

No. VI.

An Act for the general regulation of the Customs of New South Wales and its Dependencies.

CUSTOMS.

WHEREAS by an Act of Parliament passed in the sixth year Preamble.
of His present Majesty intituled "*An Act to regulate the Trade* 6 Geo. IV. c. 114.
of the British Possessions abroad" it was enacted amongst other things
That it should be lawful for His Majesty by and with the advice of His
Privy Council to give such directions and make such regulations touch-
ing the trade and commerce to and from any British Possessions within
the limits of the East India Company's Charter as to His Majesty in
Council should appear most expedient and salutary and that if any
goods should be imported or exported in any manner contrary to any
such Order of His Majesty in Council the same should be forfeited
together with the ship importing or exporting the same And
whereas by an Order in Council bearing date the thirtieth day of Order in Council
30th April 1827.
April one thousand eight hundred and twenty-seven His Majesty
was pleased by and with the advice of His Council and in pur-
suance and exercise of the authority in him vested by the said Act
of Parliament to order and direct among other things that the
trade and commerce of His Majesty's Settlements and Territories of
New South Wales with the Dependencies thereof should be regu-
lated in manner following that is to say *All such laws rules orders
and regulations as were in force within the said settlements and terri-
tories for the regulation of the trade and commerce thereof upon the
first day of July in the year one thousand eight hundred and twenty-
five* should until further orders by His Majesty in such behalf revive
and continue and be of full force virtue and effect within the said
settlements and territories And whereas it is expedient in aid of the
said Order of His Majesty in Council and for giving effect to the same
to make further provision for regulating the Customs and trade within
the said Colony Be it therefore enacted by the Governor of New South
Wales by and with the advice and consent of the Legislative Council
That from and after the fifth day of April one thousand eight hundred Commencement of
this Act.
and thirty this Act shall come into and be and continue in full force
and operation for regulating the Customs and trade within this Colony
and its Dependencies.

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Persons employed by Customs deemed officers for such service.

Vivâ voce evidence may be given that a party is an officer.

Share of penalty not to disqualify officers as witnesses.

Officers taking any fee or reward not authorized to be dismissed.

Officers making collusive seizures to forfeit £500.

Persons offering bribes to officers to forfeit £500.

Hours of attendance of officers.

Holidays.

Collector &c. authorized to administer oaths.

2. Be it further enacted That every person employed on any duty or service relating to the Customs by the orders or with the concurrence of the Governor of this Colony or of the Commissioners of His Majesty's Customs (whether previously or subsequently expressed) shall be deemed to be the officer of the Customs for that duty or service and if a question shall arise in the course of any legal proceeding whether any such person be an officer duly authorized 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 penalty sued for notwithstanding such officer or other person may be entitled to any part of such seizure or penalty.

3. And be it further enacted That if any officer clerk or other person acting in any office or employment in or belonging to the Customs in this Colony shall take or receive any fee perquisite gratuity or reward whether pecuniary or of any 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 any thing 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 or Commissioners of His Majesty's Customs such officer so offending on proof thereof being adduced shall be dismissed from his office.

4. And be it further enacted That if any officer of the Customs or other person duly authorized 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 or boat or goods liable to forfeiture or take any bribe gratuity recompense or reward for the neglect or non-performance of his duty every such officer or other person shall forfeit for every such offence the sum of Five Hundred Pounds.

5. And be it further enacted That every person who shall give offer or promise to give any bribe recompense or reward or make any collusive agreement with any such officer as aforesaid to induce him in any way to neglect his duty or to do 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 the sum of Five Hundred Pounds.

6. And be it further enacted That it shall be lawful for the Collector and Controller of the Customs with the sanction of the Governor or Acting Governor of the 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.

7. And be it further enacted That no day shall be kept as a public holiday by the Customs except Christmas Day and Good Friday 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 the anniversary of the birthday of His Majesty and of His Successors.

8. And be it further enacted That in all cases wherein proof on oath 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 Controller where such proof shall be required to be made or before the persons acting for them respectively and who are hereby authorized and empowered to administer the same.

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9. And be it further enacted That all goods ships vessels and boats which by any law at any time in force shall be declared to be forfeited may be seized by any officer of the Customs.

