.

No. I.

An Act to prevent the Forgery in New South Wales of Stamps of the United Kingdom. [Assented to, 19th July, 1850.]

WHEREAS by various Acts of the Imperial Parliament of Great Britain and Ireland, Stamps are by law required to be affixed to deeds, writings, and other matters and things executed, written, made, and done within the United Kingdom: And whereas doubts are entertained whether the Forgery of such Stamps, and the uttering of Forgeries thereof, within this Territory, are liable to be punished within the said Territory: And whereas it is expedient to remove such doubts, and to make provision for the repression of such acts of Forgery and uttering: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That if any person shall, after the passing of this Act, knowingly and without lawful excuse (the proof whereof shall lie on the person accused,) have in his possession, within the said Territory, any false, forged, or counterfeit die, plate, or other instrument, or part of any such die, plate, or instrument, resembling, or intended to resemble, either wholly or in part, any die, plate, or other instrument, which at any time whatever hath been or shall or may be provided, made, or used, by or under the direction of the Commissioners of Stamps, for the purpose of expressing or denoting any Stamp duty

Preamble.

Persons knowingly having forged dies or stamps in their possession;

duty whatever; or if any person shall within the said Territory, knowingly and without lawful excuse (the proof whereof shall lie on the person accused,) have in his possession any vellum, parchment, or paper, having thereon the impression of any such false, forged, or counterfeit die, plate, or other instrument; or part of any such die, plate, or other instrument as aforesaid; or having thereon any false, forged, or counterfeit stamp, mark, or impression, resembling or representing, either wholly or in part, or intended or liable to pass or be mistaken for the stamp, mark, or impression of any such die, plate, or other instrument which hath been, or shall or may be so provided, made, or used as aforesaid, knowing such false, forged, or counterfeit stamp, mark, or impression to be false, forged, or counterfeit; or if any person shall within the said Territory, fraudulently use, join, fix, or place for, with, or upon any vellum, parchment, or paper, any stamp, mark, or impression, which shall have been cut, torn, or gotten of or removed from any other vellum, parchment, or paper; or if any person shall within the said Territory, fraudulently erase, cut, scrape, discharge, or get out of or from any stamped vellum, parchment, or paper, any name, sum, date, or other matter or thing thereon written, printed or expressed, with intent to use any stamp, or mark then impressed, or being upon such vellum, parchment, or paper, or that the same may be used for any deed, instrument, matter or thing in respect whereof any stamp duty is or shall or may be or become payable; or if any person shall within the said Territory, knowingly use, utter, sell, or expose to sale, or shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused,) have in his possession any stamped vellum, parchment, or paper from or off, or out of which any such name, sum, date, or other matter or thing as aforesaid, shall have been fraudulently erased, cut, scraped, discharged, or gotten as aforesaid, then and in every such case every person so offending, and every person knowingly and wilfully aiding, abetting, or assisting any person in committing any such offence, and being thereof lawfully convicted, shall be adjudged guilty of felony, and shall be liable at the discretion of the Court, to be kept to hard labor on the roads or other public works of the Colony, for any period not exceeding fifteen years, nor less than two years, or to be imprisoned for any term not exceeding four years nor less than one year.

or fraudulently affixing stamps, &c.;

or erasing names, dates, &c., with intent to use the stamps again;

or knowingly using any stamped vellum, &c., from which any name, date, &c., shall have been fraudulently erased;

guilty of felony.

Houses of persons suspected of being concerned in the forging of dies or stamps, or in the commission of other felonious acts, may be searched.

