

No. XV.

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

CUSTOMS.

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from and after the passing of this Act the said recited Act of the Governor and Council shall be and the same is hereby repealed except as to any matter or thing done or commenced before the passing of this Act and that this Act shall come into and be and continue in force and operation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.)

Management.

2. 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.

Persons employed
by Customs deemed
officers for such ser-
vice.

3. 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.

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

4. 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.

*Customs.**Management.*

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

Holidays.

Collector &c.
authorized to
administer oaths
and affirmations.

Collector &c. may
examine on oath.

Inwards.

General provision
inwards.

5. 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 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.

6. 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.

7. 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 authorized and empowered to administer the same.

8. 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 authorized 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.

(Regulation—Inwards.)

9. 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

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hereto the master of such ship shall forfeit a sum not exceeding one hundred pounds nor less than ten pounds.

Inwards.

10. And be it enacted That after the expiration of twelve months Manifest. 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 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.

11. And be it enacted That if any goods shall be imported into If wanting master to pay £100. 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.

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

13. 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 Ship and cargo to be reported on arrival. 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.

*Customs.**Inwards.*

Master to deliver manifest.

14. 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 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.

15. 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.

16. 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 unladed 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.

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17. 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 overplus if any shall be paid to the proprietor of the goods or other person duly authorized to receive the same.

Inwards.

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

18. 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 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 in it.

19. 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 authorized 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.

Unauthorized persons not permitted to make entries.

20. 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.

21. 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.

22. 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—

Ad valorem duties.

“ 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)”

• Which

*Customs.**Inwards.*

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 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.

23. 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 authorized to receive the same.

Entry inwards by
bill of sight.

24. 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 authorized to receive the same.

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25. 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.

Inwards.
Goods landed by bill of sight fraudulently concealed forfeited.

26. 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.

Goods damaged on voyage.

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

Officers to examine damage.

28. 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.

Times and places for landing.

29. 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.

30. 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.

31. 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

Returned goods entered by bill of store.

*Customs.**Inwards.*

Surplus stores subject to same duties as goods.

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

Outwards.

General provision outwards.

Entry outwards of ship or cargo.

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.

32. 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.

33. 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.

(Regulation—Outwards.)

34. 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 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.

35. 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

Customs.

taining 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.

36. 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.

37. 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 tide-waiter 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.

38. 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.

39. 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 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.

40. 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.

41. 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

outwards.

Goods not stated in
certificate to be pro-
duce of this Colony
to be deemed of
Foreign production.

Time allowed for
officers boarded on
ships outwards.

Victualling bill for
stores.

Entry of goods bill
of entry to be deli-
vered.

Officers may board
any ship after
clearance.

Drawback on goods
exported which had
paid duty on impor-
tation.

*Customs.**Outwards.*

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.

Entry in name of real owner.

42. 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.

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

43. 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.

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

44. 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 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.

45. 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.)

46. 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

Customs.

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.

Coastwise.

47. 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.

48. 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.

49. And be it enacted That in such notice shall be stated the *Particulars in notice.* 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.

50. 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 therin 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 coast-waiter 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.

*What goods shall be carried coastwise.**Goods carried coast-wise under what regulations.*

*Customs.**Coastwise.*

Unshipping goods
liable to duty where
no Custom officer
stationed.

51. 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.

General Rules.

Bonds to be taken
by the Collector.

Certificate of pro-
duction required on
exporting the pro-
duce of the Colony.

Samples may be
taken.

Falsifying docu-
ments &c. penalty
£200.

Defining limits of
ports.

(Regulation—General Rules.)

52. 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 authorized 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.

53. 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.

54. 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.

55. 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.

56. 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

Customs.

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*.

General Rules.

57. 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.

58. 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 authorized 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.

59. 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 authorized 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.

60. 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.

61. 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

*Rent on goods
secured for duty.*

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

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

*Agents' licenses may
be revoked.*

General construction.

*Customs.**General Rules.*

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.

Warehouse.

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

(Regulation—Warehouse.)

62. 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*.

Goods may be warehoused without payment of duty.

63. 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.

