

No. V.

An Act to amend an Act intituled "An Act for "the general regulation of the Customs of New "South Wales and its Dependencies." [10th February, 1832.]

CUSTOMS.

WHEREAS an Act of the Governor and Council was passed in Preamble. the eleventh year of the reign of His late Majesty King George the Fourth intituled "An Act for the general regulation of the Customs of New South Wales and its Dependencies" and it is expedient to alter and amend the same in the manner hereinafter provided. And whereas by the said recited Act it is 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 whatsoever unless duly licensed according to the form therein stated and it is expedient to enforce the same. Be it therefore enacted by the Governor of New South Wales with the advice of the Legislative Council That from and after the passing and publication of this Act every such 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 His Majesty's Customs and condemned and sold in like manner as any vessel or boat liable to forfeiture under any other law relating to the Revenue of Customs in force in the said Colony.

2. And be it further enacted That every person who shall unship or be aiding assisting or concerned in the unshipping of any spirits tobacco or other goods liable to forfeiture under any law relating to the Revenue of Customs in force in the said Colony or who shall carry conveying or conceal or be aiding assisting or concerned in the carrying conveying or concealing of any such spirits tobacco or other goods shall

vessels or boats employed without being licensed forfeited.

Persons unshipping spirits tobacco &c. liable to forfeiture may be detained.

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shall be liable to be detained and taken before two or more Justices of the Peace for the said Colony to be dealt with as hereinafter directed and that it shall be lawful for any officer of Customs or other person acting in his aid or assistance and he and they is and are hereby authorized empowered and required to stop arrest and detain every such person and to carry and convey such person before such Justices accordingly.

Persons liable to be arrested and making escape may afterwards be detained by any officer of the Customs.

3. And be it further enacted That if any person or persons liable to be arrested and detained under the provisions of this or any other law relating to the Revenue of Customs in force in the said Colony shall not be detained at the time of so committing the offence for which he she or they is or are so liable or after detention shall make his her or their escape it shall and may be lawful for any officer of Customs or any person acting in his aid or assistance to stop arrest and detain such person so liable to detention as aforesaid at any time afterwards and to carry him or her before two or more Justices of the Peace to be dealt with according to the provisions of this Act.

Persons convicted of certain offences to pay £100 and in default of payment Justices may issue warrant of distress or commit to gaol.

4. And be it further enacted That it shall and may be lawful for any two or more Justices of the Peace as aforesaid before whom any person liable to be arrested and detained for unshipping carrying conveying or concealing or aiding assisting or being concerned in unshipping carrying conveying or concealing any spirits tobacco or other goods liable to forfeiture under this or any law relating to the Revenue of Customs in force in the said Colony shall be carried on the confession of such person of such offence or upon proof thereof upon oath of one or more credible witness or witnesses to convict such person of such offence and every such person so convicted as aforesaid shall immediately upon such conviction pay into the hands of such Justices for the use of His Majesty the penalty of one hundred pounds without any mitigation whatever for any such offence of which he shall be convicted as aforesaid or in case of the non-payment thereof the said Justices are hereby authorized and required to cause the same by warrant of distress and sale under their hands and seals to be levied upon the goods and chattels of any such person so convicted as aforesaid or in case it shall appear to such Justices either upon the confession of such person or otherwise that such person has not sufficient goods and chattels whereon to levy the said penalty it shall be lawful for the said Justices and they are hereby authorized and required by warrant under their hands and seals to commit such person so convicted as aforesaid and making such default as aforesaid to any gaol or prison there to remain for the full period of six calendar months unless such penalty shall be sooner paid Provided always that if the person convicted of any such offence or offences shall be a convicted felon whether serving under a sentence partially remitted or not such person shall be liable if a male to be worked in irons on the roads for any term not exceeding two years or if a female to be committed to the third or penitentiary class of the Female Factory or to such other place as shall be duly appointed for the custody of females and there kept to labor for any term not exceeding two years

If convicted felons to be worked in irons or committed to the Factory.

Governor may mitigate penalty or punishment.

Allowance to poor persons confined for offences against the Custom laws.

Provided also that the said Governor shall have full power and authority to remit or mitigate any such penalty or punishment as aforesaid whether the parties be serving under any sentence or otherwise.

