

No. V.

An Act to authorize the leasing of Tolls and Dues demandable at Turnpike Gates, and Ferries, and on Parish Roads, for extended terms. [Assented to, 10th September, 1850.]

WHEREAS by an Act of the Governor and Legislative Council of New South Wales, passed in the second year of the reign of His late Majesty King William the Fourth, intituled, "*An Act for repeal- 2 Gul. IV., No. 12.*" *ing so much of an Act, intituled, 'An Act to continue, until further provision shall be made, certain Duties, Tolls, Rates, Fees, and other sums of money imposed by the Governors of New South Wales, and for other purposes, as relates to the levying Tolls in New South Wales, and for raising a fund towards making, repairing, and upholding Public Roads, and Bridges, and Ferries, and for regulating the collection of Tolls thereon,'*" it was amongst other things enacted, that it should and might be lawful for the Governor of the Colony for the time being, from time to time, to authorize and direct the tolls and dues demandable at any turnpike or ferry, under the authority of that Act, to be demised and let to farm, for any term not exceeding twelve calendar months: And whereas it is expedient to empower the said Governor to authorize and direct the said tolls and dues to be let to farm for a longer period than the term of twelve calendar months, whenever it shall appear conducive to the public benefit so to do: And whereas by a certain other Act of the said Governor and Council, passed in the fourth year of the reign of Her present Majesty Queen Victoria, intituled, "*An Act to provide for the making and repairing 4 Vict., No. 12.*" *Parish Roads in the Colony of New South Wales,*" it was, amongst other things enacted, that it should and might be lawful for the Governor for the time being of the said Colony, to authorize the Trustees of Parish Roads, established under that Act, to grant a lease or leases of the tolls to be collected or levied upon such roads, for any period of time not exceeding one year: And whereas it is expedient that the said Governor should be empowered to authorize the Trustees of any such Parish Road to grant a lease of such last mentioned tolls for a longer period than the said term of one year, when and so often as it shall appear conducive to the advantage of the public, and the parties liable to the payment of rates for the formation and maintenance of such roads, so to do: 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 and may be lawful for the Governor for the time being of the said Colony, to authorize and direct the tolls and dues demandable at any turnpike gate, or ferry, under the authority of the said first recited Act, to be demised and let to farm by public auction, or upon private tender, as provided by that Act, for any period not exceeding the term of five years, as may appear to the said Governor and the Executive Council of the said Colony, conducive to the public interests, anything in the said Act to the contrary notwithstanding: Provided that except as hereinafter mentioned, all and every the provisions of the said first recited Act shall remain in full force and effect, in every respect except only as to the limit by the said Act imposed upon the duration of any lease granted under the authority thereof, and shall be applied in, to, and in respect of, any lease for a term exceeding twelve calendar months, in the same manner as the same would have applied if such extended term had been authorized thereby.

Tolls and Ferry dues may be demised for five years.

Provisions of 2 Gul. IV., No. 12, to remain in force in all other respects, except as hereinafter mentioned.

II. And be it enacted, That from and after the passing of this Act, it shall and may be lawful for the said Governor for the time being, to authorize the Trustees of any Parish Road, established under the authority of the said last recited Act, to grant a lease or leases of the tolls to be collected or levied thereon, for any such period exceeding the term of one year, as may appear to the said Governor and to the Trustees

Governor may empower Trustees of Parish Roads to demise Tolls for a longer period than 12 months.

Trustees of such Parish Roads respectively, conducive to the advantage of the public, and the parties liable to the payment of the rates for the formation and maintenance of such roads respectively; and from time to time to renew such lease or leases at the highest or best rent or value to be obtained for the same, either by public auction or otherwise, anything in the said last recited Act to the contrary notwithstanding.

Commissioners under 13 Vic., No. 41, may grant leases for a term not exceeding two years.

III. And whereas by a certain Act of the said Governor and Council, passed in the thirteenth year of the reign of Her present Majesty, intituled, "*An Act for managing, making, and upholding the Public Roads in the County of Cumberland, and for other purposes therein mentioned,*" it was among other things enacted, that all powers of leasing, putting up to auction, or taking security for tolls, and all other powers and authorities of whatsoever nature or kind, which by the said hereinbefore first recited Act were vested in the Governor and Collector of Internal Revenue respectively, should, so far as the same relates to the said roads in the County of Cumberland, be transferred to and vested in the Commissioners of Trusts therein mentioned; and it is expedient to empower the said Commissioners in the several districts to let the tolls and dues, so transferred to and vested in them, for a longer period than twelve months, if they shall deem it expedient so to do: Be it enacted, that the said Commissioners of Trusts in their several districts respectively, shall be competent to grant leases for the tolls and dues to be collected and levied within their respective Trusts for any period not exceeding the term of two years, if in their discretion they shall deem it expedient so to do, anything in the present law to the contrary notwithstanding.

Double Toll not to be demanded on Sunday.

IV. And be it enacted, That from and after the first day of January next, no double toll shall be demandable, taken, or payable at any toll-gate or ferry, for passing through or over any roads or ferries on Sunday.

Tolls may be altered.

V. And be it enacted, That in all cases where Proclamation by the Governor, of the rate of tolls to be demanded and levied upon all Parish Roads in the said Colony under the before recited Acts, has been made, it shall be lawful for the said Governor by a Proclamation to be published in the *New South Wales Government Gazette*, to alter or vary the same, upon the petition of the Trustees of any such Parish Road, or of the persons liable to be assessed thereto, in case it shall appear to the said Governor and Executive Council expedient so to do.

Branch Roads may be repaired to a limited extent.

VI. And be it enacted, That from and after the passing of this Act, it shall and may be lawful for the Trustees of any such Parish Road as aforesaid, to repair any Branch Roads, being thoroughfares, to the extent of half a mile from the line of any Main Parish Road.

Tolls beyond the Settled Districts may be altered.

VII. And be it enacted, That it shall be lawful for the Governor of the said Colony, with the advice of the Executive Council thereof, by any Proclamation to be issued by him, to raise, diminish, alter, or vary, any tolls imposed at any ferry established in pursuance of the provisions of the said first recited Act.

Penalty on Collector &c., taking less Toll than allowed by law.

VIII. And be it enacted, That if any collector or keeper of tolls, or boatman or ferryman, at any turnpike gate or ferry established or to be established in pursuance of the provisions of any of the recited Acts, shall take a less toll from any person than he shall be authorized to do by virtue of the powers of this or any other Act, or any Proclamation issued or to be issued in pursuance thereof, or of the orders and resolutions of the Trustees or Commissioners made in pursuance thereof, then and in every such case every such collector or keeper of tolls, boatman, or ferryman, shall forfeit and pay any sum not exceeding twenty pounds for every such offence.

Recovery of penalties.

IX. And be it enacted, That all complaints against any person for offending against the provisions of this Act, shall be heard and determined in a summary way before any two or more Justices of the Peace, and all fines, forfeitures, or penalties, or imprisonment in respect thereof, shall be awarded and imposed, and appealed from in the manner and form prescribed by an Act of the Governor and Legislative Council of New South

South Wales, passed in the fifth year of the reign of His late Majesty King William the Fourth, intituled, "*An Act to regulate summary proceedings before Justices of the Peace*," or according to the law in force for the time being regulating summary proceedings before Justices of the Peace; and in all proceedings under this Act the informer or party prosecuting shall be deemed and taken to be a competent witness.