Goods &c. declared forfeited by any law may be seized.

10. And be it further enacted That if the master of any ship or vessel arriving at or departing from any port in the said Colony shall neglect or refuse to bring to at the proper stations in such port appointed by the Governor for the boarding or landing of officers of the Customs the master of such ship or vessel shall for every such offence forfeit the sum of One Hundred Pounds.

Masters of vessels not bringing to at stations to forfeit £100.

11. And be it further enacted That it shall be lawful for the Collector or Controrler or other principal officer to station an officer on board any ship or vessel while within the limits of any port in the said territory 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 fore-castle or steerage for his bed or hammock and in case of neglect or refusal so to do shall forfeit the sum of One Hundred Pounds.

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

Accommodation of officers.

12. And be it further enacted That all sums of money to be collected as duties as well as all penalties or forfeitures already authorized under this Act shall be deemed and are hereby declared to be sterling money of Great Britain and that in all cases where duties are imposed according to any specific quantity or according to any specific value the same shall be deemed to apply in the same proportion to any greater or less quantity or value.

Duties &c. to be paid in sterling money.

When on specific quantity in like proportion on greater or less quantity.

13. And be it further enacted That the master of every ship or vessel arriving in this Colony whether laden or in ballast shall come within twenty-four hours and before bulk be broken to the Custom-house and there make a report in writing to the Collector or Controrler or other proper officer of the arrival and voyage of such ship or vessel 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 or vessel and whether she be laden or in ballast and if laden the marks number 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 importation and what part 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 upon oath 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 shall be unladen from any ship or vessel before such report be made or if the master shall fail to make such report or make an untrue report or shall not truly answer the questions demanded of him he shall forfeit the sum of One Hundred Pounds and if any goods shall not be reported such goods shall be forfeited.

Ship and cargo to be reported on arrival.

Particulars of report.

Penalty for making false report.

14. And be it further enacted That it shall be lawful for the proper officers of the Customs to board any ship or vessel arriving at any part of this Colony and freely to stay on board until all the 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 tidewaiters or only of that degree they shall send

Officers to board ships

to have free access to all parts

may seal or secure goods

may open locks.

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Goods concealed to be forfeited.

Penalty for breaking seals &c.

Goods not to be laden or unladen before entry

nor at other than the appointed places and in presence of an officer under penalty of forfeiture.

Drawbacks allowed in certain cases on goods exported.

Penalty for clearing damaged goods for drawback.

Bond when goods are exported from the warehouse.

Returned goods entered by bill of store.

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 the sum of One Hundred Pounds.

15. And be it further enacted That no goods shall be laden or water-borne to be laden on board any ship or vessel or unladen from any ship or vessel in any part of this Colony until due entry shall have been made of such goods and warrants granted for the lading or unlading of the same and that no goods shall be so laden or water-borne or so unladen except at some place at which an officer of the Customs is appointed to attend the lading and unlading of goods or at some place for which a sufferance shall be granted by the Collector and Controller for the lading or unlading of such goods and that no goods shall be laden or unladen except in the presence or with the permission in writing of the proper officer And that all goods laden water-borne or unladen contrary to the regulations of this Act shall be forfeited.

16. And be it further enacted That there shall be allowed upon the exportation of goods wares or merchandize imported into Port Jackson a drawback of the duty paid thereon Provided always that proof on oath be made to the satisfaction of the Collector and Controller of the Customs that the full duties on importation had been paid and that such goods had been duly landed at the port for which the same were cleared And no drawback shall be allowed unless the goods upon which the same is claimed shall be shipped within three years from the day of importation thereof and the value of the goods upon which the duty is to be returned shall amount to fifty pounds and shall be duly claimed within one year from the day of such shipment Provided always that no drawback shall be allowed upon any goods which by reason of damage or decay shall have 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 Governor of the said Colony.

17. And be it further 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 treble the amount of duties of importation on the quantity of such goods with two sufficient sureties to be approved by the Collector or Controller that the same shall be landed at the place for which they are entered outwards or to be otherwise accounted for to the satisfaction of the Collector and Controller.

