



S U P P L E M E N T
TO THE
NEW SOUTH WALES
GOVERNMENT GAZETTE,

OF FRIDAY, SEPTEMBER 5, 1845.

Published by Authority.

SATURDAY, SEPTEMBER 6, 1845.

No. I.

An Act for adopting an Act of the Imperial Parliament, intituled "*An Act for consolidating and amending the Laws against offences relating to the Coin.*" [21st August, 1845.]

WHEREAS the offence of counterfeiting the coin as well as certain other offences relating to the coin, are now, by virtue of several Statutes, punishable with death; and whereas it is expedient to abolish the punishment of death in all such cases, and to repeal the several Statutes against offences relating to the coin, in order that the provisions thereof may be amended and consolidated into one Act; and whereas an Act of the Imperial Parliament was for that purpose passed in the second year of the Reign of His late Majesty King William the Fourth, intituled "*An Act for consolidating and amending the laws against offences relating to the coin,*" and it is expedient that the provisions thereof should be adopted in the Colony of New South Wales: Be it enacted by the Governor of said Colony, by and with the consent of the Legislative Council thereof, That so much of the first section of the said recited Act of Parliament, as repeals certain Statutes therein set forth shall be, and the same is hereby adopted: Provided always, that if any person shall, after the commencement of this Act, be convicted of any offence against any of the said Acts, committed before or upon the day of the passing hereof, and such offence shall have been punishable with death, by virtue of any of the said Acts, in every such case the person convicted of such offence shall not suffer the punishment of death, but shall in lieu thereof be liable, at the discretion of the Court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned with or without hard labour, for any term not exceeding four years.

II. And be it enacted, That if any person shall falsely make, or counterfeit any coin resembling, or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, every such offender shall, in the Colony New South Wales, be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported

Preamble.

² Wil. IV., c. 34.

Previous Offences may be tried under the old Acts but the punishment not to be capital.

Counterfeiting the Gold or Silver coin; transportation for life.

Offence when
deemed complete.

transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years; and every such offence shall be deemed to be complete, although the coin so made or counterfeited shall not be in a fit state to be uttered, or the counterfeiting thereof shall not be finished or perfected.

Colouring counterfeit coin or any pieces of metal with intent to make them pass for Gold or Silver coin.

III. And be it enacted, That if any person shall gild or silver, or shall, with any wash or materials capable of producing the colour of gold or of silver, wash, colour, or case-over any coin whatsoever, resembling, or apparently intended to resemble or pass for any of the Queen's current gold or silver coin; or if any person shall gild or silver, or shall, with any wash or materials capable of producing the colour of gold or of silver, wash, colour, or case-over any piece of silver or copper, or of coarse gold, or coarse silver, or of any metal, or mixture of metals respectively, being of a fit size and figure to be coined, and with intent that the same shall be coined into false and counterfeit coin, resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin; or if any person shall gild, or shall, with any wash or materials capable of producing the colour of gold, wash, colour, or case-over any of the Queen's current silver coin, or file, or in any manner alter such coin, with intent to make the same resemble or pass for any of the Queen's current gold coin; or if any person shall gild or silver, or shall, with any wash or materials capable of producing the colour of gold or of silver, wash, colour, or case-over any of the Queen's current copper coin, or file, or in any manner alter such coin, with intent to make the same resemble or pass for any of the Queen's current gold or silver coin; every such offender shall, in the Colony of New South Wales, be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years.

Colouring or altering genuine coin with intent to make it pass for a higher coin, transportation for life, &c.

Impairing the Gold or Silver coin with intent, &c., transportation for 14 years, &c.

IV. And be it enacted, That if any person shall impair, diminish, or lighten any of the Queen's current gold or silver coin, with intent to make the coin so impaired, diminished, or lightened, pass for the Queen's current gold or silver coin; every such offender shall, in New South Wales, be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported beyond the seas for any term not exceeding fourteen years, nor less than seven years, or to be imprisoned for any term not exceeding three years.

Buying or selling, &c., counterfeit Gold or Silver coin for lower value than its denomination, importing counterfeit coin, transportation for life, &c.

V. And be it enacted, That if any person shall buy, sell, receive, pay, or put off, or offer to buy, sell, receive, pay, or put off any false or counterfeit coin, resembling, or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, at or for a lower rate or value than the same by its denomination imports, or was coined or counterfeited for; or if any person shall import into the Colony of New South Wales, from beyond the seas, any false or counterfeit coin resembling, or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, every such offender, shall, in the Colony of New South Wales, be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years.

Uttering counterfeit Gold or Silver coin imprisonment.

VI. And be it enacted, That if any person shall tender, utter, or put off any false or counterfeit coin, resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, every such offender shall, in New South Wales, be guilty of a misdemeanor, and being convicted thereof, shall be imprisoned for any term not exceeding one year; and if any person shall tender, utter, or put off any false or counterfeit coin, resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit; and such person shall, at the time of such tendering, uttering, or

or putting off, have in his possession besides the false or counterfeit coin so tendered, uttered, or put off, one or more piece or pieces of false or counterfeit coin, resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, or shall either on the day of such tendering, uttering, or putting off, or within the space of ten days then next ensuing, tender, utter, or put off any more or other false or counterfeit coin, resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit; every such offender shall, in New South Wales, be guilty of a misdemeanor, and being convicted thereof, shall be imprisoned for any term not exceeding two years; and if any person who shall have been convicted of any of the misdemeanors, or crimes and offences hereinbefore mentioned, shall afterwards commit any of the said misdemeanors, or crimes and offences, such person shall, in New South Wales, be deemed guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years.

VII. And be it enacted, That if any person shall have in his custody or possession three or more pieces of false or counterfeit coin, resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, and with intent to utter or put off the same; every such offender shall, in New South Wales, be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding three years; and if any person so convicted shall afterwards commit the like misdemeanor, or crime and offence, such person shall, in New South Wales, be deemed guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years.

VIII. And be it enacted, That where any person shall have been convicted of any offence against this Act shall afterwards be indicted for any offence against this Act committed subsequent to such conviction, a copy of the previous information, indictment, and conviction purporting to be signed and certified as a true copy by the Clerk of the Court, or other officer having the custody of the Records of the Court where the offender was first convicted, or by the deputy of such clerk or officer, shall upon proof of the identity of the person of the offender be sufficient evidence of the previous information, indictment, and conviction, without proof of the signature or official character of the person appearing to have signed and certified the same; and for every such copy a fee of six shillings and eight-pence and no more shall be demanded or taken; and if any such clerk, officer, or deputy shall certify or utter as true any false copy of any information, indictment, or conviction for any offence against this Act, knowing the same to be false, or if any person, other than such clerk, officer, or deputy shall sign or certify any copy of any such information, indictment, or conviction, as such clerk, officer, or deputy, or shall utter any copy thereof with a false or counterfeit signature thereto, knowing the same to be false or counterfeit, every such offender shall, in New South Wales, be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported beyond the seas for any term not exceeding fourteen years nor less than seven years, or to be imprisoned for any term not exceeding two years,

IX. And be it enacted, That if any person shall knowingly, and without lawful authority (the proof of which authority shall lie on the party accused) make or mend, or begin or proceed to make or mend, or buy or sell, or shall, knowingly, and without lawful excuse, (the proof of which excuse shall lie on the party accused) have in his custody or possession, any puncheon, counter puncheon, matrix, stamp, die, pattern, or mould, in or upon which there shall be made or impressed, or which will make

Uttering, accompanied by possession of other counterfeit coin, or followed by a second uttering, imprisonment.

Every second offence of uttering after a previous conviction, shall be felony, transportation for life, &c.

Having three or more pieces of counterfeit Gold or Silver coin in possession, &c., with intent, &c., imprisonment.

Second offence felony and transportation.

What shall be sufficient evidence of a conviction for a previous offence against this Act.

Making, mending, or having possession of any coining tools, felony, transportation for life, &c.

make or impress or which shall be intended to make or impress, the figure, stamp or apparent resemblance of both or either of the sides of any of the Queen's current gold or silver coin, or any part or parts of both or either of such sides, or if any person shall without lawful authority (the proof whereof shall lie on the party accused) make or mend, or begin or proceed to make or mend, or buy or sell, or shall without lawful excuse, (the proof whereof shall lie on the party accused) have in his custody or possession any edger, edging tool, collar, instrument, or engine adapted and intended for the marking of coin round the edges, with letters, grainings, or other marks or figures apparently resembling those on the edges of any of the Queen's current gold or silver coin, such person knowing the same to be so adapted and intended as aforesaid, or if any person shall without lawful authority, to be proved as aforesaid, make or mend, or begin or proceed to make or mend, or buy or sell, or shall, without lawful excuse, to be proved as aforesaid, have in his custody or possession any press for coinage, or any cutting engine for cutting by force of a screw or any other contrivance, round blanks out of gold, silver, or other metal, such person knowing such press to be a press for coinage, or knowing such engine to have been used, or be intended to be used for or in order to the counterfeiting of any of the Queen's current gold or silver coin; every such offender shall, in the Colony of New South Wales, be guilty of felony, and being convicted thereof, shall be liable at the discretion of the Court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years.

Various offences
relating to the
Copper coin.

X. And be it enacted, That if any person shall falsely make or counterfeit any coin resembling, or apparently intended to resemble or pass for any of the Queen's current copper coin; or if any person shall knowingly, and without lawful authority, (the proof of which authority shall lie on the party accused) make or mend, or begin or proceed to make or mend, or buy or sell, or shall knowingly, and without lawful excuse, (the proof of which excuse shall lie on the party accused) have in his custody or possession any instrument, tool, or engine adapted and intended for the counterfeiting any of the Queen's current copper coin; or if any person shall buy, sell, receive, pay, or put off, or offer to buy, sell, receive, pay, or put off, any false or counterfeit coin resembling, or apparently intended to resemble or pass for any of the Queen's current copper coin, at or for a lower rate or value than the same by its denomination imports, or was coined or counterfeited for, every such offender shall, in the Colony of New South Wales, be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported beyond the seas for any term not exceeding seven years, or to be imprisoned for any term not exceeding two years; and if any person shall tender, utter, or put off any false or counterfeit coin resembling, or apparently intended to resemble or pass for any of the Queen's current copper coin, knowing the same to be false or counterfeit, or shall have in his custody or possession, three or more pieces of false or counterfeit, coin resembling or apparently intended to resemble or pass for any of the Queen's current copper coin, knowing the same to be false or counterfeit and with intent to utter or put off the same, every such offender shall, in the Colony of New South Wales, be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding one year.

Coin suspected to
be diminished or
counterfeit may be
cut by any person
to whom it is ten-
dered.
Who shall bear
the loss.

XI. And be it enacted, That where any gold or silver coin shall be tendered to any person, who shall suspect any piece or pieces thereof to be diminished otherwise than by reasonable wearing, or to be counterfeit, it shall be lawful for such person to cut, break or deface such piece or pieces, and if any piece so cut, broken or defaced shall appear to be diminished otherwise than by reasonable wearing, or to be counterfeit, the person tendering the same shall bear the loss thereof; but if the same shall be of due weight and appear to be lawful coin, the person cutting, breaking, or defacing the same is hereby required to receive the same at the

the rate it was coined for ; and if any dispute shall arise, whether the piece so cut, broken, or defaced be diminished in manner aforesaid, or counterfeit, it shall be heard and finally determined in summary manner by any Justice of the Peace, who is hereby empowered to examine upon oath as well the parties as any other person, in order to the decision of such dispute; and the Colonial Treasurer of the said Colony, and his deputies and clerks, and the Receivers, duly appointed, of every branch of Her Majesty's Revenue, are hereby required to cut, break, or deface, or cause to be cut, broken, or defaced, every piece of counterfeit or unlawfully diminished gold or silver coin which shall be tendered to them in payment of any part of Her Majesty's Revenue.

XII. And be it enacted, That if any person shall find or discover in any place whatever, or in the possession of any person having the same without lawful excuse, any false or counterfeit coin resembling, or apparently intended to resemble or pass for any of the Queen's current gold, silver, or copper coin, or any instrument, tool, or engine whatsoever, adapted and intended for the counterfeiting of any such coin, it shall be lawful for the person so finding or discovering, and he is hereby required to seize the same, and to carry the same forthwith before some Justice of the Peace; and where it shall be proved, on the oath of a credible witness, before any Justice of the Peace, that there is reasonable cause to suspect that any person has been concerned in counterfeiting the Queen's current gold, silver, or copper coin, or has in his custody or possession any such counterfeit coin, or any instrument, tool, or engine whatsoever, adapted and intended for the counterfeiting of any such coin, it shall be lawful for such Justice, by warrant under his hand, to cause any place whatsoever belonging to, or in the occupation, or under the control of such suspected person to be searched, either in the day or in the night, and if any such counterfeit coin, or any such instrument, tool, or engine, shall be found in any place so searched, to cause the same to be seized and carried forthwith before the said Justice, or some other Justice of the Peace; and wherever any such counterfeit coin, or any such instrument, tool, or engine as aforesaid, shall in any case whatever be seized and carried before a Justice of the Peace, he shall cause the same to be secured, for the purpose of being produced in evidence against any person who may be prosecuted for any offence against this Act; and all counterfeit coin, and all instruments, tools, and engines, adapted and intended for the counterfeiting of coin, after they shall have been produced in evidence, or where they shall have been seized, and shall not be required to be produced in evidence, shall forthwith be delivered up to the Colonial Treasurer of the said Colony, or to any person authorised by him to receive the same.

Provision for the discovery and seizure of counterfeit coin and coining tools, for securing them as evidence, and for ultimately disposing of them.

XIII. And be it enacted, That no person against whom any information or bill of indictment shall be found or filed in the Supreme Court of the said Colony or at any assizes or sessions of the Peace, for any misdemeanor against this Act, shall be entitled to traverse the same to any subsequent sessions of the said Supreme Court or assizes or sessions, but the Court before which the bill of indictment shall be returned as found, shall forthwith proceed to try the person against whom the same is found, unless such person or the prosecutor shall show good cause to be allowed by the Court, for the postponement of the trial.

Indictments not to be traversed except for cause shewn.

XIV. And be it declared and enacted, That where upon the trial of any person charged with any offence against this Act, it shall be necessary to prove that any coin produced in evidence against such person is false or counterfeit, it shall not be necessary to prove the same to be false and counterfeit by the evidence of any Moneyer or other officer of Her Majesty's Mint, but it shall be sufficient to prove the same to be false or counterfeit by the evidence of any other credible witness.

What shall be sufficient proof of coin being counterfeit.

XV. And be it enacted, That in the case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal

As to accessories.

The Court may order hard labour or solitary confinement.

As to offences committed at sea.

Rules of interpretation as to current coin, counterfeit coin and criminal possession.

Limiting time within which action may be brought.

principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act shall, on conviction, be liable to be imprisoned for any term not exceeding two years.

XVI. And be it enacted, That where any person shall be convicted of any offence punishable under this Act, for which imprisonment may be awarded, it shall be lawful for the Court to sentence the offender to be imprisoned, with or without hard labour in the common gaol or house of correction, and also to direct that the offender shall be kept in solitary confinement for the whole or any portion or portions of such imprisonment, as to the Court in its discretion shall seem meet.

XVII. And be it enacted, That where any offence punishable under this Act shall be committed within the jurisdiction of the Admiralty, the same shall be dealt with, inquired of, tried, and determined in the same manner as any other offence committed within that jurisdiction.

XVIII. And be it enacted, That where "the Queen's current gold or silver coin," or "the Queen's current copper coin," shall be mentioned in any part of this Act, the same shall be deemed to include, and denote, any gold or silver coin, or any copper coin respectively coined in any of Her Majesty's Mints, and lawfully current in any part of Her Majesty's Dominions, whether within the United Kingdom or otherwise, and that any of the Queen's current coin which shall have been gilt, silvered, washed, coloured, or cased-over, or in any manner altered so as to resemble or pass for, or be apparently intended to resemble or pass for any of the Queen's current coin, of a higher denomination, shall be deemed and taken to be counterfeit coin within the intent and meaning of those parts of this Act wherein mention is made of "false or counterfeit coin, resembling, or apparently intended to resemble or pass for any of the Queen's current gold or silver coin," and that where the having any matter in the custody or possession of any person is in this Act expressed to be an offence, if any person shall have any such matter in his personal custody or possession, or shall knowingly and wilfully have any such matter in any dwelling house or other building, lodging, apartment, field, or other place, open or inclosed, whether belonging to or occupied by himself or not, and whether such matter shall be so had for his own use or benefit, or for that of another, every such person shall be deemed and taken to have such matter in his custody or possession within the meaning of this Act.

XIX. 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 any thing done in pursuance of this Act, shall be commenced within six calendar months after the fact committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and in any such action, the defendant may plead the general issue, and give this Act, and the special matter in evidence at any trial to be had thereupon, and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit or discontinue any such action after issue joined, or if upon demurrer or otherwise, judgment shall be given against the plaintiff, in every such case, the defendant shall recover his full costs, as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge, before whom the trial shall be, shall certify his approbation of the action, and of the verdict obtained thereon.

ALEX. McLEAY,

Speaker.

Passed the Legislative Council this twenty-first day of August, one thousand eight hundred and forty-five.

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

GEORGE GIPPS,

GOVERNOR.

WM. MACPHERSON,

CLERK OF THE COUNCIL.

An Act to adopt an Act for more effectually preventing Embezzlement by Persons employed in the Public Service of Her Majesty, in the Colony of New South Wales. [28th August, 1845.]

WHEREAS an Act of the Imperial Parliament was passed in the **Preamble.**

Second Year of the Reign of His late Majesty King William the Fourth, intituled "*An Act for more effectually preventing Embezzlements by Persons employed in the Public Service of His Majesty*"; and whereas it is expedient that the provisions of the same should be adopted in the Colony of New South Wales: Be it enacted, by the Governor of said Colony, by and with the advice and consent of the Legislative Council thereof, That the said recited Act shall be, and is hereby adopted accordingly; and that, from and after the passing of this Act, if any person employed in the service of Her Majesty, in the said Colony, and entrusted by virtue of such employment with the receipt, custody, management, or control, of any chattel, money, or valuable security, shall embezzle the same, or any part thereof, or in any manner fraudulently apply or dispose of the same, or any part thereof, to his own use or benefit, or for any purpose whatsoever, except for the public service, every such offender shall be deemed to have stolen the same, and shall be deemed guilty of felony, and on being thereof convicted, in due form of law, shall be liable, at the discretion of the Court, to be transported beyond the seas, for any term not exceeding fourteen years, nor less than seven years, or to be imprisoned, with or without hard labour, as to the Court shall seem meet, for any term not exceeding three years.

2 Wm., IV, c. 4.

Persons in the public service embezzling any money or valuable securities with which they are entrusted, to be deemed guilty of felony, &c.

II. And be it enacted, That every tally, order, or other security whatsoever, entitling or evidencing the title of any person or body corporate, to any share or interest in any public stock or fund, whether of the United Kingdom, or of Great Britain, or of Ireland, or of any Foreign State, or to any share or interest in any fund of any body corporate, company, or society, or to any deposit in any Savings' Bank, and every debenture, deed, bond, bill, note, warrant, order, or other security whatsoever, for money, or for payment of money, whether of the United Kingdom, or of the said Colony, or of any Foreign State or Country, and every warrant or order for the delivery or transfer of any goods or valuable thing, shall, throughout this Act, be deemed, for every purpose, to be included under and denoted by the words "valuable security;" and that if any person, so employed and entrusted as aforesaid, shall embezzle, or fraudulently apply, or dispose of any such valuable security, as aforesaid, he shall be deemed to have stolen the same, within the intent and meaning of this Act, and shall be punishable thereby, in the same manner as if he had stolen any chattel, of like value with the share, interest, or deposit, to which such security may relate, or with the money due on such security, or secured thereby and remaining unsatisfied, or with the value of the goods or other valuable thing mentioned in such security.

What to be included under the words "valuable securities."

III. And be it enacted, That it shall be lawful to charge, in the information or indictment to be preferred against any offender under this Act, and to proceed against him, for any number of distinct acts of embezzlement, or of fraudulent application or disposition, as aforesaid, not exceeding three, which may have been committed by him within the space of six calendar months, from the first to the last of such acts; and in every such information or indictment, where the offence shall relate to any money or any valuable security, it shall be sufficient to allege the embezzlement or fraudulent application or disposition to be of money, without specifying any particular coin or valuable security, and such allegation, so far as it regards the description of the property, shall be sustained, if the offender shall be proved to have embezzled any amount, although the particular

Different acts of embezzlement may be charged in the same indictment.

As to allegation and proof of the property embezzled.

particular species of coin or valuable security of which such amount was composed shall not be proved, or if he shall be proved to have embezzled any piece of coin, or any valuable security, or any portion of the value thereof, although such piece of coin or valuable security may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, and although such part shall have been returned accordingly.

Property to be described as the Queen's.

IV. And be it enacted, That in every case of embezzlement, or fraudulent application or disposition as aforesaid, of any chattel, money, or valuable security, it shall be lawful, in the order of committal by the Justice of the Peace before whom the offender shall be charged, and in the information or indictment to be preferred against such offender, to lay the property of any such chattel, money, or valuable security as aforesaid, in Her Majesty the Queen.

ALEX. McLEAY,
Speaker.

Passed the Legislative Council, this } In the name, and on behalf of Her
twenty-eighth day of August, one thou- } Majesty, I assent to this Act.
sand eight hundred and forty-five. }

GEORGE GIPPS,
GOVERNOR.

WM. MACPHERSON,
CLERK OF THE COUNCIL.

No. III.

An Act to adopt an Act of the Imperial Parliament, intituled, “*An Act to abolish the Punishment of Death in cases of Forgery.*” [28th August, 1845.]

Preamble.

1 Vic., c. 84.

1 Wil. IV., c. 60.

WHEREAS an Act of the Imperial Parliament was passed in the first year of the reign of Her present Majesty, intituled, “*An Act to abolish the punishment of Death in cases of Forgery,*” reciting that whereas by an Act passed in the first year of His late Majesty's reign, intituled, “*An Act for reducing into one Act all such Forgeries as shall henceforth be punished with Death, and for otherwise amending the Laws relative to Forgery,*” it was amongst other things enacted, that if any person should forge or alter, or should offer, utter, dispose of, or put off, knowing the same to be forged or altered, any will, testament, codicil, or testamentary writing, with intent in any of the cases aforesaid to defraud any person whatsoever, every such offender shall be guilty of Felony, and being convicted thereof shall suffer death as a Felon; and it was by the said Act further enacted, that if any person should forge or alter, or should utter, knowing the same to be forged or altered, any Power of Attorney, or other authority, to transfer any share or interest of, or in any stock, annuity, or other public fund, which then was or thereafter might be transferable at the Bank of England, or at the South Sea House, or of, or in the capital stock of any Body Corporate, Company, or Society, which then was or thereafter might be established by Charter or Act of Parliament, or to receive any dividend payable in respect of any such share or interest, with intent, in any of the several cases aforesaid, to defraud any person whatsoever, every such offender shall be guilty of Felony, and being convicted thereof shall suffer Death as a Felon; and it was by the said Act further enacted, that in the case of every Felony punishable under that Act, every principal in the second degree, and every accessory before the fact, should be punishable with Death or otherwise in the same manner as the principal in the first degree was by that Act punishable; and whereas by an Act passed in the second and third years of His late Majesty's reign, intituled, “*An Act to transfer the management of certain annuities on lives from the*”

2 and 3 Wil. IV.,
c. 59.

“*receipt*”

"*receipt of His Majesty's Exchequer to the management of the Commissioners for the reduction of the National Debt, and to amend an Act for enabling the said Commissioners to grant life annuities and annuities for terms of years,*" it was amongst other things enacted, that if any person should forge, counterfeit, or alter, or should cause or procure to be forged, counterfeited, or altered, or should knowingly or wilfully act or assist in the forging, counterfeiting, or altering, any declaration, warrant, order, or other instrument, or any affidavit or affirmation required to be made by that Act, or by the Commissioners for the reduction of the National Debt, under any of the provisions of that Act, or under any authority given to them for that purpose; or should forge, counterfeit, or alter, or should cause or procure, to be forged, counterfeited, or altered, or should knowingly or wilfully act or assist in the forging, counterfeiting or altering, any certificate or order of any officer of the Commissioners for the reduction of the National Debt, or the name or names of any person or persons in or to any transfer of any annuity, or in or to any certificate, order, warrant, or other instrument, for the payment of money for the purchase of any annuity under the provisions of that Act, or in, or to any transfer or acceptance of any such annuity in the books of the Commissioners for the reduction of the National Debt, or in, or to any receipt or discharge for any such annuity, or in, or to any receipt or discharge for any payment or payments due or to become due thereon, or in, or to any letter of attorney or other authority or instrument to authorise, or purporting to authorise the transfer or acceptance of any annuities, or any life annuity of whatsoever kind, or authorising or purporting to authorise the receipt of any life annuity of whatsoever kind, granted under any of the Acts therein recited, or that Act, or any payment or payments due or to become due thereon; or if any person should wilfully, falsely, and deceitfully, personate any true and real nominee or nominees, or should wilfully utter, or deliver, or produce to any person or persons acting under the authority of that Act, any forged register or copy of register of any birth, baptism, or marriage, or any forged declaration, affidavit, or affirmation, knowing the same to be forged, counterfeited, or altered, with intent to defraud His Majesty, His Heirs and Successors, or with intent to defraud any person or persons whatsoever; then and in every such case all and every person or persons so offending, and being lawfully convicted thereof, should be adjudged guilty of Felony and suffer Death; and whereas by another Act passed in the said last mentioned years of His late Majesty's reign, intituled, "*An Act for abolishing the punishment of Death in certain cases of forgery,*" it was amongst other things enacted, that notwithstanding anything thereinbefore contained that Act should not be construed to affect or alter the said recited Act of the first year of His late Majesty, or any other Act or law then in force, so far as the same might authorise the punishment of death to be inflicted upon any person convicted either in England, Scotland, or Ireland of forging or altering, or of offering, uttering, or disposing of, knowing the same to be forged or altered, any will, testament, codicil, or testamentary writing, with intent to defraud any body corporate or person whatsoever, or of forging or altering, or of uttering, knowing the same to be forged or altered, any power of attorney, or other authority to transfer any share or interest of or in any stock, annuity, or other public fund, which then was or thereafter might be transferable at the Bank of England, or South Sea House, or at the Bank of Ireland, or to receive any dividend payable in respect of any such share or interest, with intent to defraud any body corporate or person whatsoever, or of procuring, aiding or assisting in the commission of any of the said offences, but that the punishment for each and every of the said offences, and for the procuring, aiding or assisting in the commission thereof, should continue to be the same as if the Act now in recital had not been passed; and whereas by another Act passed in the said second and third years of His late Majesty's reign, intituled, "*An Act for enabling His Majesty to direct the issue of Exchequer Bills*"

2 and 3 Wil. IV.,
c. 123.

2 and 3 Wil. IV.,
c. 125.

"to

"to a limited amount, for the purposes and in the manner therein mentioned, and for giving relief to Trinidad, British Guiana, and Saint Lucie," it was amongst other things enacted, that if any person or persons should forge, counterfeit or alter, or cause or procure to be forged, counterfeited, or altered, or knowingly or wilfully act or assist in the forging, counterfeiting, or altering, any certificate or certificates of the Commissioners by the said Act now in recital appointed as therein mentioned, or any of them, or any receipt or receipts to be given by the Cashier or Cashiers of the Governor and Company of the Bank of England, in pursuance of that Act, or should wilfully deliver to the Auditor of the receipt of His Majesty's Exchequer for the time being, or to any officer appointed by him, or to the said Commissioners by that Act appointed or any of them, or to any officer or officers appointed by them, or any of them, in the execution of the powers of that Act, or should utter any such forged, counterfeited, or altered certificate or certificates, receipt or receipts, knowing the same to be forged, counterfeited, or altered, with intent to defraud His Majesty, His Heirs or Successors, or any body or bodies politic or corporate, or any person whomsoever, then and in every such case, all and every person or persons so offending, and being thereof lawfully convicted, should be adjudged guilty of Felony, and should suffer Death as in cases of Felony; and whereas by an Act passed in the fifth and sixth years of the reign of His late Majesty, intituled, "*An Act to carry into further execution the provisions of an Act passed in the third and fourth years of His present Majesty, for compensating owners of slaves upon the abolition of Slavery*," it was amongst other things enacted, that if any person or persons should forge, or counterfeit, or cause, or procure to be forged or counterfeited, or should willingly act or assist in the forging or counterfeiting any receipt or receipts, for the whole of or any part or parts of the contributions towards the sum of fifteen millions, in the said Act now in recital mentioned to be part of a sum of twenty millions authorised to be raised by the said Act of the third and fourth years of His late Majesty's reign, either with or without the name or names of any person or persons being inserted therein as the contributor or contributors thereto, payer or payers thereof, or of any part or parts thereof, or any certificate or other instrument to be issued by the Commissioners for the reduction of the National Debt, or should alter any number, figure, or word therein, or utter or publish as true any such false, forged, counterfeited, or altered receipt or receipts, certificate or certificates, instrument or instruments, with intent to defraud the Governor and Company of the Bank of England, or the Commissioners for the reduction of the National debt, or any body politic or corporate, or any person or persons whatsoever, every such person or persons so forging or counterfeiting, or causing or procuring to be forged or counterfeited, or willingly acting or assisting in the forging or counterfeiting, or altering, uttering, or publishing as aforesaid, being thereof convicted in due form of law, should be adjudged guilty of Felony, and should suffer Death as a Felon, without benefit of Clergy; and whereas by another Act passed in the said fifth and sixth years of His late Majesty's reign, intituled, "*An Act for granting relief to the Island of Dominica*," and to amend an Act of the second and third years of His present Majesty, for enabling His Majesty to direct the issue of exchequer bills to a limited amount for the purposes therein mentioned, it was amongst other things enacted, that all and every the several clauses, powers, provisions, enactments, penalties and restrictions in the said hereinbefore recited and lastly hereinbefore mentioned Act of the second and third years of His late Majesty's reign contained, so far as the same could be made applicable and were not varied by the said Act now in recital, should be taken to extend to that Act, and to everything to be done in pursuance of that Act, and as if all such clauses, powers, provisions, and enactments were therein repeated and made applicable to the said Island of Dominica, and to the loans and grants to be made in pursuance of the said Act now in recital,

and

5 and 6 Wil. IV.,
c. 45.

5 and 6 Wil. IV.
c. 51.

and to every matter and thing to be done in pursuance of that Act; and whereas the said lastly hereinbefore mentioned Act, of the second and third years of His late Majesty, so far as the same is hereinbefore recited, is applicable to and in nowise varied by the said lastly hereinbefore recited Act; and whereas it is expedient that none of the hereinbefore mentioned offences shall henceforth be punishable with Death; and whereas it is expedient to adopt the same in the Colony of New South Wales: Be it therefore enacted by His Excellency the Governor of the said Colony, by and with the advice and consent of the Legislative Council thereof, That the said recited Act shall be adopted accordingly, and that if any person shall, after the commencement of this Act, be convicted of any of the offences hereinbefore mentioned, such person shall not suffer Death, or have sentence of Death awarded against him or her for the same, but shall be liable at the discretion of the Court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years nor less than two years.

Persons convicted of any of the offences hereinbefore mentioned, to be liable to be transported.

II. And whereas by the said recited Act of the second and third years of His late Majesty's reign, for abolishing the punishment of death in certain cases of forgery, persons convicted of the forgeries and other offences connected therewith therein respectively referred to, are liable to be transported beyond the seas for life; and whereas by an Act passed in the fourth year of the same reign, intituled, "*An Act to repeal so much of two Acts of the seventh and eighth years and ninth year of King George the Fourth, as inflicts the punishment of death upon persons breaking, entering, and stealing in a dwelling house; also for giving power to the Judges to add to the punishment of transportation for life in certain cases of forgery, and in certain other cases,*" persons punishable by transportation for life under the said recited Act of the second and third years of His late Majesty's reign for abolishing the punishment of death in certain cases of forgery, are liable, previously to their being transported, in case the Court before whom such persons shall be convicted shall think fit, to be imprisoned, with or without hard labour, in the common gaol or house of correction, or to be confined in the penitentiary for any term not exceeding four years nor less than one year; and whereas it is expedient to repeal the said two lastly hereinbefore in part recited Acts, so far as relates to the punishment of persons liable to be transported for life, in order that a more discretionary punishment may be substituted for the same: Be it therefore enacted, That so much of the two lastly hereinbefore in part recited Acts as relates to the punishment of persons convicted of offences for which they are liable under the said Act of the second and third years respectively of His late Majesty's reign to be transported for life shall, from and after the commencement of this Act, be and the same is hereby repealed, and that from and after the passing of this Act, every person convicted of any of such offences shall be liable, at the discretion of the Court, to be transported beyond the seas for the term of the natural life of such person, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years nor less than two years.

So much of 2 & 3 Wil. IV., c. 123, as inflicts punishment of death in certain cases repealed, and transportation substituted.

4 Wil. IV., c. 44.

III. And be it enacted, That when any person shall be convicted of any offence punishable under this Act for which imprisonment may be awarded, it shall be lawful for the Court to sentence the offender to be imprisoned, with or without hard labour, in the common gaol or house of correction, and also to direct that the offender shall be kept in solitary confinement for any portion or portions of such imprisonment, not exceeding one month at any one time, and not exceeding three months in any one year, as to the Court in its discretion shall meet.

Persons convicted of offences punishable by imprisonment may be kept to hard labour and to solitary confinement.

IV. And be it enacted, That nothing in this Act contained shall be construed to extend to the alteration or repeal of any of the powers, provisions, or regulations, contained in an Act of the Governor and Legislative Council of New South Wales, made and passed in the fourth year of the reign of Her present Majesty Queen Victoria, intituled "*An*

Not to affect provisions of 4 Vic., No. 29.

" Act

12
No. 3.
Commencement of
Act.

*" Act for the regulation of gaols, prisons, and houses of correction, in
" the Colony of New South Wales and its Dependencies, and for other
" purposes relating thereto."*

V. And be it enacted, That this Act shall commence and take
effect on the first day of September, one thousand eight hundred and
forty-five.

ALEX. M'LEAY,
Speaker.

*Passed the Legislative Council this } In the name, and on behalf of Her
twenty-eighth day of August, one thou- } Majesty, I assent to this Act.
sand eight hundred and forty-five.*

GEORGE GIPPS,
GOVERNOR.

WM. MACPHERSON,
CLERK OF THE COUNCIL.



An Act to alter and amend an Act, intituled "*An Act to make provision for the safe custody of, and prevention of offences by, persons dangerously insane; and for the care and maintenance of persons of unsound mind.*" [11th September, 1845.]

WHEREAS by an Act of the Governor and Legislative Council of the Colony of New South Wales, passed in the seventh year of Her Majesty's reign, intituled "*An Act to make provision for the safe custody of, and prevention of offences by, persons dangerously insane, and for the care and maintenance of persons of unsound mind,*" it was amongst other things enacted, that it should be lawful for the Governor of said Colony to nominate and appoint some fit and proper persons, not exceeding five in number, to be visitors of each Lunatic Asylum within the said Colony, and that in addition to the said five visitors, two others should be annually appointed by the Legislative Council of New South Wales; and whereas it is fit and expedient to repeal so much of the same as relates to the appointment of such visitors by the said Legislative Council: Be it enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That all persons to be the visitors of each Lunatic Asylum within the said Colony, under the provisions of said recited Act, shall only be nominated and appointed by the Governor of said Colony for the time being, and that the number of visitors so to be appointed shall not exceed five for each such Lunatic Asylum.

Preamble.

7 Vic., No. 14.

Visitors to Lunatic Asylums to be appointed by the Governor.

II. Provided always, and be it enacted, That if any Judge of the Supreme Court shall receive any information upon oath, or otherwise, or shall have any reason or cause to suspect that any person of sound mind is confined in any Lunatic Asylum within the said Colony, such Judge shall have full power and authority to cause the Superintendent or Keeper of such Lunatic Asylum, by any warrant or order to be issued by him, directed to such Superintendent or Keeper, to bring such confined person before him for examination, at a time to be specified in such warrant or order; and if, upon the examination of such confined person, or of any medical or other witness, who may be called to testify before such Judge as to the supposed sanity or insanity of such confined person, it shall be made to appear to the satisfaction of such Judge that such confined person is of sound mind, it shall be thereupon lawful for such Judge, upon the oath or affirmation of such witness, (which oath or affirmation such Judge is hereby authorised and empowered to administer,) and he is hereby required to direct such confined person to be immediately discharged from the custody of the Superintendent or Keeper of such Lunatic Asylum, unless he or she shall be detained therein for some other cause by due process of law.

Judges may order persons confined as lunatics to be brought before them for examination;

and if found to be of sound mind, may discharge them from confinement.

ALEX. McLEAY,
Speaker.

Passed the Legislative Council, this } In the name, and on behalf of Her
eleventh day of September, one thou- } Majesty, I assent to this Act.
sand eight hundred and forty-five.

GEORGE GIPPS,
GOVERNOR.

WM. MACPHERSON,
CLERK OF THE COUNCIL.

No. V.

An Act to amend the laws for regulating Buildings and Party Walls, and for preventing Mischiefs by Fire in the City of Sydney, and to repeal an Act passed in the third year of the reign of Her present Majesty Queen Victoria, relating thereto. [12th September, 1845.]

WHEREAS a certain Act was passed by the Governor and Council of New South Wales, in the eighth year of the reign of His late Majesty King William the Fourth, intituled, "*An Act for regulating buildings and party walls, and for preventing mischiefs by fire in the*" Town

Preamble.

8 Wil. IV., No. 6.

2 Vic., No. 25.

3 Vic., No. 14.

3 Vic., No. 14 repealed, except as to offences committed, or penalties incurred, before the passing of this Act.

6 Vic., No. 3.

The Boundaries of the City shall be those defined in Schedule A to 6 Vic., No. 3.

Fees, fines, and penalties to be recovered summarily.

5 Wil. IV., No. 22.

And to be paid over to the Treasurer of the City Council.

Informers to be deemed a competent witness.

Governor and Council, in the second year of the reign of Her present Majesty Queen Victoria, intituled, "*An Act to amend an Act, intituled, 'An Act for regulating buildings and party walls, and for preventing mischiefs by fire in the Town of Sydney;'*" and whereas a certain other Act was passed by the said Governor and Council, in the third year of the reign of Her present Majesty Queen Victoria, intituled, "*An Act further to amend an Act, passed in the eighth year of the reign of His late Majesty King William the Fourth, intituled, 'An Act for regulating buildings and party walls, and for preventing mischiefs by fire in the Town of Sydney,'*" whereby the operation of the first recited Act was confined to the limits of the Town of Sydney, which are therein described; and whereas it is deemed necessary to repeal the said recited Act, passed in the third year of the reign of Her present Majesty Queen Victoria: 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, an Act of the Governor and Council of New South Wales, passed in the third year of the reign of Her present Majesty Queen Victoria, intituled, "*An Act further to amend an Act passed in the eighth year of the reign of His late Majesty King William the Fourth, intituled, 'An Act for regulating buildings and party walls, and for preventing mischiefs by fire in the Town of Sydney,'*" shall be and the same is hereby repealed, except so far as the same relates to any offences which shall have been committed, and all fees, fines, penalties and forfeitures, which shall have been incurred, previously to the commencement of this Act, which shall and may be punishable, and recoverable respectively, under the above-mentioned Act, as if the same had not been repealed.

II. And whereas by an Act passed by the said Governor and Council, in the sixth year of the reign of Her present Majesty Queen Victoria, intituled, "*An Act to declare the Town of Sydney to be a City, and to incorporate the inhabitants thereof,*" the boundaries of the said City were defined in the Schedule to the said Act annexed marked, A: Be it enacted, That for the purposes of the said recited Acts, which are not hereby repealed, and of this Act, the boundaries of the said City shall be deemed and taken to be as therein is defined and described.

III. And be it enacted, That all fees, fines, forfeitures, and penalties which may be incurred or imposed under the said recited Acts respectively, or this Act, may be recovered in a summary way, by any Surveyor of the said City, duly appointed under the said last mentioned Act, passed in the sixth year of the reign of Her present Majesty Queen Victoria, by information or complaint before any Justice of the Peace for the said City; and that all proceedings in respect to offences committed against the provisions of the said recited Acts, or of this Act, shall be heard and determined in a summary way, before any such Justice of the Peace, and according to the provisions of an Act of the said Governor and 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.*"

IV. And be it enacted, That all fees, fines, forfeitures, and penalties, recovered or received under the said recited Acts respectively, or under this Act, shall be paid to the Treasurer of the Council of the said City, for the local improvement and benefit thereof.

V. And be it enacted, That in all proceedings under the said recited Acts, or under this Act, the person exhibiting the information or complaint, shall be deemed and taken to be a competent witness on the hearing or trial thereof.

ALEX. McLEAY,
Speaker.

Passed the Legislative Council this } In the name, and on behalf of
twelfth day of September, one thou- } Her Majesty, I assent to this
sand eight hundred and forty-five. } Act.

GEORGE GIPPS,
GOVERNOR.

WM. MACPHERSON,
CLERK OF THE COUNCIL.

An Act to regulate, for a limited time, the exportation of Gunpowder and warlike stores, from the Colony of New South Wales. [Assented to 16th October, 1845.]

WHEREAS circumstances have arisen to render it expedient to regulate the exportation of Gunpowder and Warlike Stores from 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 during the continuance of this Act, no vessel having Gunpowder or Warlike Stores on board, in greater quantity than may, in the opinion of the Collector, or Chief Officer of Customs at the port of clearance, be required for the ordinary use and service of such vessel, shall be cleared at any port in the said Colony, without a license under the hand of the Governor, or of the Colonial Secretary, or, if in the District of Port Phillip, under the hand of the Superintendent of that district.

Preamble.

Gunpowder &c., not to be exported without license.