II. And be it enacted, That on any information given before any Justice of the Peace, upon the oath of one or more credible person or persons, (which oath such Justice is hereby empowered to administer,) that there is just cause to suspect any person within the said Territory of being, or having been, in any way engaged or concerned in making any false or counterfeit die, plate, or other instrument, or unlawfully marking or impressing any stamp, mark, or impression, on any vellum, parchment, or paper with any such die, plate, or instrument, or in the unlawful possession of any forged or counterfeit die, plate, or instrument, or of any vellum, parchment, or paper with any counterfeit stamp, mark, or impression thereon, or in unlawfully or fraudulently, or without due authority, marking or impressing any lawful stamp, on any vellum, parchment, or paper, or in causing or procuring the same to be so marked or impressed, or in aiding, abetting, or assisting in so marking or impressing the same, or in the unlawful possession of any vellum, parchment, or paper, or other material, unlawfully or fraudulently, or without due authority, stamped or marked, contrary to any of the provisions or regulations contained in any Act relating to stamp duties; or of being or having been in any way engaged or concerned in the fraudulent erasing, cutting, scraping, discharging, or getting out of or from, or off any stamped vellum, parchment, or paper, any matter or thing thereon written, printed, or expressed, or in the unlawful possession of any stamped vellum, parchment, or paper, from or off or out of which any matter or thing shall have been fraudulently erased, cut, scraped, discharged, or gotten as aforesaid, then, and in every or any of the said cases, it shall be lawful for such Justice, by warrant under his hand, to cause any and every dwelling-house, room, workshop, out-house, or other building, yard, garden, or other place belonging to such suspected

person,

person, or where any such person shall be suspected of being, or of having been, in any way engaged or concerned in the commission of any such offence as aforesaid, or of secreting any such die, plate, or instrument, or any such vellum, parchment, or paper, or any of the machinery, implements, or utensils, necessary or applicable to the commission of any such offence as aforesaid, to be searched for any such stamped vellum, parchment, or paper, and for any such die, plate, or instrument, machinery, implement, or utensil, or other matter or thing as aforesaid; and if any of the said several matters or things shall be found in any place so searched, or in the custody or possession of any person whatsoever not having the same by some lawful authority, it shall be lawful for the person finding any such matters or things to seize the same respectively, and to carry the same forthwith to the Justice by whom such warrant shall be granted, or to any other Justice of the Peace having jurisdiction where the same shall be seized, who shall cause the same to be secured and produced in evidence against any person who shall or may be prosecuted in any Court of Justice for any of the offences aforesaid; and afterwards the said matters and things so seized, whether produced in evidence or not, shall by order of the Court or Judge before whom such offender shall be tried, or by order of some Justice of the Peace, in case there shall be no such trial, be delivered over to the Commissioners of Stamps, to be defaced or destroyed, or otherwise disposed of, as the said Commissioners shall think fit.

III. And whereas difficulties must unavoidably exist in proving Evidence. the said offences within the said Territory, according to the ordinary rules of evidence, unless special provision be made therefor: Be it therefore enacted, That it shall be lawful to produce in evidence against any party charged with any of the said offences, any stamp, mark, or impression which shall have been transmitted to the Government of the said Colony with any Despatch from one of Her Majesty's Principal Secretaries of State, as genuine stamps, marks, or impressions of any die, plate, or other instrument provided, made, or used by or under the direction of the Commissioners of Stamps, for the purpose of expressing or denoting any stamp duty; and that it shall be lawful for the Court and the Jury sworn upon the trial of any person charged with any such offence as aforesaid, to compare and receive evidence founded upon the comparison of such stamp, mark, or impression with the die, plate, or instrument, or stamp, mark, or impression, by means of, or in relation to, which the offence charged against the person then on his trial shall be alleged to have been committed, and thereupon to decide and determine accordingly.

Passed the Legislative Council, this fourth day }
of July, one thousand eight hundred and } CHARLES NICHOLSON,
fifty. } Speaker.
WM. MACPHERSON, CLERK OF THE COUNCIL.

In the name and on the behalf of Her Majesty, I assent to this Act.

Govt. House, Sydney, 19th July, 1850. CH^S. A. FITZ ROY,
GOVERNOR.

No. II.

An Act for the more speedy trial and punishment of Juvenile Offenders. [Assented to, 19th July, 1850.]

WHEREAS in order, in certain cases, to ensure the more speedy Preamble. trial of Juvenile Offenders, and to avoid the evils of their long imprisonment previously to trial, it is expedient to allow of such offenders being proceeded against in a more summary manner than is now by law provided, and to give further power to bail them: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That every person who shall, subsequently to the passing of this Act, be charged with having committed, or having attempted to commit, or with having been an aider, abettor,

Persons not exceeding fourteen years of age committing certain offences may be summarily convicted by two Justices.

Justices may dismiss the accused if they deem it expedient not to inflict any punishment.