5. And be it further enacted That for the necessary subsistence of any poor person confined in the said Colony under and by virtue of any process for the recovery of any duties or penalties either in bond or otherwise under this or any other law relating to the Revenue of Customs in force in the said Colony it shall and may be lawful for the said Governor at his discretion to cause an allowance not exceeding six-pence

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six-pence and not less than four-pence per day to be made to any such poor person out of any money arising from the Duties of Customs as the case may require.

6. And be it further enacted That all indictments suits or informations exhibited for any offence against this Law or Ordinance shall and may be exhibited before any two or more Justices of the Peace for the said Colony within twelve months next after the date of the offence committed.

7. And be it further enacted That all informations before Justices of the Peace for any offences committed against this or any other law relating to the Revenue of Customs in force in the said Colony and all convictions for such offences and warrants of Justices of the Peace founded upon such convictions shall be drawn respectively in the form or to the effect in the Schedule to this Act annexed.

8. And whereas it is expedient that time should be allowed to prepare informations convictions and warrants of commitment Be it declared and enacted That when any person or persons shall have been arrested and detained by any officer of Customs or any person or persons acting in his aid or assistance for any offence under this or any other law relating to the Revenue of Customs in force in the said Colony and shall have been taken and carried before any two Justices of the Peace to be dealt with according to law if it shall appear to such Justices that there is reasonable cause to detain such person or persons such Justices may and they are hereby authorized to order such person or persons to be detained a reasonable time not exceeding twenty-four hours as well before as after any information has been exhibited against any such party and at the expiration of such time such Justices may proceed finally to hear and determine the matter.

SCHEDULE TO WHICH THIS ACT REFERS.

No. 1.

Form of Information before Justices of the Peace where a pecuniary Penalty is inflicted.

COUNTY OF } BE it remembered that on the day of
TO WIT. } in the year of our Lord
A. B. Officer of Customs who is directed by the Collector and Controller of His Majesty's Customs to prefer this information gives us Esquires
two of His Majesty's Justices of the Peace 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 one hundred pounds.

No. 2.

Form of Conviction to be used for an Offence against this Act where a pecuniary Penalty is inflicted.

COUNTY OF } BE it remembered that on the day of
TO WIT. } in the year of our Lord an information was
exhibited by A. B. Officer of Customs before us Esquires two of
His Majesty's Justices of the Peace 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 which offence has been duly proved before us the said Justices We do therefore adjudge that the said C. D. hath forfeited for his said offence the sum of one hundred pounds.

GIVEN under our hands and seals the

No. 3.

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No. 3.

Form of Warrant of Commitment to Gaol for a Penalty.

COUNTY OF } To A. B. Officer of Customs and to E. F. the Gaoler or
 TO WIT. } Keeper of the in the

WHEREAS C. D. has been duly convicted before us Esquires
 two of His Majesty's Justices of the Peace of having

(state the offence as in the information)

And whereas we the said Justices did adjudge that the said C. D. had forfeited for his said offence the sum of one hundred pounds and whereas it appears to us the said Justices that the said C. D. has not sufficient goods or chattels whereon to levy the said sum of one hundred pounds and which sum of one hundred pounds 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 authorize and require you the said E. F. the gaoler or keeper of the said to receive and take the said C. D. into your custody and him safely to keep for the period of six calendar months unless he shall sooner pay the said sum of one hundred pounds or otherwise be delivered by due course of law.

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

No. 4.

Warrant of Distress.

COUNTY OF } To A. B.
 TO WIT. }

WHEREAS C. D. has been duly convicted before us Esquires
 two of His Majesty's Justices of the Peace of the offence of having

(here state the offence in the information)

And whereas the said C. D. has forfeited for his said offence the sum of one hundred pounds which said sum of one hundred pounds has not been paid These are therefore to command you the said A. B. to levy the said sum of one hundred pounds by distress and sale of the goods and chattels of the said C. D. and we the said Justices do hereby order and direct the goods and chattels so to be distrained to be sold and disposed of within days after such distress unless the said sum of one hundred pounds for which such distress shall be made 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
 in the this
 in the year of our Lord.