II. And be it enacted, That before any Gunpowder or Warlike Stores shall be shipped under any such licence as aforesaid, the shipper thereof shall be required to give security, by bond, for five hundred pounds, or treble the amount of the value of the Gunpowder or Warlike Stores so shipped, if it shall exceed that amount, with two sufficient sureties, being resident householders, to the satisfaction of the Collector or chief officer of Customs at the port of clearance, that such Gunpowder or Warlike Stores, as the case may be, shall be landed at the place for which it is declared to be shipped, the proof of which shall lie upon the shipper thereof, by the production of the certificate of the Collector or other chief officer of Customs at the place where landed, or such other proof as shall satisfy the Collector or other chief officer of Customs at the place of shipment, within a reasonable time, to be mentioned in such bond, and in failure thereof, the shipper shall be liable to a penalty of five hundred pounds, to be recovered at the suit of such Collector or chief officer of Customs, or of Her Majesty's Attorney General, in the Supreme Court of New South Wales; and that in default of payment of such penalty by the said shipper it shall be lawful for the said Collector or chief officer, or Attorney General, to put the said bond in suit in the said Court, and to recover such amount or value, as the case may be, by information or other wise.

Security to be given that Gunpowder &c., shall be landed at place for which shipped.

III. And be it enacted, That all sums recovered in virtue of this Act, shall go, and be paid to the Colonial Treasurer for the purposes of the General Revenue of the said Colony.

Application of penalties.

IV. And be it enacted, That this Act shall come into effect from the passing thereof, and continue in force for two years thereafter.

Commencement an continuance of Act.

ALEX. M'LEAY,

Speaker.

Passed the Legislative Council this } In the name, and on behalf of Her
fifteenth day of October, one thou- } Majesty, I assent to this Act.
sand eight hundred and forty-five.

GEORGE GIPPS,

GOVERNOR.

WM. MACPHERSON,
CLERK OF THE COUNCIL.

Government House, Sydney,
October 16th, 1845.

No. VII.

An Act to amend An Act, intituled, "*An Act to repeal an Act of the Governor and Council of New South Wales, intituled, 'An Act to authorise the erection of Pounds and for regulating the Impounding of Cattle, and to make further and other provisions in lieu thereof.'*" [Assented to 16th October, 1845.]

WHEREAS by a certain Act of the Governor and Legislative Council of the Colony of New South Wales, passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled, "*An Act*"

Preamble.

4 Wil. IV., No. 3.

"Act

Unclaimed monies to be paid over to charitable institution within the district where accruing.

Petty Sessions to have summary jurisdiction in respect of all manner of fines, penalties, forfeitures, damages, and demands, under the Impounding Act.

Indemnifying Justices.

"Act to repeal an Act of the Governor and Council of New South Wales, intituled, 'An Act to authorise the erection of Pounds, and 'for regulating the Impounding of Cattle, and to make further and 'other provisions in lieu thereof,'" it is among other things enacted, that in case no claim be made within a certain time by the owner of impounded cattle or his agent, for monies paid into the hands of the Colonial Treasurer, the Governor may, by warrant under his hand, direct the same to be paid to the Benevolent Asylum; and whereas it is desirable that such sums should be handed over to some charitable institution (if any) within the District from which the same may be paid, instead of the Benevolent Asylum: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That whenever monies are paid by any Poundkeeper to the Colonial Treasurer, in pursuance of the said recited Act, and the same shall not be claimed by the owner or his agent, it shall and may be lawful for the said Colonial Treasurer to pay over such monies, after the time specified in said recited Act, to such charitable institution (if any) within each Police District respectively, as shall be directed by the Governor of the said Colony, either by a general or special instruction in that behalf: Provided always, that if there be no charitable institution in the Police District from which any such monies shall be received, the same shall be paid to the Benevolent Asylum in Sydney, or to such charitable institution in any neighbouring District as the Governor may direct.

II. And whereas doubts have arisen as to the summary power and jurisdiction of Justices in Petty Sessions, in respect of some of the fines, penalties, forfeitures, damages, and demands, to which any party or parties may be subject under the provisions of the said recited Act; and whereas it is expedient to remove the same: Be it therefore enacted, by the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That all, and all manner of fines, forfeitures, penalties, damages, and demands, to which any party or parties shall or may be subject, under and by virtue of the said recited Act, shall and may be recovered in a summary way before two or more Justices assembled in Petty Sessions, upon the information or complaint of the party or parties aggrieved by the matter or thing, in respect whereof any such fine penalty, or forfeiture, shall have been incurred, or entitled to recover any such damages, or make any such demand, as aforesaid, on his, her, or their overseer or other agent; and that when any such information or complaint shall have been preferred before any Justice of the Peace, it shall and may be lawful for any two or more Justices assembled in the Petty Sessions, at or nearest to the place where the said Pound shall be situated, of whom the said first mentioned Justice may be one, and they are hereby required to hear and determine the same in a summary way, on a day appointed by such first mentioned Justice, for the appearance of the party or parties complained against: Provided always, that all such proceedings, acts, matters, and things, as are in and by the said recited Act to be had or done upon any information or complaint made, as in the said recited Act is provided, shall and may be had and done upon any such information or complaint as in this Act is mentioned, except in so far as the same may be inconsistent herewith.

III. And whereas it is equitable and just, that Justices of the Peace who may have adjudicated in a summary way upon cases brought before them, under the said recited Act, or any Act amending the same, should be protected from all actions or suits, or other proceedings, in respect to any matter or thing so done by them: Be it enacted, That no action, suit, information, indictment, prosecution, or other proceeding whatsoever, shall be commenced or prosecuted in any manner whatsoever, against such Justices, for any matter or thing done by them under the said recited Act, or any Act amending the same, previous to the passing of this Act, by reason of the want of power and authority in such Justices to hear and determine such case in a summary way; and if any action, suit,

shall be commenced or prosecuted against any such Justices, or against any Sheriff, Gaoler, Constable, Bailiff, or other person acting under and in obedience to any warrant, order or conviction, of any such Justices, in respect of their want of summary jurisdiction, under the said recited Act or Acts, as aforesaid, it shall be lawful for the defendant or defendants to apply to the Supreme Court, or any Judge thereof, to stay proceedings; and such Court or Judge, respectively, is hereby required to stay such proceedings accordingly, and to make such order as to the costs of such application, as to the said Court or Judge shall seem fit.

ALEX. M'LEAY,

Speaker.

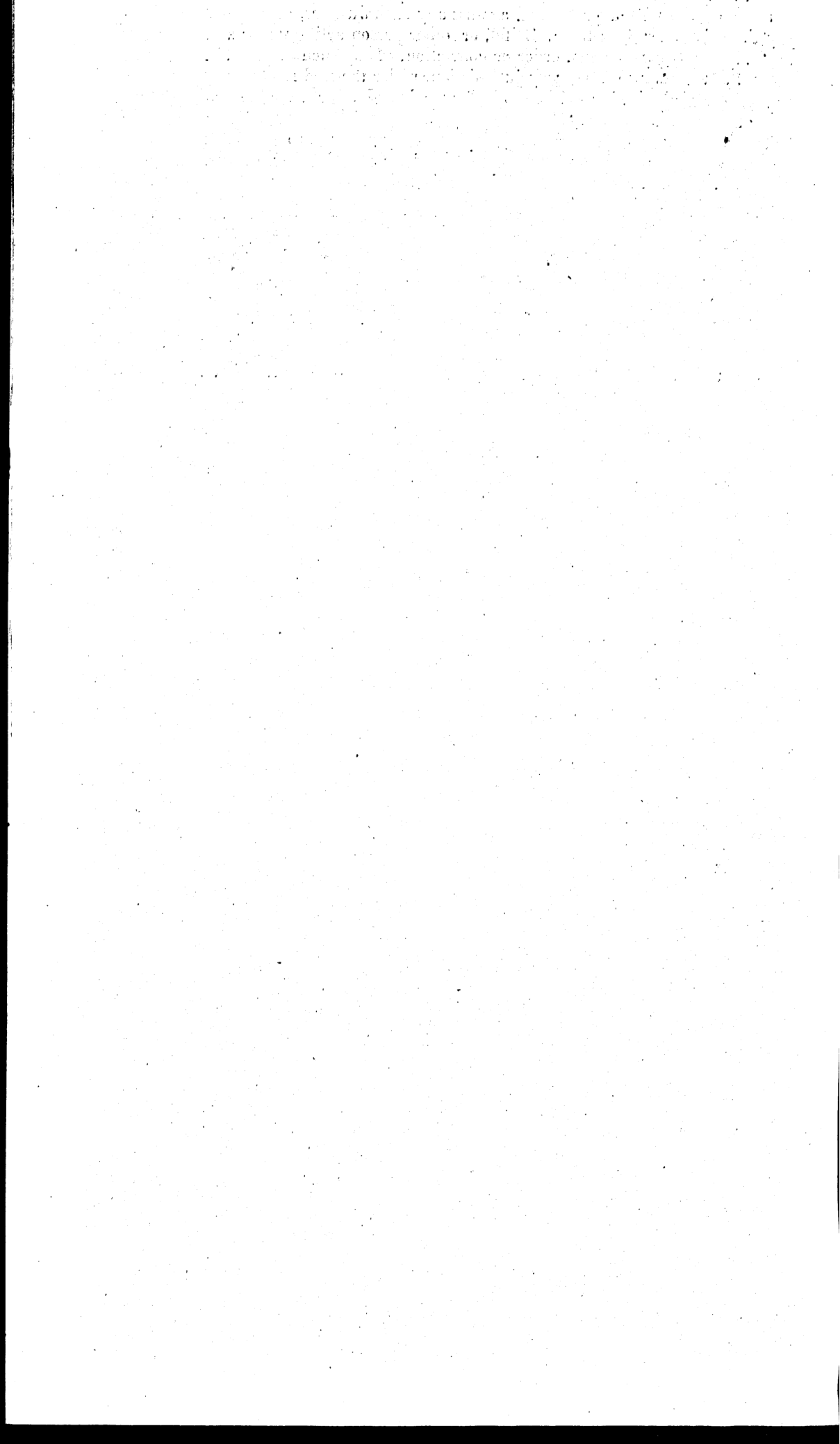
*Passed the Legislative Council this } In the name, and on behalf of Her
tenth day of September, one thou- } Majesty, I assent to this Act.
sand eight hundred and forty-five.*

GEORGE GIPPS,

GOVERNOR.

*Government House, Sydney,
October 16th, 1845.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.



WHEREAS a Joint Stock Company carrying on business under the style and firm of "The Australian General Assurance Company," is established in this Colony, and it is expedient to simplify all future proceedings at Law or in Equity to be commenced by or against the said company: 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, every action, suit, or proceeding at law or in equity, to be commenced or prosecuted by or on behalf of the said company, against any person or persons, whether a member or members of such company or otherwise, or against any body or bodies politic or corporate, for the recovering any debt or property real or personal, or enforcing any claim, right, or demand of the said company, or relating to any matter connected with the concerns or business of the said company, may be commenced and prosecuted in the name of the Secretary for the time being of the said company, as the nominal plaintiff, complainant, or petitioner for and on behalf of the said company; and that all actions, suits, or proceedings as aforesaid, to be commenced or prosecuted against the said company, shall be commenced, instituted, and prosecuted against the Secretary for the time being of the said company, as the nominal defendant for and on behalf of the said company; and in all criminal prosecutions to be instituted or carried on by or on behalf of the said company, for fraud upon or against the said company, or for embezzlement, robbery, stealing, or counterfeiting the bills, notes, bonds, moneys, effects, or property of the said company, or for any felony, misdemeanor, or other offence by which the said company or their property shall or may be affected, it shall be lawful and sufficient to state the property of the said company to be the property of such Secretary for the time being of the said company; and any offender or offenders may be thereupon lawfully convicted of any such offence; and that neither the death, resignation, suspension, nor removal of such Secretary shall abate or prejudice any such action, suit, or proceeding, but the same may be continued in the same name, or in the name of the next or any succeeding Secretary for the time being of the said company: Provided nevertheless, that the body or goods, lands or tenements of such Secretary shall not, by reason of his being the nominal defendant in any such action, suit, or proceeding, be liable to be arrested, seized, or taken in execution.

Proceedings to be in name of Secretary.

II. And be it enacted, That assoon as conveniently may be, after the passing of this Act, and from time to time, upon or as soon as conveniently may be, after the appointment of any new Secretary of the said company, a memorial in writing shall be recorded in the Supreme Court of New South Wales, wherein shall be set forth the style and firm of the said company, and the christian and surnames of the Secretary and of every director for the time being, of the said company, in the form or to the effect set forth in the schedule to this Act annexed; and that every such memorial shall be signed by the Secretary for the time being of the said company, and by the directors therein named, and shall be verified by the oath of the said Secretary (made before the Registrar or some Commissioner of the said Court) that the same contains a true account of the several particulars therein set forth, to the best of the knowledge and belief of the deponent.

Memorial of style of company, & names of Secretary and Directors to be recorded, and renewed on every new appointment of Secretary.

III. And be it enacted, That until the first of such memorials so verified, shall be recorded as aforesaid, no action, suit, or other proceeding at law or in equity, shall be commenced for or on behalf of or against the said company, under the provisions of this Act; and unless such memorial shall be from time to time recorded as aforesaid, within the space of thirty days after the appointment of any new Secretary as aforesaid,

No action to be brought pursuant hereto, until Memorial recorded.

Plaintiff is not to be non-suited for want of proof of Memorial.

Secretary, and other officers of the company to be competent witnesses.

As to mode of levying under execution against the company.

List of members to be recorded on oath by the Secretary, and renewed annually,

Penalty.

Persons recorded as members to be *prima facie*, liable as such.

Reservation of remedies *inter se*, for reimbursement, contribution, &c.

Choses in action to be sued upon by Secretary

mented for or on behalf of the said company, until the memorial hereby required upon such appointments respectively, shall be duly recorded.

IV. And be it enacted, That in any action to be brought in the name of any Secretary of the said company, by virtue of this Act, the plaintiff therein shall not be nonsuited, nor shall a verdict be given against the plaintiff for want of proof of the record of such memorial as hereinbefore mentioned, but in case the defendant in any such action shall specially plead such defence, and on the trial of such action shall make it appear that no such memorial has been recorded, then a non-suit shall be entered in such action.

V. And be it enacted, That in all actions, suits, petitions or other proceedings, in which the said Secretary for the time being shall be on behalf of the said company, plaintiff, complainant, petitioner, or defendant, it shall and may be lawful for such Secretary, or for any other officer, or director, or chairman engaged in the executive duties or management or direction of the said company, to give evidence in any such action, suit, or other proceeding, notwithstanding that the name of such Secretary shall be used as plaintiff, complainant, petitioner, or defendant, and notwithstanding that such Secretary or other officer, director, or chairman may be interested in the result of such action, suit, petition, or proceeding, as a shareholder or copartner in the said company.

VI. And be it enacted, That execution upon any judgment or decree, in any such action, suit, petition, or other proceeding obtained against the Secretary for the time being of the said company, whether he be plaintiff or defendant therein, may be issued against and levied upon the goods, chattels, lands, and tenements, of the said company, or of any member or members for the time being of the said company, when ascertained by writ of *scire facias* in like manner, as if such judgment or decree had been obtained against such member or members personally.

VII. And be it enacted, That for the purpose of giving better effect to the provision last hereinbefore contained, the Secretary for the time being of the said company shall, within thirty days from the passing of this Act, and thereafter, in the month of January in each year, cause a true list of the names of all the then existing members of such company, with their respective places of abode and descriptions, so far as is within his knowledge, to be recorded on oath in the office of the Registrar of the Supreme Court, and the same shall be open for inspection at all reasonable times, by any person requiring the same on payment of a fee of one shilling; and if such Secretary shall fail to cause such list to be recorded in the manner aforesaid, he shall be liable to a penalty of one hundred pounds, to be recovered by action of debt in the said Supreme Court by any person suing for the same.

VIII. And be it enacted, That every person whose name shall be recorded shall by reason thereof be considered *prima facie* a copartner of the said company, and unless his copartnership be disproved, be liable as such copartner until a new list of the names of the copartners shall be recorded as aforesaid, or until he shall have given notice in the New South Wales *Government Gazette*, of his or her retirement from the said company, or of the dissolution thereof: Provided always, that every such Secretary in whose name any action, suit, petition, or other proceeding shall be commenced, prosecuted, or carried on, or defended, and every such member or members against whose goods, chattels, lands, or tenements, execution shall be so issued as aforesaid, shall always be reimbursed, and paid out of the funds of the said company all such damages, costs, and expenses, as by the event of any such proceedings, such Secretary, or member, or members shall or may be put unto in respect thereof; and all existing remedies shall be allowed as between the several members of the said company for the time being, in addition to those provided by this Act.

IX. And be it enacted, That all bills, notes, bonds, warrants of attorney, and other securities, not assignable in law, which have been, or shall

name of any person as Secretary of the said company, for or on account of the said company, shall and may be put in suit, and be sued or prosecuted upon at law, or in equity, in the name of the Secretary for the time being of the said company, and the proceedings instituted upon or in respect of such bills, notes, bonds, warrants of attorney, or other securities, shall not abate by reason of the death, suspension, or removal of any such Secretary, pending such proceedings, but the same may be continued, prosecuted, and carried on in the name of the same or of the succeeding Secretary, to be recorded in the memorial as hereinbefore provided for in that behalf, and so on from time to time whensoever any new appointment or election of Secretary shall take place.

X. And be it enacted, That in case the merits of any demand by or against the said company shall have been determined in any action or suit by or against any such Secretary, the proceedings in such action or suit may be pleaded in bar of any other action or suit, by or against the Secretary of the said company for the same demand.

As to plea of judgment recovered in bar.

XI. And be it enacted, That no claim or demand which any member of the said company may have in respect of his share of the capital or joint stock thereof, or of any dividends, interest, profits, or bonus payable or apportionable in respect of such share, shall be capable of being set off either at law or in equity, against any demand which the said company may have against such member, on account of any other matter or thing whatsoever, but all proceedings in respect of such matter or thing may be carried on as if no claim or demand existed in respect of such capital or joint stock, or of any dividends, interest, profits, or bonus, payable or apportionable in respect thereof.

Shares of capital or dividends not to be set off against any claim of the company.

XII. And be it enacted, That the provisions of this Act, shall extend to the said company, whether the said company be now or hereafter composed of some, or all, or any of the persons who were the original or are the present members thereof, or of all or some of those persons together with some other person or persons, or shall be composed altogether of persons who were not original, nor are present members of the same.

Change of members not affect the operation of this Act.

XIII. Provided always, and be it enacted, That nothing in this Act contained, shall be deemed to affect or apply to any right, title, or interest of Her Majesty, Her Heirs or Successors, or of any body politic or corporate, or of any other person or persons, excepting such as are mentioned herein, or of those claiming by or under him, her or them.

Saving of rights of the crown, and of all persons not mentioned herein.

XIV. And be it enacted, That this Act shall not commence or take effect until the same shall have received the Royal approbation, and the notification of such approbation shall have been made in the *New South Wales Government Gazette*, by order of His Excellency the Governor for the time being of the said Colony.

This Act to take effect when it shall have received the Royal approbation.

XV. And be it enacted, That this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such in all cases, without being specially pleaded.

Act to be deemed a public Act.

ALEX. M'LEAY,

Speaker.

Passed the Legislative Council this seventeenth day of October, one thousand eight hundred and forty-five. } *In the name, and on behalf of Her Majesty, I assent to this Act.*

GEORGE GIPPS,

GOVERNOR.

WM MACPHERSON,

CLERK OF THE COUNCIL.

October 27th, 1845.

SCHEDULE REFERRED TO.

Memorial of the names of the Secretary and Directors for the time being of "The Australian General Assurance Company," recorded in the Supreme Court of New South Wales, pursuant to

to

C. }
D. } Directors. } F.
E. } G.
H.

A. B., Secretary.

A. B., of _____, Gentleman, Secretary of the above named Company, maketh oath and saith, that he duly signed the above Memorial, and that he was present and did see the same signed by the above named Directors respectively, whose names appear thereto.

Sworn, &c.

Before, &c.,
day of

this
A. D.

A. B.

No. VIII.

An Act for regulating the sale and delivery of Coal in the City of Sydney and its vicinity. [Assented to 27th October, 1845.]

Preamble.

WHEREAS it is expedient to regulate the sale and delivery of coal in the City of Sydney and its vicinity: Be it enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That all coal, which shall be sold from and out of any ship or vessel in the Port of Sydney, or at any place within the City of Sydney, or within the distance of five miles from the Obelisk in Macquarie Place, in the City of Sydney, shall be sold by weight and not by measure.

All coal to be sold by weight.

For preventing the sale of one sort of coal for another.

II. And be it enacted, That if any seller or sellers of, or dealer or dealers in coal, shall knowingly sell one sort of coal for, and as a sort which they really are not, or knowingly sell wet coal, with the view of fraudulently increasing its weight, within the said Port of Sydney, or at any place within the City of Sydney, or within the distance of five miles from the Obelisk aforesaid, every such seller or sellers of, or dealer or dealers in coal, shall forfeit and pay, for every such offence, the sum of ten pounds per ton, for every ton of coal so sold, and so in proportion for any smaller quantity.

Penalty, £10.

Seller's ticket to be sent with coal.

III. And be it enacted, That with any quantity of coal exceeding five hundred and sixty pounds, delivered from any lighter, ship, barge, or other craft, or from any wharf, warehouse, or other place within the City of Sydney, or within the distance of five miles from the Obelisk aforesaid, the seller or sellers thereof, shall deliver, or cause to be delivered to the purchaser or purchasers thereof, or to his, her, or their agent or agents, or servant or servants, immediately on the arrival of the cart, waggon, or other carriage, or lighter, barge, or craft, in which such coal shall be sent, and before any of such coal shall be unloaded, a paper, or ticket, in the form following, that is to say:—

“ Mr. A. B. (*here insert the name of the buyer.*)

“ Take notice, That you are to receive herewith, (*here insert the number,*) tons (*here insert the name of the coal, as, ‘Ebenezer’, if any particular sort is ordered or contracted for, and if ordered or contracted for, specify the colliery;*) coal in, (*here insert the number of*) sacks containing, (*here insert the weight;*) pounds of coal in each sack.

“ Signed C. D., (*here insert the name or names of the seller or sellers in words at full length.*)

“ E. F. (*here insert the name of the carman in words at full length.*) The Act of 9 Victoria, No. 8, directs, that with any quantity of coal exceeding five hundred and sixty pounds, a paper, or ticket, describing the quantity, and, if any particular sort is ordered or contracted for, the sort of coal sent by the seller, shall be delivered to the purchaser, or his agent, or servant, before any part of such coal shall be unloaded; that a weighing machine shall be carried with every waggon, cart, or other carriage; and the carman is required to weigh gratuitously, any sack or sacks of coal which shall be chosen by the purchaser

“ purchaser, or his agent, or servant ; and if any carman refuses to weigh
“ such sack or sacks of coal, as aforesaid, or drives away the cart, wag-
“ gon, or other carriage before the coal is weighed, or otherwise obstructs
“ the weighing thereof, he is liable to a penalty not exceeding twenty
“ pounds.”

And in case any such seller or sellers do not deliver, or cause to be delivered, such ticket as aforesaid, to the purchaser or purchasers of such coal, or to his, her, or their servant or servants, before any part of such coal is unloaded, every such seller shall, for every such offence, forfeit and pay any sum not exceeding twenty pounds ; and in case the carman, driver, or other person attending such cart, waggon, or other carriage, or the person having the charge of the lighter, barge, or craft, laden with any such coal, to whom any such ticket shall have been given by, or by the orders of the seller, in order to be delivered to the purchaser, shall (having so first received the same from the seller, or any person by the direction of the seller) refuse or neglect to deliver such ticket to the purchaser or purchasers of such coal, or to his, her, or their servant or servants, before any part of such coal shall be unloaded, such carman, driver, or other person so offending, shall, for every such offence, forfeit and pay any sum not exceeding twenty pounds.

Penalty on seller for neglect.

On carman driver, &c.

IV. And be it enacted, That all coal sold from any lighter, barge, or other craft, or from any wharf, warehouse, or other place, within the City of Sydney, or within the distance of five miles from the Obelisk aforesaid, in any quantity exceeding five hundred and sixty pounds, except coal carried and delivered in bulk as hereinafter mentioned, shall be carried and delivered to the respective purchasers thereof, in sacks, each sack containing either one hundred and twelve pounds, or two hundred and twenty-four pounds net: Provided always, that any coal sold from any ship, lighter, barge, or other craft, or from any wharf or place, within the City of Sydney, or within the distance of five miles from the Obelisk aforesaid, in any quantity exceeding five hundred and sixty pounds, may be carried and delivered to the respective purchasers thereof, if they think fit, in bulk, in carts or other carriages, or in any lighter, barge, or other craft.

Coal to be delivered in sacks containing a certain quantity.

Coal may be delivered in bulk.

V. And be it enacted, That if any carman or driver of any cart, waggon, or other carriage, laden with coal for sale, or to be delivered to the purchaser or purchasers thereof, by any seller or sellers of, or dealer or dealers in, or carrier or carriers of coal from any ship, lighter, barge, or other craft, or from any wharf, warehouse, or other place within the said Port of Sydney, or within the City of Sydney, or within the distance of five miles from the Obelisk aforesaid, shall not have placed in, on, or under his cart, waggon, or other carriage, a perfect weighing machine, (which machine shall be of the form, size, and dimensions to be approved of by the Mayor, Aldermen, and Councillors of the City of Sydney, in Council assembled, and deposited in the Police Office, in Sydney, to which any person shall have access between the hours of ten in the morning and two in the afternoon, and shall be provided by the seller or sellers, dealer or dealers, carrier or carriers of such coal,) then and in every such case, every such carman or driver of such cart, waggon, or other carriage, not having such machine so placed therein, thereon, or thereunder, shall, for every such offence, forfeit and pay any sum not exceeding ten pounds, and the seller or sellers of, or dealer or dealers in, or carrier or carriers of such coal, shall forfeit and pay any sum not exceeding twenty pounds: Provided always, that coal which shall be carried or conveyed in bulk, or in any cart, waggon, or other carriage, belonging to the purchaser or purchasers of such coal, may be so carried or conveyed, without the carman being obliged to carry a weighing machine therewith, or any person or persons being subject or liable to any penalty or penalties in respect thereof: Provided also, that this clause shall not come into effect until the period of one month shall have elapsed from the lodging of such approved machine in the said Police Office, and the advertisement thereof in the *Government Gazette*.

Carman to carry a weighing machine in his cart.

Penalty on carman & seller.

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Weighing machine
may be altered.

Carman required to
weigh any of the sacks
in the cart.

Penalty on carman for
driving coal away,
without weighing if
required.

All the coal sent to be
weighed if desired by
the purchaser.

VI. And be it enacted, That if at any time or times it shall appear to the Mayor, Aldermen, and Councillors of the City of Sydney, in Council assembled, that a weighing machine may be made upon a better or more convenient principle or mode of construction than the machine for the time being deposited at the said Police Office, they may cause a machine according to such better or more convenient principle or mode of construction to be deposited in the said Police Office, in lieu of the machine for the time being deposited there, and shall cause notice of such new machine to be given by advertisement in the *Government Gazette*; and until the expiration of three calendar months next after such advertisement, the machine to be placed and carried, as aforesaid, in any cart, waggon, or other carriage, may be either similar to such new machine, or similar to the machine in lieu of which the same shall have been deposited; and after the expiration of such three calendar months, the machine to be placed and carried as aforesaid, shall be similar to such new machine: Provided always, that the carman or driver of any cart, waggon, or other carriage in which coal shall be carried in sacks for delivery to the purchaser or purchasers thereof, from any ship, lighter, barge, or other craft, or from any wharf, warehouse, or other place within the City of Sydney, or within the distance of five miles from the Obelisk aforesaid, shall, and he is hereby directed to weigh, if he shall be required so to do, any one or more of the sacks contained in any such cart, waggon, or other carriage, which may be chosen by the purchaser or purchasers of the said coal, or his, her, or their servant or servants, or other person or persons acting on the behalf of such purchaser or purchasers, with the coal therein, and also afterwards to weigh in like manner such sack without any coal therein.

VII. And be it enacted, That if any carman or driver of any cart, waggon, or other carriage, in which coal shall be carried in sacks for delivery to the purchaser or purchasers thereof, from any ship, vessel, lighter, barge, or other craft, or from any wharf, warehouse, or other place within the City of Sydney, or within the distance of five miles from the Obelisk aforesaid, shall neglect or refuse to weigh, by the said machine, any such sack or sacks of coal in manner hereinbefore directed, when thereunto required by the purchaser or purchasers of such coal, or by his, her, or their servant or servants, or other person or persons acting by, for, or under the authority of such purchaser or purchasers, or if any such carman or driver shall drive away, or permit or suffer the said cart, waggon, or other carriage to be driven away without weighing, in manner herein directed, the said sack or sacks of coal, or shall hinder, obstruct, or otherwise prevent the purchaser or purchasers of such coal, or his, her, or their servant, or any other person or persons whomsoever, from examining the said machine, or weighing all or any of the sack or sacks of coal in such his cart, waggon, or other carriage, then and in every such case, every such carman or driver so offending, shall, for every such offence, forfeit and pay any sum not exceeding twenty pounds, nor less than five pounds.

VIII. Provided always, and be it enacted, That if any purchaser or purchasers, or his, her, or their servant or servants, or any other person or persons acting by, for, or under the authority of such purchaser or purchasers, who shall require any sack or sacks of coal to be weighed as aforesaid, shall find the coal therein to be deficient in weight, and shall signify to the carman, or other person attending such cart, waggon, or other carriage, his, her, or their desire to have all the coal contained in such cart, waggon, or other carriage, or any part of such coal weighed, or re-weighed in the presence of some constable, police officer, or other indifferent and credible person, then, and in every such case, the carman or driver of such cart, waggon, or other carriage in which such coal shall be brought, shall, and he is hereby required to continue and remain at or before the house, lodging, or other premises of the purchaser or purchasers of such coal, with such coal, and the cart, waggon, or other carriage, until such coal is weighed; and if any such carman or driver shall drive away, or permit or suffer to be driven away, such cart, waggon, or other carriage,

carriage, before the coal contained therein shall be weighed, without the consent of the purchaser or purchasers thereof, or his, her, or their servant or servants, or such other person or persons as aforesaid, then, and in every such case, such carman or driver shall, for every such offence, forfeit and pay any sum not exceeding twenty pounds.

IX. And be it enacted, That such purchaser or purchasers, or his, her, or their servant or servants, or other person or persons as aforesaid, so desiring such coal contained in such cart, waggon, or other carriage, to be weighed, shall, and he, she, or they is and are hereby required to procure the attendance of some constable, police officer, or other indifferent and credible person to be present at the weighing of such coal; and all the said sacks, both with and without the coal therein, shall accordingly be weighed with the said machine by the carman or other person attending such cart, waggon, or other carriage, in the presence of the purchaser or purchasers of the said coal, or his, her, or their agent or agents, or servant or servants, if they or any of them shall attend to see the same weighed, and of such constable, police officer, or other person; and in case such purchaser or purchasers, or his, or her, their agent, or agents, or servant or servants, shall not attend for the purpose of seeing such coal so weighed, then such carman or other person shall proceed in the weighing of such sacks in his, her, or their absence; and in case such carman or other person shall refuse or neglect to weigh such sacks, or any of them, in manner aforesaid, he shall forfeit and pay for such offence any sum not exceeding ten pounds; and the constable, police officer, or any other person who may be present, may weigh the said sacks, or any of them, as aforesaid; and in case, upon the weighing of any such sacks, it shall happen that any sack or sacks shall not contain either one hundred and twelve pounds, or two hundred and twenty-four pounds, net, of coal, as the case may be, then, and in every such case, the seller or sellers of such coal shall, for every such sack of coal that shall be found so deficient, forfeit and pay any sum not exceeding five pounds.

Purchaser to procure the attendance of a constable, &c., if desirous of having the coal re-weighed.

X. And be it enacted, That all coal sold in any quantity less than five hundred and sixty pounds, or in the quantity of five hundred and sixty pounds, from any place, or from any cart or other carriage, within the City of Sydney, or within the distance of five miles from the Obelisk aforesaid, shall be weighed previously to being delivered to the purchaser or purchasers of such coal, and also, if required by such purchaser or purchasers, or his, her, or their agent or servant, in the presence of such purchaser or purchasers, or his, her, or their agent or servant; and if any seller of, or dealer in coal, shall deliver to the purchaser or purchasers thereof, within the City of Sydney, or within the distance of five miles from the Obelisk aforesaid, any quantity of coal less than five hundred and sixty pounds, or the quantity of five hundred and sixty pounds, without previously weighing the same, and also, if required by such purchaser or purchasers, or his, her, or their agent or servant, in the presence of such purchaser or purchasers, or his, her, or their agent or servant, then, and in every such case, such seller or dealer shall, for every such offence, forfeit and pay any sum not exceeding five pounds.

No quantity less than 560lbs weight of coal to be sold without being weighed.

XI. And be it enacted, That all fines, penalties, or forfeitures not exceeding the sum of twenty pounds, imposed by this Act, shall be recovered in a summary way before two or more Justices of the Peace; and that all fines, forfeitures, or penalties exceeding the sum of twenty pounds, shall be recovered by action of debt in the Supreme Court of New South Wales, and one-half of such fines, forfeitures, and penalties as exceed twenty pounds, shall be paid into the Colonial Treasury, and form part of the Ordinary Revenue of New South Wales, and the other half shall be paid to the person who shall sue for the same.

Penalties how recovered.

XII. And be it enacted, That when any carman, driver, or other person employed by any seller or sellers of, or dealer or dealers in coal, shall have been convicted of any offence against this Act, the penalty or forfeiture for the same respectively shall be paid by the seller or sellers, dealer or dealers by whom such carman, driver, or other person shall have been

Penalties incurred by carman may be recovered from their employers, who may recover them back.

been employed at the time when such offence was committed, shall be recovered in a summary way before two Justices of the Peace: Provided always, that such carman, driver, or other person shall be liable to repay to such seller or sellers, dealer or dealers, the amount of such penalty and the costs attending the same, and in case of non-payment thereof, the amount of such penalty shall be recovered by such seller or sellers, dealer or dealers respectively, against such carman, driver, or other person, in a summary way before two Justices of the Peace.

Form of conviction.

XIII. And for the more easy and speedy conviction of offenders against this Act, be it enacted, That the Justices of the Peace before whom any person shall be convicted of any offence against this Act, shall and may cause the conviction to be drawn according to the following form: "Be it remembered, That on the day of , in the "year of our Lord , A.B. is convicted before us, "two of Her Majesty's Justices of the Peace, for that (*here specify the offence, and the time and place when and where committed, as the case may be,*) contrary to an Act of the Legislative Council of "New South Wales, passed in the ninth year of the reign of Her Majesty "Queen Victoria, intituled, (*here insert the title of this Act*)—"Given "under our hands and seals the day and year first above written."

C. D.

E. F.

ALEX. McLEAY,
Speaker.

*Passed the Legislative Council this } In the name, and on behalf of Her Majesty,
sixteenth day of September, one thou- } I assent to this Act.
sand eight hundred and forty-five. }*

GEORGE GIPPS,

GOVERNOR.

October, 27th 1845.

WM. MACPHERSON,
CLERK OF THE COUNCIL.

No. IX.

An Act for the more effectual abolition of Oaths and Affirmations taken and made in various Departments of the Government of New South Wales, and to substitute Declarations in lieu thereof, and for the suppression of voluntary and extra-judicial Oaths and Affidavits. [Assented to 27th October, 1845.]

Preamble.
5 and 6 William IV.,
c. 62.

Declarations substituted for oaths and affirmations.

WHEREAS an Act of the Imperial Parliament was passed in the fifth and sixth year of the reign of His late Majesty King William the Fourth, whereby declarations are substituted for oaths in certain public departments of the State, and other provisions are therein made for the abolition of unnecessary oaths, and it is deemed expedient that provisions of a similar nature should be made for substituting declarations for oaths in the various departments of the Colonial Government of New South Wales: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That in any case where by any statute, law, or ordinance, made or to be made, relating to any of the public Revenue of the Colony, or any of the public offices or public departments, or by any official regulation in any department, any oath, solemn affirmation, or affidavit, might, but for the passing of this Act, be required to be taken or made by any person on the doing of any act, matter, or thing, or for the purpose of verifying any book, entry, or return, or for any other purpose whatsoever, it shall be lawful for the Governor and Executive Council of the said Colony, if they shall so think fit, to substitute a declaration to the same effect as the oath, solemn affirmation, or affidavit, which might, but for the passing of this Act, be required to be taken or made; and the person who might, under the Act or Acts imposing the same, be required to take or make such oath, solemn affirmation, or affidavit, shall, in the presence of the officer or person empowered by such Act or Acts

to

scribe such declaration, and every such officer or person is hereby empowered and required to administer the same accordingly.

II. And be it enacted, That when the Governor and Executive Council shall, in any such case as aforesaid, have substituted a declaration in lieu of an oath, solemn affirmation, or affidavit, the same shall be notified in the *New South Wales Government Gazette*, and from and after the expiration of twenty-one days next following the day of the date of the *Government Gazette* wherein such notification shall have been first published, the provisions of this Act shall extend and apply to each and every case, office, or department specified in such notification.

Such substitution to be notified in Gazette.

III. And be it enacted, That after the expiration of the said twenty-one days it shall not be lawful for any officer or other person to administer, or cause to be administered, or receive, or cause to be received any oath, solemn affirmation, or affidavit, in lieu of which such declaration as aforesaid shall have been directed by the said Governor and Executive Council to be substituted.

Oaths or affirmations not to be made or taken thereafter.

IV. And be it enacted, That if any person shall make and subscribe any such declaration as hereinbefore mentioned in lieu of any oath, solemn affirmation, or affidavit, by any Act or Acts relating to the public Revenue as aforesaid, required to be made on the doing of any act, matter, or thing, or for verifying any book, account, entry, or return, or for any purpose whatsoever, and shall willfully make therein any false statement, as to any material particular, the person making the same shall be deemed guilty of a misdemeanor.

Persons making false declaration guilty of misdemeanor.

V. Provided always and be it enacted, That nothing in this Act contained shall extend or apply to the oath of allegiance in any case in which the same now is or may be required to be taken by any person who may be appointed to any office; but that such oath of allegiance shall continue to be required, and shall be administered and taken as well and in the same manner as if this Act had not been passed.

Act not to extend to oath of allegiance.

VI. Provided also, and be it enacted, That nothing in this Act contained shall extend or apply to any oath, solemn affirmation, or affidavit which now is or hereafter may be made or taken, or be required to be made or taken, in any Judicial proceeding in any Court of Justice, or in any proceeding for or by way of summary conviction before any Justice or Justices of the Peace, but all such oaths, affirmations, and affidavits, shall continue to be required, and to be administered, taken, and made, as well and in the same manner as if this Act had not been passed.

Nor to oaths in Judicial proceeding.

VII. And whereas a practice has prevailed of administering and receiving oaths and affidavits voluntarily taken and made in matters not the subject of any Judicial enquiry, nor in anywise pending or at issue before the Justice of the Peace or other person by whom such oaths or affidavits have been administered or received, and whereas doubts have arisen whether or not such proceeding is illegal—for the more effectual suppression of such practice and removing such doubts: Be it enacted, That from and after the commencement of this Act, it shall not be lawful for any Justice of the Peace or other person to administer or cause or allow to be received any oath, solemn affirmation, or affidavit touching any matter or thing, whereof such Justice or other person hath not jurisdiction or cognizance by some Statute Act or Ordinance in force at the time being: Provided always, that nothing herein contained shall be construed to extend to any oath, solemn affirmation, or affidavit before any Justice in any matter or thing touching the preservation of the peace, or the prosecution, trial, or punishment of offences, or touching any enquiry held before any Justice of the Peace in the nature of Coroners' Inquests respecting sudden deaths, or touching any proceedings before the Legislative Council, or any Committee thereof, nor to any oath, solemn affirmation, or affidavit, which may be required by the laws of any foreign or other country out of New South Wales, to give validity to instruments in writing designed to be used in foreign or other countries respectively.

Abolition of extra-judicial oaths.

Proviso.

VIII.

on declaration.

for any attesting witness to the Execution of any will or codicil, deed, or instrument in writing, and to and for any other competent person, to verify and prove the signing, sealing, publication, or delivery of any such will, codicil, deed, or instrument in writing, by such declaration in writing made as aforesaid, and every such Justice, Notary, or other Officer shall be, and is hereby authorised and empowered to administer or receive such declaration.

Declaration in cases not specially provided for.

IX. And whereas it may be necessary and proper in many cases not herein specified, to require confirmation of written instruments or allegations, or proof of debts, or of the execution of deeds or other matters: Be it therefore enacted, That it shall and may be lawful for any Justice of the Peace, Notary Public, or other Officer now by law authorised to administer an oath, to take and receive the declaration of any person voluntarily making the same before him, in the form of the schedule to this Act annexed, and if any declaration so made shall be false or untrue, in any material particular, the person wilfully making such false declaration shall be deemed guilty of a misdemeanor.

Fees payable.

X. And be it enacted, That whenever any declaration shall be made and subscribed by any person or persons under or in pursuance of the provisions of this Act, or any of them, all and every such fees or fee as would have been due and payable on the taking or making any legal oath, solemn affirmation, or affidavit, shall be in like manner due and payable upon making and subscribing such declaration.

Form of declaration.

XI. And be it enacted, That in all cases where a declaration in lieu of an oath shall have been substituted by this Act, or by virtue of any power or authority hereby given, or where a declaration is directed or authorised to be made and subscribed under the authority of this Act, or of any power hereby given, although the same be not substituted in lieu of an oath heretofore legally taken, such declaration, unless otherwise directed by the powers hereby given, shall be in the form prescribed in the schedule hereunto annexed.

False declaration.

XII. And be it enacted, That in any case where a declaration is substituted for an oath under the authority of this Act or by virtue of any power or authority hereby given, or is directed or authorised to be made and subscribed under the authority of this Act, or by virtue of any power hereby given, any person who shall wilfully and corruptly make and subscribe any such declaration, knowing the same to be untrue in any material particular, shall be deemed guilty of a misdemeanor.