Power to Justices to hear and determine.

Proceedings under this Act a bar to further proceedings.

Mode of compelling appearance of persons punishable on summary conviction.

Power to one Justice to remand and take bail.

abettor, counsellor, or procurer, in the commission of any offence, which now is or hereafter shall or may be by law deemed or declared to be simple larceny, or punishable as simple larceny, and whose age, at the period of the commission, or attempted commission, of such offence shall not, in the opinion of the Justices before whom he or she shall be brought or appear as hereinafter mentioned, exceed the age of fourteen years, shall, upon conviction thereof, upon his own confession or upon proof, before any two or more Justices of the Peace for any city, town, or place within the Colony of New South Wales, in Petty Sessions assembled, at the usual place and in open Court, be committed to the Common Gaol or House of Correction within the jurisdiction of such Justices, there to be imprisoned, with or without hard labor, for any term not exceeding three calendar months, or, in the discretion of such Justices, shall forfeit and pay such sum, not exceeding three pounds, as the said Justices shall adjudge: Provided always, that if such Justices, upon the hearing of any such case, shall deem the offence not to be proved, or that it is not expedient to inflict any punishment, they shall dismiss the party charged on finding surety or sureties for his future good behaviour, or without such sureties, and then make out and deliver to the party charged a certificate under the hands of such Justices, stating the fact of such dismissal; and such certificate shall and may be in the form or to the effect set forth in the Schedule to this Act annexed marked A: Provided also, that if such Justices shall be of opinion, before the person charged shall have made his or her defence, that the charge is from any circumstance a fit subject for prosecution by information or indictment, or if the person charged shall, upon being called upon to answer the charge, object to the case being summarily disposed of under the provisions of this Act, such Justices shall, instead of summarily adjudicating thereupon, deal with the case in all respects as if this Act had not been passed.

II. And be it enacted, That any two or more Justices of the Peace for any city, town, or place within the said Colony, in Petty Sessions assembled, and in open Court, before whom any such person as aforesaid, charged with any offence made punishable under this Act, shall be brought or appear, are hereby authorized to hear and determine the case under the provisions of this Act.

III. And be it enacted, That every person who shall have obtained such certificate of dismissal as aforesaid, and every person who shall have been convicted under the authority of this Act, shall be released from all further or other proceedings for the same cause.

IV. And for the more effectual prosecution of offences punishable upon summary conviction by virtue of this Act: Be it enacted, That where any person whose age is alleged not to exceed fourteen years, shall be charged with any such offence, on the oath of a credible witness, before any Justice of the Peace, such Justice may issue his summons or warrant to summon or to apprehend the person so charged to appear before any two Justices of the Peace in Petty Sessions assembled as aforesaid, at a time and place to be named in such summons or warrant.

V. And be it enacted, That any Justice or Justices of the Peace, if he or they shall think fit, may remand for further examination, or for trial, or suffer to go at large upon his or her finding sufficient surety or sureties, any such person as aforesaid charged before him or them with any such offence as aforesaid; and every such surety shall be bound by recognizance to be conditioned for the appearance of such person before the same or some other Justice or Justices of the Peace for further examination, or for trial before two or more Justices of the Peace in Petty Sessions assembled as aforesaid, or for trial at some superior Court, as the case may be; and every such recognizance may be enlarged from time to time by any such Justice or Justices to such further time as he or they shall appoint; and every such recognizance which shall not be enlarged shall be discharged without fee or reward when the party shall have appeared according to the condition thereof.

VI.

VI. And be it enacted, That every fine imposed by any Justices Application of fines. under the authority of this Act shall be paid to Her Majesty, Her Heirs, and Successors, to be applied for the public uses of the said Colony, and in support of the Government thereof, in such manner as from time to time may be directed by any Acts of the said Governor and Legislative Council.