X. And be it enacted, That all fines, forfeitures, and penalties imposed by this Act, shall be paid, one moiety 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 from time to time directed by any Acts of the said Governor and Legislative Council, and the other moiety to the use of the informer or party prosecuting, who shall be entitled to his or her costs and charges over and above such fines, forfeitures, and penalties, to be ascertained and assessed by the Justice or Justices before whom the case is heard: Provided always, that it shall be lawful for the Governor for the time being to pardon any offender, and to remit the whole or any part of any such fine, forfeiture, or penalty.

Passed the Legislative Council, this first day
of August, one thousand eight hundred and
fifty.

CHARLES NICHOLSON,
Speaker.

WM. MACPHERSON, CLERK OF THE COUNCIL.

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

CH^s. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 10th September, 1850.

No. VI.

An Act to prevent frauds by Carriers and Drovers. [Assented to, 10th September, 1850.]

WHEREAS the owners of cattle, and of wool, tallow, and other goods, chattels, and effects of any description whatsoever, are in the habit of employing persons as drovers, drivers, carriers, or otherwise, to drive, carry, or convey the same from one part of the Colony to another, in such manner that the persons so employed to drive, carry, or convey the same are mere Bailees thereof, by reason whereof any unlawful disposition of such cattle, goods, chattels, or effects by such persons does not in law amount to larceny: And whereas it has in many cases happened that persons so employed as aforesaid to drive, carry, or convey cattle and other goods, chattels, or effects, have unlawfully sold or otherwise disposed thereof; and it is expedient to make such provision as is herein contained to prevent such persons from so unlawfully selling or disposing of cattle, or other goods, chattels, or effects entrusted to them under such circumstances as aforesaid: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That any person who shall take charge of any cattle, or other such goods, chattels, or effects from any person to drive, carry, or otherwise convey the same from one part of the Colony to another for hire or reward, and who shall sign an agreement or memorandum in writing that he has agreed to take charge of, drive, carry, or convey the same as a drover, driver, carrier, or otherwise, for hire or reward, shall in law be deemed to have the charge of, and not the possession of, any such cattle, goods, chattels, or effects, to the intent and so that any unlawful taking or disposition thereof by the persons so taking charge of any such cattle, goods, chattels, or effects, shall in all cases amount to larceny, where such unlawful taking or disposition would, if such person were in charge thereof merely as the servant of the owner thereof, amount to larceny.

Any person taking charge of any cattle, wool, tallow, and other goods, chattels, or effects, to drive, carry, or convey the same from one part of the Colony to another, for hire or reward, to be deemed guilty of larceny if he shall in any way unlawfully take or dispose of the said cattle, wool, tallow, goods, chattels, or effects.

II. And be it enacted, That for the purposes of this Act, the following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by

Interpretation clause.

by the context, or by the nature of the subject matter, (that is to say), the word "cattle" shall be taken to mean any horse, mare, filly, foal, colt, gelding, bull, ox, cow, heifer, steer, calf, mule, ass, sheep, lamb, hog, pig, sow, or goat; and, subject to the context and to the nature of the subject matter, words denoting the singular number are to be understood to apply also to a plurality of persons, animals, or things; and words denoting the masculine gender, are to be understood to apply also to persons and animals of the feminine gender.

Act may be amended
or repealed.

III. And be it enacted, That this Act may be amended or repealed by any Act to be passed during the present Session of the Legislative Council.

*Passed the Legislative Council, this sixth
day of August, 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, 10th September, 1850.

GOVERNOR.

No. VII.

An Act for the better apprehension of Offenders who shall have escaped to parts within the Territory of New South Wales, from any other of the Australian Colonies. [Assented to, 10th September, 1850.]

Preamble.

6 & 7 Vict., chap. 34.

WHEREAS by a certain Act of Parliament, passed in the sixth and seventh years of the reign of Her present Majesty, intituled, "*An Act for the better apprehension of certain offenders*," provision is made for the apprehension, in any part of Her Majesty's Dominions, of persons charged with committing, in any other part of Her Majesty's Dominions, certain offences in that Act mentioned, and against whom a warrant shall have been issued by any person or persons having lawful authority to issue the same, and for the imprisonment of such offenders, and for their removal to that part of Her Majesty's Dominions in which they were charged with having committed the offence: And whereas the contiguity of the Australian Colonies to each other greatly facilitates the escape of offenders from one to the other of such Colonies, which said offenders may, in many instances, elude the pursuit of justice, unless provision be made for their apprehension in the Colony to which they shall have escaped, without requiring that a warrant be obtained from a Magistrate of the Colony having original jurisdiction, and that such warrant shall be endorsed by a Judge of the Colony to which the offender shall have withdrawn himself: And whereas it is expedient that the provisions of the said recited Act of Parliament should be applied to persons charged with other offences than those to which the said recited Act is limited, so that the course of justice may, in a less degree, be impeded by the separation and independence of the judicial jurisdictions of the said Colonies respectively: 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, if any person shall be within the Territory of New South Wales who shall be charged with having committed any offence, such as is hereinafter mentioned, within any other of the Australian Colonies, it shall be lawful for any Justice of the Peace of this Territory, or of any limited jurisdiction therein where such person shall then be, to issue his warrant for the apprehension of such supposed offender in the same manner, and upon the like grounds, as if the said offence was charged to have been committed within the ordinary jurisdiction of such Justice; and thereupon it shall be lawful for all Peace Officers within the said Territory, and they are hereby required to execute such warrant, by apprehending the person against whom it is directed, and to convey him before the same or any other Magistrate having authority to examine and commit offenders for trial in the part of the said Territory in which he shall have been apprehended.

Alleged offender
from any of the Aus-
tralian Colonies, may
be apprehended by
order of a Magis-
trate of this Colony.

II.

II. And be it enacted, That it shall be lawful for any such Magistrate as last aforesaid, before whom any such supposed offender shall be brought as aforesaid, upon such evidence of criminality as would justify his committal for trial if the offence had been committed within the ordinary jurisdiction of the said Magistrate, to commit such supposed offender to prison, there to remain until he can be sent back to the Colony in which the offence is alleged to have been committed, and delivered to the proper Authorities therein, in the manner mentioned in the said recited Act of Parliament; and immediately upon the committal of such person, information thereof in writing, under the hand of the committing Magistrate, accompanied by a copy of his warrant, and of the depositions upon which the same was granted, shall be given to the Governor of this Territory, or to the Superintendent of Port Phillip, in case the supposed offender shall have been committed within the limits of that District.

Committal for removal to the Colony in which the offence is alleged to have been committed.

III. And be it enacted, That it shall be lawful for any such Magistrate as last aforesaid, before whom any such supposed offender shall be brought, upon any such evidence of criminality as would justify the remand of any person for further examination, in cases where evidence is expected to be obtained from remote parts, if the offence had been committed within the ordinary jurisdiction of such Magistrate, to commit such supposed offender to prison by way of remand, for such reasonable time not exceeding one calendar month, until copies of depositions, taken, certified, and attested, as hereinafter mentioned, shall have been received from the Colony in which the offence is alleged to have been committed, and submitted to the same or some other Magistrate; and upon such copies of depositions being so submitted, it shall be lawful for the Magistrate to whom the same shall be submitted, either to discharge such supposed offender, or to commit him finally under and in pursuance of the authority hereinbefore given in that behalf: Provided always, that immediately upon the committal by way of remand, information thereof in writing, under the hand of the committing Magistrate, accompanied by a copy of the depositions upon which the remand was ordered, shall be given to the said Governor, or to the said Superintendent of Port Phillip, as hereinbefore provided with respect to final committals.