ALEX. M'LEAY

Speaker.

Passed the Legislative Council this } In the name, and on the behalf of Her Majesty, I assent to to this Act.
eight day of October, one thousand eight hundred and forty-five.

W. MACPHERSON,
Clerk of the Council.

GEORGE GIPPS,
Governor.

October, 27th 1845.

SCHEDULE REFERRED TO BY THE FOREGOING ACT.

I, A. B., do solemnly and sincerely declare, That
and I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the ninth year of the reign of Her present Majesty, intituled, "*An Act for the more effectual abolition of oaths and affirmations taken and made in various Departments of the Government of New South Wales, and to substitute declarations in lieu thereof, and for the suppression of voluntary and extra Judicial oaths and affidavits.*"

No. X.

An Act to prevent the travelling of Sheep or Lambs infected with Scab, on public roads and thoroughfares, and for other purposes. [Assented to 27th October, 1845,]

Preamble.

WHEREAS it is expedient to prevent Sheep or Lambs infected with the Scab from being driven on public roads, during the month of February,

Wales, with the advice and consent of the Legislative Council thereof, ^{travel on any public road.} That no person shall drive or conduct, or permit or suffer to be driven or conducted, any Sheep or Lambs infected with Scab, upon any public road or way, used as a public way for the driving of Sheep from one part of the Colony to another, during the month of February in each year, or at any other time; anything in any other Act to the contrary notwithstanding.

II. And be it enacted, That all penalties now in force for turning out, keeping, depasturing, driving, conducting, or permitting or suffering to be turned out, kept, depastured, driven, or conducted, any Sheep or Lambs infected with the Scab, upon any lands whatever, whether within or beyond the boundaries of the Colony, prescribed for location to settlers, shall, from the passing of this Act, cease and determine; and that, instead thereof, there shall be payable, for every such offence, a penalty or sum of not less than Five pounds, nor more than Fifty pounds. ^{Penalties under this Act.}

III. And be it enacted, That all fines, forfeitures, or penalties, sued for under this Act, or under an Act of the said Governor and Council, passed in the third year of the reign of His late Majesty King William the Fourth, intituled, "*An Act for preventing the extension of the disease commonly called the Scab in Sheep or Lambs, in the Colony of New South Wales,*" ^{Recovery of fines.} ^{3 Wm. IV., No. 5.} or any other Act making the said Act perpetual, or amending or extending the provisions thereof, shall be heard and determined by any two or more Justices of the Peace in a summary way; and that all such proceedings shall be regulated according to the provisions of an Act of the said Governor and Council, passed in the fifth year of the reign of His said late Majesty, intituled, "*An Act to regulate summary proceedings before Justices of the Peace,*" ^{5 Wm. IV., No. 19.} ^{6 Wm. IV., No. 10.} so far as the same shall be applicable. ^{5 Wm. IV., No. 22.}

IV. And whereas doubts have arisen as to the power of Justices of the Peace to adjudicate in a summary way under the said recited Act or Acts as aforesaid, and it is equitable and just that the Justices who may have so adjudicated should be protected from any action, suits, or other proceedings, in respect to any matter or thing so done by them: Be it enacted, That no action, suit, information, indictment, prosecution, or other proceeding, shall be commenced or prosecuted in any manner whatsoever against such Justice or Justices, for any matter or thing done by him or them under the said recited Act, or any Act making perpetual the same, or amending and extending the provisions thereof as aforesaid, previous to the passing of this Act, by reason of the want of power or authority in such Justice or Justices to hear and determine such matter or thing in a summary way; and if any action, suit, information, indictment, prosecution, or proceeding whatsoever, shall be commenced or prosecuted against any such Justice or Justices, or against any Sheriff, Gaoler, Constable, Bailiff, or other person acting under and in obedience to any warrant, order, or conviction, of any such Justice or Justices, in respect of his or their want of summary jurisdiction under the said recited Act or Acts, as aforesaid, it shall be lawful for the defendant or defendants to apply to the Supreme Court, or any Judge thereof, to stay proceedings, and such Court or Judge respectively is hereby required to stay such proceedings, as to the said Court or Judge shall seem fit. ^{Indemnifying Justices.}

V. And be it enacted, That all penalties or fines which may be recovered by virtue of this Act, shall be paid, one-half to the prosecutor, if demanded, and the other half, or the whole, (if the other half be not demanded by the prosecutor,) to the Public Treasury, for the purposes of the General Revenue of the said Colony. ^{Penalties how applied.}

ALEX. M'LEAY,

Speaker.

Passed the Legislative Council this } In the name, and on behalf of Her
twenty-fourth day of October, one thou- } Majesty, I assent to this Act.
sand eight hundred and forty-five. }

GEORGE GIPPS,

GOVERNOR.

WM. MACPHERSON,
CLERK OF THE COUNCIL.

October 27th, 1845.

No.

An Act to adopt certain provisions of an Act of the Imperial Parliament, intituled, "*An Act for taking away the punishment of Death in certain cases, and substituting other punishments in lieu thereof.*" [Assented to 27th October, 1845.]

Preamble.
7 and 8 George IV., c.
30, s. 8.
Riotous demolition of
churches, houses, &c.,
not to be punishable
with death.

WHEREAS by an Act of Parliament passed in the eighth year of the reign of His late Majesty King George the Fourth, intituled, "*An Act for consolidating and amending the laws in England relative to malicious injuries to property,*" it was, amongst other things, enacted, that if any persons riotously and tumultuously assembled together to the disturbance of the public peace, should unlawfully and with force demolish, pull down, or destroy, or begin to demolish, pull down, or destroy, any Church or Chapel, or any Chapel for the religious worship of persons dissenting from the United Church of England and Ireland, duly registered or recorded, or any house, stable, coach-house, out-house, warehouse, office, shop, mill, malt-house, hop-oast, barn, or granary, or any building or erection used in carrying on any trade or manufacture, or any branch thereof, or any machinery, whether fixed or moveable, prepared for or employed in any manufacture or in any branch thereof, or any steam engine or other engine for sinking, draining or working any mine, or any staith, building or erection used in conducting the business of any mine, or any bridge, waggon-way, or trunk for conveying minerals from any mine, every such offender should be deemed guilty of felony, and being convicted thereof, should suffer Death as a felon; and that in case of every felony punishable under that Act, every principal in the second degree, and every accessory before the fact, should be punishable with Death or otherwise, in the same manner as the principal in the first degree was by that Act punishable; and whereas it is expedient that the said last mentioned offences should be no longer punishable with Death: 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 convicted of any of the said offences hereinbefore last specified, whether as principal, or as principal in the second degree, or as accessory before the fact, such person shall not be subject to any sentence, judgment, or punishment of Death, but shall, instead of the sentence or judgment in and by the said Act of Parliament, hereinbefore last recited, ordered to be given or awarded against persons convicted of the said last mentioned offences, or any of them respectively, be liable, at the discretion of the Court, to be transported beyond the seas for any term not less than seven years, or to be imprisoned for any time not exceeding three years.

Punishment.

Imprisonment may be
with or without hard
labour.

II. And be it enacted, That in awarding the punishment of imprisonment for any offence punishable under this Act, it shall be lawful for the Court to direct such punishment to be with or without hard labour in the common gaol or house of correction, and also to direct that the offender shall be kept in solitary confinement for any portion or portions of such imprisonment, whether the same be with or without hard labour, not exceeding one month at any one time, and not exceeding three months in any one year, as to the Court in its discretion shall seem meet.

Act not to alter 4 Vic.,
No. 29.

III. And be it enacted, That nothing in this Act contained shall be construed to extend to the alteration or repeal of any of the powers, provisions, or regulations contained in an Act passed by the Governor and Legislative Council of New South Wales, in the fourth year of the reign of Her present Majesty Queen Victoria, intituled, "*An Act for the regulation of gaols, prisons, and houses of correction in the Colony of New South Wales and its Dependencies, and for other purposes relating thereto.*"

ALEX. M'LEAY,

Speaker.

Passed the Legislative Council, this } In the name, and on behalf of Her
eighth day of October, one thousand } Majesty, I assent to this Act.
eight hundred and forty-five.

GEORGE GIPPS,

GOVERNOR.

WM. MACPHERSON,
CLERK OF THE COUNCIL.

October 27th, 1845.
No.

An Act to amend "an Act to define the qualifications of Medical Witnesses at Coroners' Inquests and Inquiries held before Justices of the Peace, in the Colony of New South Wales." [Assented to 27th October, 1845.]

WHEREAS by an Act of the Governor and Legislative Council of the Colony of New South Wales, passed in the second year of Her Majesty's Reign, intituled, "*An Act to define the qualifications of Medical Witnesses at Coroners' Inquests, and Inquiries held before Justices of the Peace in the Colony of New South Wales,*" it was enacted, that no person should, for the purposes therein mentioned, be deemed a legally qualified Medical Practitioner, unless such person shall have proved, to the satisfaction of a Medical Board therein referred to, that he is a Doctor or Bachelor of Medicine of some University, or a Physician or Surgeon, licensed or admitted as such by some College of Physicians or Surgeons in Great Britain or Ireland, or a Member of the Company of Apothecaries of London, or who is or has been a Medical Officer duly appointed and confirmed of Her Majesty's sea or land service; and whereas it is just and expedient, that Members or Licentiates of the Apothecaries Hall of Dublin, should be allowed the privileges of legally qualified Medical Practitioners, under the said recited Act: Be it 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 prove to the satisfaction of the said Medical Board, that he is a Member or Licentiate of the Apothecaries Hall of Dublin, shall be a legally qualified Medical Practitioner, within the meaning of the said recited Act.

Preamble.

2 Victoria, No. 22.

Extended to Members or Licentiates of the Apothecaries Hall, Dublin.

ALEX. M'LEAY,

Speaker.

Passed the Legislative Council this sixteenth day of October, one thousand eight hundred and forty-five. } *In the name, and on behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

GEORGE GIPPS,
GOVERNOR.
October 27th, 1845.

No. XIII.

An Act to amend an Act, intituled, "*An Act for the better preservation of the Ports, Harbours, Havens, Roadsteads, Channels, Navigable Creeks, and Rivers, in New South Wales, and the better regulation of Shipping in the same.*" [Assented to 27th October, 1845.]

WHEREAS by an Act passed in the third year of His late Majesty King William the Fourth, intituled, "*An Act for the better preservation of the Ports, Harbours, Havens, Roadsteads, Channels, Navigable Creeks, and Rivers, in New South Wales, and the better regulation of shipping in the same,*" certain charges, enumerated in the schedule to the said Act annexed, marked with the letter D, are required to be paid into the hands of the Collector or other officer of Customs, by the master or commander of every ship or vessel arriving at or departing from the harbour of Port Jackson, or any other port or harbour where an officer of Customs may be stationed; and it is expedient to amend the said Schedule, in so far as relates to the charges payable by the master or commander of any vessel engaged in the coasting trade: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That so much of the said Schedule, to the said recited Act annexed, as relates to the dues payable by the master or commander of any vessel engaged in the coasting trade, from one port or harbour of New South Wales to another, shall be and the same is hereby repealed.

Preamble.

3 Will. IV., No. 6.

Part of schedule D repealed.

II.

Proviso.

7 Vic., No. 12, s. 9,

Repealed.

Act, the charges payable for entry inward and clearance outward, by the master or commander of every vessel engaged in the coasting trade as aforesaid, on arriving at, or departing from any such port or harbour, where an officer of Customs may be stationed, shall be the sums set forth in figures in the schedule to this Act annexed; and that all sums of money so received by the collector or other officer of Customs, shall be paid without any deduction whatever to the Colonial Treasurer, for the purposes of the General Revenue of the said Colony: Provided always, that all vessels not exceeding fifty tons register measurement, be exempted from the payment of all fees and port dues of every description.

III. And whereas by an Act passed in the seventh year of Her present Majesty Queen Victoria, intituled "*An Act further to amend an Act intituled 'An Act for the better preservation of the ports, harbours, havens, roadsteads, channels, navigable creeks, and rivers in New South Wales, and the better regulation of shipping in the same,'*" vessels engaged in the coasting trade, steamers and licensed packets excepted, are required on arriving in the Harbour of Port Jackson after sunset, to anchor to the eastward of Pinchgut Island, and to remain at anchor till sun-rise; and whereas this regulation is found to occasion great inconvenience and loss to the owners of such vessels, and to the shippers of produce thereby: Be it enacted, That so much of the last hereinbefore recited Act as relates to the anchorage of such vessels below Pinchgut Island, on arriving in the Harbour of Port Jackson after sun-set, shall be and the same is hereby repealed.

ALEX. M'LEAY,

Speaker.

Passed the Legislative Council this sixteenth day of September, one thousand eight hundred and forty-five. } *In the name, and on behalf of Her Majesty, I assent to this Act.*

GEORGE GIPPS,

GOVERNOR.

October 27th, 1845.

WM MACPHERSON,
CLERK OF THE COUNCIL.

SCHEDULE REFERRED TO.

CUSTOMS CHARGES.

A Table of charges payable to the Collector or other officer of Customs for the entry inwards, or clearance outwards of coasting vessels, at any port or harbour of New South Wales, where an Officer of Customs is stationed.

For the entry of every such vessel, not being a steam vessel, if	s.	d.
above 50 and not exceeding 100 tons	2	6
For the clearance of every such vessel, not being a steam vessel,		
if above 50 and not exceeding 100 tons	2	6
For the entry of any such vessel, if above 100 tons... ..	7	6
For the clearance of any such vessel, if above 100 tons	7	6

No. XIV.

An Act to punish summarily the Stealing of Dead Wood. [Assented to 27th October 1845.]

Preamble.

Stealing Dead Wood.

Penalty for first offence

Penalty for second offence.

WHEREAS it is expedient to mitigate the severity of the law, with regard to the stealing of Dead Wood: Be it enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That any person stealing any Dead Wood lying on land in the occupation of another person, the Wood so stolen being of the value of one shilling at the least, shall, for the first offence, forfeit, and pay over and above the value of the Wood so stolen, a sum not exceeding five pounds, to be recovered before one or more Justices of the Peace in a summary way; and if any person so convicted shall be afterwards guilty of the said offence, every such offender shall forfeit and pay a sum not exceeding ten pounds, to be recovered in a summary

person so twice convicted, shall again offend, and be convicted thereof, then, and not otherwise, he shall be deemed guilty of larceny.

II. And be it enacted, That it shall be sufficient to allege in the information that the person charged has stolen Wood, without stating whether the Wood so stolen was alive or dead, and that the said Justice or Justices may convict the offender under this Act, or under the 39th section of an Act of Parliament passed in the seventh and eighth years of the Reign of His late Majesty King George the Fourth, intituled, "*An Act for consolidating and amending the Laws of England relative to Larceny, and other offences connected therewith.*"

Unnecessary to state whether Wood alive or dead.

Conviction may be under this Act, or Act of Parliament 7 and 8 Geo. IV., cap. 29.

ALEX. McLEAY,

Speaker.

Passed the Legislative Council this twenty-fourth day of October, one thousand eight hundred and forty-five. } *In the name, and on behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

GEORGE GIPPS,
GOVERNOR.
October 27th, 1845.

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An Act to provide for the General Regulation of the Customs in New South Wales. [Assented to 7th November, 1845.]

WHEREAS an Act was passed by the Governor and Council of New South Wales, in the third year of the reign of Her present Majesty, intituled, "*An Act to repeal an Act relating to the Revenue of Customs in New South Wales, and to provide for the General Regulation thereof;*" and whereas it is expedient to repeal the said Act, and to make further provision for the general regulation of the customs in New South Wales: 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, the said recited Act of the Governor and Council shall be, and the same is hereby repealed, except as to any matter or thing done or commenced before the passing of this Act; and that this Act shall come into, and be and continue in force and operation for regulating the customs and trade within the said Colony and its dependencies.

(Management.)

II. And be it enacted, That every person employed on any duty or service, relating to the customs within the said Colony or its dependencies, by the orders, or with the concurrence of the Governor of the said Colony, or of the Commissioners of Her Majesty's customs, whether previously or subsequently expressed, shall be deemed to be the officer of the customs for that duty or service; and that every act, matter, or thing required by any law at any time in force, to be done or performed by, to, or with any particular officer nominated in such law for such purpose, being done or performed by, to, or with any person appointed by the Governor of the said Colony, or the Commissioners of Her Majesty's customs, to act for or in behalf of such particular officer, the same shall be deemed to be done or performed by, to, or with such particular officer.

III. And be it enacted, That if any officer, clerk, or other person, acting in any office or employment in or belonging to the customs in the said Colony, shall take or receive any fee, perquisite, gratuity, or reward, whether pecuniary or of any other sort or description whatsoever, directly or indirectly, from any person not being a person duly appointed to some office in the customs, on account of anything done, or to be done by him, or in any way relating to his said office or employment, except such as he shall receive under any order or permission of the Governor of the said Colony, the Commissioners of Her Majesty's Treasury, or the Commissioners of Her Majesty's customs, every such officer so offending, on proof thereof to the Commissioners of Her Majesty's customs, shall be dismissed from his office; and if any person not being a person duly appointed to some office in the customs shall give, offer, or promise to give any such fee, perquisite, gratuity, or reward, such person shall, for every such offence, forfeit a sum not exceeding one hundred pounds, nor less than ten pounds.

IV. And be it enacted, That it shall be lawful for the collector, or other principal officer of the customs, with the sanction of the Governor of the said Colony, from time to time, to appoint the hours of general attendance of the respective officers, and other persons under their survey at their proper offices and places of employment.

V. And be it enacted, That no officer of customs, nor person employed in the collection or management of, or accounting for the revenue of customs, or any part thereof, nor any clerk or other person acting

Preamble.

3 Victoria. No 3.

Repealed.

Management.

Persons employed by Customs deemed Officers for such service.

Officer taking any fee or reward, not allowed, shall be dismissed.

Hours of attendance.

Officers of Customs not liable to serve in parochial or other local offices.

36
No. 18.
Management.

acting under them, shall, during the time of his acting as such officer, or of his being so employed as aforesaid, or of his acting as such clerk or other person as aforesaid, as the case may be, be compelled to serve in any other public office or employment, or to serve on any jury, or inquest, or in the militia, any law, usage, or custom to the contrary thereof notwithstanding.

Holidays.

VI. And be it enacted, That no day shall be kept as a public holiday by the customs, except Christmas day, Good Friday, and the Anniversary of the foundation of the Colony, in every year, and any days appointed by the Governor's proclamation for the purpose of a general fast, or of a general thanksgiving, and also such days as shall be appointed for the celebration of the birth days of Her Majesty, and of Her Successors.

Collector &c., authorised to administer oaths and affirmations.

VII. And be it enacted, That in all cases wherein proof on oath or affirmation shall be required by any law, or shall be necessary in any matter relating to the customs, the same may be made before the collector or other principal officer, where such proof or affirmation shall be required to be made, or before the persons acting for them respectively, and who are hereby authorised and empowered to administer the same.

Collector &c., may examine on oath.

VIII. And be it enacted, That upon examinations and inquiries made by the collector or other principal officer of customs, or other persons appointed by the Commissioners of customs to make such examinations and inquiries for ascertaining the truth of facts relative to the customs, or the conduct of officers or persons employed therein, any person examined before them or him as a witness, shall deliver testimony on oath or affirmation, to be administered by such collector or other principal officer, or such other person as shall examine him, and who are hereby authorised to administer such oath or affirmation; and if such person shall be convicted of making a false oath or affirmation, touching any of the facts so testified on oath or affirmation, or of giving false evidence on his examination on oath before such collector or other principal officer of customs, or such other person in conformity to the directions of this Act, every such person, so convicted as aforesaid, shall be deemed guilty of perjury, and shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury.

Inwards.

(Regulation.—Inwards.)

*General provision
Inwards.*

IX. And whereas it is expedient that the officers of customs should have full cognizance of all ships coming into any port in the said Colony, or approaching the coasts thereof; and of all goods on board, or which may have been on board such ships; and also of all goods unladen from any ship in any port or place in the said Colony: Be it therefore enacted, That no goods shall be unladen from any ship arriving from parts beyond the seas at any port or place in the said Colony, nor shall bulk be broken after the arrival of such ship within four leagues of the coasts thereof respectively, before due report of such ship and due entry of such goods shall have been made, and warrant granted, in manner hereinafter directed; and that no goods shall be so unladen, except at such times and places, and in such manner, and by such persons, and under the care of such officers as is and are hereinafter directed; and that all goods liable to duty on importation, not duly reported, or which being so liable shall be unladen contrary hereto, shall be forfeited; and if bulk be broken contrary hereto, the master of such ship shall forfeit a sum not exceeding one hundred pounds nor less than ten pounds.

Manifest.

X. And be it enacted, That after the expiration of twelve months from the passing of this Act, no goods shall be imported into this Colony from any part of the British dominions, other than the United Kingdom, in any British ship, unless the master shall have on board, a manifest of such goods, made out and dated and signed by him, at the place or respective places, where the same, or the different parts of the same, were taken on board, and authenticated by the certificate of the collector, or other

other principal officer of customs, at such place or places, if in any British Colony, or in the territorial possessions of the East India Company; and every such manifest shall set forth the name and tonnage of the ship, the name of the master, and of the place to which the ship belongs, and of the place or places where the goods were taken on board respectively; and shall contain a particular account and description of all packages on board, with the marks and numbers thereon, to the best of the master's knowledge, and of the particulars of such goods as are stowed loose, and the names of the respective shippers and consignees, as far as the same may be known to the master.

Inwards.
If wanting, master to pay £100.

XI. And be it enacted, That if any goods shall be imported into this Colony, from any part of the British Dominions other than the United Kingdom, in any British ship, without such manifest duly authenticated as aforesaid, or if any goods contained in such manifest be not on board or duly accounted for, the master shall forfeit and pay, any sum not exceeding one hundred pounds, nor less than twenty pounds.

XII. And be it enacted, That it shall be lawful for the collector or other principal officer of customs to station an officer on board any ship or vessel, while within the limits of any port in the said Colony; and the master of every ship or vessel, on board of which any officer is so stationed, shall provide every such officer sufficient room under the deck, in some part of the forecastle or steerage, for his bed or hammock, and in case of neglect or refusal so to do, shall forfeit any sum not exceeding twenty pounds.

Officers may be stationed in ships in the limits of any port.

XIII. And be it enacted, That the master of every ship or vessel arriving from parts beyond the seas at any port in the said Colony, whether laden or in ballast, shall come, within twenty-four hours after such arrival, and before bulk be broken, to the Custom House, and there make a report in writing, and shall make and subscribe a declaration to the truth of the same, before the collector or other principal officer, of the arrival and voyage of such ship or vessel, stating the name, country, and tonnage, and if British, the port of registry, the name and country of master, the country of the owners, the number of the crew, and how many are of the country of such ship or vessel, and whether she be laden or in ballast, and if laden, the marks, numbers, and contents of every package or parcel of goods on board, and where the same was laden, and where and to whom consigned, and where and what goods, if any, had been unladen during the voyage, and what part of the cargo, if any, is intended for exportation in such ship or vessel to parts beyond the seas, and what surplus of stores or stock, remains on board such ship or vessel, as far as any of such particulars can be known to him; and the master shall further answer all such questions concerning the ship or vessel, and the cargo, and the crew, and the voyage, as shall be demanded of him by such officer; and if any goods, liable to duty on importation, shall be unladen from any ship or vessel, before such report be made, or if the master shall fail to make such report, or shall make an untrue report, or not truly answer the questions demanded of him, he shall forfeit a sum not exceeding one hundred pounds, nor less than ten pounds.

Ship and cargo to be reported on arrival.

XIV. And be it enacted, That the master of every ship shall, at the time of making such report, deliver to the collector or other principal officer, the manifest of the cargo of such ship, (where a manifest is required,) and if required by the collector or other principal officer, shall produce to him any Bill or Bills of lading, or a true copy thereof, for any and every part of the cargo laden on board, and shall answer all such questions relating to the ship and cargo, and crew and voyage, as shall be put to him by such collector or other principal officer: and in case of refusal or failure to produce such manifest, or to answer such questions, or to answer them truly, or to produce such bill of lading or copy, or if such manifest or bill of lading, or copy, shall be false, or if any bill of lading be altered, by any master, and the goods expressed therein, shall not have been *bona fide* shipped on board such ship, or if any bill of lading uttered or produced by any master, shall not have been signed by him,

Master to deliver manifest.

him, or any such copy shall not have been received or made by him, previously to his leaving the place where the goods expressed in such bill of lading, or copy, were shipped, then and in every such case, such master shall forfeit and pay a sum not exceeding one hundred pounds, nor less than ten pounds.

Officers to board ships.

XV. And be it enacted, That it shall be lawful for the proper officers of the customs to board any ships or vessels arriving at any port of the said Colony, and to rummage and search all parts of such ships for prohibited or uncustomed goods; also to go on board any ship hovering within one league of the coast thereof; and in either case freely to stay on board, until all goods laden therein shall have been duly delivered from the same; and such officers shall have free access to every part of the ship or vessel, with power to fasten down hatchways, and to mark any goods before landing, and to lock-up, seal, mark, or otherwise secure any goods on board such ship or vessel; and if any place, or any box or chest, be locked, and the keys be withheld, such officers, if they be of a degree superior to tide-waiters, may open any such place, box, or chest in the best manner in their power, and if they be tide-waiters, or only of that degree, they shall send for their superior officer, who may open or cause to be opened any such place, box, or chest, in the best manner in his power; and if any goods be found concealed on board any such ship or vessel, they shall be forfeited; and if the officer shall place any lock, mark, or seal upon any goods on board, and such lock, mark, or seal be wilfully opened, altered, or broken, before due delivery of such goods, or if any such goods be secretly conveyed away, or if the hatchways, after having been fastened down by the officer, be opened, the master of such ship or vessel shall forfeit a sum not exceeding one hundred pounds, nor less than ten pounds.

Particulars of entry of goods inwards.

XVI. And be it enacted, That the person entering any goods shall deliver to the collector or other proper officer a bill of the entry thereof, fairly written in words at length, expressing the name of the importer, and of the ship, and of the master of the ship in which the goods are imported, and of the place whence they were brought, and of the place within the port where the goods are to be unladen, and the particulars of the quantity and quality of the goods, and the packages containing the same, and the marks and numbers on the packages, and two or more duplicates, as the case may require, of such bill, in which all sums and numbers may be expressed in figures, and the particulars contained in such bills shall be written and arranged in such form and manner, and the number of such duplicates shall be such, as the collector, or other principal officer, or other proper person, shall require; and such person shall, at the same time, pay down all the duties due upon the goods, and the collector or other proper officer shall thereupon grant his warrant for the unlading of such goods.

If goods be not entered in twenty days, Officers may land and secure them.

XVII. And be it enacted, That every importer of any goods shall, within twenty days after the arrival of the importing ship or vessel, make due entry inwards of such goods, and land the same; and in default of such entry and landing, it shall be lawful for the officers of the customs to convey such goods to the Queen's warehouse; and if the duties due upon such goods be not paid within three months after such twenty days shall have expired, together with all charges of removal and warehouse-rent, the same shall be sold, and the produce thereof shall be applied, first to the payment of freight and charges, next of duties, and the over-plus, if any, shall be paid to the proprietor of the goods, or other person duly authorised to receive the same.

Entry not to be valid, if goods are not properly described in it.

XVIII. And be it enacted, That no entry, nor any warrant for the landing of any goods, or for the taking of any goods out of any warehouse, shall be deemed valid, unless the particulars of the goods and packages in such entry shall correspond with the particulars of the goods and packages purporting to be the same in the report of the ship, or in the certificate, or other document, where any is required, by which the importation or entry of such goods is authorised, nor unless the goods shall

shall have been properly described in such entry, by the denominations, and with the characters and circumstances according to which such goods are charged with duty, or may be imported; and any goods taken or delivered out of any ship, or out of any warehouse, by virtue of any entry or warrant, not corresponding or agreeing in all such respects, or not properly describing the same, shall be deemed to be goods landed or taken without due entry thereof, and shall be forfeited.

Inwards.

XIX. And be it enacted, That every person who shall make, or cause to be made, any such entry inwards of any goods, not being duly authorised thereto by the proprietor or consignee of such goods, shall, for every such offence, forfeit a sum not exceeding one hundred pounds, nor less than ten pounds.

Unauthorised persons not permitted to make entries.

XX. And be it enacted and declared, That no goods shall be imported into New South Wales, as being imported from the United Kingdom, or from any other British Possession (if any advantage attach to such distinction), unless such goods appear upon the cockets, or other proper documents for the same, to have been duly cleared outwards at the port of exportation in the United Kingdom, or in such other British Possession, nor unless the ground upon which such advantage be claimed, be stated in such cocket or document.

Goods imported from the United Kingdom or British possessions must appear in cocket, &c.

XXI. And be it enacted, That any wine, spirit, cordial, or compound, or any other liquor whatsoever, imported into the said Colony, which shall contain a greater proportion than twenty-five per centum of alcohol, of a specific gravity of eight hundred and twenty-five, at the temperature of sixty degrees according to Fahrenheit's thermometer, shall be deemed to be spirits, so as to render the same liable to the payment of duty thereon, at the highest rate which now is or shall hereafter be fixed by law as chargeable on any spirit whatsoever.

Spirits though mixed, to pay duty as such.

XXII. And be it enacted, That in all cases where the duties imposed upon the importation of articles into the said Colony are charged, not according to weight, tale, gauge, or measure, but according to the value thereof, such value shall be ascertained by the declaration of the importer of such articles, or his known agent, in manner and form following; that is to say, "I, A.B., do hereby declare, that the articles mentioned in the entry, and contained in the packages (here specifying the several packages, and describing the several marks and numbers as the case may be,) are of the value of

Ad valorem duties.

"Witness my hand this day of , A.B.
 "The above declaration, signed the day of , in
 "the presence of C. D., Collector, (or other principal officer);" which declaration shall be written on the bill of entry of such articles, and shall be subscribed with the hand of the importer thereof, or his known agent, in the presence of the collector or other principal officer of the customs, at the port of importation: Provided, that if upon view and examination of such articles, by the proper officer of the customs, it shall appear to him that the said articles are not valued according to the true price and value thereof, and according to the true intent and meaning of this Act, then and in such case, the importer, or his known agent, shall be required to declare on oath, before the collector or other principal officer of customs, what is the invoice price of such articles, and that he verily believes such invoice price is the current value of the articles at the place from whence the said articles were imported; and such invoice price, with the addition of ten pounds per centum thereon, shall be deemed to be the value of the articles, in lieu of the value so declared by the importer or known agent, and upon which the duties due thereon shall be charged and paid: Provided also, that if it shall appear to the collector or other proper officer, that such articles have been found invoiced below the real and true value thereof, at the place from whence the same were imported, or if the invoice price is not known, the articles shall in such case be re-examined by two competent persons, to be nominated and appointed by the Governor of the said Colony; and such persons shall declare on oath, before the collector or other proper officer, what is the true and real value of such

such

Inwards.

such articles at the port of importation in the said Colony, and the value so declared on the oaths of such persons, shall be deemed to be the true and real value of such articles, and upon which the duties due thereon shall be charged and paid.

Where importer
refuses to pay such
duties.

XXIII. And be it enacted, That if the importer of such articles shall refuse to pay the duties imposed thereon, it shall and may be lawful for the collector or other officer of the customs, and he is hereby required, to take and secure the same, with the casks or other packages thereof, and to cause the same to be publicly sold within the space of twenty days, at the most, after such refusal made, and at such time and place as such officer shall, by four or more days' public notice, appoint for that purpose; which articles shall be sold to the best bidder; and the money arising from the sale thereof shall be applied, in the first place, in payment of the said duties, together with the charges that shall have been occasioned by the said sale; and the overplus, if any, shall be paid to such importer or proprietor, or any other person authorised to receive the same.

Entry inwards by
Bill of Sight.

XXIV. And be it enacted, That if the importer of any goods, or his known agent, shall make and subscribe a declaration before the collector or other proper officer, that he cannot, for want of full information, make perfect entry thereof, it shall be lawful for the collector, or other proper officer, to receive an entry by bill of sight, for the packages or parcels of such goods, by the best description which can be given, and to grant a warrant thereupon, in order that the same may be landed and secured to the satisfaction of the officers of customs, and at the expense of the importer, and may be seen and examined by such importer in the presence of the proper officer; and within three days after the goods shall have been so landed, the importer shall make a perfect entry thereof, and shall either pay down all duties due thereon, or duly warehouse the same; and in default of such entry within such three days, such goods shall be taken to the Queen's warehouse, and if the importer shall not within one month after such landing, make perfect entry of such goods, and pay the duties due thereon, together with charges of removal and warehouse rent, such goods shall be sold for the payment thereof, and the overplus, if any, shall be paid to the proprietor of the goods, or other person duly authorised to receive the same.

Goods landed by
Bill of Sight frau-
dulently concealed,
forfeited.

XXV. And be it enacted, That where any package or parcel shall have been landed by bill of sight, and any goods or other things liable to duty on importation, shall be found in such package or parcel, concealed in any way, or packed with intent to deceive the officers of Her Majesty's customs, as well all such goods and other things, as the package or parcel in which they are found, and all other things contained in such package or parcel, shall be forfeited.

Goods damaged on
voyage.

XXVI. And be it enacted, That if any goods which are liable to the payment of duty, shall receive damage during the voyage, an abatement of such duties shall be allowed in proportion to the damage so received, provided proof be made to the satisfaction of the collector of Her Majesty's Customs, that such damage was received after the goods were shipped in the ship importing the same, and before they were landed in this Colony; and provided claim to such abatement of duties be made at the time of the first examination of such goods.

Officers to examine
damage.

XXVII. And be it enacted, That the officers of the customs shall thereupon examine such goods with reference to such damage, and may state the proportion of damage which, in their opinion, such goods have so received, and may make a proportionate abatement of duties; but if the officers of customs be incompetent to estimate such damage, or if the importer be not satisfied with the abatement made by them, the collector or other principal officer shall choose two indifferent merchants, experienced in the nature and value of such goods, who shall examine the same, and shall make and subscribe a declaration, stating in what proportion, according to their judgment, such goods are lessened in their value by reason of such damage, and thereupon, the officers of customs may

may make an abatement of the duties according to the proportion of damage so declared by such merchants.

XXVIII. And be it enacted, That no goods whatever shall be unshipped from any ship arriving from parts beyond the seas, or landed or put on shore, except on days not being Sundays or holidays, and in the day-time; nor shall any goods be so unshipped or landed, unless in the presence, or with the authority of the proper officer of the customs; and such goods shall be landed at some wharf, quay, or place appointed for the landing of goods by sufferance; and that no goods after having been put into any boat or craft to be landed, shall be removed into any other boat or craft, previously to their being duly landed, without the permission or authority of the proper officer of the customs.

Inwards.

Times and places for landing.

XXIX. And be it enacted, That the unshipping, carrying, and landing of all goods, and the bringing of the same to the proper place after landing, for examination, or for weighing, and the putting of the same into the scales, and the taking the same out of and from the scales after weighing, and the opening and closing of the same, shall be performed by, or at the expense and risk of the importer.

Goods to be unshipped, &c., at expense of importer.

XXX. And be it enacted, That it shall be lawful for the Governor of the said Colony, from time to time, by any order under his hand, to appoint places to be sufferance wharfs for the lading or unlading of goods by sufferance, to be duly issued by him, or by the collector of customs, under his directions, in such manner, and in such cases as he shall see fit.

Sufferance wharfs to be appointed.

XXXI. And be it enacted, That it shall be lawful to re-import into the said Colony any goods which shall have been legally exported from the same, and to enter such goods by bill of store, referring to the entry outward and exportation thereof: Provided the property in such goods continue in the same person by whom, or on whose account, the same have been exported, and that such importation take place within one year from the date of exportation; and if the goods so returned be foreign goods, which had before been legally imported into the said Colony, the same duties shall be payable thereon as would at the time of such re-importation be payable on the like goods under the same circumstances of importation, as those under which such goods had been originally imported, or such goods may be warehoused as the like goods may be warehoused upon a first importation thereof.

Returned Goods entered by Bill of Store.

XXXII. And be it enacted, That the surplus stores of any ship arriving in this Colony, shall be subject to the same duties, and the same regulations, as the like sorts of goods shall be subject to, when imported by way of merchandise; and such surplus stores may be entered for the private use of the master, or owner of such ship, or of any passenger of such ship, to whom such surplus stores may belong, on payment of the proper duties, or to be warehoused for the future use of such ship.

Surplus stores subject to same duties as goods.

XXXIII. And be it enacted, That all specimens, whether mineral, animal, or vegetable, illustrative of natural history, and all live plants, bullion, or coin, may be imported into this Colony duty free, anything contained in any Act relative to the revenue of customs to the contrary notwithstanding.

Specimens of natural history, bullion, &c., exempted from duty.

(Regulation.—Outwards.)

XXXIV. And whereas it is expedient that the officers of Customs should have full cognizance of all ships departing from any port or place in this Colony, and of all goods taken out of this Colony, and it is therefore necessary to make regulations for the entering and clearing outwards of all such ships, and for the entering, clearing, and shipping of all such goods: Be it enacted, That no goods shall be shipped, or water borne to be shipped on board any ship in any port or place in this Colony, to be carried to parts beyond the limits of the Colony, before due entry outwards of such ship, and due entry of such goods shall have been made; and that no goods shall be so shipped, except at such times and places, and in such manner and by such persons, and under the care

Outwards.

General provision outwards.

of

Outwards.

Entry outwards of
ship or cargo.

of such officers as is and are hereinafter directed; and that any person or persons shipping goods, which shall be shipped or water borne to be shipped, contrary hereto, shall forfeit and pay any sum not exceeding twenty pounds, nor less than five pounds.

XXXV. And be it enacted, That the master of any ship or vessel bound from the said Colony, shall, before any goods be laden therein, deliver to the collector or other proper officer an entry outwards, under his hand, of the destination of such ship, stating her name, country, and tonnage, and if British, the port of registry, the name and country of the master, the country of the owners, the number of the crew, and how many are of the country of such ship; and if any goods be laden on board any ship or vessel before such entry be made, the master of such ship or vessel shall forfeit and pay the sum of fifty pounds; and before such ship or vessel depart, the master shall bring and deliver to the collector, or other proper officer, a content in writing, under his hand, of the goods laden, and the names of the respective shippers and consignees of the goods, with the marks and numbers of the packages or parcels of the same; and shall make and subscribe a declaration to the truth of such content, as far as any of such particulars can be known to him; and the master of every ship or vessel bound from the said Colony, whether in ballast or laden, shall, before departure, come before the collector or other proper officer, and answer upon oath, all such questions concerning the ship or vessel, and the cargo, if any, and the crew and passengers, and the voyage, as shall be demanded of him by such officer; and thereupon the collector, or other proper officer, if such ship or vessel be laden, shall make out and give to the master a certificate of the clearance of such ship or vessel for her intended voyage, containing an account of the total quantities of the several sorts of goods laden therein, or a certificate of her clearance in ballast, as the case may be; and if the ship shall depart without such clearance, or if the master shall deliver a false content, or shall not truly answer the questions demanded of him, he shall forfeit and pay any sum not exceeding one hundred pounds, nor less than ten pounds.

Goods not stated in
certificate to be
produce of this
Colony, to be
deemed of Foreign
production.

Time allowed for
officers boarded on
ships outwards.

XXXVI. And be it enacted, That no goods shall be stated in such certificate of clearance of any ship or vessel from the said Colony to be the produce thereof, unless such goods shall have been expressly stated so to be in the entry outwards of the same.

XXXVII. And be it enacted, That the master of every vessel on board which any goods shall be exported from the warehouse, shall, after the number of days hereinafter mentioned, pay into the hands of the collector or other principal officer of customs, the sum of six shillings per diem, on account of the tidewaiter placed on board, for every day over and above the number of days as hereinafter mentioned, that is to say:—

Vessels not exceeding 100 tons, loading goods from the warehouse, or for drawback on exportation.	8 days.
Vessels not exceeding 200 tons, do. do.	12 days.
Vessels not exceeding 300 tons, do. do.	16 days.
Vessels exceeding 300 tons, do. do.	20 days.

and it shall be lawful for the officers of Customs, to refuse to clear out such vessel, until the money when due is so paid.

Victualling Bill for
stores.

XXXVIII. And be it enacted, That the master of every ship in which any goods are to be exported from this Colony to parts beyond the limits thereof, shall, upon due application made by him, receive from the searcher a victualling bill, for the shipment of such stores as he shall require, and as shall be allowed by the collector for the use of such ship, according to the voyage upon which she is about to depart; and that no articles taken on board any ship shall be deemed to be stores, except such as shall be borne upon the victualling bill for the same.

Entry of goods;
bill of entry to be
delivered.

XXXIX. And be it enacted, That the person entering outwards any goods to be exported to parts beyond the seas, from any port in this Colony,

Colony, shall deliver to the collector or other principal officer, a bill of entry thereof, fairly written in words at length, expressing the name of the ship, and of the master, and of the place to which the goods are to be exported, and of the person in whose name the goods are to be entered, and the quantities, and proper denominations or descriptions of the several sorts of goods; and such person shall also deliver at the same time one or more duplicates of such bill, in which all sums and numbers may be expressed in figures, and the particulars to be contained in such bill, shall be written and arranged in such form and manner, and the number of such duplicates shall be such, as the collector or other principal officer shall require.

Outwards.

XL. And be it enacted, That it shall be lawful for the officers of the customs to go on board any ship after clearance outwards, within the limits of any port in this Colony, or within one league of the coast thereof, and to demand the clearance; and if there be any goods or stores on board not contained in the clearance, such goods or stores shall be forfeited; and if any goods contained in such clearance be not on board, or be not satisfactorily accounted for, the master shall forfeit the sum of twenty pounds for every package or parcel of goods contained in such clearance, and not on board, or not so satisfactorily accounted for.

Officers may board any ship after clearance.