VII. And be it enacted, That it shall be lawful for any Justice of As to the summoning and attendance of witnesses. the Peace by summons to require the attendance of any person as a witness upon the hearing of any case before two Justices, under the authority of this Act, at a time and place to be named in such summons; and such Justice may require and bind by recognizance all persons whom he may consider necessary to be examined, touching the matter of such charge, to attend at the time and place to be appointed by him, and then and there to give evidence upon the hearing of such charge; and in case any person so summoned, or required or bound as aforesaid, shall neglect or refuse to attend in pursuance of such summons or recognizance, then upon proof being first given of such person's having been duly summoned as hereinafter mentioned, or bound by recognizance as aforesaid, it shall be lawful for the Justices before whom any such person ought to have attended, to issue their warrant to compel his appearance as a witness.

VIII. And be it enacted, That every summons issued under the Service of summons. authority of this Act may be served by delivering a copy of the summons to the party, or by delivering a copy of the summons to some inmate at such party's usual place of abode; and every person so required by any writing under the hand or hands of any Justice or Justices to attend and give evidence as aforesaid, shall be deemed to have been duly summoned.

IX. And be it enacted, That the Justices before whom any person Form of conviction. shall be summarily convicted of any such offence as hereinbefore mentioned may cause the conviction to be drawn up in the form of words set forth in the Schedule to this Act annexed, marked B., or in any other form of words to the same effect, which conviction shall be good and effectual to all intents and purposes.

X. And be it enacted, That no such conviction shall be quashed No Certiorari, &c. for want of form, or be removed by *Certiorari* or otherwise into any of Her Majesty's Supreme Courts of Record; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been duly convicted, and there be a good and valid conviction to sustain the same.

XI. And be it enacted, That the Justices of the Peace before Convictions, &c., to be returned to the Quarter Sessions. whom any person shall be convicted under the provisions of this Act, shall forthwith thereafter transmit the conviction and recognizances to the Clerk of the Peace of the place or district, or the Clerk of the Peace nearest to the place or district, where any such person shall have been convicted as aforesaid, to be kept by him among the Records of the Court of General Quarter Sessions of the Peace.

XII. And be it enacted, That no conviction under the authority No forfeiture upon conviction under this Act, but presiding Justices may order restitution of property. of this Act shall be attended with any forfeiture, but whenever any person shall be deemed guilty under the provisions of this Act it shall be lawful for the presiding Justices to order restitution of the property, in respect of which such offence shall have been committed, to the owner thereof or his representatives; and if such property shall not then be forthcoming, the same Justices, whether they award punishment or dismiss the complaint, may inquire into and ascertain the value thereof in money, and, if they think proper, order payment of such sum of money to the true owner, by the person or persons convicted, either at one time or by instalments at such periods as the Court may deem reasonable; and the party or parties so ordered to pay shall be liable to be sued for the same as a debt in any Court in which debts may be by law recovered, with costs of suit according to the practice of such Court.

XIII. And be it enacted, That when any Justices of the Peace Recovery of penalties. shall adjudge any offender to forfeit and pay a pecuniary penalty under the authority of this Act, and such penalty shall not be forthwith paid, it shall

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be lawful for such Justices, if they shall deem it expedient, to appoint some future day for the payment of such penalty, and to order the offender to be detained in safe custody until the day so to be appointed, unless such offender shall give security, to the satisfaction of such Justices, for his or her appearance on such day; and such Justices are hereby empowered to take such security by way of recognizance or otherwise, at their discretion; and if at the time so appointed such penalty shall not be paid, it shall be lawful for the same or any other Justices of the Peace, by warrant under their hands and seals, to commit the offender to the common gaol or house of correction within their jurisdiction, there to remain for any time not exceeding three calendar months, reckoned from the day of such adjudication; such imprisonment to cease on payment of the said penalty.

Proceedings against persons acting under this Act.

XIV. And for the protection of persons acting in the execution of this Act: Be it enacted, That all actions and prosecutions to be commenced against any person for anything done in pursuance of this Act, shall be commenced within three calendar months after the fact committed, and not otherwise; and notice in writing of such action or prosecution, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action or prosecution; and in any such action or prosecution 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; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action or prosecution 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 any other cases; and though a verdict shall be given for the plaintiff in such action, the 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 thereupon.

Act may be amended, &c.

XV. And be it enacted, That this Act may be amended or repealed by any Act to be passed by His Excellency the Governor of the Colony of New South Wales, with the advice of the Legislative Council thereof.

Passed the Legislative Council, this tenth day of July, one thousand eight hundred and fifty.