Committal by way of remand.

IV. Provided always, and be it enacted, That it shall be lawful for any such Magistrate, who shall so, as aforesaid, commit any such supposed offender, either finally or by way of remand, to allow bail to be taken by one or two Justices, as the case may require, for the surrender of the party committed, at a day and place to be specified in the recognizance of bail, if the nature of the offence charged, and the character of the evidence of criminality, shall be such as would justify the allowance of bail in a similar case occurring within the ordinary jurisdiction of the Magistrate; and thereupon the recognizance of bail shall be of the same force and effect in all respects, as if the same had been entered into for the appearance of an accused party to take his trial, or for further examination upon a charge of an offence committed within the Territory of New South Wales.

Authority to take bail.

V. And be it enacted, That in every such case as hereinbefore mentioned, copies of depositions upon the charge made against the said supposed offender, taken by a person having lawful authority to take the same, in the Colony in which the offence is alleged to have been committed, if duly certified under the hand of the person taking such depositions, and attested on oath by the party producing the same to be true copies of the original depositions, may be received in evidence of the criminality of the person apprehended under the provisions of this Act.

Copies of depositions from any of the Australian Colonies receivable in evidence.

VI. And be it enacted, That the provisions in the said recited Act of Parliament touching the discharge of any person committed as therein provided, if he shall not have been conveyed away within two months after his committal, shall be applied to all committals under this Act, whether final or by way of remand.

Supposed offender may be discharged by a Judge if not conveyed away within two months after committal.

VII.

Offences within the Act.

Definition of the words "Australian Colonies."

VII. And be it enacted, That this Act shall apply to all charges of treason and felony, and to all indictable misdemeanors committed or charged to have been committed in any of the Australian Colonies.

VIII. And be it enacted, That for the purposes of this Act and the said recited Act of Parliament, the words "Australian Colonies" shall be deemed and taken to describe and include the Colonies of New South Wales, Van Diemen's Land, South Australia, Western Australia, and New Zealand, with their respective Dependencies, as such Colonies are now or may hereafter be defined and limited; and also any other Colony which may hereafter be established within the existing limits of any of the said Colonies, or within any portion of Her Majesty's Possessions in New Holland.

*Passed the Legislative Council, this seventh
day of August, 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, 10th September, 1850.

GOVERNOR.

No. VIII.

An Act to regulate the amount of Import Duty to be paid upon
Perfumed Spirits [Assented to, 10th September, 1850.]

Duty upon Perfumed
Spirits imported into
the Colony, or entered
inwards to be 3s. 6d.
per imperial gallon.

BE it 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, the duty payable upon all Perfumed Spirits imported into the said Colony, or entered inwards from the bonded warehouses thereof, shall be, and the same is hereby fixed, at the rate of three shillings and sixpence for each and every imperial gallon thereof, without regard to strength, anything in any other Act to the contrary notwithstanding.

*Passed the Legislative Council, this twenty-sixth
day of June, 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, with
the Rider attached thereto.*

CH^s. A. FITZ ROY,

GOVERNOR

Govt. House, Sydney, 10th September, 1850.

RIDER.

Provided nevertheless, That the Act shall be deemed and construed to apply only to such Spirits as are usually known as Perfumery, made up and labelled as such, contained in flasks or bottles of not more than a pint each; and if any question shall arise whether any Spirits claimed to be introduced under the advantages established by this Act be of the description hereby defined, the same shall be determined by the Collector or other Chief Officer of Customs at the Port where such Spirits shall be entered for home consumption.

No. IX.

An Act to amend the Law concerning Games and Wagers.
 [Assented to, 10th September, 1850.]

WHEREAS the laws heretofore made in restraint of unlawful gaming have been found of no avail to prevent the mischiefs which may happen therefrom: Be it therefore enacted, by His Excellency the Governor of New South Wales, by and with the advice and consent of the Legislative Council thereof, That from and after the passing of this Act it shall be lawful for any Justice of the Peace, upon complaint made before him on oath, that there is reason to suspect any house, room, premises, or place, to be kept or used as a common gaming house, and that it is commonly reported and believed by the deponent so to be, to give authority by special warrant A.1, under his hand and seal, when in his discretion he shall think fit, to any constable or peace officer to enter, with such assistance as may be found necessary, into such house, room, premises or place, and if necessary to use force for making such entry, whether by breaking open doors or otherwise, and to arrest, search, and bring before any two Justices of the Peace all such persons found therein, and to seize all tables and instruments of gaming found in such house, room, premises, or place, and also to seize all moneys and securities for money found therein; and it shall be lawful for the constable or peace officer, making such entry as aforesaid, in obedience to any such warrant, to search all parts of the house, rooms, premises, or place which he shall have so entered, where he shall suspect that tables or instruments of gaming are concealed, and all persons whom he shall find therein, and to seize all tables and instruments of gaming found in such house, room, premises, or place, and also to seize all moneys found therein; and the owner or keeper of the said gaming house, or other person having the care or management thereof, and also every banker, croupier, and other person who shall act in any manner in conducting the said gaming house, room, premises, or place, shall be liable on conviction to a penalty of not more than one hundred pounds, to be recovered in a summary way before any two or more Justices of the Peace as is hereinafter directed, or in the discretion of the Justices before whom he shall be convicted of the offence, may be committed to the nearest Gaol, or House of Correction, with or without hard labor, for any term not exceeding six calendar months; and upon conviction of any such offender, all the moneys and securities for moneys which shall have been seized as aforesaid, shall be forfeited 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 from time to time be directed by any Acts of the said Governor and Legislative Council; and every person found in such house, room, premises, or place, without lawful excuse, shall be liable to a penalty of not more than five pounds: Provided always, that nothing herein contained shall prevent any proceeding by indictment against the owner or keeper or other person having the care or management of any gaming house, or any room, premises, or place for gaming; but no person shall be proceeded against by indictment and also under this Act for the same offence.

Preamble.

Power of Justice may be exercised under warrant.

Constable or Peace Officer may search for instruments of gaming, and seize the same, and all persons found in such house, rooms, &c.

Owner or keeper of a gaming house liable to a penalty not exceeding one hundred pounds.

All moneys seized in gaming houses to be forfeited to Her Majesty.

Persons found in gaming houses liable to a penalty not exceeding £5.

What shall be sufficient evidence that a house is a common gaming house.

II. And whereas doubts have arisen whether certain houses, alleged or reputed to be open for the use of subscribers only, or not open to all persons desirous of using the same, are to be deemed common gaming houses: Be it declared and enacted, That in default of other evidence proving any house, room, premises, or place, to be a common gaming house or place for gaming, it shall be sufficient in support of the allegation in any indictment or information that any house, room, premises, or place is a common gaming house, or place for gaming, to prove that such house, room, premises, or place, is kept or used for playing therein, at any unlawful game, and that a bank is kept there by one or more of the players, exclusively of the others, or that the chances of any game played therein are not alike favorable to all the players, including among the players the banker

banker or other person by whom the game is managed, or against whom the other players stake, play, or bet, and every such house, room, premises, or place, shall be deemed a common gaming house, or place for gaming, such as is contrary to law, and forbidden to be kept by all Acts containing any provision against unlawful games or gaming houses.

Proof of gaming for money not necessary in support of informations for gaming.