18. And be it further enacted That it shall be lawful to re-import into the Colony any goods which have been legally exported from the same and to enter such goods by bill of store referring to the entry outwards 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 if the goods so returned be foreign goods which had before been legally imported into the 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

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been originally imported or such goods may be warehoused as the like goods might be warehoused upon a first importation thereof.

19. And be it further enacted That the master of every ship or vessel bound from this Colony shall before any goods be laden therein deliver to the Collector or Controller or other proper officer an entry outwards under his proper 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 shall forfeit the sum of Fifty Pounds And before such ship or vessel depart the master shall bring and deliver to the Collector or Controller 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 oath 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 New South Wales whether in ballast or laden shall before departure come before the Collector or Controller 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 the voyage as shall be demanded of him by such officer and thereupon the Collector and Controller 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 the sum of One Hundred Pounds.

20. And be it further enacted That the person entering any goods shall deliver to the Collector and Controller or other proper officer a bill of the entry thereof fairly written in words at length containing the name of the exporter or importer and of the ship and of the master and of the place to or from which bound and of the place within the port where the goods are to be laden or unladen and the particulars of the quality and quantity 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 and Controller shall require And such person shall at the same time pay down all duties due upon the goods and the Collector and Controller or other proper officer shall thereupon grant their warrant for the lading or unlading of such goods.

21. And be it further enacted That if the importer of any goods shall declare upon oath before the Collector or Controller or other proper officer that he cannot for want of full information make perfect entry thereof it shall be lawful for the Collector or Controller 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 officer of the Customs and at the expense of the importer and may be seen and examined by such importer in the presence of the proper officers and within three days after the goods shall have been so landed the importer shall make a perfect entry thereof and pay down all duties due thereon and in default of such entry

Ship's entry
outwards.

Particulars.

No goods to be
laden before entry
under penalty.

Content of cargo to
be delivered before
departure.

Clearance of ship for
the voyage.

Penalty for not
clearing.

Entry of goods
inwards and
outwards.

Particulars.

Entry of goods
inwards by bill of
sight.

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entry such goods shall be taken to the King'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.

Goods subject to
ad valorem duty.

Value to be declared
on entry.

Form.

22. And be it further 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

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.)

If goods be under-
valued the importer
to declare the
invoice price

which with 10 per
cent. shall be deemed
the value.

If necessary two
persons may be ap-
pointed to fix the
value.

If importer refuse to
pay the duties on
such evaluation the
goods to be sold.

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 Controller 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 his known agent and upon which the duties due thereon shall be charged and paid Provided also that if it shall appear to the Collector and Controller or other proper officer that such articles have been 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 person shall declare on oath before the Collector or Controller or other proper officer what is the true and real value of such articles at the port of importation 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.

23. And be it further 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 chief 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 the payment of the said duties together with

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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 authorized to receive the same.

24. And be it further 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 King'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 overplus if any shall be paid to such importer or other person authorized to receive the same.

If goods be not entered within 20 days the officers may land and secure them.

If the duties be not paid within 3 months they may be sold.

25. And be it further enacted That whenever any goods shall be taken to and secured in any of the King'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 and Controller of His Majesty's Customs to charge demand and receive warehouse rent for such goods for all such time as the same shall remain in such warehouse at the same rate as may be payable for the like goods when warehoused in any warehouse in which such goods may be warehoused without payment of duty.

Rent may be charged on goods warehoused.

26. And be it further 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 such advantage be claimed be stated in such cocket or document.

If advantage be claimed on goods imported the ground must appear in the cocket.

27. And be it further 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 authorized nor unless the goods 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.

Entry not to be valid if goods are not properly described.

28. And be it further enacted That before any goods shall be shipped for exportation to the United Kingdom as being the produce of this Colony or of Van Diemen's Land or of New Zealand respectively and upon which any advantage shall be claimed at the port of importation sufficient proof on oath shall be made to the satisfaction of the Collector and Controller of the identity of such goods being the produce of this Colony or of Van Diemen's Land or of New Zealand respectively whereupon the Collector and Controller are hereby empowered to grant a certificate to that effect.

Certificate on exportation of goods being the produce of this Colony &c.

29. And whereas it is expedient to make regulations for the warehousing of spirits tobacco and other goods 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 therefore enacted That it shall be lawful

Warehousing of goods.