WM. MACPHERSON, CLERK OF THE COUNCIL.

CHARLES NICHOLSON, Speaker.

In the name and on the behalf of Her Majesty I assent to this Act.

CH^s. A. FITZ ROY,

Govt. House, Sydney, 19th July, 1850.

GOVERNOR.

SCHEDULES TO WHICH THIS ACT REFERS.

A.

FORM OF CERTIFICATE OF DISMISSAL.

To wit. }
 WE of Her Majesty's Justices of the Peace for the (City, Town, or place, as the case may be,) do hereby certify, That on the day of in the year of our Lord at in the said (City, Town, or place) M. N. was brought before us, the said Justices, charged with the following offence, that is to say, (Here state briefly the particulars of the charge,) and that we the said Justices thereupon dismissed the said charge. Given under our hands this day of

B.

FORM OF CONVICTION.

To wit. }
 BE IT REMEMBERED, That on the day of in the year of our Lord one thousand eight hundred and at in the Colony of New South Wales, A. O. is convicted before us J. P. and Q. R., two of Her Majesty's Justices of the Peace for the (City, Town, or place, as the case may be,) for that he the said A. O. did (specify the offence, and the time and place when and where the same was committed, as the case may be, but without setting forth the evidence,) and we the said J. P. and Q. R. adjudge the said A. O., for his said offence, to be imprisoned in the (or to be imprisoned in the and there kept to hard labor) for the space of the said A. O., for his said offence, to forfeit and pay (here state the penalty actually imposed,) and in default of immediate payment of the said sum, to be imprisoned in the (or to be imprisoned in the and there kept to hard labor) for the space of unless the said sum shall be sooner paid. Given under our hands and seals, the day and year first above mentioned.

No.

No. III.

An Act to enable the Council of the City of Melbourne to make Bye-laws for the Licensing and Regulating Hackney Carriages within the City of Melbourne and its vicinity; and for regulating the conduct of the Owners and Drivers thereof. [Assented to, 19th July, 1850.]

WHEREAS it is expedient to make provision for regulating Hackney Carriages plying for hire within the City of Melbourne and its vicinity, and the owners and drivers thereof: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That from and after the passing of this Act it shall be lawful for the Council of the said City, from time to time, to make such Bye-laws as they shall think fit for Licensing and Regulating Hackney Carriages plying for hire within the said City and its vicinity, and the owners and drivers of such Hackney Carriages: Provided that for every such Licence of a Hackney Carriage for any one year, there shall be paid such sum as the Council of the said City shall direct, not exceeding the sum of three pounds.

City Council to frame Bye-laws for regulating Hackney Carriages, &c.

II. And be it enacted, That the Council of the said City in the Bye-laws so to be made by them, by virtue of this Act, shall have power and authority to make Regulations touching the Licensing and the conduct of the owners, drivers, and conductors of such Hackney Carriages in their several employments; the hours within which such owners, drivers, or conductors shall exercise their respective callings; whether they shall wear any and what badges; the number and description and furnishing of such Hackney Carriages; the number of persons to be carried in the same; the situation and number of public stands; the amount of fares for time or distance to be paid for the use of such Hackney Carriages; the safe custody and delivery of any property which may be accidentally or otherwise left in such Hackney Carriages; the punishing the misconduct of the drivers and conductors of, and persons attending such Hackney Carriages, whether in the way of imposition by demanding or receiving more than the regular fare, or otherwise, as well within the said City as within the distance of eight miles from the corporate limits thereof: Provided that for every such license of any such owner, driver, or conductor, there shall be paid such sum as the Council of the said City shall direct, not exceeding the sum of five shillings.

Matters to be regulated by such Bye-laws.

III. And be it enacted, That the Council of the said City shall have power and authority, by such Bye-laws, to fix the amount of fines and penalties to be imposed on the owners and drivers of such Hackney Carriages for misconduct or imposition in demanding or receiving more than the regular fares, or otherwise; and on persons hiring such Hackney Carriages for fraudulently evading the payment of such fares, or for the breach of any other Bye-law which the said Council may make in respect to such Hackney Carriages, the owners, and drivers thereof: Provided always, that such fines or penalties shall not exceed, for any one offence, the sum of ten pounds.