III. And be it enacted, That it shall not be necessary in support of any information or indictment for gaming in, or suffering any games or gaming in, or for keeping, or using, or being concerned in the management or conduct of a common gaming house, or place for gaming, to prove that any person found playing at any game was playing for any money, wager, or stake.

What shall be deemed evidence of gaming.

IV. And be it enacted, That where any cards, dice, balls, counters, tables, or other instruments of gaming, used in playing any unlawful game, shall be found in any house, room, premises, or place, suspected to be used as a common gaming house, or place for gaming, and entered under a warrant under the provisions of this Act, or about the person of any of those who shall be found therein, it shall be evidence, until the contrary be made to appear, that such house, room, premises, or place, is used as a common gaming house, and that the persons found in the room or place where such tables or instruments of gaming shall have been found, were playing therein, although no play was actually going on in the presence of the constable or peace officer entering the same under a warrant issued under the provisions of this Act, or in the presence of those persons by whom he shall be accompanied as aforesaid; and it shall be lawful for the Justices before whom any person shall be taken by virtue of the warrant, to direct all such tables and instruments of gaming to be forthwith destroyed.

Indemnity of witnesses.

V. And for the more effectual prosecution of the keepers of common gaming houses, or places for gaming: Be it enacted, That every person who shall have been concerned in any unlawful gaming, and who shall be examined as a witness, by or before any Justices of the Peace, or on the trial of any indictment or information against the owner or keeper, or other person having the care or management of any common gaming house, or place for gaming, touching such unlawful gaming, and who upon such examination, shall make true and faithful discovery, to the best of his or her knowledge, of all things as to which he or she shall be so examined, and shall thereupon receive from the Justices of the Peace or Judge of the Court, by or before whom he or she shall be so examined, a certificate in writing to that effect, shall be freed from all criminal prosecutions, and from all forfeitures, punishments, and disabilities, to which he or she may have become liable for anything done before that time, in respect of such unlawful gaming.

Empowering constables to visit houses where certain games are publicly played.

VI. And be it enacted, That it shall be lawful for all constables and officers of police to enter into any house, room, premises, or place, where any public table or board is kept for playing at billiards, bagatelle, bowls, fives, racket, quoits, skittles, or nine-pins, or any game of the like kind, when and so often as such constable and officers shall think proper.

Cheating at play to be punished, as obtaining money by false pretences.

VII. And be it enacted, That every person who shall by any fraud or unlawful device, or ill practice in playing at or with cards, dice, tables, or other game, or in bearing a part in the stakes, wagers, or adventures, or in betting on the sides or hands of them that do play, or in wagering on the event of any game, sport, pastime, or exercise, win from any other person to himself, or any other or others, any sum of money or valuable thing, shall be deemed guilty of obtaining such money or valuable thing from such other person by a false pretence with intent to cheat or defraud such person of the same, and being convicted thereof, shall be punished accordingly.

Wagers not recoverable at law.

VIII. And be it enacted, That all contracts or agreements, whether by parole or in writing, by way of gaming or wagering, shall be null and void, and that no suit shall be brought or maintained in any Court of Law or Equity for recovering any sum of money or valuable thing alleged to be won upon any wager, or which shall have been deposited

posited in the hands of any person to abide the event on which any wager shall have been made: Provided always, that this enactment shall not be deemed to apply to any subscription or contribution or agreement to subscribe or contribute for or toward any plate, prize, or sum of money to be awarded to the winner or winners of any lawful game, sport, pastime, or exercise.

IX. And whereas many important questions are now tried in the form of feigned issues, by stating that a wager was laid between two parties interested in respectively maintaining the affirmative and the negative of certain propositions, but such questions may be as satisfactorily tried without such form: Be it therefore enacted, That in every case where any Court of Law or Equity may desire to have any question of fact decided by a Jury, it shall be lawful for such Court to direct a writ of summons to be sued out by such person or persons as such Court shall think ought to be plaintiff or plaintiffs, against such person or persons as such Court shall think ought to be defendant or defendants therein, in the form set forth in the second Schedule to this Act annexed, marked B. 1., with such alterations or additions as such Court may think proper, and thereupon all the proceedings shall go and be brought to a close, in the same manner as is now practised in proceedings under a feigned issue. Proceeding under feigned issues abolished.

X. And be it enacted, That in every case in which any person shall in any respect offend against this Act, or any provision therein (where no other penalty in that behalf is by this Act specifically imposed,) such person shall, for every such offence, forfeit and pay, on conviction, a penalty or sum not exceeding twenty pounds; and all offences against this Act, not otherwise provided for, may be heard and determined, and every forfeiture or penalty in respect thereof be awarded and imposed by or before two Justices, or (where this Act so directs) by or before any one Justice, in a summary way, in the manner prescribed by an Act of the said Governor and Legislative Council, passed in the fifth year of the Reign of His late Majesty King William the Fourth, intituled, "*An Act to regulate summary proceedings before Justices of the Peace*," or, according to the law in force for the time being, regulating summary proceedings before Justices of the Peace; and any person feeling aggrieved by any summary judgment or conviction under this Act may appeal therefrom in the manner provided by the said Act, or any other law in force for the time being in that behalf: Provided always, that in all cases in which any penalty or forfeiture hereby imposed is made recoverable before any Justice or Justices of the Peace, it shall and may be lawful for any Justice to whom complaint shall be made of any offence against this Act, to summon the party complained against before him or any other Justice or Justices, and on such summons such Justice or Justices are hereby empowered to hear and determine the matter of such complaint in a summary way, and on proof of the offence to convict the offender, and to adjudge him to pay the penalty or forfeiture incurred, and to proceed to recover the same, although no information in writing shall have been exhibited or taken by or before such Justice or Justices; and all such proceedings by summons without information shall be as good, valid, and effectual, to all intents and purposes, as if an information in writing had been exhibited; and in all proceedings under this Act the informer or party prosecuting shall be deemed and taken to be a competent witness. Penalty in any case not specifically provided for, and manner of proceeding for recovery of penalties.

XI. And be it enacted, That any Justice or Justices of the Peace, before whom any information shall be laid in writing against any person, or before whom any person shall be convicted, in respect of any offence against this Act, may cause the information and conviction to be drawn up according to the forms respectively given in Schedule C. 1., to this Act annexed, or any other forms to the same effect, as the case may require: Provided always, that this enactment shall not invalidate any information or conviction, laid or drawn in any other form which may be specially suited to the case, or may be provided by law; and in every information in writing, and in every conviction for any offence contrary to Form of information and conviction.

to this Act, it shall be sufficient if the offence shall be stated in the words thereof, declaring the offence, or attaching any penalty thereto.

Appropriation of fines
and penalties.

XII. And be it enacted, That all fines, forfeitures, and penalties imposed by this Act, the appropriation of which is not hereinbefore provided for, shall be paid one moiety 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 from time to time be directed by any Acts of the said Governor and Legislative Council, and the other moiety to the use of the informer or party prosecuting, who shall be entitled to his or her costs and charges over and above such fines, forfeitures, and penalties, to be ascertained and assessed by the Justice or Justices before whom the case is heard.

Distress not unlawful
for want of form.

XIII. And be it enacted, That when any distress shall be made, for any money to be levied by virtue of the warrant of any Justice or Justices under this Act, the distress shall not be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the information, summons, warrant of apprehension, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser from the beginning, on account of any irregularity which shall be afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage, by an action on the case in any of Her Majesty's Courts of Record.