XLI. And be it enacted, That there shall be allowed upon the exportation of goods, wares, or merchandise imported into any port in the said Colony, a drawback of the duty paid thereon, (with the exception of such duties as may have been paid on spirits and tobacco): Provided always, that proof be made to the satisfaction of the collector or other principal officer, that the full duties on importation had been paid; and that no drawback shall be allowed, unless the goods on which the same is claimed, shall be shipped within three years from the day of importation thereof, and that such drawback is duly claimed within one year from the day of such shipment: Provided also, that no drawback shall be allowed upon any goods which by reason of damage or decay, shall become of less value for home use, than the amount of such drawback; and all goods so damaged which shall be cleared for any drawback, shall be forfeited, and the person who caused such goods to be so cleared, shall forfeit the sum of two hundred pounds, or treble the amount of the drawback in such case, at the election of the collector or other principal officer of customs.

Drawback on goods exported, which had paid duty on importation.

XLII. And be it enacted, That no drawback shall be allowed upon the exportation from this Colony of any goods, unless such goods shall have been entered in the name of the person who was the real owner thereof at the time of entry and shipping, or of the person who had actually purchased and shipped the same in his own name, and at his own liability and risk, on commission, according to the practice of merchants, and who was and shall have been entitled in his own right to such drawback.

Entry in name of real owner.

XLIII. And be it enacted, That if such owner or merchant shall be resident in some part of this Colony, being more than twenty miles from the Custom House of the Port of shipment, he may appoint any person to be his agent, to make and pass his entries, and to clear and ship his goods, and to receive for him the drawback payable on his debenture, if payable to him, provided the name of such agent, and the residence of such owner or merchant be subjoined to the name of such owner or merchant in the entry; and such agent, being duly informed, shall make declaration upon the entry, if any be necessary, and also upon the debenture, in behalf of such owner or merchant, and shall answer such questions touching his knowledge of the exportation of such goods and the property therein, and of the right to the drawback, as shall be demanded of him by the collector.

Agent may pass entry and receive drawback; and make the declaration, and answer questions for owner not resident.

XLIV. And be it enacted, That if any goods which have been taken out of any warehouse to be exported from the same, or any goods which have been cleared to be exported for drawback, shall not be duly exported.

Debenture goods not exported, or if re-landed without entry, forfeited.

Outwards.

exported to parts beyond the limits of the Colony, or shall be re-landed in this Colony, (such goods not having been duly re-landed, or discharged or short-shipped under the care of the proper officers), the same shall be forfeited, together with the ship, vessel, boat, or craft which may have been used in so re-landing, landing, or carrying such goods, and any person by whom, or by whose orders or means such goods shall have been so taken or cleared, or so re-landed, or carried, shall forfeit a sum equal to treble the value of such goods.

Times and places
for shipping goods.

XLV. And be it enacted, That no goods warehoused shall be put off from any wharf, quay, or other place, or shall be water-borne in order to be exported, except on days not being Sundays or holidays, and in the day time; nor shall any such goods then be put off or water-borne for exportation, unless in the presence, or with the authority of the proper officer of the customs, nor except from some wharf or place appointed by His Excellency the Governor, or the collector or other principal officer of Her Majesty's customs, for the shipping of such goods by sufferance.

Coastwise,

Colonial trade and
coasting trade.

(Regulation :— Colonial Trade.)

XLVI. And be it enacted, That all vessels, the property of Her Majesty's subjects, trading from one part of the said Colony to another part thereof, between Cape Capricorn, in or about the latitude of twenty-three degrees and a half south, and the eastern limits of the province of South Australia, shall be considered as engaged in the coasting trade.

What goods shall
be carried coast-
wise.

XLVII. And be it enacted, That no goods shall be carried in any coasting vessel, except such as shall be laden to be so carried at some port or place in this Colony, and that if any goods shall be taken into, or put out of any coasting vessel at sea, or if any coasting ship or vessel shall touch at any place over the sea, or deviate from her voyage unless forced by unavoidable circumstances; or if the master of any coasting vessel which shall have touched at any place over the seas, shall not declare the same in writing, under his hand, to the collector, at the port in this Colony, where such vessel shall afterwards first arrive, the master of such vessel, shall forfeit a sum not exceeding two hundred pounds, nor less than fifty pounds.

Goods carried
coastwise, under
what regulations.

XLVIII. And be it enacted, That no goods shall be laden on board any vessel, in any port or place of the said Colony as aforesaid, where any officer of the customs shall or may be hereafter stationed, to be carried coastwise, nor having been brought coastwise, shall be unladen until due notice, in writing, signed by the master, shall be given to the collector or other proper officer, by the master, owner, or agent of such vessel, of the intention to lade goods on board the same to be so carried, or of the arrival of such vessel with goods so brought, as the case may be, nor until proper documents shall have been granted for the lading or unlading of such goods; and such goods shall not be so laden nor unladen, except at such times and places, and in such manner, and by such persons, and under the care of such officers, as shall be appointed by the collector or other proper officer for that duty; and all goods laden, water-borne, or unladen, contrary to this Act, shall be forfeited; and the master of any vessel so lading or unlading goods, contrary to the true intent and meaning of this Act, shall forfeit and pay the sum of ten pounds.

Particulars in no-
tice.

XLIX. And be it enacted, That in such notice shall be stated the name and tonnage of the ship or vessel, and the name of the port to which she belongs, and the name of the master, and the name of the port to which she is bound, or from which she has arrived, and such notice shall be signed by the master, owner, or agent of such ship or vessel, and shall be entered in a book, to be kept by the collector of customs for the information of all parties interested; and every such notice for the unlading of any ship or vessel shall be delivered within twenty-four hours after the arrival of such ship or vessel, under a penalty of twenty pounds, to be paid by the master of such ship or vessel.

L.

Coastwise.

Master of vessel to keep a cargo book.

L. And be it enacted, That the master of every coasting vessel shall keep, or cause to be kept, a cargo book of the same, stating the name of the ship, and of the master, and of the port to which she belongs, and of the port to which she is bound on each voyage, and in which book shall be entered at the port of lading, an account of all goods liable to duty taken on board such vessel, stating the description of the packages, and the description of the goods therein; and in which book shall be noted the respective times of departure from the port of lading, and of arrival at any port of unlading; and such master shall produce such book for the inspection of the coastwaiter, or other proper officer, so often as the same shall be demanded; and if such master shall fail to keep such book, or to produce the same, or if at any time there be found on board such ship any goods not entered in the cargo book as laden, or any goods noted as delivered; or, if at any time it be found, that any goods entered as laden, or any goods not noted as delivered, be not on board, the master of such vessel shall forfeit the sum of twenty pounds.

LI. And be it enacted, That no spirits, tobacco, cigars or wine, shall be unshipped at any place in this Colony, where an officer of customs is not stationed, unless such goods are accompanied by a certificate from the collector or other proper officer, at the port or place in this Colony where the same were shipped, that the duty had been paid; and any such goods unshipped contrary hereto, shall be forfeited; and the party or parties by whom the same shall be landed, shall forfeit and pay a penalty not exceeding one hundred pounds, nor less than twenty pounds.

Unshipping goods liable to duty where no Custom Officer stationed.

(Regulation.—General Rules.)

General Rules.

LII. And be it enacted, That all bonds relating to the customs required to be given in respect of goods or ships, shall be taken by the collector, or other principal officer of customs, or, in his absence, by the person authorised by the collector to act for him, for the use of Her Majesty; and after the expiration of three years, from the date thereof, or from the time, if any limited therein, for the performance of the condition thereof, every such bond upon which no prosecution or suit shall have been commenced, shall be void, and may be cancelled and destroyed.

Bonds to be taken by the collector.

LIII. And be it enacted, That before any goods shall be shipped for exportation to the United Kingdom, as being the produce of this Colony, and upon which any advantage shall be claimed at the port of importation, sufficient proof shall be made, to the satisfaction of the collector or other principal officer of customs, that such goods are the produce of the said Colony, whereupon the collector or other principal officer is hereby empowered to grant a certificate to that effect.

Certificate of production required on exporting the produce of the Colony.

LIV. And be it enacted, That it shall be lawful for the officers of the customs to take such samples of any goods as shall be necessary for ascertaining the amount of any duties payable on the same; and also to permit moderate samples to be taken of any goods warehoused, without payment of duty.

Samples may be taken.

LV. And be it enacted, That if any person shall counterfeit or falsify, or use when counterfeited or falsified, any entry, warrant, cocket, transire or other document for the unlading, lading, entering, reporting, or clearing of any ship or vessel, or for the landing, shipping, or removing of any goods, stores, baggage, or articles whatever, knowing the same to have been counterfeited or falsified, or shall by any false statement procure any writing or document, to be made for any of such purposes, or shall falsely make any oath or affirmation required by this or any other Act for regulating the trade of the said Colony, or shall forge or counterfeit a certificate of the said oath or affirmation, or shall publish such certificate, knowing the same to be so forged or counterfeited, every person so offending, shall for every such offence, forfeit the sum of two hundred pounds, and such penalty shall and may be prosecuted, sued for, and recovered in like manner, and by such ways and means, as any penalty of the like amount may be prosecuted, sued for, and recovered under the provisions and directions of this Act.

Falsifying documents, &c., penalty £200.

Coastwise.

General Rules.
Defining limits of
Ports.

LVI. And whereas it is necessary for the purposes of this Act, that the limits of the several ports of the Colony should be defined: Be it enacted, That the Port of Sydney shall be construed to extend from Bungaree Norah, on the north, to Cape Howe on the south; that the Port of Newcastle shall be construed to extend from Bungaree Norah, on the south, to Wide Bay, on the north; that the Port of Melbourne shall be construed to extend from Cape Howe, on the east, to Cape Otway, on the west; and that the Port of Portland shall be construed to extend from Cape Otway, on the east, to the boundary line of the Colony, on the west; including within every such port, all inlets, rivers, bays, and harbours within the same respectively, and one league to seaward: Provided always, that it shall be lawful for the Governor to alter or vary the boundaries of any of the said ports, or to sub-divide the same, and to establish any new port or ports, as to His Excellency may seem meet, by proclamation to be published in the *Government Gazette*.

Rent on goods secured for duty.

LVII. And be it enacted, That whenever any goods shall be taken to and secured in any of the Queen's Warehouses in the said Colony, for security of the duties thereon, or to prevent the same from coming into home use, it shall and may be lawful for the collector or other principal officer to charge, demand, and receive warehouse-rent for such goods for all such time as the same shall remain in such warehouse, at a rate not exceeding that specified in the schedule E, annexed to this Act.

Power to sell goods not cleared from Queen's warehouse within a limited time.

LVIII. And be it enacted, That in case goods shall not be duly cleared from the Queen's warehouse within three calendar months (or sooner if they be of a perishable nature), it shall be lawful for the collector or other principal officer of Her Majesty's customs, to cause such goods to be publicly sold by auction, for home use or for exportation, as the case may be; and the produce of such sale shall be applied towards the payment of the duties, if sold for home use, and of the warehouse rent, and all other lawful charges; and the overplus (if any) shall be paid to the person duly authorised to receive the same: Provided always, that it shall be lawful for the said collector or other principal officer, to cause any of such goods to be destroyed as cannot be sold for a sum sufficient to pay such duties and charges, if sold for home use, or sufficient to pay such charges if sold for exportation: Provided also, that if such goods shall have been landed by the officers of the customs, and the freight of the same shall not have been paid, the produce of such sale shall be first applied to the payment of such freight.

Persons entering or clearing ships, &c., as agents, to be licensed & give bond.

LIX. And be it enacted, That it shall not be lawful for any person to act as agent for transacting any business at the Custom House, which shall relate to the entry, or clearance of any ship, or of any goods, or of any baggage, unless authorised so to do by license of the collector or other principal officer of Her Majesty's customs, who is hereby empowered to require bond to be given by every person to whom such license shall be granted, with one sufficient surety, in the sum of two hundred pounds, for the faithful and honest conduct of such person, and of his clerks acting for him; and if any person shall act as such agent, not being so licensed, or if any person shall be in partnership in such agency with any person not so licensed, such person shall in either case, for every such offence, forfeit the sum of one hundred pounds: Provided always that nothing herein contained shall extend to prevent the clerk or servant of any person or persons in co-partnership from transacting any business at the Custom House on account of such person or persons without such license, provided such clerk or servant shall not transact any such business as clerk, servant, or agent to any other person.

Agents' licenses may be revoked.

LX. And be it enacted, That it shall be lawful for the collector or other principal officer of the customs, with the concurrence of the Governor of the said Colony, by any order under his hand to revoke any such license, and that after a copy of such order shall have been delivered to any such licensed person or to his clerk, or left at his usual place of abode or business, such license shall be void.

LXI.

LXI. And in order to avoid the frequent use of numerous terms and expressions in this Act, or any other Act relating to the customs, and to prevent any misconstruction of the terms and expressions used therein: Be it enacted, That whenever the several terms, or expressions following shall occur in this Act, or in any other Act relating to the customs, or to trade and navigation, the same shall be construed respectively in manner hereinafter directed, that is to say:—that the term “ship” shall be construed to mean ship or vessel generally, unless such term shall be used to distinguish a ship from sloops, brigantines, and other classes of vessels; that the term “master” of any ship shall be construed to mean the person having or taking the charge or command of such ship; that the term “owners” and the term “owner” of any ship shall be construed alike to mean one owner, if there be only one, and any, or all the owners if there be more than one; that the term “mate” of any ship shall be construed to mean the person next in command of such ship to the master thereof; that the term “seaman” shall be construed to mean alike seaman, mariner, sailor, or landsman, being one of the crew of any ship; that the term “British Possessions” shall be construed to mean Colony, plantation, island, territory, or settlement belonging to Her Majesty; that the term “Her Majesty” shall be construed to mean Her Majesty, Her Heirs and Successors; that the term “East India Company” shall be construed to mean the United Company of Merchants of England, trading to the East Indies; that the term “limits of the East India Company’s Charter” shall be construed to mean all places and seas eastward of the Cape of Good Hope to the Straits of Magellan; that the terms “collector or other officer” shall be construed to mean the collector or other principal or proper officer of the customs of the port intended in the sentence; that whenever mention is made of any public officer, the officer mentioned shall be deemed to be such officer for the time being; that the term “Warehouse” shall be construed to mean any place, whether house, shed, yard, timber pond, or other place in which goods entered to be warehoused upon importation may be lodged, kept, and secured without payment of duty; that the term “Queen’s Warehouse” shall be construed to mean any place provided by the Crown for lodging goods therein for security of the customs.

*General Rules.
General construction.*

(Regulation.—Warehouse.)

LXII. And whereas it is expedient to make regulations for the warehousing of spirits, tobacco, and other goods, subject to duty, which may be legally imported, and it is therefore necessary to provide for the appointing of proper warehouses, and for the lodging and securing such goods therein: Be it enacted, That it shall be lawful for the collector, or other principal officer, by notice in writing, under his hand, to appoint such warehouses respectively as shall be approved of by the Governor, for the free warehousing and securing of goods therein, for the purposes of this Act, and also, subject to such approval, by like notice to revoke such appointment: Provided that every such notice shall be published in the New South Wales *Government Gazette*.

Warehouse.

Collector or other principal officer to appoint warehouses for Bonding goods.

LXIII. And be it enacted, That it shall be lawful for the importer of any spirits, tobacco, or other goods, to warehouse the same in the warehouses so appointed, without payment of any duty on the first entry thereof, subject, nevertheless, to the rules, regulations, restrictions, and conditions hereinafter contained.

Goods may be warehoused without payment of duty.

LXIV. And be it enacted, That all goods so warehoused, shall be stowed in such parts or divisions of the warehouse as the collector or other proper officer may direct, and in such manner as that easy access may be had to every package; and if the occupier of the warehouse shall omit so to stow the same, he shall for every such omission forfeit the sum of five pounds; and that the warehouse shall be locked and secured in such manner, and shall be opened

Stowage of goods in warehouse.

opened and visited only at such times, and in the presence of such officers, and under such rules and regulations as the collector or other proper officer shall direct; and if any goods shall be taken out of any warehouse without due entry of the same, with the proper officers of the customs, the occupier of the warehouse, shall be liable to the payment of the duties due thereon.

LXV. And be it enacted, That the occupier or occupiers of any warehouse in which goods are, under the provisions of this Act, permitted to be deposited, shall, upon request being made by the collector of customs or other proper officer, immediately produce to such collector or other officer, any goods deposited therein, or received into his or their custody, for the delivery of which the said occupier or occupiers has or have not received an order duly signed by the proper warehouse officer; and upon every failure thereof, such occupier or occupiers shall forfeit the sum of five pounds, over and above the duties to which every package or parcel of goods not so produced may be liable.

LXVI. And be it enacted, That upon entry of any goods to be warehoused, the importer of such goods, instead of paying down the duties due thereon, shall give bond, with one or more sufficient surety or sureties, to be approved of by the collector or other principal officer, in double the amount of duties payable on such goods with condition for the safe depositing of such in the warehouse mentioned in such entry, and for the payment of all duties due upon such goods, or for the exportation thereof, and with further condition that no part thereof shall be taken out of such warehouse, until cleared from thence upon due entry and payment of duty, or upon due entry for exportation; and if after such bond shall have been given, the goods, or any part thereof shall be sold or disposed of, so that the original bonder shall be no longer interested in, or have control over the same, it shall be lawful for the collector or other principal officer to admit fresh security to be given by the bond of the new proprietor, or other person having control over such goods, with one sufficient surety, and to cancel the bond given by the original bonder of such goods, or to exonerate him to the extent of the fresh security so given.

LXVII. And be it enacted, That if any goods which have been entered to be warehoused, shall not be duly carried and deposited in the warehouse, or shall afterwards be taken out of the warehouse without due entry and clearance, or having been entered and cleared for exportation from the warehouse, shall not be duly carried and shipped, or shall afterwards be re-landed, except with the permission of the proper officer of the customs, such goods shall be forfeited.

LXVIII. And be it enacted, That upon the entry and landing of any goods to be warehoused, the proper officer of the customs shall take a particular account of the same, and shall mark the contents on each package, and shall enter the same in a book to be kept for that purpose; and no goods which have been so warehoused, shall be taken or delivered from the warehouse, except upon due entry and under the care of the proper officer for exportation, or upon due entry and payment of the duty for home use.

LXIX. And be it enacted, That it shall be lawful for the collector or other principal officer, under such regulations as he shall see fit, to permit the proprietor or other person having control over any goods so warehoused, to sort, separate, pack, and re-pack any such goods, and to make such alterations therein, or arrangements and assortments thereof, as may be necessary for the preservation of such goods, or in order to the sale, shipment, or legal disposal of the same, and also to permit any part of such goods so separated to be destroyed, without payment of any duty thereon; and

and to draw off any spirits into casks, containing not less than five gallons, for the purpose only of being disposed of as ships' stores; and also in the warehouse to fill up any casks of wine or spirits from any other casks of the same, respectively secured in the same warehouse; and in the warehouse to draw off and mix with any wine, any brandy secured in the same warehouse, not exceeding the proportion of ten gallons of brandy to one hundred gallons of wine.

Warehouse.

LXX. And be it enacted, That all goods which shall have been so warehoused or re-warehoused, shall be duly cleared, either for exportation or for home consumption, within three years from the day of the entry thereof; and if such goods be not so cleared, it shall be lawful for the collector, or other proper officer, to cause the same to be sold, and the produce shall be applied, first, to the payment of the duties, next, to the warehouse rent and other charges, and the overplus, if any, shall be paid to the proprietor or other person duly authorised to receive the same; and such goods when sold, shall be held subject to all the conditions to which they were subject previous to such sale, except that a farther time of three months from the date of the sale, shall be allowed to the purchaser, for the clearing such goods from the warehouse: Provided always, that it shall be lawful for the collector or other proper officer to grant further time for any goods to remain warehoused, if they shall see fit so to do.

All goods to be cleared within three years, or sold.

LXXI. And be it enacted, That if any goods entered or warehoused, or entered to be delivered from the warehouse, shall be lost or destroyed by any unavoidable accident, either on ship-board, or in the landing or shipping of the same, or in the receiving into, or delivering from the warehouse, it shall be lawful for the Governor of the said Colony for the time being, to remit or return the duties payable or paid on the quantity of such goods so lost or destroyed.

Goods lost or destroyed, Governor may remit duties.

LXXII. And be it enacted, That upon the entry outwards of any goods to be exported from the warehouse, the person entering the same shall give security by bond, in double the duties of importation on the quantity of such goods, with one sufficient surety, to be approved by the collector or other proper officer, that the same shall be landed at the place for which they shall be entered outwards, or be otherwise accounted for, to the satisfaction of the collector or other proper officer.

Bond on entry for exportation.

LXXIII. And whereas spirits and tobacco, and certain other goods are liable in time to fluctuation of quantity by the effect of the atmosphere, or other natural causes: Be it therefore enacted, That it shall be lawful for the collector or other principal officer, or for the proprietor or importer of any such goods as aforesaid, to require the same to be re-gauged, re-measured, or re-weighed, at the time when the same shall be respectively delivered from the said warehouse, and the duties respectively payable thereon, shall be paid according to the quantities ascertained upon such re-gauging, re-measuring, or re-weighing, unless it shall be mutually agreed by and between the said parties, that the said duties shall be paid on the quantities originally entered.

Spirits and tobacco may be re-gauged or re-weighed.

LXXIV. And be it enacted, That goods warehoused at any warehousing port in the said Colony, being first duly entered, may be delivered under the authority of the proper officer of the customs, without payment of duty, for the purpose of removal to another warehousing port in the same Colony, under bond, to the satisfaction of such officer, for the due arrival and re-warehousing of such goods at such other port.

Goods warehoused may be delivered for removal without payment of duty.

LXXV. And whereas it has hitherto been the practice to charge the duty on spirits under proof, as though they were at proof: Be it enacted, That from and after the passing of this Act, the duty on every gallon of spirits, or strong waters, shall be chargeable according

Spirits to pay duty according to actual strength.

Warehouse.

cording to the actual strength of proof, by Sykes' hydrometer, and so in proportion for any greater or less strength than the strength of proof.

Embezzlement, &c.,
of goods ware-
housed through
wilful misconduct
of officers.

LXXVI. And be it enacted, That in case it shall at any time happen, that any embezzlement, waste, spoil, or destruction shall be made of, or in any goods, or merchandise, which shall be warehoused in warehouses under the authority of this or any other Act, by or through any wilful misconduct of any officer or officers of customs, such officer or officers shall be deemed guilty of a misdemeanor, and shall, upon conviction, suffer such punishment as may be inflicted by law in cases of misdemeanor; and if such officer shall be so prosecuted to conviction by the importer, consignee, or proprietor of the goods or merchandise so embezzled, wasted, spoiled, or destroyed, then, and in such case, no duty shall be payable for or in respect of such goods or merchandise so embezzled, wasted, spoiled, or destroyed, and no forfeiture nor seizure shall take place of any goods or merchandise so warehoused in respect of any deficiency, caused by such embezzlement, waste, spoil, or destruction, and the damage occasioned by such embezzlement, waste, spoil, or destruction of such goods or merchandise, shall be repaid and made good to such importer, consignee, or proprietor, by the collector or other principal officer of customs, under such orders, regulations, and directions, as shall be for that purpose made and given by the Governor of the said Colony for the time being.

Warehouse fraudu-
lently opened, pe-
nalty not exceed-
ing £1,000.

LXXVII. And be it enacted, That if any importer or proprietor of any goods warehoused, or any other person, shall, by any contrivance, fraudulently open the warehouse, or gain access to the goods, except in the presence of the proper officer, acting in the execution of his duty, such importer, proprietor, or other person, shall forfeit and pay, for every such offence, a sum not exceeding one thousand pounds, nor less than ten pounds.

Vessels not under
fifty tons proceed-
ing on a voyage
exceeding forty
days, permitted to
ship limited quan-
tities of spirits and
tobacco, free of
duty.

LXXVIII. And be it enacted, That the master or owner of any ship or vessel, being of the burthen of fifty tons at least, bound on a voyage to foreign parts, shall be permitted to ship such quantities of spirits and tobacco, and cigars, free of duty from the warehouse, as stores, for the use of the crew and passengers, in a proportion not exceeding half a pint of spirits, and half an ounce of tobacco per day for each person on board, and half an ounce of cigars per day for the master, each mate, and each cabin passenger on board, for every day the ship or vessel may be reasonably expected to be absent: Provided that such stores shall be duly borne upon the ship's or vessel's victualling bill, and shall be shipped in such manner, and subject to such directions and regulations as the collector or other principal officer of customs shall appoint: Provided also, that the master or owner of such ship or vessel shall previously enter into a bond, with one or more sufficient surety or sureties, in double the amount of duties payable upon the spirits and tobacco so shipped, that no part thereof shall be re-landed in the said Colony, without due entry at the Custom House.

Vessels under fifty
tons not to export
goods from ware-
house.

LXXIX. And be it enacted, That it shall not be lawful for any person to export any goods so warehoused, nor to enter for exportation to parts beyond the seas, any goods so warehoused, in ships which shall not be of the burthen of fifty tons or upwards.

Goods to be enter-
ed to be ware-
housed for export-
ation only.

LXXX. And be it enacted, That if by reason of the sort of any goods, or of the place from whence, or the country, or navigation of the ship, in which any goods have been imported, they be such, or be so imported, as that they may not be used in this Colony, they shall not be entered, except to be warehoused, and it shall be declared upon the entry of such goods, that they are entered to be warehoused for exportation only.

Goods prohibited
only by navigation

LXXXI. Provided always and be it enacted, That goods of any

any sort, or the produce of any place, prohibited by the law of navigation, may be imported into this Colony, from any place not being a British possession, in a foreign ship, of any country, and however navigated, to be warehoused for exportation only

Warehouse.
law may be imported for exportation.

(Smuggling.)

Smuggling.

LXXXII. And be it enacted, That all spirits, tobacco, and other goods liable to duty, which shall be found in the act of removal; or be removed without a legal warrant for the same, shall be deemed to be goods respectively liable to, and unshipped without payment of duty, unless the party in whose possession the same shall be found or seized shall prove to the contrary.

Removing goods liable to duty without legal warrant.

LXXXIII. And be it enacted, That when any vessel or boat belonging to Her Majesty's subjects, shall be found within the limits of any port within the meaning of this Act, and shall not bring-to upon signal made by any vessel or boat in Her Majesty's service, or in the service of the Revenue, hoisting the proper pendant and ensign, in order to bring such vessel or boat to, and therefore chase shall be given, if any person or persons on board such vessel or boat so chased shall, during the chase, or before such vessel or boat shall bring-to, throw overboard any part of the lading of such vessel or boat, or shall stave or destroy any part of such lading to prevent seizure thereof, that then, and in such case, the said vessel or boat shall be forfeited.

As to vessels or boats not bringing to, when desired so to do by signals, &c., from boats or vessels of Her Majesty's Navy or Customs, and persons escaping therefrom.

LXXXIV. And be it enacted, That if any ship, vessel, or boat whatsoever, shall be found within the limits of any port in the said Colony, with a cargo on board, and such ship, vessel, or boat, shall afterwards be found light, or in ballast, and the master is unable to give a due account of the port or place within the said Colony, where such ship, vessel, or boat, shall have legally discharged her cargo, or the deficient part thereof, such ship, vessel, or boat, with her guns, furniture, ammunition, tackle, and apparel, shall be forfeited: Provided always, that if it shall be made to appear to the satisfaction of the Governor of this Colony, or of the Court before which the case may be heard, that the landing of the said cargo was wholly unknown to the owner of such vessel, and contrary to his instructions, then, and in that case, the said Governor or Court, as the case may be, is hereby authorised to direct the said vessel to be delivered up to the said owner, and the master thereof shall forfeit and pay twenty shillings for every ton register measurement of the said vessel.

Vessels, &c., found light forfeited.

Proviso.

LXXXV. And be it enacted, That in case any ship, vessel, or boat, liable to seizure or examination, under any Act or law relating to the customs, or for the prevention of smuggling, shall not bring-to, on being required so to do, on being chased by any ship, vessel, or boat in Her Majesty's Navy, having the proper pendant and ensign of Her Majesty's ships hoisted, or by any ship, vessel, or boat, duly employed for the prevention of smuggling, having a proper pendant and ensign hoisted, it shall be lawful for the Captain, Master, or other person having the charge or command of such ship, vessel, or boat, in Her Majesty's navy, or employed as aforesaid, (first causing a gun to be fired as a signal,) to fire at, or into any such ship, vessel, or boat, and such Captain, Master, or other person acting in his aid or assistance, or by his direction, shall be, and he is hereby indemnified and discharged from any indictment, penalty, action, or other proceeding for so doing.

Vessels to bring to on being chased by vessels or boats of the Navy, or in preventive service; and not bringing to, may be fired into.

LXXXVI. And be it enacted, That if any goods or merchandise imported into the said Colony, which shall be subject to the payment of duty, shall be concealed in the same packages with other goods or merchandise subject to any lower rate of duty, or not subject to duty, with intent to defraud the revenue of customs, all such

Goods concealed in packages with intent to defraud the Revenue.

Smuggling.

such goods contained in the same packages shall be seized by any officer of customs, and forfeited, together with the packages containing the same: Provided always, that the proof that such goods or merchandise were not so concealed, with intent to defraud the said revenue, shall lie upon the owner or importer thereof.

Vessels and boats used in removal of run goods, to be forfeited.

LXXXVII. And be it enacted, That all ships, vessels, and boats made use of in the removal, carriage, or conveyance of any goods liable to forfeiture, under this or any other Act relating to the revenue of customs, shall be forfeited.

Boats belonging to vessels, to have names of vessels painted upon the outside of stern, and master's name within the transom.

LXXXVIII. And be it enacted, That the master of every ship or vessel belonging in the whole or in part to any of Her Majesty's subjects, shall within twenty-four hours after her report, paint, or cause to be painted on the outside of the stern of every boat belonging to such ship or vessel, the name of such ship or vessel, and the port or place to which she belongs, and the master's name within the transom, in white or yellow roman letters, not less than two inches in length, on a black ground, and in default thereof such master shall forfeit and pay a sum not exceeding ten pounds, nor less than two pounds.

Boats not belonging to vessels to have names of owners painted upon the stern.

LXXXIX. And be it enacted, That the owner of every boat not belonging to any ship or vessel, shall paint, or cause to be painted, upon the stern of such boat, in white or yellow roman letters, of two inches in length, on a black ground, the name of the owner or owners of the boat, and the port or place to which she belongs, on pain of the forfeiture of such boat not so marked, wherever the same shall be found.

Vessels, &c., with false bulk-heads, &c., forfeited.

XC. And be it enacted, That all ships, vessels, and boats, belonging in the whole, or in part, to Her Majesty's subjects, having false bulk-heads, false bows, double sides or bottom, or any secret or disguised place whatsoever, in the construction of the said ship, vessel, or boat, for the purpose of concealing goods, or having any hole, pipe, or device, in or about the ship, vessel, or boat, adapted for the purpose of running goods, shall be forfeited, with all the guns, furniture, ammunition, tackle, and apparel belonging to such ship, vessel, or boat; and all goods liable to the payment of the duties, or prohibited to be imported into the said Colony, found concealed on board any ship, vessel, or boat, or in any of the packages of goods on board, or in, or underneath the ballast, or in any other place on board such ship, vessel, or boat, shall be forfeited.

Boats not registered to be licensed.

XCI. And be it enacted, That no ship, vessel, or boat, under the tonnage allowed by law to be registered, shall be employed either in the removal of goods or passengers, or for any purpose whatever, unless duly licensed according to the form hereinafter stated; and every such ship, vessel, or boat so employed, without being duly licensed as aforesaid, shall be forfeited, together with the tackle, furniture, and apparel thereof, and shall and may be seized by any officer of customs.

Particulars of license.

XCII. And be it enacted, That the license for every vessel or boat requiring a license under this Act, shall be granted by the collector or other proper officer of the customs, and such license shall set forth the name or names of the owner or owners thereof, and his or their place or places of abode, and the manner and limits in which such vessel or boat is to be used, together with any other particulars which the said collector or other proper officer may require and direct, and that the owner or owners thereof shall give his or their own security, by bond, with two sufficient sureties, (being house-keepers,) in double the value of such vessel or boat, with conditions as follows, that is to say;—that the vessel or boat shall not be employed in the importation, landing, or removing of any prohibited or uncustomed goods, contrary to the true intent and meaning of this Act, or any other Act relating to the revenue of customs, nor in the exporting of goods, or removal of transported offenders, nor in the re-landing

re-landing of goods contrary to law, nor shall receive or take on board, or be found at sea with any goods subject to forfeiture, nor shall do anything contrary to this Act, or any other Act hereafter to be made relating to the revenue of customs, or the protection of the trade, or commerce, or the custody of transported offenders in the said Colony, nor shall be employed otherwise than mentioned in the said license, and within the limits therein mentioned; and in case of loss, breaking-up, or disposal of such vessel and boat, that the license shall be delivered up within six months from the date of such loss, breaking-up, or disposal of such vessel or boat, to the collector or other proper officer of the customs.

Smuggling.

XCVIII. And be it enacted, That if any goods, liable to the payment of duties shall be unshipped from any ship, vessel, or boat in the said Colony, customs or other duties not being first paid or secured, or if any prohibited goods whatsoever shall be imported into any part of the said Colony, or if any goods whatsoever shall have been warehoused or otherwise secured in the said Colony, either for home consumption or exportation, shall be clandestinely or illegally removed from or out of any warehouse or place of security, that then, and in such case, all such goods as aforesaid shall be forfeited, together with all horses and other animals, and all carriages and other things made use of in the removal of such goods.

Goods unshipped without payment of duty, and prohibited goods, liable to forfeiture, with the boats, &c., used in removal.

XCIV. And be it enacted, That all ships, vessels and boats, and all goods whatsoever, liable to forfeiture under this or any other Act relating to the revenue of customs, shall and may be seized in any place, either upon land or water, by any officer or officers of Her Majesty's navy on full pay, or by any officer or officers of customs, or by any person having authority to seize from the Commissioners of Her Majesty's customs, or the Governor of the said Colony; and all ships, vessels, boats, and goods so seized, shall, as soon as conveniently may be, be delivered into the care of the proper officer appointed to receive the same.

Vessels, boats, and goods, may be seized by officers and persons herein mentioned, and must be delivered to the proper officer.

XCV. And be it enacted, That it shall and may be lawful for any officer or officers of customs, or person acting under the direction of the Governor of the said Colony, or of the Commissioners of Her Majesty's customs, having a writ of assistance under the hand of the Chief Justice, or any Judge of Her Majesty's Supreme Court of the said Colony, to take a constable or other public officer inhabiting near the place, and in the day time to enter into and search any house, shop, cellar, warehouse, room, or other place; and in case of resistance, to break open doors, chests, trunks, and other packages, there to seize, and from thence to bring, any uncustomed or prohibited goods, and to put and secure the same in the Queen's warehouse in the port next to the place from whence such goods shall be so taken as aforesaid.

Officers authorised by writ of assistance, and having a peace officer, may search houses for prohibited goods, and break open doors and packages to seize such goods.

XCVI. And be it enacted, That all writs of assistance so issued as aforesaid, shall continue and be in force during the whole of the reign in which such writs shall have been granted, and for six months from the conclusion of such reign.

Duration of writs of assistance.

XCVII. And be it enacted, That it shall be lawful for any officer or officers of customs, or other person acting in his or their aid or assistance, or duly employed for the prevention of smuggling, upon reasonable suspicion, to stop and examine any cart, waggon, or other means of conveyance, for the purpose of ascertaining whether any smuggled goods are contained therein; and if no such goods shall be found, then and in such case, the officer or other person so stopping and examining such cart, waggon, or other conveyance, having had probable cause to suspect that such, cart, waggon, or other conveyance had smuggled goods contained therein, shall not, on account of such stoppage and search, be liable to any prosecution or action at law on account thereof; and all persons driving or conducting such cart, waggon,

Officers of Customs, &c., may on probable cause stop carts, &c., and search for goods.

gon,

Smuggling.

Persons unshipping, harbouring, or having custody of any prohibited or uncustomed goods, to forfeit treble the value, or £100.

How value to be ascertained.

Goods stopped or taken by police officer.

Persons unshipping or concerned in the carrying conveying, or concealing spirits or tobacco, to forfeit £100; and, may be detained or proceeded against by information and summons.

Where persons are taken before a Justice for any offence under any Act relating to the customs such Justice may order them to be detained a reasonable time.

gon, or other conveyance, refusing to stop when required so to do in the Queen's name, shall forfeit a sum not exceeding one hundred pounds, nor less than ten pounds.

XCVIII. And be it enacted, That every person who shall unship, or be aiding, assisting, or be otherwise concerned in the unshipping of any goods, the duties for which have not been paid or secured, or who shall knowingly harbour, keep, or conceal, or shall knowingly permit or suffer to be harboured, kept, or concealed, any goods which shall have been illegally unshipped without payment of duties, or which shall have been illegally removed without payment of the same, from any warehouse or place of security in which they may have been deposited, and every person to whose hands and possession any such uncustomed or prohibited goods shall knowingly come, or who shall assist, or be in anywise concerned, in the illegal removal of any goods from any warehouse or place of security in which they shall have been deposited as aforesaid, shall forfeit either the treble value thereof, or a penalty not exceeding one hundred pounds, nor less than ten pounds, at the election of the officer or officers of Her Majesty's customs.

XCIX. And be it enacted and declared, That in all cases where any penalty, the amount of which is at any time to be determined by the value of any goods, is directed to be sued for under any law now in force, or hereafter to be made, for the prevention of smuggling, or relating to the revenue of customs, such value shall be deemed and taken to be according to the rate and price which goods of the like sort or denomination, and of the best quality, bear at such time, at the place of importation, and upon which the duties due upon importation have been paid.

C. And be it enacted, That if any goods subject to forfeiture, under this or any other Act relating to the customs, shall be stopped or taken by any police officer, such goods shall be conveyed to the Custom House nearest to the place where the goods were stopped or taken, and there delivered to the proper officer appointed to receive the same, within a reasonable time after the said goods were stopped and taken; and in case any police officer stopping such goods, shall neglect to have the same conveyed to such Custom House within a reasonable time, such officer shall forfeit the sum of twenty pounds.

CI. And be it enacted, That every person whatsoever who shall unship, or be aiding, assisting, or concerned in the unshipping of any spirits, or tobacco, or other goods liable to forfeiture, under this or any other Act relating to the customs in the said Colony, or who shall carry, convey, or conceal, or be aiding, assisting, or concerned in the carrying, conveying, or concealing of any such spirits, tobacco, or other goods liable to forfeiture, shall pay, and forfeit for such offence, the sum of one hundred pounds sterling, or treble the value of such goods, at the election of the officers of the customs; and every such person may be detained by any officer of the customs duly employed for the protection of the revenue, and for the prevention of smuggling in the said Colony, and taken before any Justice of the Peace, to be dealt with as hereinafter directed; and it shall and may be lawful for the officers of customs to proceed against any person so offending, either as hereinafter directed, or, in cases where the penalty sought to be recovered, does not exceed one hundred pounds, by information and summons, before two or more Justices, under summary jurisdiction, as to the officer of customs may seem most expedient.

CII. And whereas it is expedient that time should be allowed to prepare informations, convictions, and warrants of commitment: Be it declared and enacted, That where any person or persons shall have been detained, by any officer or officers of the Navy on full pay, or by any officer of customs, or by any person or persons acting in his or their aid or assistance, or duly employed for the prevention of smuggling, for any offence under this or any other Act relating to the customs, and shall have been taken before any Justice of the Peace, or if he should have otherwise appeared before any Justice of the Peace, to answer any charge preferred against him under this Act; and if it shall appear to such Justice

Justice that there is reasonable cause to detain such person or persons, such Justice may, and he is hereby authorised and required to order such person or persons to be detained a reasonable time, and at the expiration of such time, to be brought before any two Justices of the Peace, to be dealt with according to law.

CIII. And be it enacted, That if any person or persons liable to be detained under the provisions of this or any other Act relating to the customs, shall not be detained at the time of so committing the offence for which he or they is or are liable, or after detention shall make his or their escape, it shall and may be lawful for any officer or officers of the navy on full pay, or for any officer of customs, or any other person acting in his or their aid or assistance, or duly employed for the prevention of smuggling, to detain such person so liable to detention as aforesaid, at any time afterwards, and to take him before any Justice of the Peace, to be dealt with as if detained at the time of committing the said offence.

CIV. And be it enacted, That if any person whatsoever shall obstruct any officer or officers of the navy on full pay, or any officer or officers of customs, or any person acting in his or their aid or assistance, or duly employed for the prevention of smuggling, in the execution of his or their duty, or in the due seizing of any goods liable to forfeiture by this or any other Act relating to the customs, or shall rescue, or cause to be rescued, any goods which have been seized, or shall attempt or endeavour to do so, or shall, before, or at, or after any seizure, stave, break, or otherwise destroy any goods to prevent the seizure thereof, or the securing the same, then, and in such case, the party or parties so offending shall forfeit for every such offence any sum not exceeding one hundred pounds, nor less than ten pounds.

CV. And be it enacted, That if any person shall by force or violence, assault, resist, oppose, molest, hinder, or obstruct any officer of the navy on full pay, or any officer of customs, or other person acting in his or their aid or assistance, or duly employed for the prevention of smuggling, in due execution of his or their office or duty, such person being convicted thereof, shall be sentenced to be imprisoned in any House of Correction or common Gaol, with or without hard labour, for any term not exceeding three years, at the discretion of the Court, before whom the offender shall be tried and convicted as aforesaid.

CVI. And be it enacted, That all ships, vessels, and boats, and all goods whatsoever, which shall have been seized and condemned for a breach of any law relating to the customs, shall be disposed of as soon as conveniently may be, after the condemnation thereof, in such manner as the collector or other proper officer of Her Majesty's customs shall direct.

CVII. And be it enacted, That all goods, ships, vessels, and boats, which, by any law at any time in force within the said Colony, shall be, or have been declared to be forfeited, may be seized by any officer of the customs.

CVIII. And be it enacted, That all penalties and forfeitures incurred or imposed by this or any other Act relating to the customs, or to trade or navigation, shall and may be sued for, prosecuted, and recovered by action of debt, bill, plaint, or information, in any of Her Majesty's Courts of Record in the said Colony, or in the Courts of Vice Admiralty, in the name of Her Majesty's Attorney General, or in the name or names of some officer or officers of Her Majesty's customs, or in cases where the penalty does not exceed the sum of one hundred pounds, by information before any two or more Justices of the Peace for the said Colony.