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Collector and Controller to appoint warehouses.

Proviso.

Goods may be warehoused without payment of duty.

Stowage of goods in the warehouse.

Penalty for fraudulently opening warehouse.

Bond upon entry of goods to be warehoused.

Purchasers of goods may give bond in lieu of original bond.

Goods not duly warehoused &c. to be forfeited.

for the Collector and Controller respectively by notice in writing under their hands to appoint such warehouses respectively as shall be approved of by them for the warehousing and securing of goods therein for the purposes of this Act and also by like notice to revoke any such appointment or declaration. Provided also that every such notice shall be transmitted to the Governor and shall be published in such manner as he shall direct.

30. And be it further 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 entrance thereof subject nevertheless to the rules regulations restrictions and conditions hereinafter contained.

31. And be it further enacted That all goods so warehoused shall be stowed in such parts or divisions of the warehouse and in such manner as the Collector and Controller shall direct 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 and visited in only at such time and in the presence of such officers and under such rules and regulations as the Collector and Controller shall direct And that all such goods shall after being landed upon importation be carried to the warehouse or shall after being taken out of the warehouse for exportation be carried to be shipped under such rules and regulations as the Collector and Controller shall direct.

32. And be it further 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 the sum of Five Hundred Pounds.

33. And be it further enacted That upon the entry of any goods to be warehoused the importer of such goods instead of paying down the duties due thereon shall give bond with two sufficient sureties to be approved of by the Collector and Controller in treble the amount of duties payable on such goods with condition for the safe depositing of such goods in the warehouse mentioned in such entry and for the payment of all duties due upon such goods or for the exportation thereof according to the first account taken of such goods upon the landing of the same and without any abatement on account of deficiency except as by this Act is otherwise provided 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 and Controller to admit fresh security to be given by the bond of the new proprietor or other person having control over such goods with his sufficient sureties 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.

34. And be it further 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.

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35. And be it further 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 care of the proper officer for exportation or upon due entry and payment of the duty for home use.

Account of goods to be warehoused to be taken on entry.

Delivery of goods from the warehouse.

36. And be it further enacted That it shall be lawful for the Collector and Controller under such regulations as they shall see fit to permit moderate samples to be taken of any goods so warehoused without entry and without payment of duty except as the same shall ultimately become chargeable with such duty.

Samples may be taken of goods warehoused.

37. 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 and Controller of the Customs or for the importer or proprietor of any such goods as aforesaid to require the same to be regauged or reweighed 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 quantity ascertained upon such regauging or reweighing 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 regauged or reweighed.

38. And be it further enacted That it shall be lawful for the Collector and Controller under such regulations as they shall see fit to permit the proprietor or other person having control over any goods so warehoused to sort separate pack and repack any such goods and to make such lawful 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 but without prejudice to the claim for duty upon the whole original quantity of such goods Provided always that it shall be lawful for any person to abandon any whole packages to the officers of the Customs for the duties without being liable to any duty upon the same.

Goods may be re-sorted or repacked.

Whole packages may be abandoned.

39. And be it further enacted That all goods which have been so warehoused shall be duly cleared either for exportation or for home consumption within three years from the day of the first entry thereof and if any such goods be not so cleared it shall be lawful for the Collector and Controller 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 proprietors Provided always That it shall be lawful for the Collector and Controller to grant further time for any such goods to remain warehoused if they shall see fit so to do.

All goods to be cleared within three years or sold.

Further time may be granted.

40. And be it further 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 shipboard 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 Colony for the time-being to remit or return the duties payable or paid on the quantity of such goods so lost or destroyed.

Governor may remit the duties on goods lost or destroyed.

41. And be it further 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 merchandize which shall be warehoused in warehouses under the authority of this Act by or through any wilful misconduct of any officer or officers of Customs such officer or officers shall

Embezzlement &c. of goods warehoused through misconduct of officers.

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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 merchandize so embezzled wasted spoiled or destroyed then and in such case no duty shall be payable for or in respect of such goods or merchandize so embezzled wasted spoiled or destroyed and no forfeiture or seizure shall take place of any goods and merchandize 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 merchandize shall be repaid and made good to such importer consignee or proprietor by the Collector and Controller of the Customs under such orders regulations and directions as shall be for that purpose made and given by the Governor of the Colony for the time-being.