Plaintiff not to reco-
ver after tender of
amends.

XIV. And be it enacted, That no plaintiff shall recover in any action for any irregularity, trespass, or other wrongful proceeding made or committed in the execution of this Act, or in, under, or by virtue of any authority hereby given, if tender of sufficient amends shall have been made by or on behalf of the party who shall have committed such irregularity, trespass, or other wrongful proceeding, before such action brought; and in case no tender shall have been made, it shall be lawful for the defendant in any such action, by leave of the Court where such action shall depend, at any time before issue joined, to pay into Court such sum of money as he shall think fit, whereupon such proceeding, order, and adjudication shall be had and made in and by such Court, as in other actions where defendants are allowed to pay money into Court.

Limitation of actions.

XV. And be it enacted, That no action, suit, or information, or any other proceeding of what nature soever, shall be brought against any person for anything done or omitted to be done, in pursuance of this Act, or in the execution of the authorities under this Act, unless notice in writing shall be given by the party intending to prosecute such suit, information, or other proceeding, to the intended defendant, one calendar month at least before prosecuting the same, nor unless such action, suit, information, or other proceeding, shall be brought or commenced within three calendar months next after the act or omission complained of, or in case there shall be a continuation of damage, then within three calendar months next after the doing such damage shall have ceased.

No certiorari allowed

XVI. And be it enacted, That no information, conviction, warrant, order, or other proceeding, 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 adjudged void or insufficient for want of form, or be removed by certiorari or otherwise into Her Majesty's Supreme Court for the said Colony.

Sec. 15 of 8 & 9 Vic.,
cap. 109, adopted.

XVII. And whereas a certain Act of Parliament was made and passed in the eighth and ninth years of the Reign of Her present Majesty Queen Victoria, intituled, "*An Act to amend the Law concerning Games and Wagers.*" And whereas it is desirable to adopt so much of the provisions of the said Act of Parliament, as is hereinafter specially set forth: Be it therefore declared and enacted, That so much of the said recited Act of Parliament as is hereinafter specially set forth, shall be and is hereby declared to be in force in the Colony of New South Wales, and shall be applied, so far as the same can be applied, in the administration of justice therein; that is to say, so much of the said recited Act

as

as enacts that an Act passed in the sixteenth year of the Reign of King Charles the Second, such Act being intituled, "*An Act against deceitful, disorderly, and excessive gaming*," and so much of an Act passed in the ninth year of the reign of Queen Anne, such Act being intituled, "*An Act for the better preventing of excessive and deceitful gaming*," as was not altered by an Act passed in the sixth year of the reign of His late Majesty, intituled, "*An Act to amend the Law relating to securities given for considerations arising out of Gaming, usurious, and certain other illegal transactions*," and so much of an Act passed in the eighteenth year of the reign of King George the Second, intituled, "*An Act to explain, amend, and make more effectual the Laws in being, to prevent excessive and deceitful Gaming, and to restrain and prevent the excessive increase of Horse Races*," as relates to the first recited Act of Queen Anne, or as renders any person liable to be indicted and punished for winning or losing at play, or by betting at any one time, the sum or value of ten pounds, or within the space of twenty-four hours the sum or value of twenty pounds, shall be repealed.

Acts of Parliament repealed by 8 and 9 Vict., cap. 109, viz. 16 Car. 2, cap. 7. 9 Anne, cap. 14.

5 and 6 Wil. IV., cap. 41.

And part of 18 Geo., II., cap. 34.

XVIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of the Legislative Council of New South Wales.

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

CHARLES NICHOLSON,

WM. MACPHERSON, CLERK OF THE COUNCIL.

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, 10th September, 1850.

A. 1.

THE FIRST SCHEDULE TO WHICH THE FOREGOING ACT REFERS. FORM OF WARRANT.

To wit } To the Constable.

WHEREAS it appears to me, J. P., one of the Justices of our Lady the Queen, assigned to keep the peace in and for the (here describe the local jurisdiction of the Justice, as the case may be), by the information on oath of A. B., of in the of ycoman, that the house, (room, premises, or place), known as (here insert a description of the house, room, premises, or place, by which it may be readily known and found), is kept and used as a common gaming house, or place for gaming, within the meaning of an Act passed in the fourteenth year of the reign of Her Majesty Queen Victoria, intituled, "*An Act to amend the Law concerning Games and Wagers*," this is, therefore, in the name of our Lady the Queen, to require you with such assistants as you may find necessary, to enter into the said house, (room, premises, or place), and if necessary to use force for making such entry, whether by breaking open doors or otherwise, and there diligently to search for all instruments of unlawful gaming which may be therein, and to arrest, search, and bring before me, or some other of the Justices of our Lady the Queen, assigned to keep the peace, as well the keepers of the same, as also the persons there haunting, resorting, and playing, to be dealt with according to law, and for so doing this shall be your warrant.

Given under my hand and seal, at
Sydney, this in the
of the reign of

J. P. (L. S.)

B. 1.

THE SECOND SCHEDULE TO WHICH THE FOREGOING ACT REFERS.

In the Supreme Court } Or in any inferior Court.
of New South Wales

NEW SOUTH WALES, TO WIT, (or such other venue as may be directed.)

WHEREAS A. B. affirms and C. D. denies (here state fully the fact or facts in issue) and the Judges of the Supreme Court of New South Wales (or such other Court, &c.,) are desirous of ascertaining the truth by the verdict of a jury, and both parties pray that the same may be enquired of by the country.

C. 1.

SCHEDULE TO WHICH THE FOREGOING ACT REFERS. FORM OF INFORMATION.

New South Wales, }
to wit.

BE IT REMEMBERED, that on the day of in the year of our Lord J. P., one (or more) of Her Majesty's Justices of the Peace, assigned to keep the Peace in and for the (here describe the local jurisdiction of the Justice, as the case may be), in the Colony of New South Wales, and giveth me (or us) to understand and be informed that guilty of (here describe the offence.) hath been

FORM

FORM OF CONVICTION.

BE IT REMEMBERED, that on the _____ day of _____ in the year of our Lord _____, is brought before me, (or us) J.P., one (or more) of Her Majesty's Justices (or one or more of the local Justices of the Peace, as the case may be), in the Colony of New South Wales; and is charged before me (or us) with having (here describe the offence), and it appearing to me (or us) that the said _____ is guilty of the said offence, I (or we) do therefore adjudge the said _____ to be guilty of the said offence, and do therefore adjudge the said _____ to be liable to the said punishment.

Given under my (or our) hand (or hands) the day and year first above written.

No. X.

An Act to amend an Act, intituled, "*An Act to amend the Act for the Registration of Deeds; and to provide for the establishment of a separate Registry for Sydney and Port Phillip respectively.*" [Assented to, 10th September, 1850.]

Preamble.

5 Vic. No. 21.

6 Geo. IV. No. 22.

Resident Judge at Melbourne empowered to appoint a Commissioner or Commissioners to perform the duty of the Deputy Registrar in case of his absence or illness.