City Council to fix amount of penalties.

IV. And be it enacted, That every Bye-law made by the said Council as aforesaid, shall be subject to all and the like forms, restrictions, and provisions as to the making, altering, amending, repealing, proving, and enforcing of the same, or otherwise, and as to the appropriation of all fees, fines, penalties, and forfeitures recovered or received under the same, as are prescribed with regard to Bye-laws made by the said Council under the Act passed in the sixth year of the reign of Her present Majesty, intituled, "*An Act to Incorporate the Inhabitants of the Town of Melbourne*," 6 Vic., No. 7. as amended by a certain other Act, passed in the eleventh year of the reign of Her said Majesty, intituled, "*An Act to explain and amend the Acts relating to the Corporation of the Town of Melbourne*." 11 Vic., No. 17.

Such Bye-laws subject to same conditions as other Bye-laws of City Council.

V.

Interpretation
clause.

6 Will. IV., No. 2.

V. And be it enacted; That whenever in this Act the word "Hackney Carriage" is used, the same shall be held to mean any Coach, Car, Cabriolet, or other Vehicle plying, kept, or let out for hire within the said City, or within the distance of eight miles from the corporate limits thereof: Provided however, that nothing contained in this Act, nor in any Bye-law made by virtue thereof, shall be held to extend to any Carriage or Vehicle duly licensed as a Stage Carriage, in pursuance of the Act of the said Governor and Legislative Council passed in the sixth year of the reign of His late Majesty King William the Fourth, intituled, "*An Act for regulating Stage Carriages in New South Wales*:" provided that such Stage Carriage shall ply at regular periods, as such, to places beyond the corporate limits of the said City: Provided also, that no such Bye-laws or Regulations shall apply to, or be held to apply to, Carriages which shall be let to hire only when previously ordered or bespoken at the stables or residences of their owners, and which shall never be permitted to ply for hire in any street or place off the premises of their respective owners, or to the owners or drivers of such Carriages.

*Passed the Legislative Council, this twenty-
sixth day of June, one thousand eight hun-
dred and fifty.*

WM. MACPHERSON, CLERK OF THE COUNCIL.

CHARLES NICHOLSON,
Speaker.

In the name and on the behalf of Her Majesty I assent to this Act.

CH^s. A. FITZ ROY,

GOVERNOR.

Govt. House, Sydney, 19th July, 1850.

No. IV.

An Act to prevent the Adulteration of Malt Liquors. [Assented to, 19th July, 1850.]

Preamble.

WHEREAS there is reason to believe that certain highly deleterious ingredients are used in the manufacture of Malt Liquors in the Colony of New South Wales, or are mixed with such Malt Liquors previous to their sale, and it is expedient for the preservation of the public health to prevent such nefarious practices in future, and to prevent the sale of all adulterated Malt Liquors, whether of Home or Foreign manufacture: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That if any public brewer or maker of ale, beer, or porter for sale, shall use or cause or permit to be used in the brewing of any such beer, ale, or porter, or put into, or mix with, any such ale, beer, or porter, or the worts thereof respectively, any vitriol, coculus indicus, nux vomica, tobacco, opium, aloes, copperas, faba amara, or any extract or preparation thereof respectively, or any other deleterious or poisonous substance whatsoever, all such ale, beer, porter, or worts respectively, shall be forfeited, and shall and may be seized by any Inspector of Distilleries, or Officer of Customs; and every such person so offending as aforesaid by adulterating any such ale, beer, porter, or worts as aforesaid, shall for every such offence forfeit and pay the sum of two hundred pounds, to be sued for and recovered in a summary way as hereinafter mentioned.

If any brewer shall adulterate, or cause to be adulterated, malt liquors, same shall be forfeited, and he shall be fined £200.

Penalty on persons convicted a second time of using poisonous or deleterious substances in brewing.

II. And be it enacted, That if any person shall, after having been once convicted under the preceding section of this Act, use, or cause or permit to be used, in the brewing of any beer, ale, or porter, or shall put into or mix with any beer, ale, or porter, or the worts thereof respectively, any vitriol, coculus indicus, nux vomica, tobacco juice, opium, aloes, copperas, faba amara, or any extract or preparation thereof respectively, or any other poisonous or deleterious substance whatsoever, he shall be guilty of a misdemeanor, and shall, on conviction thereof, be fined in any sum not exceeding five hundred pounds, and imprisoned for any period not exceeding two years, besides being liable to the other penalties imposed by this Act.