What shall be
deemed the Colonial
trade.

42. And be it further enacted That all vessels trading from one part of the Colony to another part thereof beyond the Heads of Port Jackson or with any of the islands in the South Seas on which there are no public establishments European or American and also all vessels employed in the whale seal or sea elephant fisheries shall be considered as engaged in the coasting or Colonial trade.

Regulations for the
conveying of goods
coastwise.

43. And be it further enacted That no goods shall be laden on board any vessel in any part of the Colony as aforesaid where any officer of 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 Controller 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 as hereinafter directed for the lading or unlading of such goods and such goods shall not be laden or 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 all goods laden to be so carried or brought to be so unladen contrary hereto shall be forfeited.

Vessels with false
bulkheads &c. and
goods concealed
therein to be
forfeited.

44. And be it further enacted That all vessels and boats belonging in the whole or in part to His Majesty's subjects having false bulkheads false bows double sides or bottoms or any secret or disguised place whatsoever in the construction of the said vessel or boat for the purpose of concealing goods or having any hole pipe or other device in or about the 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 vessel or boat And all goods liable to the payment of duties or prohibited to be imported into this Colony found concealed on board any 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 vessel or boat shall be forfeited.

Vessels found light
to be forfeited.

45. And be it further enacted That if any vessel or boat whatsoever shall be found within the limits of any port in this Colony with a cargo on board and such vessel 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 Colony where such vessel shall have legally discharged her cargo such vessel or boat with her guns furniture ammunition tackle and apparel shall be forfeited.

Governor may remit
penalties in certain
cases.

46. And be it further enacted That if any ship shall have become liable to forfeiture on account of any goods laden therein or unladen therefrom or if the master of any ship shall have become liable to any penalty on account of any goods laden in such ship or unladen therefrom and such goods shall be *small in quantity* or of *trifling value* and it shall be made to appear to the satisfaction

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tion of the Governor of the Colony for the time-being that such goods had been laden or unladen contrary to the intention of the owners of such ship or without the privity of the master thereof as the case may be it shall be lawful for the said Governor to remit such forfeiture and also to remit or mitigate such penalty as he shall see reason to acquit such master of all blame in respect of such offence or more or less to attribute the commission of such offence to neglect of duty on his part as master of such ship And every forfeiture and every penalty or part thereof so remitted shall be null and void and no suit or action shall be brought or maintained by any person whatever on account thereof.

47. And be it further enacted That every person who shall assist or be otherwise concerned in the unshipping of any goods which are prohibited or the duties for which have not been paid or secured or who shall knowingly harbour keep or conceal or who shall knowingly permit or suffer to be harboured kept or concealed any goods which have been illegally unshipped without payment of duties or which have been illegally removed without payment of the same from any warehouse or place of security in which they may have been originally deposited shall forfeit either the treble value thereof or the penalty of One Hundred Pounds at the election of the officers of the Customs.

Penalty for persons assisting in unlawfully unshipping or removing goods from the warehouse.

48. And be it further enacted That the owner of every vessel belonging in the whole or in part to any of His Majesty's subjects shall within twenty-four hours after her report paint or cause to be painted upon the outside of the stern of every boat belonging to such vessel the name of such vessel and the port or place to which she belongs and the master's name withinside the transum in white or yellow Roman letters not less than two inches in length on a black ground on pain of the forfeiture of such boat not so marked wherever the same shall be found.

Boats to have the names of the vessels to which they belong and master's names painted thereon.

49. And be it further enacted That the owner of every boat not belonging to any 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.

Boats not belonging to vessels to have owners' names painted on them.

50. And be it further enacted That no vessel or boat under the tonnage allowed by law to be registered shall be employed either in the removal of goods passengers or for any purpose whatever unless duly licensed according to the form hereinafter stated.

Boats under the size for registry to be licensed.

51. And be it further enacted That the license for every vessel or boat requiring license under this Act shall be granted by the Collector and Controller 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 boat is to be used together with any other particulars which the said Collector and Controller may require and direct And that the owner or owners thereof shall give his or their own security by bond with two sufficient persons (being housekeepers) in treble 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 uncustomable 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 prisoners nor in the 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 any thing contrary to this Act or any Act hereafter to be made relating to the Revenue of Customs or the protection of the trade commerce or custody of the prisoners of the

Particulars of boat licenses.