WHEREAS by an Act of the Governor and Legislative Council of New South Wales, passed in the fifth year of the reign of Her present Majesty Queen Victoria, intituled, "*An Act to amend an Act for the Registration of Deeds; and to provide for the establishment of a separate Registry for Sydney and Port Phillip respectively;*" it is enacted that every memorial which by an Act of the said Governor and Council, passed in the sixth year of the reign of King George the Fourth, intituled, "*An Act for registering Deeds and Conveyances in New South Wales, and for other purposes,*" or by the said first recited Act is required to be verified, and every acknowledgment by a married woman or other person, which by either of the said recited Acts are directed in certain cases to be made, might be verified and made respectively within the District of Port Phillip before the Deputy Registrar, or other person who might be appointed to discharge the duties of Registrar there, or before any Commissioner of the Supreme Court of New South Wales, appointed in any part of the Colony, under the said last recited Act, for those purposes, (such Commissioner not being a party to the instrument, nor having been employed to prepare the same): And whereas doubts and difficulties having arisen as to the appointment of other persons in case of the absence or illness of the Deputy Registrar, to fulfil the duties required to be performed by the said Deputy Registrar, and as to the authority of Commissioners appointed by the Resident Judge for the District of Port Phillip, to perform the duties hereinbefore mentioned, and it is desirable that such doubts and difficulties should no longer exist: 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 said Resident Judge to appoint a Commissioner or Commissioners for the purposes mentioned in the said last recited Act, in any part of the District of Port Phillip; and in the absence (whether through illness, or leave, or from any unavoidable contingency) of the Deputy Registrar, to declare by rule or order what person shall discharge the duties of the said Deputy Registrar; and it shall be lawful for the person so appointed during such illness, leave, or unavoidable contingency, to act in the stead of the said Deputy Registrar, and to sign and indorse in his name all such memorials, receipts, and other papers as require his signature, and perform all and every such other acts and deeds as appertain to and constitute the duties of such Deputy Registrar: Provided that such absence as aforesaid shall not be taken to include absence from the Colony for a longer period than two months: And provided nevertheless, that the said Deputy Registrar and his sureties shall be liable and answerable for the laches, neglect, or misconduct of such person so appointed, in the same manner as such Deputy Registrar and his sureties would be liable in case such acts, laches, or misconduct had been done or suffered by the Deputy Registrar himself.

II. And whereas doubts have arisen as to the validity of memorials and acknowledgments verified or made by or before any other persons than the said Deputy Registrar, or than by or before a Commissioner of the Supreme Court of New South Wales, and as to the validity of receipts and indorsements made and signed by any other person than the said Deputy Registrar: Be it enacted, That every memorial which by the said hereinbefore two recited Acts are or is required to be verified, and every acknowledgment by a married woman or other person, which by the said recited Acts are directed in certain cases to be made and verified as aforesaid, and which shall at any time before the passing of this Act have been verified or made before a Commissioner appointed by the said Resident Judge, or before any Clerk of the Supreme Court of New South Wales for the District of Port Phillip, shall be as valid and effectual as if the same had been verified or made and certified before the Deputy Registrar of the Supreme Court of New South Wales for the District of Port Phillip, or before a Commissioner of the Supreme Court of New South Wales; and that every receipt and indorsement which by the fourth section of the said last recited Act is directed to be signed by the Deputy Registrar, and which shall have at any time prior to the passing of this Act been signed by any Clerk of the Supreme Court of New South Wales for the District of Port Phillip shall be as valid and effectual as if signed by the said Deputy Registrar, and shall on proof of such signature be taken and allowed as evidence of the registration of the instrument on which it shall be indorsed, and of the time when such registration was made.

Memorials and acknowledgments heretofore verified or made before a Commissioner so appointed to be valid.

III. And be it enacted, That any Commissioner appointed by the Resident Judge before the passing of this Act for the purposes hereinbefore mentioned, shall, from and after the passing of this Act, be deemed and taken to have all such powers and authorities, in regard to such purposes, as can or may be exercised by a Commissioner of the Supreme Court of New South Wales.

Commissioner so appointed to have the same powers as a Commissioner of the Supreme Court of New South Wales.

IV. And be it enacted, That before the person so appointed to act in the stead of the said Deputy Registrar shall enter upon the execution of the said duties, he shall take before the Resident Judge of the Supreme Court of New South Wales for the District of Port Phillip, the following declaration, that is to say:—"I, A. B., do solemnly declare that I will truly and faithfully execute and perform the office and duties that are required and directed by an Act of the Governor and Legislative Council of New South Wales, passed in the fourteenth year of Her Majesty's Reign, intituled, 'An Act to amend an Act, intituled, 'An Act to amend the Act for the Registration of Deeds, and to provide for the establishment of a separate Registry for Sydney and Port Phillip respectively;' and I make this solemn declaration by virtue of the provisions of the said Act."

Declaration to be made by such Commissioner.

A. B.

Declared before me
this _____ day of _____
One thousand eight hundred and _____

Passed the Legislative Council this second day
of August, one thousand eight hundred and
fifty.

WM. MACPIERSON, 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, 10th September, 1850.

An Act for the encouragement of persons desirous of providing for their support in old age; and for the protection, under certain restrictions, of their Annuities and Subscriptions for Deferred Annuities. [Assented to, 10th September, 1850.]

Preamble.

Present and Deferred
Annuities exempt
from seizure or levy,

on certain conditions.

Company or Mem-
bers to be certified
under 7 Vic. No. 10.

Privileges to extend
to married women.

Act may be amended.

WHEREAS it is desirable, for the encouragement of provident habits, and to obviate, if possible, the necessity of introducing a Poor Law into this Colony, that the savings of all persons specially set apart for their support in old age should be secured to them and protected by law: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That all Annuities as hereinafter provided, which shall be in the course of payment to aged persons, as well as all Subscriptions for Deferred Annuities to persons when they become aged, shall not be liable to be seized or levied upon by the process of any Court or Courts whatever in the Colony of New South Wales.

II. Provided always, and be it enacted, That such Annuity shall not exceed the sum of one hundred and four pounds per annum, or two pounds per week, exclusive of any bonus or profit that may be divided amongst the members of the Society; and that such Annuity shall not commence before such person shall have attained the fiftieth year of his or her age, and shall have been purchased by weekly, monthly, quarterly, half-yearly, or annual subscriptions, and the payments not made at any time more than two years in advance; and further, when an Annuity has already commenced and is in the course of payment, the Annuitant, in order to enjoy the protection provided by this Act, must have been a subscriber for his Deferred Annuity at least six years previously to the commencement of such Annuity.

III. And be it enacted, That no Society or Company, or the members thereof, at present formed, or that may hereafter be formed, shall be entitled to possess the privileges herein contained unless such Society or Company shall have been duly certified and enrolled in pursuance of the provisions of an Act passed in the seventh year of the Reign of Her present Majesty, intituled, "*An Act to regulate Friendly Societies in the Colony of New South Wales*," and be subject to all and singular the provisions thereof.

IV. And be it enacted, That married women shall be entitled to all the privileges of this Act as if they were *femmes sole*.

V. And be it enacted, That this Act may be altered or amended by any Act to be passed in the present Session of the Legislative Council.

Passed the Legislative Council this twenty-sixth
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,
GOVERNOR.

Govt. House, Sydney, 10th September, 1850.

No. XII.

An Act to extend to the Town of Geelong, and all such other Towns as may from time to time be incorporated, the provisions of certain Acts relating to the Jurisdiction of the Peace within the respective Cities of Sydney and Melbourne, and to certain other matters therein mentioned. [Assented to, 10th September, 1850.]