CIX. And be it enacted, That all forfeitures and penalties recovered under this or any other Act relating to the customs, shall be paid into the hands of the collector of Her Majesty's customs, at the port or place where or nearest to where the same shall have been recovered, and shall be divided, paid, and applied, (after deducting the charges of prosecution and other contingent expenses) as follows; that is to say, one moiety to the Colonial Treasurer, for the purpose of the General Revenue of

Smuggling.

Any person liable to be arrested, making his escape, may afterwards be detained by any officer of the customs.

Persons resisting officers or rescuing or destroying goods to prevent seizure, to forfeit £100.

Persons assaulting officers by force or violence may be imprisoned.

Vessels and goods seized may be disposed of as the collector, &c., shall direct.

Goods, &c., declared forfeited by former law, may be seized.

Penalties and forfeitures how to be sued for.

Application of penalties.

Smuggling.

All vessels, boats, and goods, seized under any law of the customs and ordered to be prosecuted, shall be deemed to be condemned, unless the owner give notice that he intends to claim.

of the said Colony, and the other moiety to the seizing officer, or to the person or persons who shall sue or shall have sued for such penalty.

CX. And be it enacted, That all ships, vessels, boats, and goods, which shall have been, or shall be hereafter seized as forfeited under any law relating to the customs, and which shall have been, or shall hereafter be, ordered to be prosecuted by the collector or other proper officer of customs, shall be deemed and be taken to be condemned, and may be sold in the manner directed by law, in respect to ships, vessels, boats, and goods seized and condemned for breach of any law relating to the customs, unless the person from whom such ships, vessels, boats, and goods shall have been seized, or the owner of them, or some person authorised by him, or acting on his behalf shall, within one calendar month from the day of seizing the same, give notice in writing to the collector or other chief officer of the customs, at the nearest port, that he claims the ship, vessel, boat, or goods, or intends to claim them; and as soon as the party so claiming shall have entered into the security required by law, for prosecuting such claim, the vessel, or boat seized, shall, if required, be delivered up to the claimant, on his entering into bond in double the value thereof, with two or more sufficient sureties, to be approved of by the collector or other proper officer of customs at the port where, or near to where, the seizure was made, with condition that in the event of the said vessel or boat being condemned, the single penalty of the bond shall be forthwith paid to the aforesaid collector, or other proper officer of customs.

Justices may summon offender, and the summons may be left at his place of residence, or on board any ship to which he belongs.

CXI. And be it enacted, That upon the exhibiting any information before any Justice of the Peace, for any offence against this or any other Act relating to the customs, or to trade or navigation, whether the party charged in respect to such offence be or be not liable to be detained in manner hereinbefore mentioned, such Justice is hereby required to issue a summons for the appearance of the party against whom such information is exhibited, before two Justices of the Peace; and such summons, directed to such party, being left at his or her place of residence, or on board any ship or vessel, to which such party may belong, shall be deemed to have been sufficiently served: Provided that if it shall be made to appear to the satisfaction of the Justice issuing such summons, or of any two Justices that no such service of the summons as is hereinbefore required has been made, all subsequent proceedings had, or taken thereupon, shall be by him or them set aside.

Two Justices may, upon appearance or default of the party, proceed to the hearing.

CXII. And be it enacted, That upon the appearance or default of any party so summoned or detained, it shall be lawful for any two Justices of the Peace to proceed to the examination of the matter contained in such information, and upon due proof thereof, either upon the confession of such party, or upon the oath of one or more credible witness or witnesses, to convict such party in the penalty or penalties sued for by such information, and in case of non-payment thereof, the same shall be levied by distress and sale of the goods and chattels of such party, wherever the same may be found; and if it should appear to the Justice or Justices who shall have so convicted any such party, that the goods and chattels of such party are not sufficient whereon to levy the distress awarded, together with the costs of such distress and sale, it shall be lawful for such Justice or Justices of the Peace, and they are hereby authorised and required, by warrant under hand and seal, to commit such party to any of Her Majesty's Gaols within their or his jurisdiction, there to remain until the penalty or penalties shall be paid, or for any period not exceeding six calendar months, unless the said penalty, with costs, shall be sooner paid.

Warrants.

Informations and convictions to be in the form or to the effect in the schedule.

CXIII. And be it enacted, That such warrants shall and may be executed in any part of the said Colony.

CXIV. And be it enacted, That all informations before Justices of the Peace, for any offences committed against this or any other Act relating to the customs, and all convictions for such offences, and warrant of Justices of the Peace, founded upon such convictions shall be drawn respectively

respectively in the form, or to the effect in the schedules A, B, C, and D, to this Act annexed.

CXV. Provided always, and be it declared and enacted, That every information for any penalty or forfeiture, and every conviction or warrant of commitment for any penalty, shall be deemed valid and sufficient in which the offence for which such penalty shall have been inflicted, or the cause of such forfeiture, is set forth in the words of this Act.

CXVI. And be it enacted, That no writ of *Certiorari* shall issue from Her Majesty's Supreme Court to remove any proceedings before any Justice or Justices of the Peace, under any Act for the prevention of smuggling, or relating to the customs, nor shall any writ of *Habeas Corpus* issue to bring up the body of any person who shall have been convicted before any Justice or Justices of the Peace under any such Act, unless the party against whom such proceeding shall have been directed, or who shall have been so convicted, or his attorney or agent, shall state in an affidavit, in writing, to be duly sworn, the grounds of objection to such proceedings or conviction, and that upon the return of such writ of *Certiorari* or *Habeas Corpus*, no objection shall be taken or considered other than such as shall have been stated in such affidavit; and that it shall be lawful for any Justice or Justices of the Peace, and they are hereby required to amend any information, conviction, or warrant of commitment, for any offence under any such Act, at any time, whether before or after conviction.

CXVII. And be it enacted, That no claim shall be permitted to be entered to, and no appearance shall be permitted to be entered to any information filed for the forfeiture of any ship, vessel, boat, or goods, seized for any cause of forfeiture, and returned into any of Her Majesty's Courts of Record, or in the Court of Vice Admiralty in the said Colony, unless such claim or appearance is entered in the true and real name or names of the owner or owners of such ship, vessel, boat, or goods, describing the place of residence, and the business or profession of such person or persons; and if such person or persons shall reside in Sydney, or within the district thereof, oath shall be made by him, her, or them, before one of the Judges of the Court into which the said ship, vessel, boat, or goods are returned, or in which such information is filed, that the said ship, vessel, boat, or goods, was, or were, really and truly the property of him, her, or them, at the time of such seizure; but if such person or persons shall not be resident in Sydney, or the district thereof, then, and in such case, oath shall be made in like manner, by the agent, or attorney, or solicitor, by whom such claim or appearance shall be entered, that he is, or acts as the agent, attorney, or solicitor of such owner or owners, and that he enters such claim or appearance on behalf of such owner or owners, and that to the best of his knowledge and belief, such ship, vessel, boat, or goods were, at the time of seizure thereof, *bonâ fide*, and truly the real property of the person or persons in whose name or names such claim or appearance is entered; and on failure thereof, the ship, vessel, boat, or goods, shall be absolutely condemned, and judgment shall be entered thereon, by default, according to the usual method of proceedings of the Court, in the same manner as if no claim or appearance had been entered thereto; and every person who shall be convicted of making or taking a false oath to any of the facts hereinbefore directed or required to be sworn, shall be deemed guilty of perjury, and shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury.

CXVIII. And be it enacted, That upon the entry of any claim to any ship, boat, or vessel, or to any goods seized for any cause of forfeiture, or of any appearance to any information filed for such forfeiture, the person or persons who shall enter the claim or appearance as the owner or owners thereof, (in case such claimant or claimants shall reside in the said Colony,) shall be bound with two other sufficient sureties, in the penalty of one hundred pounds, to answer and pay the costs occasioned by such claim or appearance; and if such owner or owners shall not reside

Smuggling.

Information, &c., to be deemed valid, if the offence is set forth in the words of the Act.

Writs of *Certiorari*, &c.

No claim or appearance to be entered to any information for the forfeiture of seized goods, unless in the name of the owner, and oath made to the property.

Owners to give security for costs occasioned by the claim or appearance.

Smuggling.

If suit brought on account of seizure, and the Judge shall certify that there was probable cause, plaintiff to have two-pence damages, and defendant fined not more than one shilling.

in the said Colony, then and in such case, the attorney, or solicitor by whose direction such claim or appearance shall be entered, shall in like manner be bound with two other sufficient sureties in the like penalty, to answer and pay the costs occasioned by such claim or appearance.

CXIX. And be it enacted, That in case any information or suit shall be commenced or brought to trial on account of the seizure of any ship, vessel, boat, or goods, merchandise, or commodities whatsoever, or any horses or other animals, or any carriage seized as forfeited by this or any Act relating to the customs, wherein a verdict shall be found for the claimant thereof, and it shall appear to the Judge or Court before whom the same shall have been tried, that there was a probable cause of seizure, such Judge or Court shall certify in the record that there was such probable cause, and in such case, the person who made such seizure, shall not be liable to any action, indictment, or other suit, or prosecution on account of such seizure; and in case any action, indictment, or other suit, or prosecution shall be commenced and brought to trial against any person or persons whatsoever, on account of any such seizure as aforesaid, wherein a verdict shall be given against the defendant or defendants, if the Court or Judge before whom such information or suit shall have been tried, shall have certified in the said record that there was a probable cause for such seizure, then the plaintiff, besides the things seized, or the value thereof, shall not be entitled to above two-pence damages, nor to any costs of suit, nor shall the defendant in such prosecution be fined above one shilling.

No process to be sued out against any officer making seizure until one calendar month next after notice given.

CXX. And be it enacted, That no writ shall be sued out against, nor a copy of any process served upon any officer of the Navy, or customs, or against any person acting under the direction of the Commissioners of Her Majesty's customs, for anything done in the execution of, or by reason of his office, until one calendar month next after notice in writing shall have been delivered to him, or left at his usual place of abode by the attorney or agent for the party who intends to sue out such writ or process as aforesaid, in which notice shall be clearly and explicitly contained, the cause of action, the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent; and that a fee of twenty shillings shall be paid for preparing or serving of every such notice, and no more.

No evidence to be adduced but what is contained in the notice.

CXXI. Provided always and be it enacted, That no plaintiff in any case where an action shall be grounded on any such act done by the defendant, shall be permitted to produce any evidence of the cause of such action, except such as shall be contained in the notice to be given as aforesaid, or shall receive any verdict against such officer or person, unless he shall prove on the trial of such action, that such notice was given; and in default of such proof, the defendant in such action shall receive a verdict and costs as aforesaid.

Officer may tender amends.

CXXII. And be it enacted, That it shall and may be lawful to and for every such officer, or other person to whom such notice shall have been given as aforesaid, at any time within one calendar month after such notice shall have been given, to tender amends to the party complaining, or to his, her, or their agent or attorney; and in case the same is not accepted, to plead such tender in bar to any action to be brought against him, grounded on such writ or process, together with the plea of not guilty, and other pleas, with leave of the Court; and if upon issue joined thereon, the jury shall find the amends so tendered to have been sufficient, that then they shall give a verdict for the defendant; and in such case, or in case the plaintiff shall become nonsuited, or discontinue, his, her, or their action, or in case judgment shall be given for such defendant, upon demurrer, then such defendant shall be entitled to the like costs as he would have been entitled to in case he had pleaded the general issue only; but if upon issue joined the jury shall find that no amends were tendered, or that the same were not sufficient, or shall find against the defendant in such other plea or pleas, then they shall give a verdict for the

the plaintiff, and such damages as they shall think proper, together with his, her, or their costs of suit.

CXXIII. And be it enacted, That in case such officer or other person as aforesaid, shall neglect to tender any amends, or shall have tendered insufficient amends before the action brought, it shall and may be lawful for him by leave of the Court, where such action shall be brought at any time before the trial of the said action, to pay into Court such sum of money as he shall see fit, whereupon such proceedings, orders, and judgments, shall be had, made, and given, in and by such Court, as in other actions where the defendant is allowed to pay money into Court.

CXXIV. And be it enacted, That if any action or suit be brought or commenced as aforesaid, such action or suit shall be brought or commenced within six calendar months next after the cause of action shall have arisen, and not afterwards, and the defendant or defendants shall and may plead the general issue, and give the special matter in evidence at any trial had thereupon; and if the plaintiff or plaintiffs shall become nonsuited, or discontinue his, her, or their action or suit, or if upon a verdict or demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall or may receive treble costs, and have such remedy for the same, as any defendant or defendants can or may have in other cases where costs are given by law.

CXXV. And be it enacted, That whenever any person shall be charged with any offence against this or any Act relating to the customs, or for which he or she may be prosecuted by indictment or information in Her Majesty's Supreme Court, in New South Wales, and the same shall be made appear to any Judge of the same Court, by affidavit or by certificate of an information or indictment being filed against such person in the said Court for such offence, it shall and may be lawful for such Judge to issue his warrant under his hand and seal, and thereby to cause such person to be apprehended, and brought before him or some other Judge of the same Court, or before some one of Her Majesty's Justices of the Peace, in order to his or her being bound to the Queen's Majesty, with two sufficient sureties, in such sum as in the said warrant shall be expressed, with condition to appear in the said Court at the time mentioned in such warrant, and to answer to all and singular indictments or informations for any such offence; and in case any such person shall neglect or refuse to become bound as aforesaid, it shall be lawful for such Judge or Justice respectively to commit such person to the common gaol, there to remain until he or she shall become bound as aforesaid, or shall be discharged by order of the Court in term time, or of one of the Judges of the said Court in vacation; and the recognizance to be thereupon taken, shall be returned and filed in the said Court, and shall continue in force until such person shall have been acquitted of such offence, or, in case of conviction, shall have received judgment for the same, unless sooner ordered by the Court to be discharged; and that where any person, either by virtue of such warrant of commitment aforesaid, or by virtue of any writ of *capias ad respondendum* issued out of the said Court is now detained, or shall hereafter be committed to and detained in any gaol for want of bail, it shall be lawful for the prosecutor of such indictment or information, to cause a copy thereof to be delivered to such person, or to the gaoler, keeper, or turnkey of the gaol, wherein such person is or shall be so detained, with a notice thereon endorsed, that unless such person shall, within eight days from the time of such delivery of a copy of the indictment or information as aforesaid, cause an appearance, and also a plea or demurrer to be entered in the said Court to such indictment or information, an appearance, and the plea of not guilty will be entered thereto, in the name of such person, and in case he or she shall thereupon, for the space of eight days after the delivery of a copy of such indictment or information, as aforesaid, neglect to cause an appearance, and also a plea or demurrer, to be entered in the said Court, to such indictment or information, it shall be lawful for the prosecutor of such indictment or information, upon affidavit being made and filed in the

Smuggling.

Neglecting to tender amends, may pay money into Court.

Action to be commenced within six months next after cause of action has arisen.

Judges may issue warrants for apprehending offenders prosecuted by indictment or information.

Smuggling.

the Court, of the delivery of a copy of such indictment or information, with such notice endorsed thereon as aforesaid, to such person, or to such gaoler, keeper, or turnkey, as the case may be, which affidavit may be made before any Judge or Commissioner of the said Court, authorised to take affidavits in the said Court, to cause an appearance, and the plea of not guilty to be entered in the said Court, to such indictment or information for such person, and such proceedings shall be had thereupon, as if the defendant in such indictment or information appeared, and pleaded not guilty, according to the usual course of the said Court; and that if upon trial of such indictment or information, any defendant so committed and detained as aforesaid, shall be acquitted of all the offences therein charged upon him or her, it shall be lawful for the Judge before whom such trial shall be had, to order that such defendant shall be forthwith discharged out of custody, as to his or her commitment as aforesaid, and such defendant shall be thereupon discharged accordingly.

When recognizance is given, and the party shall not plead, a copy of the information or indictment may be delivered to his attorney or agent.

CXXVI. And be it enacted, That where any person shall be arrested by virtue of a warrant issued as aforesaid, and shall enter into a recognizance, and appear in the said court at the return of the said recognizance, but shall not afterwards plead to the information or indictment, it shall and may be lawful for the prosecutor of such information or indictment to cause a copy thereof to be delivered to such person, or to his or her attorney or agent, or to be left at his or her last place of abode, with a notice thereon endorsed, that unless such person shall within eight days from the time of such delivery of a copy of the information or indictment as aforesaid, cause a plea to be entered in the said court to such information or indictment that the prosecutor of such information or indictment will enter a plea of not guilty on his or her behalf, and that upon affidavit being made and filed in the court of the delivery of a copy of such information or indictment, with such notice endorsed thereon as aforesaid, to such person, or to his or her attorney or agent, or at his or her last place of abode, as the case may be, it shall be lawful for the prosecutor of such information or indictment to cause the plea of not guilty to be entered in the said court to such information or indictment for such person, and such proceedings shall be had thereupon, as if the defendant in such information or indictment had pleaded according to the usual course of the said court.

Proof of payment of duties or of the lawful importation of goods to be on the owner.

CXXVII. And be it enacted, That if any goods in the possession of the importer or lander of such goods shall be seized for non-payment of duties, or any other cause of forfeiture, and any dispute shall arise whether the custom duties have been paid for the same, or the same have been lawfully imported, or concerning the place from whence such goods were brought, then, and in such case the proof thereof shall be on the owner or claimer of such goods, and not on the officer who shall seize and stop the same.

Averment of certain matters to be sufficient unless the contrary is proved.

CXXVIII. And be it enacted, That in case of any information or proceedings had under this or any other Act relating to the customs, the averment that the collector, or other principal officer of Her Majesty's customs, has directed or elected such information or proceedings to be instituted, or that any ship or vessel is foreign, or belonging wholly or in part to Her Majesty's subjects, or that any person detained or found on board any ship, vessel, or boat, liable to seizure, is, or is not a subject of Her Majesty, or that any person is an officer of the customs, and where the offence is committed in any port in the said Colony, the naming of such port in any information or proceedings shall be sufficient, without proof as to such fact or facts, unless the defendant in such case shall prove to the contrary.

Persons employed for prevention of smuggling to be deemed to be duly employed.

CXXIX. And be it enacted, That all persons employed for the prevention of smuggling under the direction of the Commissioners of Her Majesty's Customs, or the Governor of the said Colony, or of any officer or officers in the service of the customs, shall be deemed and taken to be duly employed for the prevention of smuggling, and the averment in any information or suit, that such party was so duly employed, shall be sufficient

cient proof thereof, unless the defendant in such information or suit shall prove to the contrary.

CXXX. And be it enacted, That if upon any trial, a question shall arise whether any person is an officer of the navy on full pay, or an officer of customs, or is duly employed for the prevention of smuggling, evidence of his having acted as such, shall be deemed sufficient, and such person shall not be required to produce his commission or deputation, unless sufficient proof shall be given to the contrary, and every such officer, and any person acting in his aid or assistance, shall be deemed a competent witness upon the trial of any suit or information, on account of any seizure or penalty as aforesaid, notwithstanding such officer or other person may be entitled to the whole, or any part of such seizure, or penalty, or to any reward upon the conviction of the party charged in such suit or information.

CXXXI. And be it enacted, That all suits, indictments, or informations exhibited for any offence against this or any other Act relating to the customs in any of Her Majesty's Courts of Record, or Court of Vice Admiralty in the said Colony, shall and may be had, brought, sued, or exhibited, within three years next after the date of the offence committed, and shall and may be exhibited before any one or more Justice or Justices of the Peace, within six calendar months next after the date of the offence committed.

CXXXII. And be it enacted, That where any person shall have been detained for any offence against this or any other Act relating to the customs, and shall have made his escape from custody, an information may be exhibited before one or more Justices of the Peace against such person, for such offence at any time afterwards, although more than six months shall have expired.

CXXXIII. And be it enacted, That if any officer of the customs, or other person duly authorised to act as such, shall make any collusive seizure, or deliver up, or make any agreement to deliver up, or not to seize any vessel, boat, or goods liable to forfeiture, or take any bribe, gratuity, recompence, or reward, for the neglect or non-performance of his duty, every such officer, or other person shall forfeit, for every such offence, a sum not exceeding five hundred pounds, nor less than ten pounds.

CXXXIV. And be it enacted, That every person who shall give, or offer, or promise to give any bribe, recompence, or reward, or shall make any collusive agreement with any such officer as aforesaid, to induce him in any way to neglect his duty, or to do, or conceal, or connive at any act, whereby any of the provisions of any Act of the Imperial Parliament, or any law, rule, order, or regulation in force within the said Colony may be evaded, every such person shall, whether the offer be accepted, or performed, or not, forfeit a sum not exceeding two hundred pounds, nor less than ten pounds.

(Registry.)

CXXXV. And whereas doubts have arisen as to how far penalties and forfeitures, inflicted and incurred by the 3rd and 4th William IV., c. 55, can be recovered in this Colony: Be it enacted, That all such penalties and forfeitures shall and may be sued for, prosecuted, heard, determined, and disposed of, in such manner, as any penalties or forfeitures are herein directed to be heard, determined, and disposed of.

CXXXVI. And be it enacted, That no appeal shall be prosecuted from any decree or sentence of any of Her Majesty's Courts in this Colony, touching any penalty or forfeiture imposed by this Act, unless the inhibition shall be applied for and decreed within twelve months from the time when such decree or sentence was pronounced, nor unless security be given in the sum of five hundred pounds, to cover any costs which

Smuggling.

Viva voce evidence may be given that a party is an Officer and deemed a competent witness although entitled to the whole or a share of the seizure, or penalty, or reward, on conviction.

Within what time suits, indictments, or informations are to be exhibited.

Persons detained and afterwards escaping.

Officers making collusive seizures, to forfeit £500.

Persons offering a bribe to forfeit £200.

Registry.

Penalties under Registry Act may be sued for in this Colony.

Appeals.

Registry.

which may be incurred through such an appeal, in the event of the decree being confirmed.

ALEX. McLEAY
Speaker.

*Passed the Legislative Council this } In the name, and on behalf of Her
twenty-fifth day of September, one thou- } Majesty, I assent to this Act.
sand eight hundred and forty-five. }*

GEORGE GIPPS,
GOVERNOR.

WM. MACPHERSON,
CLERK OF THE COUNCIL.

November 7th, 1845.

SCHEDULES REFERRED TO.

A.

FORM OF INFORMATION BEFORE JUSTICES OF THE PEACE, WHERE A PECUNIARY PENALTY IS INFLICTED.

New South Wales, }
to wit. }
Be it remembered, that on the day of in the year of Our Lord
A.B., Officer of Customs, who is directed by the Collector or other principal officer
of Her Majesty's Customs (as the case may be) to prefer this information, gives us,
Esquires, two of Her Majesty's Justices of the Peace for the said
Colony, to understand and be informed, that C. D. on the day of in the year of
Our Lord (*here state the offence*)
Contrary to the form of the Act in that case made and provided, whereby the said C. D. hath forfeited
the sum of .

B.

FORM OF CONVICTION TO BE USED FOR AN OFFENCE AGAINST THIS ACT, WHERE A PECUNIARY PENALTY IS INFLICTED.

New South Wales, }
to wit. }
Be it remembered, that on the day of in the year of Our Lord
an information was exhibited by A. B. officer of Customs, before us,
Esquires, two of Her Majesty's Justices of the Peace of the said
Colony, against C. D., which said information charged that the said C. D. on the day of
in the year of Our Lord, (*here state the offence as in the Information*)
contrary to the form of the Act in such case made and provided, which offence has been duly proved
before us, the said Justices: We do therefore convict the said C. D. of the said offence, and do adjudge,
that the said C. D. hath forfeited for his said offence the sum of .

GIVEN under our hands and seals, this
day of in the year of our Lord

C.

WARRANT OF DISTRESS.

New South Wales, }
to wit. }
To A. B., Whereas C. D. has been duly convicted before us,
Esquires, two of Her Majesty's Justices of the Peace of the said
Colony, of the offence of having (*here state the offence as in the Information*)
And whereas the said C. D. hath forfeited for his said offence, the sum of , which said sum of
has not been paid: These are therefore to command you,
by distress and sale of
the said A. B., to levy the said sum of by distress and sale of
the goods and chattels so to be distrained, to be sold and disposed of within , for which such distress shall be made,
days after such distraint, unless the said sum of , together with the reasonable charges of taking and keeping such distress shall be sooner paid; and you,
the said A. B., are hereby commanded to certify to us, the said Justices, on the day of
next ensuing, what you shall do by virtue of this warrant.

GIVEN under our hands and seals, at
the day of in the year of Our Lord

D.

FORM OF WARRANT OF COMMITMENT TO GAOL FOR A PENALTY.

New South Wales, } To A. B., Officer of Customs, and to E. F., the Gaoler or Keeper of the
to wit. } in the Esquires,
Whereas C. D. has been duly convicted before us,
two of Her Majesty's Justices of the Peace for the said Colony, of having .

(*Here state the offence as in the Information.*)

And whereas we, the said Justices, did adjudge that the said C. D. hath forfeited for his said
offence, the sum of , and whereas it appears to us, the said Justices, that the said C. D.
has

has not sufficient goods or chattels whereon to levy the sum of , and which sum of
 has not been paid: These are therefore to require you the said A. B. forthwith to
 take, carry, and convey the said C. D. to the at in the
 and to deliver him into the custody of the Gaoler or Keeper of the said
 ; and we the said Justices, do hereby authorise and require the said E. F. the Gaoler or
 Keeper of the said , to receive the said C. D. into his custody, and him safely to keep
 for the period of six calendar months, unless he shall sooner pay the said sum of , or otherwise
 be delivered by due course of Law.

GIVEN under our hands and seals, at in the
 this day of in the year of Our Lord

E.

WAREHOUSE RENT.

Table of rent to be paid to the collector of Customs, on all goods lodged in any of Her Majesty's
 Warehouses in New South Wales.

	d.
For every Pipe, Butt, Piece, or Punccheon, per week.....	4
Half Pipe or Hogshead	2
Barrel, Quarter Cask, Case, or Box	1
Seron or Case of Tobacco	1
Keg of Tobacco	0½
Basket ditto	0½

No. XVI.

An Act to suspend for a further limited period so much of an
 Act of the Governor and Council of New South Wales,
*"To declare the Town of Sydney to be a City, and to
 incorporate the inhabitants thereof,"* as relates to the es-
 timating and levying a rate for the Police of the said City.
 [Assented to 7th November, 1845.]

WHEREAS by an Act of the Governor of New South Wales, with
 the advice of the Legislative Council thereof, passed in the sixth
 year of Her Majesty's Reign, intituled, *"An Act to declare the Town
 of Sydney to be a City, and to incorporate the inhabitants thereof,"* it is
 amongst other things enacted, that in order to raise the amount neces-
 sary to provide for the payment of such a number of constables and such
 other police establishments within the said city, as may from time to
 time, in the opinion of the Council of the said city, be required, the said
 Council is authorised and required, once at least in every year, to esti-
 mate, as correctly as may be, what amount will be sufficient for payment
 of the salaries, allowances, and rewards, to be paid to such constables and
 special constables, and of all other expenses attending police purposes
 within the said city; and in order to raise the amount so estimated, the
 said Council is by the said Act authorised and required half-yearly, to
 order a city rate to be made and collected; and for this purpose the said
 Council shall have all the like powers as are by the said recited Act
 vested in them, for making and levying a city rate for other purposes;
 and it is thereby further enacted, that the said rate shall be called the
"police rate," and the amount, when collected, shall be paid to the Treas-
 urer of the corporation, who shall keep a separate account thereof, under
 the name of *"police fund,"* and from time to time pay out of the said
 police fund, for the support of the police, or for police purposes, such
 sums as he may be required or directed to pay, by warrant under the
 hand of the Mayor of the said city, countersigned by the Town Clerk;
 and whereas it is expedient to retain for the present the management
 of the said police force in the hands of the Executive Government,
 and to appropriate the amount necessary for the support thereof from the
 revenue of the said Colony, receivable from taxes, rates, duties and imposts,
 raised within the same: Be it therefore enacted, by His Excellency the
 Governor of New South Wales, with the advice and consent of the Legis-
 lative Council thereof, That so much of the said recited Act as relates to
 the

Preamble.

6 Vict., No. 3.

Suspension of sec.
 70 of 6 Vict., No.
 3, for one year

the estimating by the Council of the said city of the amount necessary to provide for the payment of constables and other police establishments within the said city, and to the powers thereby vested in the Council of the said city, for making and levying the said police rate, shall be suspended and inoperative for one whole year from and after the first day of January, in the year of Our Lord one thousand eight hundred and forty-six: Provided always, that nothing herein contained shall affect, or be construed to affect, any matter or thing heretofore done, or commenced to be done, in pursuance of the provisions of the said recited Act.

Commencement and
duration of Act.

II. And be it enacted, That this Act shall commence and take effect from and after the first day of January, now next ensuing, and shall thenceforth continue in force for one whole year.

ALEX. M'LEAY,

Speaker.

Passed the Legislative Council this fifteenth day of October, one thousand eight hundred and forty-five. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

GEORGE GIPPS,

GOVERNOR.

WM. MACPHERSON,

CLERK OF THE COUNCIL.

November 7th, 1845.

XVII.

An Act to suspend for a further limited period so much of an Act of the Governor and Council of New South Wales, "To incorporate the inhabitants of the Town of Melbourne" as relates to the estimating and levying a rate for the police of the said town. [Assented to 7th November, 1845.]

Preamble.

6 Vic., No. 7.

Suspension of sec. 70
of 6 Vic., No. 7,
for one year.

WHEREAS by an Act of the Governor of New South Wales, with the advice of the Legislative Council thereof, passed in the sixth year of Her Majesty's reign, intituled, "*An Act to incorporate the inhabitants of the Town of Melbourne*," it is, amongst other things enacted, that in order to raise the amount necessary to provide for the payment of such a number of constables, and such other police establishments within the said town, as may from time to time, in the opinion of the Council of the said town, be required, the said Council is authorised and required once at least in every year, to estimate, as correctly as may be, what amount will be sufficient for payment of the salaries, allowances, and rewards, to be paid to such constables and special constables, and of all other expenses attending police purposes, within the said town; and in order to raise the amount so estimated the said Council is by the said Act authorised and required half-yearly, to order a town rate to be made and collected; and for this purpose the said Council shall have all and the like powers as are by the said recited Act vested in them, for making and levying a town rate for other purposes; and it is thereby further enacted, that the said rate shall be called the "police rate," and the amount when collected shall be paid to the Treasurer of the corporation, who shall keep a separate account thereof, under the name of "police fund," and from time to time pay out of the said police fund for the support of the police, or for police purposes, such sums as he may be required or directed to pay, by warrant under the hand of the Mayor of the said town, countersigned by the Town Clerk; and whereas it is expedient to retain for the present the management of the said police force in the hands of the Executive Government, and to appropriate the amount necessary for the support thereof from the revenue of the said Colony, receivable from taxes, rates, duties,

duties, and imposts, raised within the same: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That so much of the said recited Act as relates to the estimating by the Council of the said town of the amount necessary to provide for the payment of constables and other police establishments within the said town, and to the powers thereby vested in the Council of the said town, for making and levying the said police rate, shall be suspended and inoperative for one whole year from and after the first day of January, in the year of Our Lord one thousand eight hundred and forty-six: Provided always, that nothing herein contained shall affect, or be construed to affect, any matter or thing heretofore done, or commenced to be done, in pursuance of the provisions of the said recited Act.

II. And be it enacted, That this Act shall commence and take effect from and after the first day of January, now next ensuing, and shall thenceforth continue in force for one whole year.

Commencement and
duration of Act.

ALEX. McLEAY,

Speaker.

*Passed the Legislative Council this
fifteenth day of October, one
thousand eight hundred and forty-
five.* } *In the name, and on behalf of Her Ma-
jesty, I assent to this Act.*

WM. MACPHERSON,

Clerk of the Council.

GEORGE GIPPS,

Governor.

7th November, 1845.

No. XVIII.

An Act to transfer the surplus Police Revenue of the Corporation of the City of Sydney from the Police Fund to the City Fund thereof, and to authorise the expenditure and appropriation of the same. [Assented to 7th November, 1845.]

WHEREAS by an Act of the Governor of New South Wales with the advice of the Legislative Council thereof, passed in the sixth year of the reign of Her present Majesty Queen Victoria, intituled "*An Act to declare the Town of Sydney to be a City and to incorporate the inhabitants thereof,*" it was amongst other things enacted, that in order to raise the amount necessary to provide for the payment of such a number of constables and such other police establishments within the said city as might from time to time, in the opinion of the Council of the said city, be required, the said Council was authorised and required, once at least in every year, to estimate as correctly as might be, what amount would be sufficient for payment of the salaries, allowances, and rewards to be paid to such constables and special constables, and of all other expenses attending police purposes within the said City, and in order to raise the amount so estimated, the said Council was, by the said Act, authorised half yearly to order a city rate to be made and collected, and for that purpose the said Council should have all and the like powers as were by the said recited Act vested in them for making and levying a city rate for other purposes; and it was thereby further enacted that the said rate should be called the "police rate," and the amount when collected should be paid to the Treasurer of the corporation, who should keep a separate account thereof, under the name of the "police fund," and from time to time pay out of the said police fund, for the support of the police or for police purposes, such sums as he might be required or directed to pay by warrant, under the hand of the Mayor of the said city,

Preamble.

6 Vic., No. 3.

city, countersigned by the Town Clerk thereof; and whereas by a certain other Act of the Governor of New South Wales, with the advice of the Legislative Council thereof, passed in the eighth year of the reign of Her present Majesty Queen Victoria, intituled "*An Act to suspend for a limited period, so much of an Act of the Governor and Council of New South Wales to declare the Town of Sydney to be a City, and to incorporate the inhabitants thereof, as relates to the estimating and levying a rate for the police of the said City,*" it was enacted, that so much of the hereinbefore recited Act as related to the estimating by the Council of the said city, of the amount necessary to provide for the payment of constables and other police establishments within the said city, and to the powers thereby vested in the Council of the said city for making and levying the said police rate, should be suspended and inoperative for one whole year, from and after the first day of January, in the year of our Lord one thousand eight hundred and forty-five; provided always, that nothing in the said last recited Act contained should affect, or be construed to affect any matter or thing theretofore done, or commenced to be done in pursuance of the hereinbefore first recited Act, passed in the sixth year of the reign of Her present Majesty Queen Victoria; and whereas the Council of the city of Sydney, in Council assembled, did, on or about the twenty-sixth day of June, in the year of our Lord one thousand eight hundred and forty-three, and on or about the tenth day of October, in the year of our Lord one thousand eight hundred and forty-three, and on or about the eighth day of July, in the year of our Lord one thousand eight hundred and forty-four, duly make police rates, for the purposes, and in pursuance of the provisions of the said hereinbefore first recited Act, passed in the sixth year of the reign of Her present Majesty Queen Victoria, and did proceed to levy the same; and whereas, divers sums of money, the proceeds thereof, now remain in the hands of the Treasurer of the corporation of the said city, to the credit of the separate account called the police fund; and whereas it is considered expedient, that all sums of money now remaining in the hands of the Treasurer of the said corporation, to the credit of the said account, called the police fund, and all sums which may come to his hands on account of such rate and levy so made by the said Council as aforesaid, should be paid over by the said Treasurer, and by him carried to the credit of the account called the city fund of the said city: 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 Act, the whole amount received by the Treasurer of the said corporation, or which may come to his hands hereafter on account of the said rate and levy, shall be by him placed to the credit of the account called the city fund, and shall be expended and appropriated in like manner, and for the same purposes as other sums received and paid to the credit of the city fund are expended and appropriated, in pursuance of the provisions of the said hereinbefore first recited Act, passed in the sixth year of the reign of Her present Majesty Queen Victoria.

Surplus Police Revenue may be transferred to the City Fund.

ALEX. McLEAY,

Speaker.

Passed the Legislative Council this seventeenth day of October, one thousand eight hundred and forty-five. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

GEORGE GIPPS,
GOVERNOR.
November 7th, 1845.

No.

No. XIX.

An Act to authorise the transfer of the Surplus Police Revenue of the Corporation of Melbourne, to the Credit of the Town Fund. [Assented to 7th November, 1845.]

WHEREAS by an Act of the Governor and Legislative Council of Preamble.

New South Wales, passed in the sixth year of the reign of Her present Majesty Queen Victoria, intituled, "*An Act to incorporate the inhabitants of the Town of Melbourne,*" it is, amongst other things, enacted, that in order to raise the amount necessary to provide for the payment of such a number of constables and such other police establishments within the said town, as may from time to time, in the opinion of the Council of the said town, be required, the said Council is authorised and required, once at least in every year, to estimate as correctly as may be, what amount will be sufficient for payment of the salaries, allowances, and rewards, to be paid to such constables and special constables, and of all other expenses attending police purposes within the said town; and in order to raise the amount so estimated, the said Council is by the said Act authorised and required, half-yearly, to order a town rate to be made and collected; and for this purpose the said Council shall have all and the like powers as are by the said recited Act vested in them for making and levying a town rate for other purposes; and it is thereby further enacted, that the said rate shall be called a police rate, and the amount when collected shall be paid to the Treasurer of the Corporation, who shall keep a separate account thereof, under the name of the "police fund," and from time to time, pay out of the said police fund, for the support of the police, or for police purposes, such sums as he may be required or directed to pay, by warrant, under the hand of the Mayor of the said town, countersigned by the Town Clerk; and whereas the police fund raised by the Council of the said town, in pursuance of the provisions aforesaid for the municipal year, ending the first of November, in the year of our Lord one thousand eight hundred and forty-four, has proved to be more than sufficient for the purposes for which it was intended, and it is expedient that the surplus should be paid over to the credit of the town fund of the said town: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That it shall and may be lawful for the Council of the said town, by warrant in writing, signed by any three or more members thereof, and countersigned by the Town Clerk, to order the payment by the Treasurer of the Corporation, of the said surplus police fund to the credit of the town fund of the said town, anything in the said recited Act to the contrary notwithstanding.

6 Vic., No. 7.

Surplus Police Revenue may be transferred to the Town Fund.

ALEX. M'LEAY,

Speaker.

*Passed the Legislative Council this } In the name, and on the behalf of Her
thirtieth day of September, one thou- } Majesty, I assent to this Act.
sand eight hundred and forty-five.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

GEORGE GIPPS,
GOVERNOR.
November 7th, 1845.

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No. XX.

An Act to reduce for a limited time, the Duties on Spirits Imported into, or Distilled in the Colony of New South Wales. [Assented to 8th November, 1845.]

WHEREAS it is expedient that, for a limited time, the duties on Preamble.
Spirits imported into, or distilled in the said Colony should be lowered: 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 several Duties now chargeable and payable upon Spirits imported into, or distilled in the said Colony or its Dependencies, shall cease and determine; and that in place thereof the following Duties shall, during the continuance of this Act, be respectively charged and paid upon all such Spirits, that is to say:—
If the Duty now payable be at the rate of twelve shillings per Imperial Gallon of the strength of hydrometer proof, a Duty shall be chargeable at the rate of six shillings for every such gallon; and if the Duty now payable be at the rate of nine shillings for every such gallon, a Duty shall be chargeable at the rate of three shillings and sixpence for every such gallon; and so in proportion respectively for all such Spirits of greater or less strength. Duties now chargeable repealed, and lower Duties substituted during continuance of this Act.

II. And be it enacted, That the provisions of this Act shall be deemed and construed to apply equally to Spirits in any bonded store, on the same being entered for home consumption, as to Spirits imported into the Colony, and Spirits distilled within the same during the continuance of this Act. Act to apply to Bonded Spirits.

III. And be it enacted, That this Act shall commence and take effect from and after the passing thereof, and shall thenceforward continue in force until the first day of January, one thousand eight hundred and forty-eight, and no longer. Commencement and duration of Act.

ALEX. McLEAY,
Speaker.

Passed the Legislative Council, this ninth day of October, one thousand eight hundred and forty-five.

I hereby declare, that I consider this Bill to be one for a temporary Law necessary to be forthwith assented to, by reason of a public and pressing emergency; and agreeably to the 31st clause of the Act for the Government of New South Wales, 5th and 6th Vict., ch. 76, I do hereby in the name, and on the behalf of Her Majesty, assent to it accordingly.

WM. MACPHERSON,
CLERK OF THE COUNCIL.

GEORGE GIPPS,
GOVERNOR.

November 8th, 1845.

No. XXI.

An Act for taking an account of the population of New South Wales. [Assented to 8th November, 1845.]

WHEREAS it is expedient to take an account of the total number of Preamble.
persons within the Colony of New South Wales: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That on or before the second day of February, in the year one thousand eight hundred and forty-six, the Police Magistrates for the several and respective Police Districts, the boundaries whereof are set forth in certain Government notices respectively published, by order of His Excellency the Governor, Justices to cause notices to be fixed in conspicuous places, calling on householders, &c., to give the information required by this Act.
in

in the *New South Wales Government Gazette*, and bearing date the fifteenth day of September, one thousand eight hundred and forty-one, the ninth day of August, one thousand eight hundred and forty-two, and the twenty-fifth day of March, one thousand eight hundred and forty-five, and in any such Police District where there is no Police Magistrate, the Justices of the Peace, assembled in Petty Sessions at the chief place within the same, and the several and respective Commissioners of Crown Lands, in places beyond the boundaries allotted for location, in their respective districts, shall, and they are hereby required and directed to cause general notices to be affixed on the several churches, chapels, market houses, and court houses, and on such other conspicuous places as they shall deem proper, within the said Colony, requiring every householder, employer of servants, and proprietor or occupier of land therein, to be prepared, upon the second day of March next ensuing, or on the days immediately subsequent thereto, to give all such information as is required by the schedule hereunto annexed, marked A, to such persons as shall be appointed in manner hereinafter mentioned to collect the same.

Justices to appoint persons to collect the information hereby required.