Owners to enter into bond to perform; certain conditions.

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Crown in this territory nor shall be employed otherwise than mentioned in the license and within the limits therein mentioned And in case of loss breaking-up or disposal of such vessels or boats that the license shall be delivered up within six months from the date of such loss breaking-up or disposal of such vessel to the Collector and Controller of the Customs.

Vessels fitting out for the fisheries &c. allowed spirits and tobacco free of duty.

52. And be it further enacted That the master or owner of any vessel fitting out for the fisheries or for a long voyage in the Colonial trade shall be permitted to ship such quantity of spirits and tobacco from bond free of duty for the use of the crew in a proportion not exceeding one gallon of spirits and half a pound of tobacco for each man on board for every month the vessel may reasonably be expected to be absent the master and owner to enter into a bond with two sufficient sureties in three times the amount of duties that no part thereof shall be re-landed in the Colony without due entry at the Custom House the shipment thereof to take place under the inspection of an officer of the Customs.

Custom-house agents to be licensed and to give bond.

53. And be it further 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 authorized so to do by license of the Collector and Controller who are 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 uncorrupt 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.

Penalty for persons acting as agents not being so licensed.

Proviso as to clerks and servants.

Penalty for counterfeiting documents.

54. And be it further enacted That if any person shall counterfeit or falsify or wilfully use when counterfeited or falsified any entry warrant or other document for the unlading lading entering reporting or clearing of any ship or vessel or for the landing or shipping of any goods stores baggage or articles whatever or shall by any false statement procure any writing or document to be made for any of such purposes every person so offending shall for every such offence forfeit the sum of Two Hundred Pounds Provided always That this penalty shall not attach to any particular offence for which any other penalty shall be expressly imposed by this Act or any other law in force for the time-being.

6 Geo. 4 c. 114 declared in part applicable to New South Wales and its Dependencies.

55. And whereas it is expedient to remove all doubts which may be raised concerning the application of certain clauses of the said recited Act of Parliament passed in the sixth year of His present Majesty in the said Colony and its Dependencies Be it therefore further enacted and *declared* That so much of the said Act of Parliament as relates to the forfeiture of vessels and other things made use of in the removal of goods liable to forfeiture under that Act to the powers of seizing the same and to the manner of proceeding for the recovery of all forfeitures and penalties and all matters and things relating thereto that is to say all matters and things contained in the said Act of Parliament from section fifty-one to section sixty-one inclusive and from section sixty-three to section sixty-seven inclusive shall extend and be in force and shall be deemed and taken to have extended and been in force

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force in the said Colony and its Dependencies in like manner as if the same and every part thereof had been copied and enacted in any Law or Ordinance of the Governor and Council of the said Colony.

56. And be it further enacted That all penalties and forfeitures imposed or incurred by or under this Law or Ordinance shall be subject and liable to such and the like rules forms course and manner of proceeding in respect of the seizing suing for and recovering of the same as in and by the said recited Act of Parliament and the clauses hereinbefore referred to are provided and directed in respect of penalties and forfeitures incurred under and by virtue of such Act of Parliament.

Penalties recoverable by similar process as directed by 6 Geo. 4 c. 114.

57. And be it further enacted That no person shall be admitted to enter a claim to any thing seized in pursuance of this or of any other law relating to the Customs of the said Colony until sufficient security shall have been given in the Court where such seizure is prosecuted in a penalty not exceeding sixty pounds to answer and pay the costs occasioned by such claim and in default of giving such security such things shall be adjudged to be forfeited and shall be condemned.

No person to enter claim for seizure without giving security.

58. Provided always and be it further enacted That as often as any thing seized in pursuance of this or of any other law relating to the Customs in the said Colony shall be in value of a less amount than twenty pounds and shall be so sworn by affidavit duly made in such behalf it shall be lawful for the officer seizing the same to prosecute for the forfeiture and recovery thereof in a summary manner before any two or more Justices of the Peace for the said Colony and the award or decision of such Justices of the Peace shall be final and such Justices of the Peace shall have all and every the like powers and authorities touching and concerning such last mentioned forfeitures and penalties as are by the said recited Act of Parliament vested in any Court of Record or of Vice-Admiralty having jurisdiction in the said Colony.