WHEREAS it is expedient to extend to the incorporated Town of Geelong, and to such other Towns as may from time to time be incorporated in like manner, the provisions of the several Acts of the Governor and Legislative Council of New South Wales hereinafter specified: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That the provisions of a certain Act of the said Governor and Legislative Council, passed in the sixth year of the reign of Her present Majesty, intituled, "*An Act to remove doubts in respect to the exercise of certain powers by the Councils of the City of Sydney and Town of Melbourne, and to declare the competency of Witnesses and the Jurisdiction of Magistrates in certain cases within the same,*" and also the provisions of a certain other Act of the said Governor and Council, passed in the seventh year of the said reign, intituled, "*An Act to alter and amend the Law respecting the competency of the Jurisdiction of Magistrates in certain cases within the City of Sydney and Town of Melbourne respectively,*" and also the provisions of a certain other Act of the said Governor and Council, passed in the said seventh year of Her Majesty's reign, intituled, "*An Act to indemnify and render valid the acts of certain Justices of the Peace for the Territory of New South Wales, and to enable Territorial Justices of the Peace to act as such under certain limitations, within the boundaries of the City of Sydney and Town of Melbourne respectively,*" shall apply and be applied to, and in relation to, the Town of Geelong aforesaid, and to all other Towns which shall from time to time become incorporated, and be invested with separate jurisdictions, in the same manner in all respects as if the said respective Towns had been expressly named in the said recited Acts, in lieu of or in addition to the Cities of Sydney and Melbourne, or as if the provisions of the said recited Acts had been and were re-enacted expressly with reference to the said Town of Geelong, and to each and every other Town to be hereafter incorporated.

II. And whereas certain Commissions of the Peace have lately been issued by His Excellency the Governor, to certain persons named in such Commissions, constituting them to be Justices in and for the Town of Geelong: And whereas doubts may arise as to the effect of such Commissions upon the more general and extensive Commissions of the Peace heretofore issued to Justices for the Territory of New South Wales: Be it declared and enacted, That the issuing of the said Commissions or any other Commissions of the Peace for the Town of Geelong shall not have, or be construed to have, or to have had, the effect of superseding such Commissions of the Peace for the Territory, but such last mentioned Commissions shall be and continue to be of the same force and effect in every respect, and in all places, as if such Commissions for the Town of Geelong had not been made or issued.

Passed the Legislative Council this seventeenth 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,

GOVERNOR.

Govt. House, Sydney, 10th September, 1850.

No. XIII.

No. XIII.

An Act for legalizing Art Unions. [Assented to, 10th September, 1850.]

Preamble.

Voluntary associations constituted for the distribution of works of Art by lot, deemed legal, provided a Charter shall have been obtained.

Or provided that the Deed of Partnership or other Instrument constituting such Association, shall have been submitted to, and approved by the Attorney General, and a copy thereof duly certified by him, be deposited with the Clerk of the Executive Council.

And that it shall be lawful for the said Governor to revoke such Charter, under certain circumstances.

WHEREAS certain voluntary Associations have been, and may hereafter be formed in various parts of New South Wales under the name of Art Unions, for the purchase of paintings, drawings, or other works of Art, to be afterwards allotted and distributed by chance or otherwise, among the several members, subscribers, or contributors forming part of such Associations; or for raising sums of money by subscription or contribution, to be allotted and distributed by chance or otherwise, as prizes, amongst the members, subscribers, or contributors forming part of such Associations, on the condition nevertheless, that such sums of money so allotted and distributed, be expended solely and entirely in the purchase of paintings, drawings, or other works of Art: And whereas such allotment and distribution of paintings, drawings, or other works of Art, or of sums of money for their purchase, and the proceedings taken to carry the same into effect, may be deemed and taken to come within the provisions of the several laws passed for the prevention of lotteries, littlegoes, and unlawful games, whereby the members, subscribers, or contributors of such Associations as aforesaid, or persons acting under their authority, or on their behalf, may be liable or subjected to certain pains and penalties imposed by Law, on persons concerned in lotteries, littlegoes, and unlawful games: And whereas it is expedient that all members of, and subscribers and contributors to such voluntary Associations as aforesaid, and all persons acting under their authority, or on their behalf, so long only as their proceedings are carried on in good faith for the encouragement of the Fine Arts, shall be discharged and protected from any pains and penalties to which they may have rendered themselves liable, by reason of any such their proceedings as aforesaid: Be it therefore enacted, by His Excellency the Governor of New South Wales, by and with the advice and consent of the Legislative Council thereof, That all such voluntary Associations as aforesaid, now constituted, or which may hereafter be constituted, according to the provisions hereinafter contained, shall be deemed to be lawful Associations; and the members of, and subscribers and contributors to all such lawful Associations, and all persons acting under their authority or on their behalf, for the purposes aforesaid, shall be freed and discharged from all pains and penalties, suits, prosecutions, and liabilities, to which by law they would be liable but for the passing of this Act, as being concerned in illegal lotteries, littlegoes, or unlawful games, by reason of anything done or which may be done by them, or any of them, in furtherance of the allotment or distribution, by scheme or otherwise, of paintings, drawings, or other works of Art, or of the allotment or distribution of sums of money as prizes to be expended for their purchase: Provided always, that a Charter or Charters from His Excellency the Governor of New South Wales, with the advice of the Executive Council thereof, shall have been first obtained for the incorporation of any such Association, or provided that the Deed of partnership, or other Instrument or Instruments constituting such Association, and the rules and regulations relating to the proceedings of such Association, for such purposes as aforesaid, shall have first been submitted to the consideration and be approved of by Her Majesty's Attorney General for the said Colony, and a copy thereof duly certified by the said Attorney General, be deposited with the Clerk of the Executive Council; and that it shall be expressed in every such Charter, Deed, or Instrument, that it shall be lawful for the said Governor and Executive Council, whenever it shall appear to them that any such Association is perverted from the purposes of this Act, to revoke or annul the Charter, Deed, or Instrument, under which the Association so offending shall have been constituted; and nothing in this Act contained shall be deemed to apply to any Association whose Charter, Deed of Partnership,

Partnership, or other Instrument constituting the same, shall have been so revoked or annulled; and every revocation thereof shall be made by Minute or Resolution of the Executive Council; and a copy of any such Minute or Resolution, certified and signed by the Clerk of the said Executive Council, shall be received as evidence of the revocation or annulling thereof, without further proof.

II. And be it enacted, That all persons being members of any such Art Union as is specified in this Act, shall be discharged and freed from all suits and prosecutions, liabilities, pains, and penalties to which by law they might be liable, as being concerned in lotteries, littlegoes, or other unlawful games, for any thing which may have been done by them or any of them as members of such Art Union before the passing of this Act, touching the purchase of any picture or other work of Art, or the sale or distribution thereof, by chance or lot.

Indemnity granted to persons concerned in lotteries, &c., for any thing done by them as members of Art Unions, before the passing of this Act.

III. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of the Legislative Council.

Act may be amended or repealed.

Passed the Legislative Council, this ninth day of August, 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,
GOVERNOR.

Govt. House, Sydney, 10th September, 1850.

No. XIV.

An Act for the better protection of Cattle in New South Wales:
[Assented to, 10th September, 1850.]