II. And be it enacted, That the said Police Magistrates, Justices in Petty Sessions, and Commissioners shall, on or before the sixteenth day of February next, appoint one or more fit and proper person or persons for each district, to collect the information hereby required; and the said person or persons shall, on the said second day of March next, and on the days immediately subsequent thereto, if one day shall not be sufficient, proceed to take an account in writing, of the number of persons at that time being within the limits of his or their respective districts, and inform himself or themselves of the several particulars specified in the said schedule, distinguishing the county or reputed county, the parish (if in the county of Cumberland,) and the city, town, or reputed town; and if in the City of Sydney, or Town of Melbourne, the ward of the said city or town respectively, in which each such person shall be or reside, and the district, if beyond the boundaries prescribed for location to settlers; and the better to enable such persons to take such accounts, they are hereby authorised and empowered to ask such questions of the persons residing or being within their respective districts, concerning themselves, and the number, sex, quality, class, age, and trade or calling of the persons constituting their respective families, and all such other particulars as shall be necessary to fill up the said schedule; and every such person refusing or neglecting to answer, or wilfully giving a false answer to any such question, and every person in any way wilfully obstructing such persons in the execution of the duties required of them under this Act, shall, for every such refusal or neglect, false answer, or wilful obstruction, forfeit and pay a sum not exceeding five pounds, nor less than forty shillings, at the discretion of the Justices before whom complaint thereof shall be made: Provided always, that nothing in this Act contained shall be deemed to authorise any person appointed to collect information under the provisions of the same, to ask any other person directly any question relating to his or her civil condition, or to render any person to whom such a question may have been proposed, liable to any penalty under this Act for refusing to answer the same.

As to Returns for Gaols, Lunatic Asylum, Orphan Schools, &c.

III. And be it enacted, That the visiting Magistrates of every public gaol, prison, or house of correction, (or if there be no visiting Magistrate, then the gaoler or keeper of such gaol, prison, or house of correction,) and the visiting Magistrate of Cockatoo Island, the Superintendent of Hyde Park Barracks, the visiting Magistrate of the Female Factory at Parramatta, the Superintendent of the Lunatic Asylum at Tarban Creek, the Colonial Surgeons, or Colonial Assistant Surgeons of the respective convict Hospitals throughout the Colony, the Superintendent of the Male Orphan School, Liverpool, the Matron of the Female Orphan School, Parramatta, and the Master or person in charge of the Institution for destitute Roman Catholic children, shall, by virtue of such their office, be deemed to be persons appointed for taking the account required

required by this Act, in respect of the inmates of any such gaol, hospital, asylum, orphan school, or other establishment as aforesaid; and they shall respectively be liable to the penalties to which, by this Act, persons so appointed are subjected for wilful default in the instances therein specified: Provided always, that no allowance as is hereinafter provided, shall be made to any such visiting Magistrate, Superintendent, Surgeon, Assistant Surgeon, Gaoler, Matron, or other person in charge of any such Establishment as aforesaid.

IV. And be it enacted, That the persons so to be appointed as aforesaid, shall, within fourteen days after the said second day of March next, deposit with the respective Police Magistrates, Justices in Petty Sessions, or Commissioners as aforesaid, the several original accounts so taken in writing and subscribed by them, and shall make solemn affirmation in the form contained in the schedule hereunto annexed, marked B, before any Justice of the Peace, acting in and for the Territory of New South Wales, or for any part thereof, and shall answer all such questions as shall be put to them concerning such accounts by the said Police Magistrates, Justices or Commissioners; and if any such person shall fail or neglect to take such accounts, or shall omit to deposit the same in manner hereby required, or shall refuse to answer, or wilfully give a false answer to any such question, he shall, on conviction, forfeit and pay for every such offence, a sum not exceeding five pounds, nor less than forty shillings.

V. And be it enacted, That the said Police Magistrates, Justices in Petty Sessions, and Commissioners, shall, as soon after the receipt of such original accounts as may be, appoint a convenient day for examining the same, at which the persons so appointed as aforesaid shall attend, to answer all such questions as shall be put to them touching such accounts, and the correctness thereof; and such Police Magistrates, Justices, and Commissioners respectively, shall examine the same, and cause any defect or inaccuracy which may be discovered therein, to be supplied or corrected so far as may be possible; and shall cause an abstract of such accounts to be made according to the form contained in the schedule hereunto annexed, marked C, and shall subscribe a certificate in the terms therein set forth; and if the district for which such Police Magistrates, Justices, or Commissioners shall act, shall comprise more than one County, or Parish in the County of Cumberland, or any City, Town, or reputed Town, such Police Magistrates, Justices, and Commissioners shall transmit a separate abstract, in the form before mentioned, of the persons residing or being in each such County or reputed County, and Parish if in the County of Cumberland, and each City, Town, or reputed Town, and in each ward of any incorporated City or Town, and shall subscribe the same in manner aforesaid; and such Police Magistrates, Justices, and Commissioners respectively shall, on or before the first day of June next, transmit to the Colonial Secretary of New South Wales, the said abstracts, together with the said original accounts as aforesaid; and if any Police Magistrate, Justice, or Commissioner, shall fail or neglect to perform the duties required in the premises, or any of them, he shall forfeit and pay the sum of fifty pounds, to be sued for and recovered in the Supreme Court.

VI. And whereas the boundaries of the Counties, or reputed Counties of Stanley and Auckland, in the Sydney or middle District, and the boundaries of the Counties or reputed Counties, of Bourke, Grant, and Normanby, in the southern or Port Phillip District, have not yet been definitely arranged and proclaimed: Be it enacted, That for the purposes of this Act, it shall be lawful for His Excellency the Governor to define the boundaries of the said Counties, or reputed Counties of Stanley and Auckland, and for His Honor the Superintendent of Port Phillip, to define the boundaries of the said Counties or reputed Counties of Bourke, Grant, and Normanby; and the Police Magistrate of Brisbane, the Commissioner of Crown Lands for the district of Maneroo, the Justices in Petty Sessions at Melbourne and Geelong, and the Police Magistrate of Portland, shall respectively perform the several duties, and have the like powers and immunities under this Act, within the said

Persons so appointed to deliver over to the Justices their accounts of inhabitants within a certain time.

Justices to examine the accounts and to transmit an abstract thereof to the Colonial Secretary.

Where boundaries not already proclaimed.

said Counties or reputed Counties respectively, as are hereby imposed on, and granted to the Police Magistrates and Justices in Petty Sessions of the Police Districts, the boundaries whereof have been notified as aforesaid; and the Commissioners of Crown Lands in the said District of Port Phillip, and the said Commissioner of Crown Lands for the District of Maneroo, shall, in parts of their respective Districts other than the said Counties or reputed Counties, perform the duties and have the like powers and immunities in their respective Districts, as are respectively imposed upon, and granted to the Commissioners in Districts beyond the boundaries of location as aforesaid.

Allowance to the persons appointed by the Justices.

VII. And be it enacted, That it shall be lawful for the said Police Magistrates, Justices in Petty Sessions, or Commissioners, as aforesaid, to cause an allowance for the number of days which any such person shall be actually employed in taking such account as aforesaid, at a rate not exceeding ten shillings a day if employed on foot, and fifteen shillings a day if employed on horseback, to be paid to the persons so to be appointed as aforesaid.

Fines to be recovered in a summary way.

VIII. And be it enacted, That all fines imposed under and by virtue of this Act, shall be recovered in a summary manner before any two or more Justices of the Peace in Petty Sessions assembled, unless hereinbefore otherwise provided, and if not immediately paid, shall be levied by distress and sale of the offender's goods and chattels, by virtue of a warrant under the hands and seals of such Justices, rendering to the said offender the overplus, if any, after the charge of such distress and sale shall be deducted; and in case sufficient distress shall not be found, then it shall be lawful for such Justices, or any two Justices, to commit such offender to some common gaol, there to remain without bail or mainprize for a term not exceeding three months, unless the said fine and charges shall be sooner paid; and all fines imposed by this Act, when recovered, shall be paid one half to the informer or person who shall sue for the same, and the other to the Treasurer of the said Colony, to be applied towards defraying the expense of carrying this Act into execution.

Appropriation of fines.

Penalty for false declaration.

IX. And be it enacted, That every solemn affirmation or declaration made or signed under the authority of this Act, shall be of the same force and effect as if the person making such affirmation or declaration had taken an oath in the usual form; so that if the person making such affirmation or declaration shall be convicted of having therein wilfully and falsely affirmed or declared any matter or thing, he shall be subject to the same pains, penalties and forfeitures, to which persons convicted of wilful perjury are subject.

ALEX. McLEAY,
Speaker.

*Passed the Legislative Council this } In the name, and on the behalf of Her
twenty-ninth day of October, one } Majesty, I assent to this Act.
thousand eight hundred and forty-five. }*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

GEORGE GIPPS,
GOVERNOR.
November 8, 1845.

SCHEDULES REFERRED TO.

A.

NEW SOUTH WALES.

(CENSUS OF THE YEAR 1846.)

Return No.

This paper will be called for on the 2nd March, 1846. No fees or reward to be paid to any person engaged on the Census. Your attention is particularly called to the 2nd clause of the Act 9 Victoria, No. 21, wherein, amongst other things, it is enacted, "That any person refusing or neglecting to answer, or wilfully giving a false answer to the questions by the persons appointed to take the Census, or wilfully obstructing such persons, shall forfeit and pay a sum not exceeding five pounds."

County

District

Parish, (if in the County of Cumberland

Town

Street, place, alley, &c., if in a Town

Ward, if in an incorporated Town

Place of Residence, if in the country

Name of Householder, Employer of Servants, or
Person in charge

Questions to be proposed to every Householder, Employer of Servants, and Proprietor, or Occupier of Land, in the Colony, by persons appointed by the Justices of the several Towns and Districts, respectively, to collect the information required by the Act.

Replies to be inserted by the Householder, if able to write; otherwise, by one of the Collectors appointed by the Justices.

1. Is this House built of Stone, of Brick, or of Wood?

2. Is it shingled or slated?

3. Is it completed?

4. Is it inhabited?

5. Be pleased to refer to the Forms annexed, and according to the particulars therein specified, give me, first, a numerical Return of the Inmates of this House, on the 2nd March, 1846, including Yourself, Family, Servants, Lodgers, and Sojourners; and secondly, a nominal Return, shewing the Country where born, and the occupation of each person.

Numerical.

*Numerical Return of the several persons in the said House or Establishment, on the
2nd March, 1846.*

		SEX.				TOTAL.	
		MALE.		FEMALE.			
		Married.	Single.	Married.	Single.		
Numbers of each age	Under 2 years.....						
	2 and under 7						
	7 and under 14						
	14 and under 21						
	21 and under 45						
	45 and under 60						
	60 and upwards.....						
		* TOTALS....					
Civil condition	Free. { Arrived free, or born in the Colony						
	Other free persons.....						
	Bond. { Holding Tickets of Leave.....						
	In Government Employment						
	In Private Assignment.....						
		* TOTALS....					
Religion.	Church of England						
	Church of Scotland						
	Wesleyan Methodists.....						
	Other Protestants						
	Roman Catholics						
	Jews						
	Mohamedans and Pagans						
Other persuasions							
		* TOTALS....					
Education.	Under 4 years of age						
	4 years and under 7.....						
	7 years and under 14						
	14 years and under 21.....						
	21 years and upwards						
			* TOTALS....				

Dated at

1846. }

Signature of _____ Householder,

Collector.

NOMINAL RETURN of persons in the said House or Establishment, on 2nd March, 1846.

Name

Country where born

Present occupation.....

Whether principal, journeyman, apprentice, or hired or assigned servant

Signature of Householder.

Collector.

B.

FORM OF AFFIRMATION.

I do hereby solemnly affirm and declare, that the accounts numbered from _____ to _____ inclusive, severally signed, and now delivered by me, contain a true statement of the Number and Quality of the persons residing within the _____ of _____ to the best of my knowledge and belief.

Made and declared before me, at
this _____ day of _____

1846. }

J. P. }

(Signed) A. B.

* These Totals, if the Returns be correct, should correspond.

No.

No. XXII.

An Act to provide for the Summary Jurisdiction of cases under an Act, intituled, "*An Act for preventing the extension of the disease commonly called the Influenza or Catarrh in Sheep and Lambs in the Colony of New South Wales*," and to indemnify certain Justices of the said Colony. [Assented to 8th November, 1845.]

WHEREAS an Act was passed by the Governor and Legislative Council of New South Wales, in the second year of the reign of Her Majesty Queen Victoria, intituled, "*An Act for preventing the extension of the disease commonly called the Influenza or Catarrh in Sheep or Lambs in the Colony of New South Wales*;" which Act has been continued by certain other Acts, passed in the third, fifth, and eighth years of the reign of Her said Majesty; and whereas doubts have arisen as to the summary power of Justices to adjudicate under the said recited Act or Acts as aforesaid, and it is expedient to remove such doubts: Be it enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That all fines, forfeitures, or penalties, sued for under the said recited Act or Acts as aforesaid, shall be heard and determined in a summary way, by any two or more Justices of the Peace, and that all such proceedings shall be regulated according to the provisions of an Act of the said Governor and 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*," so far as the same may be applicable.

II. And whereas it is equitable and just that Justices of the Peace who, before the passing of this Act, may have adjudicated in a summary way under the said recited Act or Acts as aforesaid, should be indemnified for any matter or thing so done by them: Be it enacted, That no action, suit, or information, indictment, prosecution, or other proceeding whatsoever, shall be commenced or prosecuted in any manner whatsoever, against such Justice or Justices, for any matter or thing done by him or them under the said recited Act or Acts as aforesaid, previous to the passing of this Act, by reason of the want of power or authority in such Justice or Justices to hear and determine such matter or thing in a summary way; and if any action, suit, information, indictment, prosecution, or proceeding whatsoever, shall be commenced or prosecuted against any such Justice or Justices, or against any gaoler, constable, or other person acting under and in obedience to any warrant, order, or conviction of any such Justice or Justices, in respect of his or their want of summary jurisdiction under the said recited Act or Acts as aforesaid, it shall be lawful for the defendant or defendants to apply to the Supreme Court, or any Judge thereof, to stay proceedings; and such Court or Judge respectively is hereby required to stay such proceedings as to the said Court or Judge shall seem fit.

ALEX. McLEAY,
Speaker.

Passed the Legislative Council, this } In the name, and on the behalf of Her
fifth day of November, one thousand } Majesty, I assent to this Act.
eight hundred and forty-five. }

WM. MACPHERSON,
Clerk of the Council.

GEORGE GIPPS,
Governor.

November 8, 1845.

No. XXIII.

An Act to exempt from duty for a limited time Metallic Ores, imported into New South Wales. [Assented to 8th November, 1845.]

Preamble.

Exempting Metallic Ores from duty.

Commencement and duration of Act.

WHEREAS it is expedient to exempt for a limited time, Metallic Ores imported into this Colony, from the duty of Customs now payable thereon; Be it enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That during the continuance of this Act, all Metallic Ores imported into the said Colony, or entered inwards from the bonded warehouses thereof, shall be exempted from the duty of Customs now payable thereon, anything contained in any Act to the contrary notwithstanding.

II. And be it enacted, That this Act shall commence and take effect from and after the passing thereof; and shall thenceforth continue in force for two years.

ALEX. McLEAY,
Speaker.

Passed the Legislative Council, this fifth day of November, one thousand eight hundred and forty-five.

WM. MACPHERSON,
Clerk of the Council.

I hereby declare, that I consider this Bill to be one for a temporary Law necessary to be forthwith assented to, by reason of a public and pressing emergency; and agreeably to the 31st clause of the Act for the Government of New South Wales, 5th and 6th Vict., ch. 76, I do hereby in the name, and on the behalf of Her Majesty, assent to it accordingly.

GEORGE GIPPS,
Governor.
November 8, 1845.

XXIV.

An Act for applying certain sums arising from the Revenue receivable in New South Wales, to the service thereof, for the year one thousand eight hundred and forty-six; and for further appropriating the said Revenue. [Assented to 8th November, 1845.]

Preamble.

5 & 6 Vict., c 76.

WHEREAS by a certain Act of Parliament, passed in the fifth and sixth year of the reign of Her present Majesty Queen Victoria, intituled, "*An Act for the Government of New South Wales and Van Diemen's Land*," it was among other things enacted, that the Governor of the said Colony of New South Wales, with the advice and consent of the Legislative Council, should have authority to make laws for the peace, welfare, and good Government of the said Colony; and that with the deductions and subject to the provisions therein contained, the whole of Her Majesty's Revenue within the said Colony, arising from taxes, duties, rates, and imposts levied on Her Majesty's subjects within the said Colony, should be appropriated to the public service within the said Colony, by ordinances to be for that purpose enacted by the Governor, with the advice and consent of the Legislative Council of the said Colony, and in no other manner: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That out of the produce of the said taxes, duties, rates, and imposts, there shall and may be issued and applied any sum or sums of money not exceeding thirty-two thousand pounds, eighteen shillings, and four-pence, to defray the charge of

of the Civil and Legislative Establishments of New South Wales, unprovided for by schedule B, of the said recited Act of Parliament, for the year one thousand eight hundred and forty-six, as hereinafter more particularly expressed; that is to say, any sum or sums of money not exceeding six hundred and twenty pounds, eighteen shillings, and nine-pence, to defray the salaries and allowances of the Establishment of His Excellency the Governor; and any sum or sums of money not exceeding three thousand five hundred and forty-two pounds, five shillings, to defray the expense of the Legislative Council Establishment; and any sum or sums of money not exceeding fourteen thousand five hundred and sixty-eight pounds, seven shillings, to defray the expense of the Post Office Establishment in the Sydney District; and any sum or sums of money not exceeding four thousand five hundred and ninety pounds, ten shillings, to defray the expense of the Post Office Establishment in the Port Phillip District; and any sum or sums of money not exceeding two thousand and sixteen pounds, ten shillings, and sixpence, to defray the salaries and allowances to the Inspectors of Colonial Distilleries, and the expense of Rewards for informations leading to the suppression of illicit distillation; and any sum or sums of money not exceeding eight hundred and four pounds, seven shillings, and eleven-pence, to defray the expense of the Colonial Storekeeper's Establishment; and any sum or sums of money not exceeding one thousand four hundred and sixty-seven pounds, eighteen shillings, and nine-pence, to defray the expense of the Port Master's Establishment, Sydney; and any sum or sums of money not exceeding two hundred and fifty-eight pounds, to defray the expense of the Telegraph Stations, Sydney; and any sum or sums of money not exceeding four hundred and ninety pounds, sixteen shillings, and three-pence, to defray the expense of the Light House, at the South Head of Port Jackson; and any sum or sums of money not exceeding five hundred and fifty-two pounds, seventeen shillings, and six-pence, to defray the expense of the Floating Light, near the entrance to Port Jackson; and any sum or sums of money not exceeding two hundred and ninety pounds, to defray the expense of the Harbour Master's Establishment, Newcastle; and any sum or sums of money not exceeding one hundred and ninety-six pounds, nine shillings, and seven-pence, to defray the expense of the Harbour Master's Establishment, Port Macquarie; and any sum or sums of money not exceeding two hundred and eighty-two pounds, two shillings, and sixpence, to defray the expense of the Harbour Master's Establishment, Moreton Bay; and any sum or sums of money not exceeding one thousand five hundred and eighty-three pounds, two shillings, and sixpence, to defray the expense of the Harbour Master's Establishment, Port Phillip; and any sum or sums of money not exceeding five hundred pounds, one shilling and three-pence, to defray the expense of the Light House Establishments, Port Phillip; and any sum or sums of money not exceeding one hundred and thirty-six pounds, ten shillings, and ten-pence, to defray the expense of the Telegraph Stations, Port Phillip; and any sum or sums of money not exceeding one hundred pounds, to defray the Salary of the Colonial Agent General.

II. And be it enacted, That out of the produce of the said taxes, duties, rates, and imposts, there shall and may be issued and applied any sum or sums of money not exceeding one thousand eight hundred and thirteen pounds, seventeen shillings, and sixpence, for defraying the charge for Coroners Inquests in the said Colony, for the year one thousand eight hundred and forty-six, as hereinafter more particularly expressed; that is to say, any sum or sums of money not exceeding one thousand five hundred and eighty-three pounds, seventeen shillings, and sixpence, to defray the salaries

Civil and Legislative Establishments, viz:

Governor;

Council;

Post Office, Sydney;

Post Office, Port Phillip;

Distilleries;

Colonial Storekeeper;

Port Master, Sydney;

Telegraphs, Sydney;

Light House, South Head;

Floating Light, entrance Port Jackson;

Harbour Master, Newcastle;

Harbour Master, Port Macquarie;

Harbour Master, Moreton Bay;

Harbour Master, Port Phillip;

Light Houses, Port Phillip;

Telegraphs, Port Phillip;

Colonial Agent General.

Coroners, viz:—
Sydney;

Port Phillip.

Police Establish-
ments, viz :—

Sydney ;

Superintendent
Ironed Gangs ;

Melbourne Police ;

Water Police ;

Rural Districts ;

Mounted Police ;

Border Police ;

Native Police.

Gaol Establish-
ments, viz :—

Sydney ;

Parramatta ;

Bathurst ;

Newcastle ;

Berrima ;

Melbourne.

Medical Establish-
ments, viz :—

salaries of Coroners and the expense of Inquests in the Sydney District ; and any sum or sums of money not exceeding two hundred and thirty pounds, to defray the salaries of the Coroners and the expense of Inquests in the Port Phillip District.

III. And be it enacted, That out of the produce of the said taxes, duties, rates, and imposts, there shall and may be issued and applied any sum or sums of money not exceeding sixty-two thousand nine hundred and eighteen pounds, eleven shillings, and nine-pence, to defray the charge of the Police Establishments of the said Colony, for the year one thousand eight hundred and forty-six, as hereinafter more particularly expressed ; that is to say, any sum or sums of money not exceeding seven thousand four hundred and ten pounds seven shillings and one penny, to defray the expense of the Police of the City of Sydney ; and any sum or sums of money not exceeding one hundred and sixty-four pounds five shillings, to defray the salary and allowances to the Superintendent of Ironed Gangs, Sydney ; and any sum or sums of money not exceeding one thousand two hundred and eighty pounds nine shillings and four-pence, to defray the expense of the Melbourne Police ; and any sum or sums of money not exceeding eight hundred and sixty-seven pounds, seventeen shillings and ten-pence, to defray the expense of the Water Police, Sydney and Melbourne ; and any sum or sums of money not exceeding twenty-five thousand nine hundred and thirty-four pounds eight shillings and nine-pence, to defray the expense of Police in the Rural Districts of the said Colony ; and any sum or sums of money not exceeding fourteen thousand three hundred and eighty-five pounds four shillings and seven-pence, to defray the expense of the Mounted Police, in the said Colony ; and any sum or sums of money not exceeding eleven thousand seven hundred and ninety-nine pounds and five-pence, to defray the expense of the Border Police, for the first half of the said year ; and any sum or sums of money not exceeding one thousand and seventy-six pounds eighteen shillings and nine-pence, to defray the expense of the Native Police, in the District of Port Phillip, for the first half of the said year.

IV. And be it enacted, That out of the produce of the said taxes, duties, rates, and imposts, there shall and may be issued and applied, any sum or sums of money not exceeding eight thousand seven hundred and fifty-six pounds, six shillings and five-pence, for defraying the charge of the Gaol Establishments of the said Colony, for the year one thousand eight hundred and forty-six, as hereinafter more particularly expressed ; that is to say, any sum or sums of money not exceeding three thousand four hundred and twenty-four pounds nineteen shillings and four-pence, to defray the expense of the Sydney Gaol ; and any sum or sums of money not exceeding one thousand and eighty-seven pounds nine shillings and seven-pence, to defray the expense of the Parramatta Gaol ; and any sum or sums of money not exceeding six hundred and ninety pounds, to defray the expense of the Bathurst Gaol ; and any sum or sums of money not exceeding one thousand one hundred and fifty-two pounds eighteen shillings and nine-pence, to defray the expense of the Newcastle Gaol ; and any sum or sums of money not exceeding nine hundred and seventy-two pounds seven shillings and sixpence, to defray the expense of the Berrima Gaol ; and any sum or sums of money not exceeding one thousand four hundred and twenty-eight pounds eleven shillings and three-pence, to defray the expense of the Melbourne Gaol.

V. And be it enacted, That out of the produce of the said taxes, duties, rates, and imposts, there shall and may be issued and applied, any sum or sums of money not exceeding four thousand five hundred and thirty-nine pounds, four shillings and three-pence, for defraying the charge of the Colonial Medical Establishments of the said Colony, for the year one thousand eight hundred and forty-

six, as hereinafter more particularly expressed ; that is to say, any sum or sums of money not exceeding three hundred and twenty-five pounds, to defray the salaries of the Health Officer, Port Jackson, and the Clerk to the Medical Board, Sydney ; and any sum or sums of money not exceeding one thousand eight hundred and twenty-seven pounds six shillings and nine-pence, to defray the expense of the Lunatic Asylum, Tarban Creek ; and any sum or sums of money not exceeding two thousand pounds, for the support of Free Paupers in the Convict Hospitals ; and any sum or sums of money not exceeding three hundred and eighty-six pounds seventeen shillings and sixpence, to defray the expense of the Medical Establishment at Port Phillip.

Health Officer and
Clerk to Medical
Board, Sydney ;

Lunatic Asylum ;

Free Paupers ;

Port Phillip Estab-
lishment.

VI. And be it enacted, That out of the produce of the said taxes, duties, rates, and imposts, there shall and may be issued and applied, any sum or sums of money not exceeding twelve thousand two hundred pounds, for defraying the charge of the School Establishments of the said Colony, for the year one thousand eight hundred and forty-six, as hereinafter more particularly expressed ; that is to say, any sum or sums of money not exceeding two thousand pounds, to defray the expense of the Protestant Male Orphan School, near Liverpool ; and any sum or sums of money not exceeding one thousand six hundred pounds, to defray the expense of the Protestant Female Orphan School, Parramatta ; and any sum or sums of money not exceeding one thousand two hundred pounds, to defray the expense of the Roman Catholic Orphan School, Parramatta ; and any sum or sums of money not exceeding three thousand four hundred and fifty pounds, towards the support of schools in connexion with the Church of England ; and any sum or sums of money not exceeding one thousand two hundred pounds, towards the support of Presbyterian Schools ; and any sum or sums of money not exceeding three hundred and fifty pounds, towards the support of Wesleyan Methodist Schools ; and any sum or sums of money not exceeding one thousand four hundred and fifty pounds, towards the support of Roman Catholic Schools ; and any sum or sums of money not exceeding nine hundred and fifty pounds, towards the support of schools of all denominations in the district of Port Phillip.

School Establish-
ments, viz :—

Protestant Male
Orphans ;

Protestant Female
Orphans ;

Roman Catholic
Orphans ;

Church of England.

Presbyterian.

Wesleyan Metho-
dist.

Roman Catholic.
Denominational.

VII. And be it enacted, That out of the produce of the said taxes, duties, rates, and imposts, there shall and may be issued and applied, any sum or sums of money not exceeding thirty-eight thousand, seven hundred and forty-two pounds, three shillings, and nine-pence, for defraying the charge of Public Works and Buildings in the said Colony, for the year one thousand eight hundred and forty-six, as hereinafter more particularly expressed ; that is to say, any sum or sums of money not exceeding one thousand four hundred and seven pounds, eighteen shillings, and nine-pence, to defray the expense of the Colonial Architect's Establishment ; and any sum or sums of money not exceeding the further sum of two thousand pounds, towards forming the Circular Quay, Sydney Cove ; and any sum or sums of money not exceeding the further sum of one thousand pounds, towards completing the Breakwater, Newcastle ; and any sum or sums of money not exceeding one thousand pounds, towards completing the road over the Blue Mountains ; and any sum or sums of money not exceeding one thousand pounds, to defray the expense of the employment of the Dredging Machine ; and any sum or sums of money not exceeding the further sum of one thousand pounds, towards completing the New Gaol, Darlinghurst ; and any sum or sums of money not exceeding the further sum of one thousand pounds, towards completing the New Gaol, Maitland ; and any sum or sums of money not exceeding five hundred pounds, for completing the Cells in the New Gaol, Bathurst ; and any sum or sums of money not exceeding the further sum of six hundred pounds, for completing

Public Works and
Buildings, viz :—

Colonial Archi-
tect ;

Circular Quay ;

Breakwater, New-
castle ;

Blue Mountains
Road ;

Dredging Ma-
chine ;

Darlinghurst Gaol ;

Maitland Gaol ;

Cells, Bathurst
Gaol ;

Wall, &c., Goulburn; completing the enclosing Wall and Entrance Lodge, with extra iron gates, at the New Gaol, Goulburn; and any sum or sums of money not exceeding four hundred and fifty pounds, for erecting a Watch House, Goulburn; and any sum or sums of money not exceeding one hundred and fifty pounds, for providing Iron Gates and Railings to the Police Office, Parramatta; and any sum or sums of money not exceeding three thousand pounds, towards erecting a Public Museum, Sydney; and any sum or sums of money not exceeding two thousand pounds, towards erecting a Building for the Colonial Treasury; and any sum or sums of money not exceeding four hundred and fifty pounds, for erecting a Guard House at the New Government House, Sydney; and any sum or sums of money not exceeding two hundred and fifty pounds, for providing Iron Entrance Gates to the New Government House; and any sum or sums of money not exceeding six hundred pounds, for repairing the General Post Office, Sydney; and any sum or sums of money not exceeding one hundred pounds, for repairing Gates and Fences at the Botanic Gardens, Sydney; and any sum or sums of money not exceeding three hundred and fifty pounds, for making additional Sleeping Rooms on the Female side of the Lunatic Asylum, Tarban Creek, and for securing the Airing Grounds; and any sum or sums of money not exceeding two thousand five hundred pounds, for casual repairs, additions, and alterations, to Colonial Public Buildings; and any sum or sums of money not exceeding four hundred and thirty-six pounds, two shillings, and sixpence, to defray the expense of the Establishment of the Clerk of Works, Port Phillip; and any sum or sums of money not exceeding two hundred and ninety-eight pounds, two shillings, and sixpence, to defray the salary and allowances to the Superintendent of Bridges, Port Phillip; and any sum or sums of money not exceeding three thousand pounds, towards building a Bridge over the Yarra Yarra River, Port Phillip; and any sum or sums of money not exceeding four hundred pounds, to extend the Jetty at Corio; and any sum or sums of money not exceeding five hundred pounds, for repairing and extending the Queen's Wharf, Melbourne, Port Phillip; and any sum or sums of money not exceeding five hundred pounds, for extending the Pier at Portland, Port Phillip; and any sum or sums of money not exceeding five hundred pounds, to complete the sides of the Fresh Water Dam, Melbourne, Port Phillip; and any sum or sums of money not exceeding one hundred and fifty pounds, to repair and extend the main road over the Marsh to the Beach, Melbourne, Port Phillip; and any sum or sums of money not exceeding two thousand pounds, to make approaches from the line of Flinder's-street to the Queen's Wharf, Melbourne, Port Phillip; and any sum or sums of money not exceeding three hundred pounds, for repairs to Public Works, Port Phillip; and any sum or sums of money not exceeding two thousand pounds, towards the erection of a Powder Magazine, Melbourne, Port Phillip; and any sum or sums of money not exceeding three hundred pounds, for repairs to Public Buildings; and any sum or sums of money not exceeding nine thousand pounds, towards the erection of Light Houses in Bass's Straits.

VIII. And be it enacted, That out of the produce of the said taxes, duties, rates, and imposts, there shall and may be issued and applied, any sum or sums of money not exceeding twenty-one thousand eight hundred and ninety-six pounds, two shillings, and sixpence, for defraying the charge of Miscellaneous Services for the said Colony, for the year one thousand eight hundred and forty-six, as hereinafter more particularly expressed; that is to say, any sum or sums of money not exceeding five hundred and sixty pounds, to defray the expense of the Botanic Gardens, Sydney; and any sum or sums of money not exceeding seven hundred and ninety-five pounds, to defray the expense of the Government Printing Office, Sydney;

Botanic Gardens,
Sydney;
Government
Printing Office;

Sydney ; and any sum or sums of money not exceeding six hundred pounds, for Paper for Printing for the Public Service generally ; and any sum or sums of money not exceeding one hundred pounds, for Newspapers for Record, and for the Secretary of State ; and any sum or sums of money not exceeding five hundred pounds, for Furniture for Public Offices ; and any sum or sums of money not exceeding one hundred and forty pounds, for Lighting the Public Lamps, Sydney ; and any sum or sums of money not exceeding two hundred pounds, towards the support of the Australian Museum ; and any sum or sums of money not exceeding two hundred pounds, towards the support of the Sydney School of Arts ; and any sum or sums of money not exceeding one hundred and fifty pounds, in aid of the Mechanics' Institution at Melbourne, Port Phillip ; and any sum or sums of money not exceeding one thousand pounds, in aid of Private Hospitals, at Windsor, Maitland, Bathurst, Goulburn, and Melbourne, on condition of an equal amount being raised by private contributions ; and any sum or sums of money not exceeding one thousand eight hundred pounds, to meet the expense of taking the Census of the year one thousand eight hundred and forty-six ; and any sum or sums of money not exceeding two hundred and eighty pounds, to meet the expense of preparing the Electoral Lists, for the year one thousand eight hundred and forty-six ; and any sum or sums of money not exceeding the further sum of twelve thousand pounds, for erecting the New Military Barracks, Sydney ; and any sum or sums of money not exceeding two thousand pounds, to meet unforeseen expenses in cases of emergency, and to be hereafter accounted for ; and any sum or sums of money not exceeding one hundred pounds, for a Lock-up at Carcoar ; and any sum or sums of money not exceeding two hundred and fifty pounds, to defray the expense of the Botanic Garden, Melbourne ; and any sum or sums of money not exceeding thirty pounds, for provisions to be left at Booby Island, in Torres' Straits, for the relief of shipwrecked persons ; and any sum or sums of money not exceeding twenty-two pounds, ten shillings, to defray the expense of lighting three Lamps on the Circular Quay, Sydney ; and any sum or sums of money not exceeding one hundred and eighteen pounds, twelve shillings, and sixpence, to defray the expense of additional Turnkeys, Parramatta Gaol ; and any sum or sums of money not exceeding one thousand pounds, towards building a Lunatic Asylum in the Port Phillip District, it being understood that the whole expense shall not exceed three thousand pounds ; and any sum or sums of money not exceeding fifty pounds, for the compilation of the Meteorological Returns.

IX. And be it enacted, That out of the produce of the said taxes, duties, rates, and imposts, there shall and may be issued and applied, any sum or sums of money not exceeding thirteen thousand forty-nine pounds, and one shilling, for defraying the Supplementary Charge on the Colonial Treasury of the said Colony, for the year one thousand eight hundred and forty-five, as hereinafter more particularly expressed ; that is to say, any sum or sums of money not exceeding the further sum of fifty-five pounds, towards the expense of Commission to Post Masters, and Incidental Expenses of the Post Office, Port Phillip ; and any sum or sums of money not exceeding forty-eight pounds, fifteen shillings, to defray the salary of an additional extra Clerk in the Police Office, Sydney, from the twentieth day of June to the thirty-first day of December in the said year ; and any sum or sums of money not exceeding forty-two pounds, nine shillings, and nine-pence, to meet the expense of erecting three Lamps on the Circular Quay, Sydney, and of lighting the same with Gas ; and any sum or sums of money not exceeding three thousand pounds, for the repairs of Roads and dilapidated Bridges in districts beyond the County of Cumberland ; and any sum or sums of money not exceeding one thousand pounds, for repairs to the Road from Sydney to Port Phillip ; and any sum or sums of money not exceeding the further sum of one thousand pounds, towards the construction of a Bridge

Printing Paper ;

Newspapers for Record, &c. ;

Furniture for Public Offices ;

Public Lamps Sydney ;

Australian Museum ;

Sydney School of Arts ;

Melbourne Mechanics Institution ;

Private Hospitals ;

Census for 1846 ;

Electoral Lists for 1846 ;

New Military Barracks ;

Unforeseen expenses ;

Carcoar Lock-up ;

Melbourne Botanic Garden ;

Booby Island ;

Circular Quay Lamps ;

Turnkeys, Parramatta ;

Lunatic Asylum, Port Phillip ;

Meteorological Returns.

Supplementary charge for 1845, viz :—

Post Masters' Commissions ;

Extra Clerk Sydney Police Office ;

Lamps, Circular Quay ;

Roads and Bridges ;

Port Phillip Road ;

Bridge over Yarra Yarra;	any sum or sums of money not exceeding the further sum of two hundred and eighty pounds, towards the construction of a Jetty at
Portland Jetty;	Portland, Port Phillip; and any sum or sums of money not exceeding two hundred pounds, to meet the expense of repairs to the Queen's
Repairs to Melbourne Wharf;	Wharf, Melbourne, Port Phillip; and any sum or sums of money not exceeding one hundred and fifty pounds, towards securing the South
Securing South Bank of Yarra Yarra;	Bank of the Yarra Yarra River, Melbourne Port Phillip; and any sum or sums of money not exceeding the further sum of one hundred
Melbourne Police Office;	and twenty-four pounds, towards building the Police Office, Melbourne, Port Phillip; and any sum or sums of money not exceeding
Expedition to Port Essington;	two thousand pounds, to cover the expense of an Overland Expedition to Port Essington; and any sum or sums of money not exceeding
Sydney Dispensary;	two hundred and sixty-five pounds, three shillings, and sixpence, in aid of the Sydney Dispensary, an equal amount having been raised
Public Gardens, Melbourne;	by private subscriptions, in the year one thousand eight hundred and forty-four; and any sum or sums of money not exceeding five hundred
Electoral Lists for 1845;	pounds, for the formation of a Public Garden at Melbourne, Port Phillip; and any sum or sums of money not exceeding two hundred
• Conveyance of Letters per "Sea Horse" and Shamrock;	and eighty pounds, to meet the expense of preparing the Electoral Lists for the year one thousand eight hundred and forty-five; and any sum or sums of money not exceeding one hundred and eighty-six
Shipwrecked Seamen of "Coringa Packet";	pounds, nine shillings, for the conveyance of letters to and from Melbourne and Sydney, per steamer "Seahorse," in the years one
Binding Callaghan's Acts;	thousand eight hundred and forty-two and one thousand eight hundred and forty-three; and per steamer "Shamrock," from the fourteenth
Schools, Port Phillip;	day of July, one thousand eight hundred and forty-three, to the thirtieth day of June, one thousand eight hundred and forty-five; and any sum or sums of money not exceeding three hundred
Reward for suppressing Illicit Distillation, 1845;	pounds, for the hire of the schooner "Frolic," sent to the assistance of shipwrecked seamen belonging to the "Coringa Packet"; and any sum or sums of money not exceeding nineteen pounds, eight shillings, to
Rewards for suppressing Illicit Distillation, 1844;	defray the expense of Binding three hundred copies of Callaghan's Acts of Council; and any sum or sums of money not exceeding one
Removing Treadmill.	hundred and twenty-one pounds, one shilling, and three-pence, to cover the excess in the expenditure of Schools of every denomination
Turnkeys, Parramatta.	at Port Phillip, in the year one thousand eight hundred and forty-four; and any sum or sums of money not exceeding the further sum
Turnkeys, Bathurst.	of three hundred pounds, to meet the expense of Rewards for the suppression of Illicit Distillation, in the year one thousand eight
Colonial Storekeeper.	hundred and forty-five; and any sum or sums of money not exceeding one thousand five hundred and seventy-five pounds, to
Mr. Windeyer.	sanction the expenditure, not authorised by the said Council but incurred by the Government, for Rewards towards the suppression of
	Illicit Distillation, in the year one thousand eight hundred and forty-four, on the understanding that the like sum of
	one thousand five hundred and seventy-five pounds, arising from the Duties of Distillation in the year one thousand eight
	hundred and forty-four, and expended as aforesaid, be carried to the receipts of the year one thousand eight hundred and forty-
	five; and any sum or sums of money not exceeding four hundred pounds, to meet the expense of removing the Treadmill from Carter's
	Barracks, to the New Gaol at Darlinghurst; and any sum or sums of money not exceeding twenty-nine pounds, eighteen shillings, to
	defray the expense of additional Turnkeys, Parramatta Gaol; and any sum or sums of money not exceeding two hundred and one
	pounds, sixteen shillings, and sixpence, to defray the expense of additional Turnkeys, Bathurst Gaol; and any sum or sums of
	money not exceeding forty pounds, for the Department of the Colonial Storekeeper; and any sum or sums of money not exceeding one
	hundred pounds, in compensation for reduction made in one thousand eight hundred and forty-three, in the Salary of Mr. Windeyer, senior
	Police Magistrate; and any sum or sums of money not exceeding two hundred pounds, in compensation for reduction made in the
	year

year one thousand eight hundred and forty-three, in the Salary of Mr. Miles, Superintendent of Police; and any sum or sums of money not exceeding six hundred and thirty pounds, in compensation for reductions made in the year one thousand eight hundred and forty-three, in the Salaries of Clerks in the Police Office.

Mr. Miles.

Police Clerks.

X. And be it enacted, That the Treasurer of the said Colony, shall issue and pay the said several sums to such persons, for the purposes hereinbefore mentioned, upon such days, and in such proportions, as the Governor for the time being, by any Warrant, or Order in writing, to be signed by him, shall from time to time order and direct; and that the payments so to be made shall be charged upon and payable out of the Revenues of the said Colony.

Treasurer to pay under Governor's Warrant,

XI. And be it enacted, That the said Treasurer shall, in his accounts from time to time, be allowed credit for any sum or sums of money paid by him, in pursuance of such Warrant or Order in writing, as aforesaid, and that the receipt or receipts of the respective persons to whom the same shall be so paid, shall be a full and valid discharge to the said Treasurer, in passing his said accounts, for any such sum or sums as shall be therein mentioned; and that he shall and do receive credit for the same accordingly.

and to receive credit for same;

ALEX. McLEAY,

Speaker.

Passed the Legislative Council this sixth day of November, one thousand eight hundred and forty-five. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

GEORGE GIPPS,

GOVERNOR.