III.

III. And be it enacted, That if any brewer or retailer of ale, beer, or porter, shall have in his possession any vitriol, coculus indicus, nux vomica, tobacco juice, opium, aloes, copperas, faba amara, or any extract or preparation thereof respectively, otherwise than for some medicinal purpose, the proof of which shall lie on such brewer or retailer, every such brewer or retailer so offending shall forfeit and pay the sum of fifty pounds, to be sued for and recovered in a summary way as hereinafter mentioned; and all such vitriol, coculus indicus, nux vomica, tobacco juice, opium, aloes, copperas, faba amara, or such extract or preparation thereof respectively as aforesaid, shall be forfeited, and shall and may be seized by any Inspector of Distilleries or Officer of Customs.

Penalty on brewers or retailers of ale, beer, or porter, having poisonous or deleterious substances in their possession, except for medicinal purposes.

IV. And be it enacted, That if any person shall knowingly sell, dispose of, send, or deliver to any brewer or retailer of ale, beer, or porter, any vitriol, coculus indicus, nux vomica, tobacco juice, opium, aloes, copperas, faba amara, or any extract or preparation thereof respectively, otherwise than for some medicinal purpose, the proof of which shall lie on such person so selling, disposing of, sending, or delivering as aforesaid, every such person so offending shall forfeit and pay the sum of fifty pounds, to be sued for and recovered in a summary way as hereinafter mentioned.

Penalty on persons selling, sending, or delivering to brewers or retailers of ale, beer, or porter, any poisonous or deleterious substances except for medicinal purposes.

V. And be it enacted, That if any merchant, licensed victualler, spirit dealer, or any other person whomsoever, shall knowingly sell or dispose of any ale, beer, or porter in which there shall be any vitriol, coculus indicus, nux vomica, tobacco juice, opium, aloes, copperas, faba amara, or any extract or preparation thereof respectively, or any other deleterious or poisonous substance whatsoever, he shall for every such offence forfeit and pay the sum of fifty pounds, to be sued for and recovered in a summary way as hereinafter mentioned.

Penalty on persons selling adulterated malt liquor.

VI. And be it enacted, That for the purpose of enforcing the observance of this Act, it shall be lawful for any Inspector of Distilleries, or Officer of Customs, at any hour in the day time, to inspect any part of any public brewery, and any of the utensils therein, and for the purpose of summarily enforcing such inspection to call, if necessary, for the aid of the Police.

Inspector of distilleries or Officer of Customs to inspect breweries.

VII. And be it enacted, That it shall be lawful for any person to exhibit an information in writing, before any one Justice of the Peace, informing of any offence against the provisions of this Act, not being a misdemeanor; and on perusal of such information, if the same be a valid one, such Justice is hereby required to grant a summons in writing under his hand, directing the attendance of the party informed against, at a time and place to be therein mentioned, to appear before any two or more Justices of the Peace, to answer the charge contained in the said information; and if such summons shall be served personally on the person so informed against, or shall be left at his last known or usual place of abode, a reasonable time, (but in no case less than twenty-four hours,) before the time therein mentioned for such person's appearance, then upon the appearance of the party so summoned at such time and place as aforesaid, or on proof to be then given *viva voce*, on the oath of the person by whom the summons was so served as aforesaid, and the production of the original summons, it shall be lawful for any two or more Justices of the Peace then and there being, thereupon, or for any two or more Justices of the Peace at any future period to which the matter may be adjourned by any one Justice if two should not be present, to proceed to hear and determine in a summary manner the matter informed of in the said information; and on conviction of the person informed against, it shall be lawful for either of the convicting Justices, on non-payment of the penalty and such costs as such Justices may award, to issue at any time, not more than fourteen days from the day of conviction, under his hand, a warrant of distress returnable on such day as he may think proper to insert therein, such return not being more than fourteen days from the day of the date of such warrant, authorising any constable to proceed to levy on the goods of the person so convicted, if any such can be found, for the amount of such penalty and costs, together with the sum of five shillings for such distress; and the said