WHEREAS it is expedient to make provisions for the better protection of Cattle in the Colony of New South Wales: Be it 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, if any credible witness shall prove on oath before a Justice of Peace, that there is reasonable cause to suspect that the carcass or carcasses of any cattle stolen from any person, is or are concealed in any dwelling-house, or other place, it shall be lawful for such Justice to issue a warrant, directing any constable to search such dwelling house, or other place, and if the carcass or carcasses of any cattle, or any part of any such carcass or carcasses, so suspected to have been stolen, shall, by virtue of such search warrant, be found in the possession of any person, in or at such dwelling-house, or other place, specified in such warrant, with his knowledge, it shall be lawful for any Justice before whom such person shall be brought, (unless such person shall satisfy the said Justice that he came lawfully by the same,) to commit such person to the nearest Gaol or Lock-up in which he can be conveniently confined, in order that he may be brought forward for trial at the next Court of Petty Sessions, (unless he enter into such bail, with one or more sufficient securities, as may be required for his appearance before such Court, which any Justice is hereby authorized and required to take;) and if such person so apprehended, after proof upon oath of such finding of such carcass or carcasses, or any part thereof, as aforesaid, shall not satisfy the Justices sitting at Petty Sessions in open Court that he came lawfully thereby, he shall be held guilty of a misdemeanor, and shall forfeit and pay any sum not exceeding twenty-five pounds, together with the charges previous to and attending his conviction.

Preamble.
Any person in whose possession, or on whose premises the carcass or carcasses of stolen cattle shall be found, may be committed to gaol, and on conviction pay a penalty not exceeding twenty-five pounds and costs of conviction.

II.

Any person convicted of using any cattle or horses not belonging to him without the consent of the owner or person in possession thereof, shall pay a penalty not exceeding ten pounds.

II. And whereas a practice prevails among carriers and others in the said Colony of taking working cattle, the property of others, and working them in teams or otherwise, to the great injury and inconvenience of their owners: Be it enacted, That if any person shall take, use, or in any manner work any one or more cattle, the property of any other person, without the consent of the owner or other person in lawful possession thereof, such person so offending shall be deemed guilty of a misdemeanor, and on being convicted thereof, by any two or more Justices of the Peace, in Petty Sessions assembled, and in open Court, shall forfeit and pay for every head of cattle so used, any sum not exceeding ten pounds, together with the costs to be assessed by such Justices.

Upon non-payment of penalty offender may be committed to gaol for any term not exceeding three months.

III. And be it enacted, That upon non-payment of any fine, forfeiture or penalty under this Act, either immediately after the conviction or within such period after the conviction as such Justices at the time of such conviction shall appoint, such Justices shall commit such offender to the nearest common Gaol by warrant under their hands and seals, there to remain without bail or mainprize, for any time not exceeding three calendar months, unless the fine, forfeiture, or penalty and costs so awarded shall be sooner paid.

Persons having suffered punishment under this Act, or sentence having been remitted, cannot be again proceeded against for the same cause.

IV. And be it enacted, That in case any person convicted under this Act, shall have paid the sum adjudged to be paid, together with costs, if awarded under such conviction, or shall have received a remission thereof from the Crown, or shall have suffered the imprisonment awarded for non-payment thereof, in every such case he shall be released from all further or other proceedings for the same cause.

Offences to be determined summarily.

V. And be it enacted, That all complaints for offences under this Act shall be heard and determined in a summary way, and all fines, forfeitures, or penalties, or imprisonment in respect thereof, shall be awarded, imposed, and decided in the manner prescribed by an Act of the Governor and Legislative Council of New South Wales, passed in the fifth year of His late Majesty King William the Fourth, intituled, "*An Act to regulate summary proceedings before Justices of the Peace*;" or according to the law in force for the time being, regulating summary proceedings before Justices of the Peace; and any person feeling aggrieved by any summary conviction, order, or award, under this Act, may appeal therefrom in the manner provided by the said recited Act, or by any other law in force in the Colony for the time being in that behalf; and in all proceedings under this Act, the informer or party prosecuting shall be deemed and taken to be a competent witness.

5 Wm. IV., No. 22.

Appeal.

Informer a competent witness.

Proceedings by summons valid without a formal information in writing.

VI. And be it enacted, That all proceedings under this Act, by summons or warrant, without a formal information in writing, shall be held good, valid, and effectual, to all intents and purposes, as if a formal information in writing had been exhibited: Provided always, that in every such summons or warrant the nature of the charge shall be succinctly stated, and the original complaint shall be made on oath; and that the prosecution shall be commenced within three months after the commission of the offence and not otherwise.

Justices may remit cases to the Supreme or Circuit Court, or Quarter Sessions.

VII. Provided always, and be it enacted, That if the Justices before whom any person shall be brought under this Act, shall find the evidence given against such person before such Justices, to be such that in their opinion the case is one in which there ought to be a prosecution by indictment for felony, it shall be lawful for such Justices to abstain from adjudicating in a summary manner thereon, and to deal with the case as one to be prosecuted at the Supreme or Circuit Court, or Court of General or Quarter Sessions; and if any person so prosecuted at the Supreme or Circuit Court, or Quarter Sessions, shall be acquitted of the charge of felony, and the Jury shall be of opinion that such person did commit the misdemeanor before mentioned, it shall be lawful for such Jury to find such person guilty of such misdemeanor, and he shall thereupon receive sentence accordingly.

Construction of terms.

VIII. And be it enacted, That in the construction of this Act, the word "cattle," shall extend to and include horses, mares, fillies, foals, geldings, colts, bulls, bullocks, cows, heifers, steers, calves, sheep, lambs, goats,

goats, pigs, mules, and asses; and that all words in the singular number shall extend also to the plural; and all words in the plural number shall extend to the singular also.

IX. And be it enacted, That all fines, forfeitures, and penalties imposed by this Act, shall be paid, one moiety 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 from time to time directed by any Acts of the Governor and Legislative Council; and the other moiety to the use of the informer or party prosecuting, who shall be entitled to his costs and charges over and above such fines, forfeitures, and penalties, to be ascertained and assessed by the Justices by and before whom the case is heard.

Appropriation of penalties.

X. And be it enacted, That no information, warrant, conviction, commitment, or other proceeding before or by any Justices of the Peace exercising summary jurisdiction, for any offence under this Act, shall be quashed or set aside or adjudged void or insufficient for want of form, or be removed by certiorari or otherwise into Her Majesty's Supreme Court for the said Colony; and in any conviction for any offence contrary to this Act, it shall be sufficient if the offence shall be stated in the words thereof declaring the offence and attaching a penalty thereto; and such conviction may be in the form given in Schedule A, to this Act annexed, or in any other form to the same effect.

Proceedings not to be quashed for informality, and no certiorari to be allowed.

XI. And be it enacted, That no action at law shall lie against any Justice of the Peace for any matter or thing done or commanded to be done by him in pursuance of the provisions of this Act, unless there be proof of corruption or malice, and unless such action be commenced within three calendar months after the cause of action or complaint shall have arisen; and if any Justice shall be sued for any matter or thing done in pursuance of this Act, he may plead the general issue, and give the special matter in evidence.

Limitation of actions against Justices.

XII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of the said Legislative Council.

Act may be amended or repealed.

Passed the Legislative Council, this thirtieth 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, 10th September, 1850.

GOVERNOR.

SCHEDULE A.

FORM OF CONVICTION.

Be it remembered, That on the _____ day of _____ in the year of Our Lord _____ is brought before us _____ two of Her Majesty's Justices appointed to keep the peace in and for the _____ (here describe the local jurisdiction of the Justices, as the case may be,) in the Colony of New South Wales, and is charged before us with having (here describe the offence) and it appearing to us that the said _____ (here insert the adjudication.) is guilty of the said offence, we do therefore adjudge the said _____

Given under our hands and seals, the day and year first above written.