WM. MACPHERSON,
CLERK OF THE COUNCIL.

November 8th, 1845.

No. XXV.

An Act to amend the Laws relating to the Savings' Banks of New South Wales and Port Phillip respectively, and to make further provision for the investment of the funds thereof. [Assented to 8th November, 1845.]

WHEREAS three several Acts of the Governor and Legislative

Preamble.

Council of New South Wales were passed in the third, the fifth, and the seventh years of Her Majesty's Reign, intituled respectively "An

Reciting 3 Vict., No. 12.

"Act to consolidate and amend the Laws relating to the Savings' Bank of New South Wales;" "An Act to amend and to extend to Port

5 Vict., No. 5.

"Phillip 'An Act to consolidate and amend the Laws relating to the

"Savings' Bank of New South Wales;" and "An Act to amend

And 7 Vict., No. 7.

"the Laws relating to the Savings' Bank of New South Wales and Port Phillip, respectively;" and whereas it is expedient to amend the provisions of the said recited Acts, in manner hereinafter mentioned: 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, it shall not be lawful for the Trustees of the Savings' Banks of New South Wales, and Port Phillip, respectively, to receive in the way of deposit any sum or sums of money, by one or by successive deposits, exceeding the sum of one hundred pounds in the whole, to the credit of any one account: Provided always, that nothing herein contained shall be deemed to limit the amount of monies belonging to the estates of intestate persons, or otherwise paid into the said Savings' Banks, under any order of the Supreme Court of New South Wales, or of the Resident Judge at Port Phillip, or of monies directed by His Excellency the Governor to be paid into the said Banks, on behalf of any transported offender, according to the provisions of the said first recited Act.

From and after passing of this Act £100 to be the maximum deposit.

Not to affect Intestate Estates.

Or monies paid into Savings Bank by order of the Judges.

Or monies paid on behalf of Convicts.

II. And be it enacted, That it shall be lawful for the Vice Presidents and Trustees of the said Savings' Banks respectively, to cause notice to be given in the New South Wales *Government Gazette*, (or Port Phillip *Government Gazette*, as the case may be,) that in all cases

Trustees to give notice, that no interest will be allowed on deposits above £100.

wherein

wherein the monies in either of such Banks, standing to the credit of any individual depositor, or any one account, shall exceed the sum of one hundred pounds, no interest whatsoever shall be allowed in respect of so much of such monies as shall exceed that amount, after the expiration of three calendar months, from the day of the publication of such Notice, and at the expiration of that period, the interest on such excess shall cease and determine accordingly.

After three months notice, interest on such deposits to cease.

After 31st December, no interest to be paid on monies belonging to Intestates, or paid in by order of the Judges, until the rate of interest to other depositors exceed 5 per cent.

Interest on monies of Intestates, &c., never to exceed half the rate allowed to other depositors.

Proportion of Funds which may be invested on mortgage.

Repealing so much of 7 Viet., No. 6, as permits the investment of the Funds in Bank of England.

9 Geo. IV., c. 92.

Savings' Bank of New South Wales may lend £6,000 to Corporation of Sydney.

Savings' Bank of Port Phillip may lend £4,000 to Corporation of Melbourne.

Loans to be secured on Corporate Revenues.

Rates of interest, principal sums to be repaid within years.

III. And be it enacted, That from and after the thirty-first day of December next, no interest shall be demandable in respect of any monies which now are, or may hereafter be deposited in the said Savings' Banks or either of them, on behalf of the estates of intestate persons, or otherwise under any order of the said Supreme Court, or Resident Judge at Port Phillip, unless when the interest payable to the other depositors, in the said Banks respectively, at the close of any year, shall exceed the yearly rate of five pounds for every one hundred pounds; and when the interest so payable shall exceed that rate, the balance, if any, shall be applied to the payment of interest on the sums so deposited on behalf of the estates of intestate persons or otherwise, by order of the Supreme Court, or Resident Judge as aforesaid: Provided always, that the rate of interest payable in respect of such last mentioned monies shall never exceed one-half of the rate of interest payable to the other depositors.

IV. And whereas by the said recited Act, passed in the seventh year of Her Majesty's Reign, it is enacted, that no new mortgage shall be taken by the trustees, so long as one-third, or more than one-third of the entire funds of the said Banks respectively, shall be vested on mortgage; and whereas it is expedient to encrease the proportion of the funds of the said Banks to be invested on mortgage: Be it enacted, That subject to the limitations and conditions specified in the said last mentioned Act, it shall be lawful for the trustees of the said Savings' Banks respectively, to lend any sum or sums of money upon security by mortgage, provided the sums thus invested shall not in the whole exceed one-half of the entire funds of such Banks respectively.

V. And be it enacted, That so much of the said recited Act, passed in the seventh year of Her Majesty's Reign, as enacts that any portion of the funds of the said Banks may be invested in the Bank of England, in manner directed by an Act passed by the Imperial Parliament, in the ninth year of the Reign of His late Majesty King George the Fourth, intituled, "*An Act to consolidate and amend the laws relating to Savings' Banks,*" shall be, and the same is hereby repealed.

VI. And be it enacted, That it shall be lawful for the Vice President and Trustees of the Savings' Bank of New South Wales, to lend by way of mortgage, any sum or sums of money not exceeding six thousand pounds in the whole, to the Corporation of the City of Sydney, as in their discretion they shall see fit; and in like manner it shall be lawful for the Vice President and Trustees of the Savings' Bank of Port Phillip to lend, by way of mortgage, any sum or sums of money not exceeding four thousand pounds in the whole, to the Corporation of the Town of Melbourne, as in their discretion they shall see fit: Provided that the sums so lent shall be secured as a first charge upon the Revenue of the said Corporations respectively, and that the interest payable thereon shall be at a rate not exceeding six pounds for every one hundred pounds per annum, and that the said principal sums shall be covenanted to be repaid, and shall be, and be made recoverable within five years from the date of such loans respectively, anything in any former Act of the Governor and Council to the contrary notwithstanding.

ALEX. McLEAY,
Speaker.

Passed the Legislative Council this } In the name, and on the behalf of
sixth day of November, one thousand } Her Majesty, I assent to this
eight hundred and forty-five. } Act.

WM. MACPHERSON,
CLERK OF THE COUNCIL.

GEORGE GIPPS,
GOVERNOR.
November 8th, 1845.

No.

An Act to amend the Acts now in force respecting the Distillation of Spirits, and more effectually to prevent Illicit Distillation. [Assented to 12th November, 1845.]

WHEREAS an Act of the Governor and Council of New South Wales was passed in the third year of the reign of Her present Majesty, intituled, "*An Act to consolidate and amend the laws for the distillation of spirits in the Colony of New South Wales, and for the issue of licenses for distilling, rectifying, and compounding spirits therein, and for repealing certain laws relating thereto*;" and whereas a certain other Act of the said Governor and Council, was passed in the fifth year of the reign of Her said Majesty, intituled, "*An Act to amend the laws regulating the distillation of spirits in the Colony of New South Wales, and the levying of duties thereon*;" and whereas certain other Acts were passed by the said Governor and Council, in the seventh year of Her present Majesty intituled respectively, "*An Act to explain and amend the laws relating to distillers and rectifiers in the Colony of New South Wales*;" and "*An Act to amend an Act, intituled An Act to consolidate and amend the laws for the distillation of spirits in the Colony of New South Wales, and for the issuing of licenses for distilling, rectifying, and compounding spirits therein, and for repealing certain laws relating thereto, and to indemnify certain Justices of the said Colony*;" and whereas these several Acts have not been found sufficient for the protection of the Revenue, and it is expedient to make further provision for that purpose: 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, the premises within which the business of distillation is to be carried on by any licensed distiller shall be surrounded with a wall built in the manner hereinafter directed, anything contained in the proviso to the fourteenth clause of the Act above mentioned, passed in the third year of the reign of Her present Majesty, or in any other part of that, or any other Act to the contrary, notwithstanding.

II. And be it enacted, That no license to distil spirits shall be granted or renewed, unless it be certified by the Colonial Architect, or other person appointed by the said Governor to grant such certificate, that the said wall is built of strong and durable materials, that no portion of it is of less height than ten feet from the ground, that the surface of the wall is smooth, and that it is in the opinion of the person granting the certificate, sufficient for the purposes of security intended by this Act, that there is a space of five feet between it and the Distillery Building, that there is but one entrance through it, and that such entrance is secured by a closely panelled door or gate, not less in height than the full height of the wall, and that such door or gate is provided with sufficient locks or fastenings.

III. And be it enacted, That if at any time the said wall or gateway become insufficient for the purposes of security intended by this Act, and the distiller do not at the demand of the chief inspector of distilleries, cause the wall or gateway, as the case may be, to be rendered secure, and put into the condition or state hereinbefore mentioned, the distiller shall forfeit the sum of fifty pounds, and the additional sum of ten pounds for every day that the wall or gateway may remain in an insecure state.

IV. And be it enacted, That within the space enclosed by the said wall, there shall be no stable, coach house, shed, or building of any description, used for any other purpose than that of the distillation of spirits, except as may be hereinafter excepted, and no license shall be granted or renewed to any distiller after the passing of this Act, for any premises which shall contain any stable, coach house or other building within the said wall, except as hereinafter excepted.

Business confined to Distilling and Coopering, under penalty of £20. Rubbish and materials not required for the business of the distillery shall be removed, under a penalty of £20.

Plan to be furnished by the distiller to the Colonial Architect of the whole of the premises within the wall.

Penalty for having any drain, sewer, pipe, &c., not shewn in the plan.

Distiller to produce certificate from three Justices of the Peace.

Governor, with advice of Executive Council, may withhold license.

Description of the licensed store.

Colonial Architect to certify that the store is

V. And be it enacted, That no other business except that of a distiller, or that of coopering or repairing casks, shall be carried on within the said wall, under penalty of twenty pounds for each offence.

VI. And be it enacted, That within the premises surrounded by the said wall, no rubbish shall be deposited, and that all materials required for the use of the distillery, shall be deposited in a building appropriated for the reception of the same as hereinafter provided, except coal and fuel, and that all coal or fuel shall be so placed as not to obstruct the view of the premises, and that all rubbish and any materials, including coal or fuel, which may in any way obstruct the view of the officers, or conceal from view any part of the process going on in the distillery, shall be removed by, and at the expense of the distiller, by order of any inspector of distilleries, and placed beyond the boundary wall of the distillery; and if any distiller shall neglect to conform to this regulation, or refuse to remove any such rubbish or materials, including coal or fuel as aforesaid, when required so to do by any inspector of distilleries, he shall forfeit and pay a penalty or sum of twenty pounds for every such offence.

VII. And be it enacted, That before any licence be granted for the carrying on the business of distillation, a correct plan of the whole of the premises within the boundary wall, shall be furnished to the Colonial Architect, or other officer appointed by the Governor to receive the same, on which plan shall be figured every drain, sewer, pipe, or tube of any description passing through any part of the said premises, and that a like plan shall be furnished, before any licence be renewed, if required by the Colonial Architect, or officer as aforesaid; and that this plan shall be separate and distinct from the plan mentioned in the fifth clause of the above recited Act, passed in the third year of Her Majesty's reign.

VIII. And be it enacted, that if at any time any drain, sewer, pipe, or tube, be found on the premises as aforesaid, which is not shewn on the said plan, the licensed distiller shall forfeit and pay the sum of two hundred pounds.

IX. And be it enacted, That before any licence be granted or renewed to any distiller such distiller shall produce to the Colonial Treasurer, or other person appointed by the Governor to receive the same, a certificate under the hands of three Justices of the Peace, that such distiller is a person of good character, and a fit and proper person to be licensed, which certificate shall be published in the *New South Wales Government Gazette*.

X. And be it enacted, That it shall and may be lawful for the Governor with the advice of the Executive Council, to prohibit the granting or renewing of any licence to any distiller or rectifier, anything to the contrary contained in this or in any other Act of the Governor and Legislative Council notwithstanding, on proof to the satisfaction of the said Governor and Executive Council, that such distiller or rectifier has contravened or failed to comply with any of the provisions of this or any other Act for the regulation of distilleries, or rectifying establishments.

XI. And be it enacted, That the licensed store, mentioned in the fifteenth clause of the aforesaid Act, passed in the third year of the reign of Her present Majesty, and also referred to in the third clause of the Act passed in the fifth year of the reign of Her said Majesty, shall be a separate building; that the walls of the store shall be at least two feet thick, whether it be built of brick or stone; that each and every window shall be secured with iron bars, not less than one and a half inch square, or one and a half inch in diameter, and the whole opening covered in with strong close wire netting, securely fixed to the satisfaction of the chief inspector of distilleries; that there shall be but one door or entrance to the said store; that the said door shall be of solid wood, not less than two and a half inches thick, and shall have on it three locks, of which two shall be furnished, and the keys kept by the Government, and one by the distiller.

XII. And be it enacted, That no licence shall be granted or renewed

newed to any distiller, unless the Colonial Architect, or other person duly properly built, and in appointed as aforesaid, shall certify that the building or store is, in every good repair. respect, in good repair, and sufficient for the purposes of this Act.

XIII. And be it enacted, That within the said store, the spirits ^{Spirits to be kept in vats only.} shall be kept in vats only, and not in casks, and that no vat shall be admitted into the store, which is not capable of containing at least, one thousand gallons.

XIV. And be it enacted, That the vats shall be elevated at least ^{Vats how to be placed.} two feet from the ground, and so placed, that the whole exterior surface and the bottom of each may be open to inspection; and that every vat be provided at the expense of the distiller with such locks, or other fastenings, and also with such conveniences for ascertaining the contents of each, as may be required by the chief inspector of distilleries.

XV. And be it enacted, That out of the said vat or vats spirits ^{Spirits to be taken out of the licensed store only at certain hours and in a certain manner;} shall be drawn only between the hours of ten o'clock before noon, and two o'clock in the afternoon, and in the presence of two officers appointed by the Government to act as inspectors of distilleries: Provided however, that a licensed store may at any time be opened, or kept open for any length of time, and spirits taken from it by special order from His Excellency the Governor or the Colonial Secretary, in writing, or if in the district of Port Phillip, by a special order, in writing, from the Superintendent of that district.

XVI. And be it enacted, That no cask or vessel of any kind ^{And in vessels or casks containing not less than fifty gallons.} shall be admitted into the said store, for the purpose of being filled from any of the said vats, which shall not be capable of containing at least fifty gallons; and that no cask or vessel of any kind, after having been filled from the said vats, or from any of them, shall remain in the said store more than twenty-four hours; but that if the duty due on the spirits contained in any such casks or vessels be not paid within twenty-four hours, and the cask or vessel taken beyond the limits of the boundary wall within the same twenty-four hours, the contents of the said casks or vessels shall be returned into the vats, and the casks or vessels placed beyond the boundary wall of the distillery.

XVII. And be it enacted, That windows or convenient apertures ^{Windows and lights.} for the admission of light shall be made in every part of every licensed distillery, and that no licence shall be granted or renewed, until it be certified by the Colonial Architect, or other officer appointed as aforesaid, that sufficient light has been admitted into every part of the building.

XVIII. And be it enacted, That in no building, nor in any part ^{Regulations respecting pipes or tubes.} of the premises enclosed within the boundary wall of the distillery, shall any pipe or tube pass below the surface of the ground, or through any material which may conceal it from view, unless such pipe or tube be inclosed in a wooden case, so constructed as to admit of its being opened and the pipe or tube exposed to view at the demand of any inspector of distilleries, under a penalty of ten pounds on any such distiller for every day he shall neglect to comply with this regulation.

XIX. And be it enacted, That in the drawing or representation ^{All pipes or tubes to be shewn in the drawings of the distillery.} mentioned in the fifth clause of the Act hereinbefore mentioned, passed in the third year of Her Majesty's reign, every pipe existing in any part of the distillery, or leading into or from the distillery, shall be distinctly shewn, and that in a written description which shall accompany such drawing, the purpose shall be distinctly explained for which every such pipe is used.

XX. And be it enacted, That every pipe in every licensed distillery shall be painted as hereinafter directed; namely, every pipe used for the conveyance of wort or wash shall be painted of a red colour, every pipe for the conveyance of feints or low wines shall be painted blue, every pipe for the conveyance of spirits shall be painted white, every pipe for the conveyance of water shall be painted black, and every pipe for the conveyance of gas shall be painted yellow, and if any pipe be used by any distiller, not described as aforesaid in the description which is to ^{Pipes to be painted different colors.} accompany

accompany the said drawing, or which shall not be kept painted as herein directed, such distiller shall forfeit and pay the sum of fifty pounds; provided however, that it shall not be necessary to paint the parts of any pipe which pass through a vessel containing or intended to contain spirits, water, or fluids of any description.

Still to have only one pipe for charging.

XXI. And be it enacted, That every still which shall be erected in any licensed distillery, shall have only one pipe for charging the same, which pipe shall lead direct from the charger to the still, and shall not be connected with any other pipe, or any other charger, or vessel whatsoever under a penalty on any such distiller of two hundred pounds.

Receiver to contain the full produce of still.

XXII. And be it enacted, That to each and every still, which shall be erected in any licensed distillery, there shall be one or more receiver or receivers which shall be capable of containing the full produce of the still to which the same may be attached; and it shall not be lawful for any distiller to run any spirits into the same receiver or receivers from two or more stills at the same time, nor to mix the spirits produced from two or more stills in the same receiver or receivers as aforesaid at any time, under a penalty of two hundred pounds.

Only one still to be allowed to run into receiver at the same time.

The end of the worm of each still shall be enclosed and secured, and the spirits run into a close safe.

XXIII. And be it enacted, That the end of every tail pipe belonging to every still in the distillery of every licensed distiller, shall be enclosed and secured at the expense of such distiller, in such manner and by such mechanism and means as the chief inspector of distilleries, acting under the authority of His Excellency the Governor may direct; and that all spirits, low wines, and feints running from such tail pipe shall run into a safe, enclosed, and secured in manner as aforesaid, and shall be thence conveyed by a pipe open externally to the inspection, of the officers for its whole length into the spirits' receiver, or low wines' or feints' receiver or receivers, as the case may be; and if upon demand by the chief inspector of distilleries, the end of every such tail pipe shall not be secured by such mechanism and means as shall be so directed, or if the whole of the spirits, low wines, and feints coming from any such tail pipe shall not be run into such safe so enclosed and secured as aforesaid, or if such spirits, low wines, and feints respectively, and every part thereof shall not be conveyed from such safe into the spirits' receiver, or low wines' or feints' receiver or receivers, as the case may require, directly, and by such a pipe as aforesaid, or if on the demand of the proper officer all the expenses incurred by providing and repairing or altering such mechanism, or means of enclosing the end of such tail pipe and safe as aforesaid, shall not be paid by or on behalf of such distiller to such officer, or if such mechanism and means of enclosing the end of such tail pipe and safe as aforesaid, shall not be affixed, and kept and preserved affixed as aforesaid, or if at any time after the end of any such tail pipe, and any such safe may have been enclosed and secured as aforesaid, the mechanism or means by which the same shall be so enclosed and secured as aforesaid, or any part thereof shall be destroyed or injured, or if by any art or contrivance any access shall be gained or had without notice to, and except with the knowledge and in the presence of an inspector of distilleries, to any spirits, low wines, or feints from the time of the extraction or distillation thereof, until the same have been taken account of by the proper officer in the proper receiver or receivers, or if the officer shall be in any manner prevented from, or baffled or defeated in the taking a true account of any spirits, low wines, or feints in any such receiver or receivers, then, and in every such case, every such distiller shall, for every such offence, forfeit the sum of two hundred pounds.

Regulations for the removal of spirits, feints or low wines out of their respective receivers.

XXIV. And be it enacted, That four hours at least before any low wines, or feints, or spirits, respectively, shall be removed out of any of the respective receivers of low wines, or feints or spirits in the distillery of any distiller, a notice in writing specifying the day and hour when such low wines, or feints or spirits respectively are to be removed out of such receivers respectively, shall be given to the proper officer by or on behalf of such distiller; and such officer shall attend at the time specified in such notice, and after having taken an account of the quantity and strength

strength of such low wines, or spirits, or feints, respectively, as the case may be, such officer shall remove the fastenings of the receivers containing such low wines, or spirits, or feints respectively, and forthwith and without delay all the low wines or spirits which shall be in such low wines' or feints' receiver or receivers shall be removed and conveyed into the low wines' or feints' charger, or such part thereof as such charger shall be capable of containing; and all the spirits which shall be contained in such spirits' receiver, shall be removed and conveyed into the licensed spirit store of such distiller; and if any low wines or spirits, or feints respectively, shall be removed from any receiver without such notice, or at any other time than shall have been specified in such notice, or before the officer shall have removed the fastenings of such receiver, or if after such officer shall have taken account of the quantity and strength of the low wines, or feints, or spirits respectively in any receiver, any other low wines, or feints, or spirits shall be conveyed into such receiver until the whole of the low wines, or feints, or spirits of which such account shall have been taken shall have been removed or conveyed from such receiver, and the fastenings thereof shall have been again secured by such officer, then in each and every such case, the distiller in whose distillery such offence shall be committed shall forfeit the sum of two hundred pounds.

XXV. And be it enacted, That all the low wines produced by the distillation of the wash contained in each fermenting back, shall be collected and kept in the low wines' receiver, separate and apart from and unmixed with any low wines produced by the distillation of any wash contained in any other fermented back, or with any other wash or liquor whatever, until an account of the quantity and strength of such low wines so separately collected shall have been taken by the proper officer, and all the spirits and feints produced by the re-distillation of such low wines shall in like manner be collected in the spirits' and feints' receivers respectively, and kept therein separate and apart from and unmixed with any other matter or thing (save as hereinafter provided) until an account of the quantity and strength of such spirits and feints respectively shall have been taken by the proper officer; and if the whole quantity of low wines which shall be produced by the distillation of all the wash contained in each fermenting back in the distillery of any such distiller shall not be collected in the low wines' receiver or receivers, separate and apart and unmixed as aforesaid, or if all such low wines so collected shall not remain and be kept in such receiver until an account of the quantity and strength of such low wines shall have been taken therein by the proper officer, or if all the spirits and feints respectively produced by the re-distillation of such low wines shall not be so collected and kept separate as aforesaid, until an account of the strength and quantity of such spirits and feints respectively shall have been taken by such officer as aforesaid, then and in every such case every such distiller shall forfeit the sum of two hundred pounds: Provided always, that it shall and may be lawful to mix with any such spirits, feints, and low wines respectively, so collected in such receiver or receivers, any spirits, or any feints, or low wines, respectively, which may have remained on hand after any previous distillation.

Low wines and feints produced from different mashings not to be mixed.

XXVI. And be it enacted, That the period of sixty days, reckoned from and after the passing of this Act, shall be allowed to every licensed distiller to remove the spirits now in his distillery, and that it shall be lawful for him to remove the said spirits at his own expense, and to deposit them either in the Queen's Warehouse, or in any licensed Bonding Store within the City of Sydney, there to be kept until the duty on the same shall be paid: Provided also, that such spirits shall be removed only in the day time, and under permits granted by the chief inspector of distilleries, or other officer appointed by the Governor to superintend the removal of such spirits.

Sixty days from passing of this Act allowed for removal of spirits.

XXVII. And be it enacted, That the proper officer shall keep a true account by way of debtor and creditor of the stock of spirits in the licensed store of every distiller licensed under this Act; and shall in such

Accounts of stock to be kept.

such account credit such stock with the full quantity of spirits computed at hydrometer proof, which shall be from time to time duly conveyed into such stock, and debit the same with the full quantity of spirits computed at hydrometer proof, which shall be from time to time sent out of such stock, under legal permit; and if at any time the quantity of spirits in the licensed store of any distiller shall be less than the quantity of spirits which by the stock account kept by such officer ought to be in the stock or possession of such distiller, every such distiller, shall forfeit the sum of ten shillings for every gallon of spirits which shall be deficient: Provided always, that no distiller shall be liable to such forfeiture in any case where such deficiency or decrease shall not be greater than three per cent., in the course of six months, or greater than at the rate of six per cent., per annum, and such distiller shall prove that such decrease did not result from any fraud practised or intended.

External surfaces of all receivers and chargers to be open to inspection.

XXVIII. And be it enacted, That all the chargers and receivers of spirits, feints, or low wines in every distillery to be licensed under this Act, shall be so placed as to be open to inspection; and that if any distiller shall not, on the demand of the chief inspector of distilleries (such demand being approved by the Governor or Colonial Secretary), make such alterations within a reasonable time in the said chargers or receivers, or in the position of them, as may be required in order to open them to proper inspection, such distiller shall forfeit and pay a fine of two hundred pounds.

Officer may require the water in any worm-tub to be run off.

XXIX. And be it enacted, That whenever any inspector of distilleries shall require that the water contained in any worm-tub, belonging to any still, at any time when such still shall not be at work, shall be drawn or run off, and the tub and worm cleaned, the water shall forthwith be drawn or run off, and the tub and worm cleaned by the distiller, his servants, or workmen, and if the water shall not be so drawn or run off at the request of such officer, and the tub and worm forthwith cleaned, and the water kept and continued out of such worm and tub for the space of two hours, or until the officer has finished his inspection and examination of such tub and the worm therein, the distiller at whose distillery such worm-tub shall be situate, shall forfeit the sum of two hundred pounds, and it shall be lawful for such officer to draw or run off, and keep drawn or run off, such water, or so much thereof, and for so long time, as he shall think necessary.

Worm-tub to be so placed as to be open to inspection.

XXX. And be it enacted, That every worm-tub in every distillery shall be placed in such manner that it may be open to the inspection of the officer; and that if it be not so placed as aforesaid, the distiller shall be subject to a fine of two hundred pounds.

Lamps or lights by night.

XXXI. And be it further enacted, That lamps or lights, to the satisfaction of the chief inspector of distilleries, shall be kept burning at all hours between sunset and sunrise, when the distillery shall be in operation, under a penalty on any such distiller of ten pounds for every offence.

Distiller to provide locks, fastenings, &c.

XXXII. And be it enacted, That if any distiller shall fail to provide at his own expense all such fastenings, cocks, or other articles required for the security of the Revenue and the due execution of this Act, or of any other Act now in force for the regulation of distilleries, as he may be required to furnish by the demand in writing of the chief inspector of distilleries, such demand being approved by the Governor or Colonial Secretary, such distiller shall for every such offence forfeit and pay a fine of two hundred pounds.

Ladders to be provided by the distillers.

XXXIII. And be it enacted, That if, on demand of the chief inspector of distilleries, strong, safe, and convenient ladders be not provided, and conveniently placed, of length sufficient to enable the officer on duty to ascend to, and examine, and descend from or into any vessel or utensil in such distillery, or if any such ladder shall not be fixed at or in any part of such vessel and utensil where such officer shall require, or if sufficient lights, and sufficient aid and assistance shall not be supplied for the purpose of gauging or ascertaining the contents or capacity of any

any vessel or utensil, or searching for and gauging all the stock on hand, as well by day as by night, every distiller in whose distillery any such neglect or offence shall take place, shall for every such offence, forfeit the sum of one hundred pounds.

XXXIV. And be it enacted, That it shall and may be lawful to and for any inspector of distilleries, or any person or persons acting in his or their aid or assistance by night or by day, to break up any ground in any part of the distillery, or premises of any distiller, or any ground near adjoining such distillery, or through any wall or partition thereof, or belonging thereto, to search for any pipe or cock, or any private conveyance or utensil, and upon finding any such pipe or conveyance leading therefrom or thereto, to break up the ground, house, wall, or other place, through, or into which, such pipe or other conveyance shall lead, and break up or cut away any such pipe, cock, or other conveyance, and to turn any cock or cocks, and to examine whether such pipe or other conveyance may or can convey or conceal any wort, wash, or other liquor, fit for distillation, or low wines, feints, or spirits, from the sight or view of the officer, so as to hinder or prevent him from taking or keeping a true account thereof.

Officers may break up ground or through walls to search for secret pipes.

XXXV. And be it enacted, That in case any inspector or inspectors of distilleries shall know, or have cause to suspect, that any private or concealed still, back, or other vessel, for making wort or wash, or for making or distilling low wines or spirits, or any privately made spirits or low wines, or any wash or other materials preparing for distillation, are set up or kept in any house or place, then, and in such case, upon oath made by such inspector or inspectors, before one or more Justice or Justices of the Peace, setting forth the ground of such his or their suspicion, it shall and may be lawful to and for such Justice or Justices of the Peace respectively, before whom such affidavit or affidavits shall be made, if he or they shall judge it reasonable, by warrant under his or their respective hands and seals, to authorise and empower such inspector or inspectors, by day, to break open the doors, or any part of such house or place where he or they shall so know or suspect such private or concealed still, back, or other vessel, spirits, low wines, wash, or materials for distillation, to be set up or kept, and to enter into such house or place, and to seize all and every such still, backs, or other vessels, and all such spirits, low wines, wash, and other materials, preparing for distillation, which he or they shall find or discover, and also all chattels found within such house or place, and either to detain and keep the same in the house or place where found, or to remove the same to the Police Office next to the place where the same shall be discovered and found, or to any other place of security; and in case the same shall not, within ten days next after such seizure, be claimed by the true and lawful owner thereof, then the said stills, backs, and other vessels, spirits, low wines, wash, and other materials for distillation, and all the chattels so found and seized as aforesaid, shall be absolutely forfeited, and the proprietor of any such private or concealed still, back, or other vessel, or the person in whose custody the same shall be found, whether such seizure be claimed or not, shall forfeit and lose, for every place in which every such private still, back, or other vessel, shall be so found, and also for every such still, back, and vessel found therein, the sum of two hundred pounds; and if any person or persons shall obstruct, oppose, molest, or hinder any inspector or inspectors, or others acting in their assistance, in the due seizing any such private or concealed stills, backs, or other vessels, spirits, low wines, wash, or other materials for distillation, or chattels, or in detaining or keeping the same in the place where found, or in removing the same or any of them after seizure to the next Police Office or other place of security as aforesaid, then, and in every such case, every person so offending shall forfeit the sum of two hundred pounds.

Officers may, in certain cases, forcibly enter houses and other buildings in search of illicit stills.

XXXVI. And be it enacted, That every person whatsoever who shall be aiding, assisting, or otherwise concerned in the making or distilling

As to persons aiding and assisting in illicit Distillation;—

ling of illicit spirits, feints, or low wines, or who shall carry, convey, or conceal, or be aiding, assisting, or otherwise concerned in the carrying, conveying, or concealing of any spirits upon which there may be reasonable ground to suspect that duty has not been paid, or of any illicit spirits, feints, or low wines, wash, or other materials for illicit distillation, and liable to forfeiture under this or any other Act, shall and may be arrested by any inspector of distilleries, officer of Customs, or any constable, and forthwith taken before any Justice of the Peace to be dealt with as hereinafter directed.

Such persons may be detained ;

XXXVII. And whereas it is expedient that time should be allowed to prepare informations, convictions, and warrants of commitment, in such cases as last aforesaid : Be it enacted, That when any person shall have been arrested by any inspector of distilleries, officers of customs, or constable, as last aforesaid, and taken before any Justice of the Peace, if it shall appear to such Justice that there is reasonable cause to detain such person, such Justice may, and he is hereby authorised and required to order such person or persons, to be detained a reasonable time, and at the expiration of such time, to be dealt with according to law.

or if they escape may be taken into custody.

XXXVIII. And be it enacted, That if any such person so liable to be detained as aforesaid, shall not be detained at the time of committing the offence for which he is liable to be detained, or after detention shall make his escape, it shall and may be lawful for any inspector of distilleries, or any constable to detain such person so liable to detention as aforesaid, at any time afterwards, and to take him before any Justice of the Peace, to be dealt with as if detained at the time of committing the said offence.

Penalty on conviction of such persons.

XXXIX. And be it enacted, That any person who shall knowingly carry, convey, or conceal, or knowingly be aiding, assisting, or otherwise concerned in the carrying, conveying, or concealing of any spirits upon which duty has not been paid, or any illicit spirits, feints, or low wines, or other materials for illicit distillation liable to forfeiture under this or any other Act, shall forfeit and pay for every such offence, a penalty or sum of one hundred pounds.

The produce of two distinct mashings not to be mixed.

XL. And be it enacted, That it shall not be lawful for any distiller to mix, or cause to be mixed, in any fermenting back or vessel, the produce of two or more different mashings of wort, or wash, or any part thereof, on pain of forfeiting for every offence the sum of two hundred pounds.

Notice to be given by the distiller of his intention to mash.

XLI. And be it enacted, That from and after the passing of this Act, it shall not be lawful for any distiller to commence either mashing or distilling, without having first served a written notice of at least sixteen hours to the officer on duty, specifying therein the weight of the sugar, molasses, treacle, malt, grain, or other material whatsoever, which he intends to use in the twenty-four hours next following on the expiration of the said sixteen hours, and that similar notice shall be given from day to day, during the whole time the distillery shall be at work under a penalty of one hundred pounds : Provided however, that for every day after the first day, a notice of six hours shall be sufficient, instead of sixteen.

Penalty for using any greater quantity of materials for mashing than that specified in the notice.

XLII. And be it enacted, That the whole process of mashing or brewing shall be performed in the presence of the officer on duty, and that all materials used in the process, shall be weighed in his presence, and an account of the whole taken by the said officer, and if any greater quantity of materials for mashing be used in any day than the quantity specified in the notice required to be given as aforesaid, the distiller shall, for every hundred weight of sugar, treacle, molasses, malt, or grain, used in excess of the quantity stated in such notice, forfeit the sum of fifty pounds.

Duties chargeable either on the quantity of spirits produced, or the quantity of material used.

XLIII. And be it enacted, That it shall be lawful to charge any licensed distiller with duty, either upon the quantity of spirits actually produced by him, or the quantity of material used by him in each and every brewing period ; that is to say, that for every hundred weight of one hundred and

twelve

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twelve pounds of sugar so used, duty shall be paid on eight gallons of proof spirits; for every such hundred weight of treacle or molasses so used, duty shall be paid on six gallons of proof spirits; and for every such hundred weight of malt or grain, duty shall be paid on two gallons and one-half of proof spirits, and so in proportion for any greater quantity or strength.

XLIV. And be it enacted, That from and after the passing of this Act, a computation shall be made at the end of every distilling period, of the quantity of proof spirits made and received into the licensed store during the said period, a proper allowance being made for the quantity of feints or low wines in the distillery, both at the commencement and the end of the said period; and the computation of the proof spirits thus made, during the preceding distilling period, shall be compared with the quantity of proof spirits which ought to have been produced from the materials made use of during the preceding mashing period, according to the proportions above mentioned; and if it shall appear that the quantity of spirits conveyed into the licensed store, or brought to account during the distilling period be less than the quantity which ought to have been produced from the materials used during the mashing period, the distiller shall be required forthwith to pay duty on the deficiency, and no new distilling period shall be commenced, until such duty shall have been paid: Provided that in all cases where any sugar, molasses, treacle, malt, grain, or other material shall have been damaged or destroyed in the process of mashing or distilling as aforesaid, a remission of duty shall be made on such account to such distiller, in proportion to such damage or loss, on due proof thereof to the satisfaction of the chief inspector of distilleries, and subject to the approval of His Excellency the Governor; and that the material so under process as aforesaid, shall be considered a total loss, whenever such distiller chooses to declare an abandonment thereof to the inspector on duty at the time.

How duty is to be charged on a deficiency in the spirit produced in any distilling period.

XLV. And be it enacted, That within the enclosure wall of every licensed distillery, there shall be a store or stores, for the reception of sugar, treacle, molasses, malt, grain, or any other material whatsoever, which may be intended to be used in the process of distillation, which store or stores shall be a building or buildings, separate and distinct from that in which any part of the process of distillation shall be carried on; and every such material shall be kept separate and apart from any other of a different kind, and in such manner as that the quantity of each may be easily ascertained, under a penalty, in case of neglect, on any such distiller, of twenty pounds for every offence; and no license shall be granted or renewed for any premises unless provided with a store or stores such as is or are hereby directed.

Stores for reception of material to be within enclosure wall.

XLVI. And be it enacted, That the last mentioned store or stores shall be open at all times to the officer on duty, and to any inspector of distilleries; and it shall be lawful for His Excellency the Governor to establish such rules as to the said Governor may seem necessary, in order to ascertain and keep an account of the exact quantity of sugar, molasses, treacle, malt, grain, or other material whatsoever, which is received into, or taken out of the said store or stores.

Governor may establish rules.

XLVII. And be it enacted, That no sugar, molasses, malt, grain, or any other material whatsoever, shall be used in any distillery, which shall not have been first placed and taken into account as aforesaid, in such last mentioned store or stores, under a penalty on the defaulter or defaulters of two hundred pounds.

No material to be used except such as shall have been stored.

XLVIII. And be it enacted, That from and after the passing of this Act, it shall not be lawful for any distiller, to add any colouring matter to the spirits made by him, whilst such spirits are in the vats in the licensed store, nor until after the said spirits shall have been removed from the said vats.

Colouring matter not to be mixed with spirits, until after they are removed from the vats in the licensed store.

XLIX. And be it enacted, That it shall not be lawful to mix with, nor add to, any low wines, feints, or spirits in the distillery of any distiller, or in the licensed store thereof, any sugar, syrup, or any glutinous

Spirits not to be mixed so as to prevent ascertaining their true strength.

or saccharine, or other matter or thing, whereby the gravity of such low wines, feints, or spirits, shall be increased, or so as to prevent the true strength thereof being ascertained by the hydrometer; and if it shall at any time be found that any sugar, syrup, or other glutinous, or saccharine, or other matter shall be so mixed with or added to any low wines, feints, or spirits, in the distillery of any such distiller, such distiller shall forfeit, for every such offence, the sum of two hundred pounds; and all low wines, feints, and spirits so mixed shall be forfeited, and may be seized by any inspector of distilleries.

Spirits and all stills and utensils may be seized for debts to the Crown.

L. And be it enacted, That all spirits in the distillery or licensed store, and all stills, and other vessels and utensils for distilling, which are kept or used in the distillery of any distiller, shall be liable and subject to and are hereby charged with all debts due to the Crown, and all duties which shall be in arrear, and owing by such distiller, and shall be subject to the payment of all such penalties, as shall have been incurred under this Act, by any person who shall have occupied or used such distillery; and it shall be lawful in all cases to levy such debts, duties, and penalties, by distress and sale of such spirits, stills, vessels, and utensils, as it would be lawful to do in case the person owing such debts and duties, and incurring such penalties, were at the time the real proprietor of such spirits, stills, vessels, or utensils.

No spirits shall be kept in the distillery except such as have been distilled therein.

LI. And be it enacted, That no spirits whatever shall be received or conveyed into or kept in the distillery or licensed store of any distiller, other than such spirits as shall have been distilled in the distillery of such distiller; and if any spirits, other than such as shall have been distilled in the distillery of such distiller, shall be received and conveyed into, or shall be kept, or shall at any time be found in the distillery or store of such distiller, such distiller shall, for every such offence, forfeit the sum of two hundred pounds, and all such spirits shall be forfeited, and may be seized by any inspector of distilleries.

Distiller not to maintain action on account of spirits, &c., destroyed by fire or other accident.

LII. And be it enacted, That in case any spirits, feints, low wines, or any other ingredients or materials whatsoever, shall be destroyed by fire, or any other accident, it shall not be lawful for the distiller, proprietor, or other person whatever, to claim or demand, or to maintain any action or suit against Her Majesty, or against any officer or person acting under the authority of this Act, for any compensation or damages for or on account, or by reason of such accident, and no duty shall be demanded or paid for any spirits so destroyed as aforesaid.

Distiller not to distil nor to work on the Lord's Day.

LIII. And be it enacted, That if any malt, corn, or grain, shall be brewed or mashed, or if any still shall be made use of in the distillery of any distiller licensed under this Act, during any part of the Lord's day, such distiller in each and every such case shall forfeit the sum of fifty pounds.

Distiller not to keep wort, wash, low wines, or feints not made in the distillery.

LIV. And be it enacted, That it shall not be lawful for any distiller to receive or have in the distillery of such distiller, or in any store thereto belonging, any wort, wash, or low wines or feints whatever, which shall not have been brewed or made in the distillery of such distiller, and if any distiller shall receive or have any wort, wash, low wines, or feints, which shall not have been brewed or made in the distillery of such distiller, such distiller shall for every such offence forfeit the sum of two hundred pounds, and all such wort, wash, low wines, and feints shall be forfeited, and may be seized by any inspector of distilleries.

Distiller to keep a notice book.

LV. And be it enacted, That every distiller shall keep a book to be called the notice book, in which shall be entered copies of all notices, served by any inspector of distilleries, on such distiller under the provisions of this Act, and also copies of all notices served by any inspector of distilleries on such distiller, and if copies of all such notices respectively shall not be inserted in such book, or if any untrue entry shall be made therein, or if such book or any entry therein shall be defaced, obliterated, or altered by such distiller, or by any person employed in such distillery, or if such book shall not at any time be delivered to any officer of excise on his demanding the same, then, and in every such case, such distiller shall forfeit the sum of fifty pounds.

LVI.

LVI. And be it enacted, That it shall not be lawful for any distiller licensed under this Act, or any agent of such distiller, to have, keep, or make use of any store for the sale of duty paid spirits, at any place nearer to any part of the boundary wall of such distillery than five hundred yards, under a penalty of two hundred pounds.

LVII. And as illicit distillation may, with great facility, be carried on in breweries: Be it enacted, That before any person or persons shall carry on the trade or business of a brewer in any part of the Colony of New South Wales, such person or persons shall cause his or their names to be registered in the office of the Clerk of the Peace, at the place nearest to the residence of such person or persons at which a Court of Quarter Sessions shall be established, and shall also register or cause to be registered, a description of the premises in which the business of brewing is to be carried on, and of the utensils to be used in the business of brewing, and that such registration as aforesaid shall be renewed every year.

LVIII. And be it enacted, That if any person or persons shall carry on the trade or business of a brewer, without being registered, or without having his, her, or their premises registered as aforesaid, such person or persons shall, on being convicted thereof in a summary manner before any two Justices of the Peace, forfeit and pay the sum of thirty pounds.