The manner in which penalties are to be sued for & recovered.

said goods forthwith to seize and carry to the nearest Police Office; and the said goods so seized shall be sold at twelve of the clock on the third day after the same shall have been carried to the said Police Office, unless the full amount of penalty and costs be sooner paid; and the surplus, if any shall remain after the payment of such penalty and costs, shall be paid to the person so convicted, if demanded within three calendar months, and if not so demanded shall be paid to the Colonial Treasurer of the said Colony for the general purposes of the Government thereof, as may be appointed by any Act of the said Governor and Legislative Council; and if sufficient goods cannot be found before the return day of the said warrant whereon to levy for the said penalty and costs, it shall be lawful, on the same being certified by writing on the back of such warrant to the convicting Justices or one of them, under the hand of the person appointed to execute the same, for either of the said convicting Justices forthwith by warrant under his hand, to commit the person so convicted to the common gaol nearest to the place where the conviction took place, for any period not exceeding six calendar months, such term of imprisonment to be computed from the time of arrest only: Provided always, that no conviction shall take place under this Act, unless within three calendar months after the commission of the offence complained of: Provided also, that all such proceedings by summons may be had and done without a formal information in writing being exhibited; and such proceedings shall be as good, valid, and effectual, to all intents and purposes, as if a formal information in writing were exhibited; provided that in every such summons the general nature of the complaint shall be succinctly stated.

Appropriation of penalties.

VIII. And be it enacted, That all fines, penalties, and forfeitures recovered under this Act shall be paid, one half to the informer or person suing for the same, and the other half to 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 as may be appointed by any Act of the said Governor and Legislative Council.

Power of summoning witnesses, and mode of compelling them to attend and answer.

IX. And be it enacted, That it shall be lawful for any Justice issuing any summons under this Act, or for any one of the Justices before whom the matter of any information may come on to be heard and determined, to issue a summons, under his hand, for the attendance of any person, at a time and place to be therein mentioned, to appear and give evidence at the hearing of any such matter, and to bring with him, and produce at such hearing, any necessary documents under his control, that may be specified in such summons; and every such summons shall be served by delivering a copy thereof personally to the person so summoned, and shewing the original at the time of such service, which service shall be at a reasonable time, and in no case less than twenty-four hours before the time specified therein for the attendance of such witness; and if any person having been so summoned, shall not attend at the time and place mentioned in his summons, without reasonable cause, or, having attended there, shall refuse to be sworn, or to affirm, or shall refuse to answer any legal question that may be put to him, without alleging for such refusal a sufficient excuse, to be then allowed by the Justices hearing the case, such person shall, for every such offence, forfeit and pay any sum not more than twenty pounds, to be recovered in the manner and within the time hereinbefore mentioned for the recovery of penalties under this Act.

Appeal to Quarter Sessions given.

X. And be it enacted, That it shall be lawful for any person, convicted of any offence under this Act, to appeal to the next General Court of Quarter Sessions, to be holden in the district, or nearest to the district, in which such conviction shall take place, in the manner and form prescribed by any Act now or hereafter to be in force for the regulation of appeals to Courts of Quarter Sessions.

No conviction or information to be void for want of form.

XI. And be it enacted, That no information, conviction, or other proceedings, before or by any Justice or Justices of the Peace, or on appeal therefrom, for any offence under this Act, shall be quashed or set aside, or judged void or insufficient for want of form only, or be removed or removeable, by *certiorari*, or any other writ or process whatsoever into the Supreme Court.

XII. And for the protection of persons acting in execution of this Limitation of actions.
 Act: Be it enacted, That all actions for anything done under this Act shall be commenced within six 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 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 General issue. 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 nonsuited, or discontinue 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.

*Passed the Legislative Council, this twelfth }
 day of July, one thousand eight hundred }
 and fifty.*
 WM. MACPIHERSON, CLERK OF THE COUNCIL.

CHARLES NICHOLSON,
 Speaker.

In the name and on the behalf of Her Majesty I assent to this Act.

CH^s. A. FITZ ROY,

Govt. House, Sydney, 19th July, 1850.

GOVERNOR.