Seizures under £20 may be prosecuted before two Justices of the Peace.

59. And be it further enacted That all actions or suits for the recovery of any of the penalties or forfeitures imposed by this or any other law relating to the Customs in the said Colony may be commenced and prosecuted at any time within three years after the offence committed by reason whereof such penalty or forfeiture shall be incurred.

Limitation of suits.

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

Limitation of appeals.

61. And be it further enacted That all forfeitures and penalties recovered under this or any other law in force in the said Colony and relating to the Revenue of Customs shall be divided paid and applied as follows that is to say after deducting the charges of prosecution and sale from the produce thereof one moiety shall be paid to the Colonial Treasurer to be appropriated towards the Government of the said Colony in such manner as the Governor acting with the advice and consent of the Legislative Council shall by law appoint and the other moiety to the person who shall seize inform and sue for the same.

Application of penalties.

*Customs.**Clauses of the Statute 6 Geo. IV. cap. 114 referred to in section 55 of the foregoing Act viz. :—*

Forfeiture of vessels
carriages &c. re-
moving goods liable
to forfeiture.

51. And be it further enacted That all vessels boats and carriages and all cattle made use of in the removal of any goods liable to forfeiture under this Act shall be forfeited and every person who shall assist or be otherwise concerned in the unshipping landing or removal or in the harbouring of such goods or into whose hands or possession the same shall knowingly come shall forfeit the treble value thereof or the penalty of One Hundred Pounds at the election of the officers of the Customs And the averment in any information or libel to be exhibited for the recovery of such penalty that the officer proceeding has elected to sue for the sum mentioned in the information shall be deemed sufficient proof of such election without any other or further evidence of such fact.

Goods vessels &c.
liable to forfeiture
may be seized by
officers.

52. And be it further enacted That all goods and all ships vessels and boats and all carriages and all cattle liable to forfeiture under this Act shall and may be seized and secured by any officer of the Customs or Navy or by any person employed for that purpose by or with the concurrence of the Commissioners of His Majesty's Customs and every person who shall in any way hinder oppose molest or obstruct any officer of the Customs or Navy or any person so employed as aforesaid in the exercise of his office or any person acting in his aid or assistance shall for every such offence forfeit the sum of Two Hundred Pounds.

Writ of assistance
to search for and
seize goods liable to
forfeiture.

53. And be it further enacted That under authority of a writ of assistance granted by the Superior or Supreme Court of Justice or Court of Vice-Admiralty having jurisdiction in the place (who are hereby authorized and required to grant such writ of assistance upon application made to them for that purpose by the principal officers of His Majesty's Customs) it shall be lawful for any officer of the Customs taking with him a Peace Officer to enter any building or other place in the day-time and to search for and seize and secure any goods liable to forfeiture under this Act and in case of necessity to break open any doors and any chests or other packages for that purpose and such writ of assistance when issued shall be deemed to be in force during the whole of the reign in which the same shall have been granted and for twelve months from the conclusion of such reign.

Obstruction of
officers by force.

54. And be it further enacted That if any person shall by force or violence assault resist oppose molest hinder or obstruct any officer of the Customs or Navy or other person employed as aforesaid in the exercise of his office or any person acting in his aid or assistance such person being thereof convicted shall be adjudged a felon and shall be proceeded against as such and punished at the discretion of the Court before whom such person shall be tried.

Goods seized to be
secured at the next
Custom-house.

55. And be it further enacted That all things which shall be seized as being liable to forfeiture under this Act shall be taken forthwith and delivered into the custody of the Collector and Controller of the Customs at the Custom-house next to the place where the same were seized who shall secure the same by such means and in such manner as shall be provided and directed by the Commissioners of His Majesty's Customs.

Goods seized to be
sold by auction.