LIX. And be it enacted, That the premises of every brewer registered as aforesaid, shall be open at all times to the inspection of any inspector of distilleries or officer of customs, and that all officers of customs, and inspectors of distilleries, shall have power to enter and search all such premises, in like manner as they may enter and search the premises of any licensed distiller, and that all persons registered as the proprietors of such breweries, shall be liable to the same penalties for obstructing such officers in the performance of their duty, or for obstructions offered to such officers by their servants, as licensed distillers are liable to in like cases.

LX. And be it enacted, That it shall not be lawful for any person engaged in the trade or business of a brewer, to carry on the business of a dealer in spirits, either by wholesale or retail, upon any premises registered as aforesaid for carrying on the business of brewing, or any premises immediately adjoining the same, under a fine or penalty of ten pounds for every day he shall offend against this enactment; and all spirits found on the premises of any such brewer beyond the quantity of six gallons, may be seized by any inspector of distilleries, or officer of customs; and for every gallon of spirits so seized, such brewer shall forfeit and pay the sum of forty shillings: Provided always, that nothing in this enactment contained, shall be deemed to apply to spirits found upon any dray, cart, or other vehicle, brought into such premises for the *bona fide* purpose of being loaded with additional goods (not being spirits) and forthwith removed from the same.

LXI. And be it enacted, That every cart, dray, or other conveyance used by any brewer, for the conveyance of ale or beer, shall have the name of the brewer painted legibly on the same, in letters not less than two inches in length, under a penalty of ten pounds; and that all goods carried on any cart, dray, or other conveyance belonging to any person carrying on the trade or business of a brewer, or bearing the name of a registered brewer, shall be open to the examination of any inspector of distilleries or officer of customs, and that any person offering any hindrance to an officer of customs or inspector of distilleries in the examination of such goods, shall forfeit and pay the sum of twenty pounds.

LXII. And be it enacted, That it shall not be lawful for any person or persons to sell spirits upon which duty has been paid, in quantities above two gallons, in any part of the Colony of New South Wales, without having first registered his name, or their names, in the office of the Clerk of the Peace at the place nearest to the residence of the said person or persons, at which a Court of Quarter Sessions shall be established; and also a description of the premises in which the sale of spirits

Such registration to be renewed yearly. by wholesale is to be carried on, and that such registration shall be renewed once in every year.

Under penalty of £30.

LXIII. And be it enacted, That if any person or persons shall sell spirits upon which duty has been paid, in quantities above two gallons, without being registered, or having his, her, or their premises registered as aforesaid, he, she, or they shall, for every day such registration as aforesaid shall not have been made, forfeit and pay the sum of ten pounds.

Registered premises to be open to inspection of Inspectors of Distilleries, &c.

LXIV. And be it enacted, That all premises registered as aforesaid, or occupied by persons selling spirits upon which duty has been paid in quantities above two gallons, shall be open at all times to the inspection of any inspector of distilleries or officer of customs, and that all officers of customs and inspectors of distilleries shall have the same powers to enter and search all such premises, as they have to enter and search any licensed distillery; and that the owners or occupiers of such premises shall be liable to the same penalties for obstructing such officers or inspectors in the performance of their duty, or for obstructions offered to such officers or inspectors by their servants, as licensed distillers are liable to in like cases.

How fines, &c., to be recovered and applied.

LXV. And be it enacted, That all fines, penalties, and forfeitures under this Act, shall be enforced, sued for, and recovered, and shall be applied, and may be appealed against in the same manner as fines, penalties, and forfeitures under the said recited Acts, or any of them: Provided that the one moiety or half of the net produce thereof, to be paid under the said recited Acts to the Colonial Treasurer, for the use of Her Majesty, Her Heirs and Successors, to be applied to the public uses of the Colony, and also the one moiety or half of the net produce of all fines, penalties, and forfeitures under this Act shall, from and after the passing thereof, be paid to the Colonial Treasurer, for the purposes of the General Revenue of the said Colony.

LXVI. And whereas by the said first recited Act it is enacted, that if in any suit or action brought before the Judges of the said Supreme Court, or any two or more Justices of the Peace, for the recovery of any fines or penalties imposed by the said Act, the party or parties shall be convicted and sentenced to pay such fine, it shall be lawful for the said Court or Justices, to award and sentence the said party or parties to be imprisoned for a period of not less than three months, nor exceeding twelve months, in case the said fine or penalties shall not be paid within a time to be limited by the said Court or Justices; and whereas many persons sentenced to pay fines under the said recited Act or Acts as aforesaid, have escaped payment of the same, and it is therefore expedient to amend the said provision, in manner hereinafter mentioned: Be it enacted, That unless any such fine or penalty shall be immediately paid, or security given, to the satisfaction of the Court or Justices before whom the case shall have been heard and determined, for the due payment of such fine or penalty, the party or parties who shall have been convicted and sentenced to pay such fine or penalty, shall forthwith be committed to Gaol, there to remain for such time as, according to the said Act, shall have been awarded by the said Court or Justices, unless such fine or penalty shall be sooner paid.

This Act not to repeal or alter other Acts, except in certain cases.

LXVII. And be it enacted, That nothing in this Act contained, shall be construed to repeal or alter the provisions of any of the hereinbefore mentioned Acts, or of any Acts now in force in the Colony of New South Wales, for the regulation of distillers and rectifiers, except in so far as such provisions may be contrary to the provisions of this Act.

Construction of Act.

LXVIII. And be it enacted, That wherever in this Act, or any of the said recited Acts the word "Governor" has been employed, it shall be construed to mean the Governor of this Colony, or person for the time being lawfully administering the Government thereof; and any officer whose office has been mentioned shall be construed to mean the officer or person executing, for the time being, the duties of such office; and wherever the words "Proof Spirit" are used, they shall be construed to mean

mean spirit of the strength of hydrometer proof, according to the instrument known as Sykes's hydrometer ; and wherever words have been used which import the singular number, or the masculine gender only, yet they shall be construed to include several matters as well as one matter, and several persons as well as one person, and males as well as females, unless there be something in the subject or context repugnant to such construction.

LXIX. And be it enacted, That this Act shall commence and take effect from and after the passing thereof, and shall thenceforward continue in force until the thirty-first day of December, one thousand eight hundred and forty-seven.

Commencement and
duration of Act.

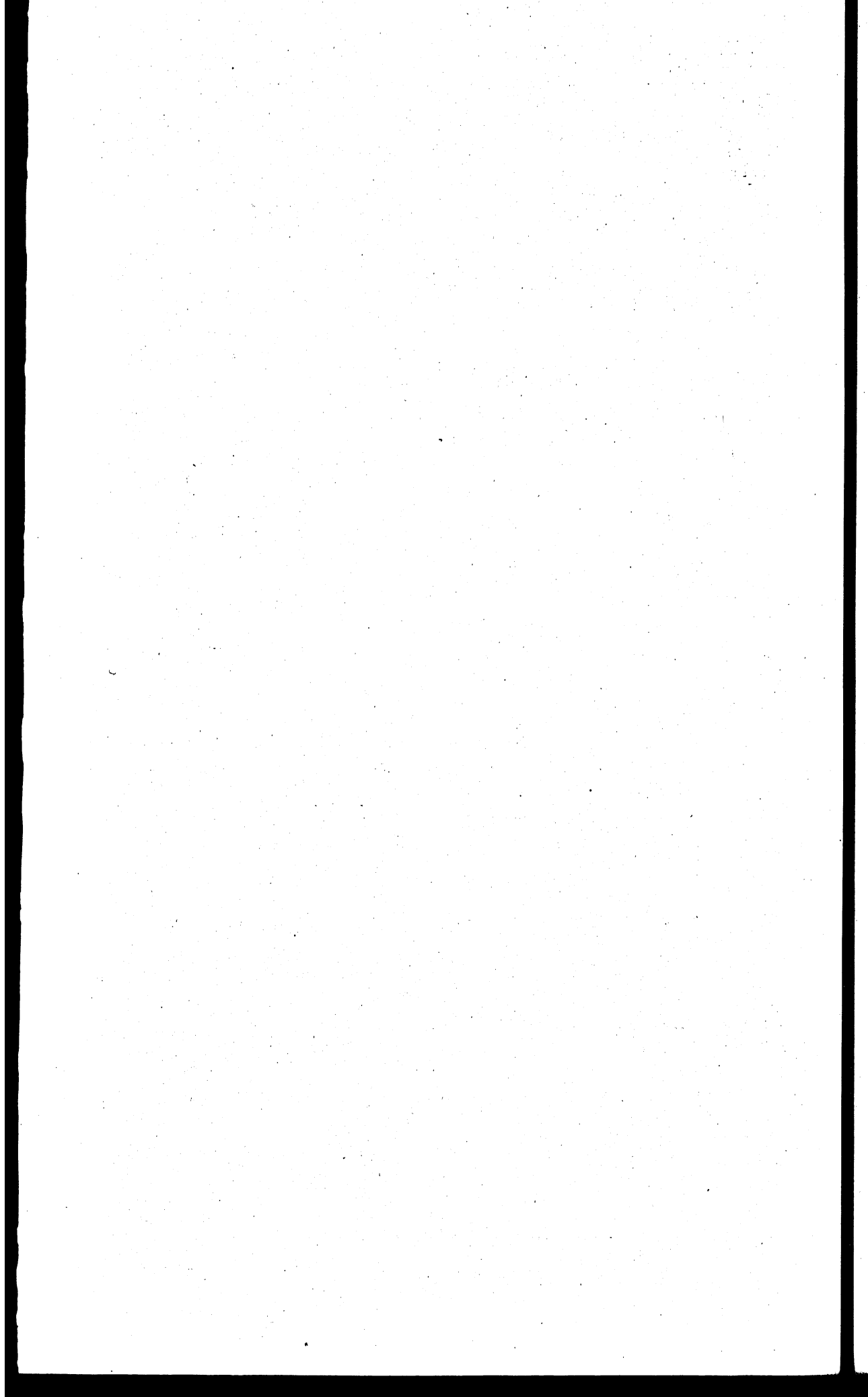
ALEX. McLEAY,
Speaker.

*Passed the Legislative Council this
sixth day of November, one thousand
eight hundred and forty-five.*

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

WM. MACPHERSON,
CLERK OF THE COUNCIL.

GEORGE GIPPS,
GOVERNOR.
November 12th, 1845.



No. XXVII.

An Act to amend and consolidate the laws between Masters and Servants in New South Wales. [Assented to, 12th November, 1845.]

WHEREAS an Act was passed by the Governor and Legislative Council of New South Wales, in the fourth year of Her present Majesty Queen Victoria, intituled, "*An Act to ensure the fulfilment of engagements, and to provide for the adjustment of disputes between Masters and Servants in New South Wales and its Dependencies*;" and whereas it is deemed expedient to amend and consolidate the laws relating to the same: 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, the said recited Act shall be, and the same is hereby repealed, except so far as such Act repeals the Acts thereby repealed: Provided always, that all offences which shall have been committed, and all penalties and forfeitures which shall have been incurred previously to the commencement of this Act shall and may be punishable and recoverable under the above mentioned Act, as if the same had not been repealed: Provided also, that all acts or things made, done, or executed, under or by virtue of the said Act, passed in the fourth year of the reign of Her present Majesty Queen Victoria, prior to the commencement of this Act, shall be held good, valid, and effectual to all intents and purposes.

Preamble.

4 Vic., No. 23.

Repealed except so far as the said Act repeals the Acts thereby repealed.

Proviso.

Proviso.

II. And be it enacted, That if any servant shall contract with any person whomsoever, to serve him for any time or times whatsoever, or in any manner, and shall not enter into or commence his service according to his contract, (such contract being in writing;) or having entered into such service, shall absent himself from his service before the term of his contract, whether such contract shall be in writing or not in writing, shall be completed, or neglect to fulfil the same, or be guilty of disobedience, or of any other misconduct or misdemeanor in the execution thereof, or otherwise respecting the same, then and in every such case, it shall and may be lawful for any Justice of the Peace, upon complaint thereof made upon oath to him by the person or persons, or any of them, with whom such servant shall have so contracted, or by his overseer, manager, or agent, which oath such Justice is hereby empowered to administer, to issue his warrant for the apprehending every such servant, and to cause him to be brought before two or more Justices, who shall examine into the nature of the complaint; and if it shall appear to such Justices, that any such servant shall not have fulfilled such contract, or hath been guilty of disobedience, neglect, or any other misconduct or misdemeanor as aforesaid, it shall and may be lawful for such Justices to commit every such person to the house of correction, there to remain for a reasonable time, not exceeding three months, or in lieu thereof, to punish the offender by abating the whole or any part of his wages, and to discharge such servant from his contract, service, or employment: Provided it be the desire of such master, employer, or employers, or his or their manager, agent, or overseer, that such servant shall be so discharged, but not otherwise.

Punishment for servants not entering into service according to agreement, absents themselves, or guilty of neglect, misconduct or misdemeanor.

Justices may discharge servants from their contracts.

Proviso.

III. And whereas many persons hire or engage themselves, and obtain from the person or persons to whom they have so hired or engaged themselves, or from their agents, different sums of money, or goods, as an advance on account of the wages or salary at which they have so engaged or hired themselves, under the pretence that they require such money, or goods, either to enable them to pay the expenses of their travelling to the place or station at which they have so hired or engaged to work or serve their employers, or for some other purpose, and after having so obtained such sums of money, or goods, under various pretexts either neglect or refuse to go to the place or places for which they were

Servants obtaining money under pretence of service, or advances of wages beyond the amount actually earned, may be sentenced to imprisonment with or without hard labour for any period not exceeding three months.

so hired or engaged to serve such employers; or having obtained money or goods as advances of wages or money, beyond the sums actually earned, refuse or neglect to complete the term of service, or to perform or complete the work or labour for which they have agreed: Be it enacted, That if any servant who shall enter into any agreement either written or parol, with any master, or with his agent, or overseer, for any time or period whatsoever, at and for any wages or salary whatsoever, or who shall have hired or engaged himself to any such master, to do, perform, finish, or complete any work, job, or employment whatsoever, taken in task, by the piece or in gross, shall under pretence of requiring the same to enable him to pay the expense of his journey to the place or places at which and where he has so engaged to serve such master, or under any other pretence whatsoever, obtain or procure from such master, or his agent, or agents, any sum or sums of money, or goods, as an advance on account of the wages at which he shall have so engaged to serve, or in part of the amount for which he shall have agreed to perform any such work, job, or employment as aforesaid, shall after obtaining the same, neglect or refuse under any pretext whatsoever, forthwith to go to the place or places at which he shall have been so hired or employed to work or to serve such master, during the time for which he shall have agreed, or shall refuse to perform, or complete any work, job, or employment whatsoever, which he had engaged to perform or complete as aforesaid, it shall be lawful for any Justice of the Peace to cause every person who shall be complained of as so offending, to be brought before any two or more Justices of the Peace, of whom the said Justice may be one, and the said Justices shall hear and determine the matter of such complaint upon oath, and if no reasonable and sufficient excuse be shewn to the contrary, such Justices shall commit every person so offending as aforesaid, to the common gaol, or to some house of correction for the district, or nearest thereto, or to the gaol or house of correction in Sydney, if there be no other gaol or house of correction more convenient, there to remain for any term not exceeding three calendar months, and at the discretion of such Justices, to be kept to hard labour for the whole or any part of the said term.

Penalty for servants negligently or wilfully spoiling or losing property.

Proviso.

Recovery of wages by distress and sale of goods.

IV. And be it enacted, That if any servant shall wilfully or negligently spoil or destroy any goods, wares, work, or materials for work, committed to his charge or care, or shall wilfully or negligently injure or lose any cattle, sheep, horses, or other property, belonging to or in the charge of his employer, every such offender, being thereof lawfully convicted by or before any two or more Justices of the Peace, shall forfeit and pay reasonable damages for such property so spoiled, destroyed, injured, or lost, as aforesaid; and in default of satisfaction of such damages, shall be committed to gaol by such Justices, for any period not exceeding three months, with or without hard labour, at the discretion of such Justices: Provided, that in all cases of mere negligent injury, under this clause, where any damages shall be assessed against any such offender, the mode of satisfying the same shall be in the discretion of the assessing Justices, where it can be shown that any such offender has any means of satisfying such damages, otherwise than by undergoing such term of imprisonment.

V. And be it enacted, That in all cases of wages not exceeding thirty pounds, which shall be due and payable to any servant, it shall be lawful for any Justice of the Peace, where or near to the place where the service shall have been performed, or where or near to the place where the party or either of the parties upon whom the claim is made, shall be or reside, upon complaint on oath made to such Justice by such servant, or on his behalf, to summon such party or parties to appear before any two Justices of the Peace, of whom the said Justice may be one, to answer such complaint, and upon the appearance of such party or parties, or in default thereof, on due proof of his or their having been so summoned, such Justices are hereby empowered to examine the parties or their respective witnesses (if there be any), upon oath, touching the complaint

complaint and the amount of wages due, and to inspect any agreement or duplicate copy thereof if produced, and to make such order for payment of the said wages, not exceeding thirty pounds, with the costs incurred by the servant in prosecuting such claim, as shall to such Justices appear reasonable and just; and in case such order shall not be obeyed within ten days next after the making thereof, it shall be lawful for such Justices to issue their warrant to levy the amount of wages awarded to be due, by distress and sale of the goods and chattels of the party on whom such order for payment shall be made, rendering to such party the overplus, (if any shall remain of the produce of the sale), after deducting thereout, all the costs, charges, and expenses incurred by the servant in the making and prosecuting of the complaint, as well as the costs and charges of the distress and levy; and if such levy cannot be made, or shall prove insufficient, then such Justices are hereby empowered to cause the party upon whom the order shall be made, to be apprehended and committed to gaol, there to remain for any period not exceeding three months, or until payment shall be made of the amount of the wages so awarded, and of all costs and expenses attending the recovery thereof: Provided always, that no such warrant shall issue, or levy be made, for any wages due by a person whose estate has been sequestrated subsequent to such wages becoming due.

If not sufficient distress, party may be imprisoned.

Proviso.

VI. And be it enacted, That any person so imprisoned for non-payment of wages shall be discharged out of custody, so soon as his estate shall have been placed under sequestration in pursuance of the provisions of an Act, intituled, "*An Act for giving relief to insolvent persons, and providing for the due collection, administration, and distribution of insolvent estates, within the Colony of New South Wales, and for the prevention of frauds affecting the same.*"

Any person so imprisoned, to be discharged on becoming insolvent.

5. Vic., No. 17.

VII. And whereas it frequently happens that such masters or employers reside at considerable distances from the districts or places where their business is carried on, or are occasionally absent for long periods of time, and during such residence, or occasional absences, entrust their business to the management and superintendence of agents, overseers, or other managers, whereby such servants are or may be subjected to great difficulties and hardships, and put to great expense in recovering their wages: Be it therefore enacted, That in either of the said cases, it shall and may be lawful to and for any Justice of the district or place where such servant or labourer shall be employed, upon the complaint on oath of any such servant, touching or concerning the nonpayment of his wages, to summon such agent, manager, or overseer, to be and appear before any two or more Justices of whom such Justice may be one, at a reasonable time to be named in such summons, and to hear and determine the matter of the complaint, and also to make an order for the payment by such agent, overseer, or manager, to such servant, of so much wages as to such Justices shall appear to be justly due: Provided that the sum in question do not exceed the sum of thirty pounds; and in case of refusal or non-payment of any sum so ordered to be paid by such agent, overseer, or manager, for the space of twenty-one days from the date of such order, any two or more Justices shall and may issue forth their warrant to levy the same by distress and sale of the goods and chattels of such master, or employer, rendering the overplus, if any, after payment of the charges of such distress and sale, to the owner or owners, or to such agent, overseer, or manager, for the use of such master or employer.

When masters or employers reside at considerable distances from where their business is carried on, or are occasionally absent for long periods of time, their agents, overseers, or managers, may be sued for wages, and in default of payment the Justices may levy the same by distress and sale of the goods and chattels of such masters or employers.

VIII. And whereas it frequently happens that artificers, splitters, sheep shearers, and persons engaged in mowing, reaping, or getting in of hay and corn, or in sheep washing, and other labourers, occasionally contract with persons for the performance of work at a certain price, and do leave their respective services or engagements before the terms of their contracts are fulfilled, to the great disappointment and loss of the persons with whom they so contract: Be it therefore enacted, That from and after the passing of this Act, if any artificer, splitter, fencer, sheep shearer, or person engaged in mowing, reaping, or getting in hay or corn,

Penalty for breach of contract by artificers, splitters, sheep shearers, persons engaged in reaping, mowing, harvest work, sheep washing, &c., &c.

or

or in sheep washing, or other labourer, who shall contract with any person whomsoever for the performance of a certain work, at a certain price, shall absent himself from his service before the termination or completion of his contract, then, and in every such case, it shall and may be lawful for any Justice of the Peace, residing in the district in which the complainant is or hath been residing, and such Justice is hereby required, authorised, and empowered, upon complaint thereof made upon oath to him by the person with whom such artificer, splitter, fencer, sheep shearer, person engaged in getting in hay or corn, or in sheep washing, or other labourer, shall have so contracted, or by his overseer, which oath such Justice is hereby empowered to administer, to issue his warrant for the apprehending and bringing before any two or more Justices of the Peace, of whom the said Justice may be one, every such artificer, splitter, fencer, sheep shearer, person engaged in mowing, and reaping, or getting in of hay or corn, or in sheep washing, or other labourer; and such Justices are hereby empowered to examine into the nature of the complaint, and if it shall appear to them that any such artificer, splitter, fencer, sheep shearer, person engaged in mowing, reaping or getting in of hay and corn, or in sheep washing, or other labourer, shall not have fulfilled such contract, it shall and may be lawful for such Justices to commit every such person to the house of correction, there to be kept for any time not exceeding three months.

Artificers, farmers, splitters, sheep shearers, persons engaged in mowing, reaping, or in the getting in of hay and corn, or in sheep washing, or other labourer engaged for the performance of a certain work, at a certain price, may recover wages, and amends for non-payment of wages, illusage, or ill-treatment.

IX. And be it enacted, That it shall and may be lawful for any one Justice of the Peace, of the district where such complainant is or hath been residing, upon any complaint or application on oath of any artificer, splitter, fencer, sheep shearer, person engaged in the reaping, mowing, or getting in of hay and corn, or in washing sheep, or other labourer, who shall have contracted for the performance of a certain work, at a certain price, against any master or employer, touching or concerning any misusage, refusal of necessary provision, or furnishing provision of bad quality, non-payment of wages, cruelty, or other ill treatment whatsoever, of or towards any such artificer, splitter, fencer, sheep shearer, or person engaged in the mowing, reaping, or getting in of hay and corn, or in washing sheep, or other labourer, to summon any such master or employer, to appear before any two or more Justices of the Peace, of whom the said Justice may be one, at a reasonable time to be named in such summons, and such Justices shall and may hear and determine the matter of such complaint, (whether such master or employer shall appear or not,) and upon proof thereof upon oath made to their satisfaction, (whether such master or employer be present or not, if service of the summons be also upon oath proved,) may order the payment of such wages, as to the Justices shall then appear to be due or owing to any such artificer, splitter, fencer, sheep shearer, person engaged in the mowing, reaping, or getting in of hay and corn, or in washing sheep, or other labourer; and further, if the Justices shall so think fit, it shall be lawful for them to order and award such amends to be made to any such artificer, splitter, fencer, sheep shearer, person engaged in the mowing, reaping, or getting in of hay and corn, or in washing sheep, or other labourer, as they shall think fair and reasonable; and such order for the payment of wages, and such award for amends shall be carried into effect by distress and sale of the goods and effects of such master or employer as aforesaid, if the same are not paid within twenty-one days after the day on which such order and award have been made, provided that in no case such amends shall exceed the sum of ten pounds.

Servants paid in cheques, orders, or drafts which had been dishonored to be entitled to recover the amount with reasonable damages.

X. And be it enacted, That when any wages shall be paid to any servant by any cheque, draft, order, or note, in writing upon any bank, or any person, and the same shall be dishonored, no servant shall thereby be deprived of any remedy given to him by this Act for the recovery of his wages, but every such servant shall be entitled to recover such reasonable damages as he may have sustained in consequence of the dishonor of such cheque, draft, order, or note, and such damages shall be recoverable as wages due to such servant in the same way that wages are here-
inbefore

inbefore directed to be recovered: Provided that such cheque, draft, order, or note, shall be given up to the master before the amount thereof, or any damages shall be awarded for such dishonor.

XI. And be it enacted, That it shall and may be lawful for any one or more Justice or Justices of the Peace, residing within the district in which the complainant is or hath been residing, upon complaint on oath, of any servant against any master or employer, for refusal of necessary provision, or other illtreatment whatsoever, of or towards any such servant, to summon any such master or employer to appear before any two or more Justices, also residing within the same district, at a reasonable time to be named in such summons; and such Justices shall and may examine into the matter of such complaint, (whether such master or employer shall appear or not,) and upon proof thereof, upon oath made to their satisfaction, (whether such master or employer be present or not, if service of the summons be also proved upon oath,) may order and award such amends to be made to any such servant as they shall think fair and reasonable; and such order and award for amends shall be carried into effect by distress and sale of the goods and chattels of such master or employer as aforesaid, if the same be not paid within twenty-one days after the day on which such award is made, provided that in no case such amends as aforesaid shall exceed the amount of six months' wages of such servant.

Servants meeting with illusage or illtreatment may recover amends.

XII. And be it enacted, That upon the discharge of any servant, or upon the termination of his service, he shall receive from his master, and the master is hereby required to give to him a certificate of such servant's service and discharge, which certificate shall be signed by the master or his agent; and if the master or agent shall refuse to give such certificate to such servant, he shall forfeit and pay a sum not exceeding five pounds: Provided that such discharge may be given by any Justice of the Peace where the master or agent refuses to give it without reasonable cause; and that no such certificate shall be necessary in the case of any weekly servant employed within any city or town of the said Colony.

Servants to obtain discharges on the termination of service.

XIII. And be it enacted, That from and after the passing of this Act, every servant entering into new service, shall produce and deliver to the master, or employer, or his overseer or agent, into whose service he so enters, a certificate of his discharge from the place in which he had been last employed, unless he be a native of the Colony, or newly arrived immigrant, or other person entering into service for the first time, and that any master, or employer, or his overseer or agent, employing or entertaining any servant who had been previously in service, without requiring and receiving such discharge as aforesaid, shall, being lawfully convicted thereof, by or before any two or more Justices of the Peace, forfeit and pay for every such offence, the sum of five pounds; one-half thereof to be paid to the informer in such case.

And to produce and deliver such discharges to their employers when entering into new engagements.

XIV. And be it enacted, That if any person or persons shall knowingly and wilfully pretend, or falsely assert in writing, that any servant has been hired or retained for any period of time whatsoever, or in any station or capacity whatsoever, other than that for which, or in which he shall have hired or retained such servant in his or their service or employment, or for the service of any other person or persons, or shall knowingly and wilfully pretend, or falsely assert in writing, that any servant was discharged, or left his or their service at any other time than that at which he was discharged or actually left such service, or that any such servant had not been hired or employed in any previous service, contrary to truth, then and in either of the said cases, such person or persons shall forfeit and pay any sum of money not exceeding ten pounds; one-half thereof to be paid to the informer in such case.

Penalty for giving false certificates, or false discharges.

XV. And be it enacted, That if any person shall knowingly

Penalty for harbouring servants already receive, engaged.

receive, employ, or entertain any servant already employed or retained by any other person, every person so offending, shall, for every such offence, being lawfully convicted thereof, forfeit and pay a sum not exceeding twenty pounds; one-half thereof to be paid to the informer in such case.

Jurisdiction in cases
not specially provided
for.

XVI. And be it enacted, That all contracts, disputes, differences, claims and demands, between masters and servants, arising out of their connexion as such and hereinbefore specially provided for, shall be cognizable in a summary manner either before one or two or more Justices of the Peace, as the case may be, and the said Justice or Justices as the case may be, are hereby empowered, upon complaint duly made to them, to summon, or to issue warrants in the first instance, and afterwards to hear and examine the parties and their witnesses upon oath, to decide and determine all complaints, to make orders, consequent upon such decisions and determinations, to adjudge satisfaction, to give costs and damages to the party aggrieved, to issue warrants to levy such costs and damages, by distress and sale of the goods of the offender refusing to make such satisfaction, or pay such costs and damages, and for want of such sufficient distress or otherwise, to commit any offending party to the common gaol or house of correction, either until satisfaction made, or absolutely (as each case may require) for any time not exceeding the periods respectively limited for any such imprisonment by the provisions of this Act

Justices to determine
cases not herein-
before provided for.

XVII. And be it enacted, That it shall and may be lawful for any two or more Justices of the Peace, in any case not hereinbefore specially provided for, to hear and determine in a like summary manner, any complaint, difference, or dispute, which shall happen and arise between any such servant and his master, or employer, or his overseer or agent, and to make such order or award against either party in every such case, as to such Justices shall seem meet; and every such order and award to enforce by cancelling the indenture or agreement between the parties, or by imposing on either party a fine or penalty proportionable to the offence, but not exceeding the sum of thirty pounds, and in default of payment by execution against the goods, effects, or other property of the party against whom such order or award shall be made; or in default of sufficient distress, by arrest and imprisonment of such party for any time not exceeding three calendar months: Provided always, that no such agreement or indenture shall be cancelled against the consent of the party in whose favor such decision is given.

Proviso.

Not necessary to call
the attesting witness,
or prove the hand-
writing of agree-
ments.

XVIII. And be enacted, That in prosecuting any offence under this Act, it shall not be necessary, for the purpose of proving the execution of any agreement, to call any subscribing or attesting witness thereto, or to account for the absence, or to prove the handwriting of any such subscribing or attesting witness, but that every agreement may be proved in like manner as if there were no subscribing or attesting witness thereto.

Persons engaging
servants in other
countries for service
in New South Wales,
may prosecute any
parties harbouring,
detaining, or con-
cealing them here.

XIX. And whereas servants in the United Kingdom, in British Colonies, in the British East India possessions, and in Foreign Countries, occasionally contract by indenture or other written agreement, with persons about to proceed to, or actually resident in the Colony of New South Wales, or with the agents of such persons: Be it enacted, That it shall and may be lawful for any person or persons with whom any such servant shall have so contracted to serve, as aforesaid, to maintain an action on the case, against any person or persons who shall employ, retain, harbour, or conceal any such servant, with intent to deprive the employer of any such person of his services, or otherwise with intention to defraud or injure such employer; and in case the plaintiff in any such action shall recover a verdict, he, in addition to the damages found by such verdict, shall be entitled to treble costs.

Justices may punish

XX. And be it enacted, That it shall and may be lawful for
any

any two or more Justices of the Peace in the said Colony, upon complaint made upon oath, to punish, by fine or imprisonment, or both, any wilful violation of the provisions of such indentures or other written agreement as last aforesaid, or any misdemeanor, miscarriage, misconduct, or illbehaviour of such servant in such his service or employment as aforesaid; and also to hear and determine all complaints, differences, or disputes, which shall happen and arise between any such servant and the person or persons whom he shall have so contracted to serve, as aforesaid; and to make such order or award, in every such case, as to such Justices shall seem just; and every such order or award, to enforce by execution against the goods, effects, or other property of the party or parties against whom such order or award shall be made, or by arrest of the persons, and imprisonment for any time not exceeding three calendar months.

for violations of indentures, &c.

XXI. And be it enacted, That throughout this Act, unless when otherwise required by the context, the word "servant" shall extend to and include all agricultural and other labourers, and workmen, shepherds, stockmen, and artisans, domestic and other servants; and that all words in the singular number shall extend also to the plural; and every word importing the masculine gender shall also extend to the feminine.

Construction of certain words in this Act.

XXII. Provided always and be it enacted, That nothing in this Act, contained shall be deemed or taken to authorise the commitment of any female servant to any gaol or house of correction for any offence committed under the same.

Female servants not to be committed to Gaol.

XXIII. And be it enacted, That all fines or penalties not hereinbefore specially appropriated shall be paid to the Colonial Treasurer for the purposes of the General Revenue of the said Colony.

Appropriation of penalties, &c.

XXIV. And be it enacted, That the Justices by or before whom any person or persons shall be convicted, or by whom any award shall be made under this Act, shall cause all convictions, to be respectively drawn in the form or to the effect set forth in the schedules to this Act annexed, marked B, and C.

Forms of conviction.

XXV. And be it enacted, That if any person convicted of any offence or offences punishable, or subjected to any penalty under this Act, before any one or two Justices of the Peace, shall think himself aggrieved by the judgment of such Justices, such person shall have liberty to appeal from any such conviction to the next Court of Quarter Sessions of the Peace, which shall be held for the district or place wherein, or nearest to which, such offence shall have been committed; and that the execution of every judgment, so appealed from, shall be suspended, in case the person so convicted shall, with two sufficient sureties, immediately, before such Justice enter into a bond to Her Majesty, Her Heirs and Successors, in the penal sum of double the amount of the penalty so incurred or forfeited, or in case such conviction should contain a judgment of imprisonment, such appellant shall immediately enter into a recognizance before such Justices, himself in the penalty of twenty pounds, with two sufficient sureties in the penalty of ten pounds each; which bond or recognizance respectively, such Justices are hereby authorised and required to take; and such bond or recognizance shall be conditioned to prosecute such appeal with effect, and to be forthcoming to abide the judgment and determination of the said Court of Quarter Sessions, and to pay such costs as the said Court shall award on such occasion; and the Justices in the said Court of Quarter Sessions, are hereby authorised and required to hear and determine the matter of the said appeal, and to award such costs as to them shall appear just and reasonable to be paid by either party, and such decision shall be final, between the said parties to all intents and purposes; and if, upon hearing the said appeal, the judgment of the Justice or Justices before whom the appellant shall have been convicted, shall be affirmed, such appellant shall forthwith pay the forfeiture or penalty, if any,

Persons convicted may appeal to the next Court of Quarter Sessions.

Such appeal shall be final.

any, mentioned in such conviction, and the costs awarded to be paid by such appellant; and in default of payment thereof, or in case such conviction shall contain a judgment of imprisonment, such appellant shall immediately be committed by the said Court, to the common gaol, or house of correction, according to such conviction, and for the space of time therein mentioned, without bail or mainprize, and also until the payment of such costs as shall be awarded by the said Court to be paid by such appellant.

No certiorari.

XXVI. And be it enacted, That no conviction under this Act, nor any adjudication made on appeal therefrom, shall be quashed for want of form, or removed by writ of certiorari, or otherwise, into the Supreme Court of the said Colony; 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 convicted, and that there be a good and valid conviction to sustain the same.

Limitation of convictions.

XXVII. And be it enacted, That no conviction shall be had under this Act unless the complaint be made within six months from the time the offence shall have been committed.

Justices not to have jurisdiction over their own servants.

XXVIII. And be it declared and enacted, That nothing in this Act contained, shall be deemed or taken to authorise any Justice of the Peace, to exercise any such jurisdiction as aforesaid, in any case of any such servant as aforesaid, who shall be in the service of any such Justice, or in any case in which any such Justice may be directly interested.

Commencement and duration of Act.

XXIX. And be it enacted, That this Act, shall commence and take effect from the date of its passing, and shall be and continue in force until the thirty-first day of December, in the year one thousand eight hundred and forty-eight.

ALEX. McLEAY,
Speaker.

*Passed the Legislative Council this } In the name, and on the behalf of Her
eleventh day of November, one thou- } Majesty, I assent to this Act.
sand eight hundred and forty-five. }*

GEORGE GIPPS,
GOVERNOR.

WM. MACPHERSON,
CLERK OF THE COUNCIL.

November 12th, 1846.

SCHEDULES REFERRED TO.

B.

FORM OF CONVICTION.

Be it remembered that on the _____ day of _____, in the year of Our Lord one thousand eight hundred and _____, A.B. was convicted by and before us (naming the Justices) two (or more) of Her Majesty's Justices of the Peace, duly authorised in that behalf, of having (state the offence) contrary to the Act of the Governor and Council, passed in the ninth year of the Reign of Her Majesty Queen Victoria, intituled, "*An Act to amend and consolidate the laws between masters and servants in New South Wales*;" and we the said Justices do hereby order and adjudge the said A.B. for the said offence to be committed to, and confined in, (place where to be confined) for the space of _____ or to the House of Correction, at _____, (there to be kept at hard labour for the space of _____ or not, as the case may be.)

Given under our hands the day and year above written.

C.

FORM OF CONVICTION IN A PECUNIARY PENALTY.

To Wit.

Be it remembered, that on the _____ day of _____, in the year of our Lord 184 _____, A. B. was convicted by and before us _____, of Her Majesty's Justices of the Peace, duly authorised in that behalf of having (state offence,) contrary to the provisions of an Act of the Governor and Council, passed in the ninth year of the Reign of Her Majesty Queen Victoria, intituled, "*An Act to amend and consolidate the laws between masters and servants in New South Wales*;" and we the said Justices do hereby adjudge and determine, that the said A. B. for the said offence, do forfeit and pay the sum of _____ to be distributed as the said Act directs.

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

J. P.

J. P.

No.

No. XXVIII.

An Act to give to valid Mortgages of sheep, cattle, and horses, priority, for a limited period according to the date of the Registration thereof, and for other purposes therein mentioned. [Assented to 13th November, 1845.]

WHEREAS it is expedient, for the prevention of secret securities, and of the frauds consequent thereon, and will conduce greatly to the credit and relief of owners of sheep, cattle, and horses, to make provision for the Registration of valid mortgage securities upon the same: 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 mortgages of sheep, cattle, or horses, and of their increase and progeny, which shall hereafter be made *bonâ fide* for valuable consideration, and which shall be otherwise valid in the law, if duly registered, within thirty days after the true date of the execution thereof, in the office of the Registrar General of the Colony of New South Wales, or in the office of the Deputy Registrar of the Court at Port Phillip, according to the jurisdiction wherein the proprietor of the said mortgaged live stock shall be resident, in the form in schedule A, appended to this Act, shall have, and be entitled in the law, to priority over every unregistered mortgage of the same live stock, or any part thereof; and though such unregistered mortgage be made *bonâ fide* for valuable consideration, and be of a prior, or of the same date and execution as such registered mortgage.

II. And be it enacted, That before or at the expiration of the time limited for the payment of the principal sum secured by any such registered mortgage, it shall be lawful for the parties thereto, from time to time by endorsement on the back thereof, or by any deed or memorandum in writing, to extend as may be agreed upon between such parties, the time limited for such payment, provided such further extension of the time of payment, be endorsed on the said registry within fifteen days of the date thereof, in the form in schedule B, appended to this Act.

III. And be it enacted, That no such sheep and other live stock mentioned and described in any such registered mortgage, or their increase and progeny, or the wool of any such sheep, shall be held or deemed to be within the scope or provisions of any Bankrupt or Insolvent Law, now in force, or hereafter to be in force within the said Colony, for the relief of Bankrupt or Insolvent debtors: Provided that no mortgage of any such live stock shall protect the same from the operation of any such law, unless such mortgage shall have been registered full sixty days before the date of the order for sequestration, or unless the consideration thereof shall be an advance or loan *bonâ fide* made at the time of the execution of any such mortgage.

IV. And be it enacted, That the Registrar General, or Deputy Registrar of the said Court, shall keep a separate and distinct registry, from year to year, of the particulars of all such mortgages of sheep, cattle, and horses, as aforesaid; and shall be entitled to demand for every such registry thereof, a fee of two shillings and sixpence, and one shilling for each affidavit sworn before them, or made in verification thereof; and all persons shall have access to the said registry, and may search the same, during the usual hours of business, on paying for each search a fee of one shilling.

V. And whereas an Act was passed in the seventh year of Her Majesty's reign, intituled "*An Act to give a preferable lien on wool from season to season, and to make mortgages of sheep, cattle, and horses valid, without delivery to the mortgagee,*" and whereas the said Act may be annulled and disallowed by Her Majesty, and it is expedient to remove doubt as to the validity of engagements legally made under that Act, before the disallowance of the same can be known in the Colony: Be it enacted, That all mortgages of sheep, horses, or cattle, and all liens on wool legally made under the said Act, before the disallowance

Preamble.

Mortgages of sheep, cattle, or horses, registered within thirty days after execution, shall have priority over unregistered mortgages, although of a prior, or same date.

Time of payment may be extended by endorsement on the back of the mortgage, or by separate deed, &c.

Such live stock not subject to operation of Insolvent Laws, if mortgage be executed sixty days before sequestration; or if consideration be a *bonâ fide* advance at the time of execution.

Separate and distinct registry from year to year to be kept of mortgages of livestock.

Engagements under Victoria, No. 3, valid, notwithstanding disallowance of Act.

lowance of the same shall be notified in the Colony, shall, during the continuance of this Act, be valid and effectual in the law to all intents and purposes, notwithstanding the disallowance of that Act.

Rights of the Crown
to waste lands not af-
fected.

VI. And be it enacted, That nothing in this Act contained shall be construed to affect in any way the rights or prerogative of the Crown, as to any of the waste lands described in any such mortgages, as the lands or stations, whereon any such sheep, horses, or cattle may be depasturing.

Commencement and
duration of Act.

VII. And be it enacted, That this Act shall commence and take effect from and after the passing thereof, and shall thenceforth be, and continue in force for two years.

ALEX. M'LEAY,
Speaker.

*Passed the Legislative Council, this } In the name, and on the behalf of Her
twenty-fourth day of October, one } Majesty, I assent to this Act.
thousand eight hundred and forty-five. }*

WM. MACPHERSON,
Clerk of the Council.

GEORGE GIPPS,
Governor.

November 13, 1845

SCHEDULES REFERRED TO.

A.

Date of Deed.	Name of Mortgagor.	Name of Mortgagee.	Consideration.	Numbers and description of mortgaged Sheep, Cattle, or Horses, and the brand or other distinctive mark, and stations where the same are depasturing, as also the name of the principal superintendent or overseer.
	Name of Witness or Witnesses.			

B.

The time limited for the payment of the principal sum above-mentioned, is extended to the day of

A.D.

Dated this

day of

A.D.

A. B., mortgagor.
C. D., mortgagee.