56. And be it further enacted That all things which shall have been condemned as forfeited under this Act shall under the direction of the Collector and Controller or other principal officer of the Customs at the port where such seizures shall have been secured be sold by public auction to the best bidder Provided always that it shall be lawful for the Commissioners of the Customs to direct in what manner the produce of such sale shall be applied or in lieu of such sale

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sale to direct that any of such things shall be destroyed or shall be reserved for the public service.

57. And be it further enacted That all penalties and forfeitures which may have been heretofore or may be hereafter incurred shall and may be prosecuted sued for and recovered in any Court of Record or of Vice-Admiralty having jurisdiction in the Colony or Plantation where the cause of prosecution arises and in cases where there shall happen to be no such Courts then in any Court of Record or of Vice-Admiralty having jurisdiction in some British Colony or Plantation near to that where the cause of prosecution arises Provided that in cases where a seizure is made in any other Colony than that where the forfeiture accrues such seizure may be prosecuted in any Court of Record or of Vice-Admiralty having jurisdiction either in the Colony or Plantation where the forfeiture accrues or in the Colony or Plantation where the seizure is made at the election of the seisor or prosecutor And in cases where there shall happen to be no such Courts in either of the last-mentioned Colonies or Plantations then in the Court of Record or of Vice-Admiralty having jurisdiction in some British Colony or Plantation near to that where the forfeiture accrues or to that where the seizure is made at the election of the seisor or prosecutor.

Jurisdiction for prosecution of seizures and penalties.

58. And be it further enacted That if any goods or any ship or vessel shall be seized as forfeited under this Act or any Act hereafter to be made and detained in any of the British Possessions in America it shall be lawful for the Judge or Judges of any Court having jurisdiction to try and determine such seizure with the consent of the Collector and Contrroller of the Customs to order the delivery thereof on security by bond with two sufficient sureties to be first approved by such Collector and Contrroller to answer double the value of the same in case of condemnation and such bond shall be taken to the use of His Majesty in the name of the Collector of the Customs in whose custody the goods or the ship or vessel may be lodged and such bond shall be delivered and kept in the joint custody of such Collector and his Contrroller and in case the goods or the ship or vessel shall be condemned the value thereof shall be paid into the hands of such Collector who shall thereupon with the consent or privity of his Contrroller cancel such bond.

Bail may be given for goods or ships seized.

59. And be it further enacted That no suit shall be commenced for the recovery of any penalty or forfeiture under this Act except in the name of some superior officer of the Customs or Navy or other person employed as hereinbefore mentioned or of His Majesty's Advocate or Attorney General for the place where such suit shall be commenced and if a question shall arise whether any person is an officer of the Customs or Navy or such other person as aforesaid *viva voce* evidence may be given of such fact and shall be deemed legal and sufficient evidence.

Suits to be commenced in name of officers of Customs &c.

60. And be it further enacted That if any goods shall be seized for non-payment of duties or any other cause of forfeiture and any dispute shall arise whether the duties have been paid for the same or the same have been lawfully imported or lawfully laden or exported the proof thereof shall lie on the owner or claimer of such goods and not on the officer who shall seize and stop the same.

Onus probandi to lie on party.

61. And be it further enacted That no claim to any thing seized under this Act and returned into any of His Majesty's Courts for adjudication shall be admitted unless such claim be entered in the name of the owner with his residence and occupation nor unless oath to the property in such thing be made by the owner or by his attorney or agent by whom such claim shall be entered to the best of his knowledge and belief and every person making a false oath thereto shall

Claim to thing seized to be entered in the name of the owner.

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shall be deemed guilty of a misdemeanor and shall be liable to the pains and penalties to which persons are liable for a misdemeanor.

A month's notice of action to be given to officers.

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

Actions to be brought within three months of the cause of them.

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

Judge may certify probable cause of seizure.

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

Officer may tender amends.

66. And be it further enacted That it shall be lawful for such officer within one calendar month after such notice to tender amends to the party complaining or his agent and to plead such tender in bar to any action together with other pleas and if the jury shall find the amends sufficient they shall give a verdict for the defendant and in such case or in case the plaintiff shall become nonsuited or shall discontinue his action or judgment shall be given for the 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 Provided always that it shall be lawful for such defendant by leave of the Court where such action shall be brought at any time before issue joined to pay money into Court as in other actions.

Judge may certify probable cause of action.

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