Stowage of goods in warehouse.

64. 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 and visited only at such times and in the presence of such officers and under such rules and regulations

Customs.

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.

Warehouse.

65. 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.

66. 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.

67. 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.

68. 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.

69. 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 to draw off any spirits into casks containing not less than five gallons for the purpose only of being disposed

*Occupier of warehouse to produce goods or pay the duties.**Bond upon entry of goods to be warehoused.**Goods not duly warehoused &c. to be forfeited.**Account of goods to be taken on landing.**Goods may be re-sorted and re-packed.*

Customs.

*Warehouse.**All goods to be cleared within three years or sold.**Goods lost or destroyed Governor may remit duties.**Bond on entry for exportation.**Spirits and tobacco may be re-gauged or re-weighed.**Goods warehoused may be delivered for removal without payment of duty.**Spirits to pay duty according to actual strength.*

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.

70. 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 authorized 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 further 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.

71. 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 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 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.

72. 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.

73. 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.

74. 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.

75. 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 to the actual strength

Customs.

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

Warehouse.

76. And be it enacted That in case it shall at any time happen than 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.

Embezzlement &c.
of goods warehoused
through wilful mis-
conduct of officers.

77. 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.

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

78. 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 not under
fifty tons proceeding
on a voyage exceed-
ing forty days
permitted to ship
limited quantities of
spirits and tobacco
free of duty.

79. 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.

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

80. 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 to be entered
to be warehoused for
exportation only.

Warehouse.

Goods prohibited only by navigation law may be imported for exportation.

Smuggling.

Removing goods liable to duty without legal warrant.

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.

Vessels &c. found light forfeited.

Proviso.

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.

Goods concealed in packages with intent to defraud the Revenue.

Customs.

81. Provided always and be it enacted That goods of 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.

(Smuggling.)

82. 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.

83. 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.

84. 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 authorized 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.

85. 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.

86. 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

Customs.

with intent to defraud the Revenue of Customs all 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.

Smuggling.

87. 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.

88. 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.

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

89. 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.

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

90. 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.

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

91. 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.

Boats not registered to be licensed.

92. 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 housekeepers) 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

Particulars of license.

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of transported offenders 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 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.

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

93. 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.

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

94. 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 delivered into the care of the proper officer appointed to receive the same.

Officers authorized 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.

95. 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.

Duration of writs of assistance.

96. 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.

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

97. 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

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account thereof and all persons driving or conducting such cart waggon 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.

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98. 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.

Persons unshipping
harbouring or having
custody of any pro-
hibited or uncustom-
ed goods to forfeit
treble the value or
£100.

99. And be it enacted and declared That in all cases where *How value to be ascertained.* 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.

100. 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.

Goods stopped or
taken by police
officer.

101. 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.

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

102. 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

Where persons are
taken before a
Justice for any
offence under any
Act relating to the
Customs such Jus-
any

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tice may order them
to be detained a
reasonable time.

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 im-
prisoned.

Vessels and goods
seized may be dis-
posed of as the Col-
lector &c. shall direct.

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

Penalties and for-
feitures how to be sued
for.

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 that there is reasonable cause to detain such person or persons such Justice may and he is hereby authorized 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.

103. 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.

104. 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.

105. 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 and 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 labor for any term not exceeding three years at the discretion of the Court before whom the offender shall be tried and convicted as aforesaid.

106. 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.

107. 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.

108. 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

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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.

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109. 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 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.

Application of penalties.

110. 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 authorized 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 nearest 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.

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.

111. 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.

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

112. 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

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

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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 authorized 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.

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.

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

114. 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 in the form or to the effect in the Schedules A B C and D to this Act annexed.

115. 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.

116. 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.

117. 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

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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.

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118. 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 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.

119. 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.

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.

120. 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 process to be sued out against any officer making seizure until one calendar month next after notice given.

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

Officer may tender amends.

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.

121. 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.

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

123. 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.

124. 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 plaintiff's 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 plaintiff's 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.

125. 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

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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 of 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 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 authorized 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.

126. 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

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

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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.

127. 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.

128. 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.

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

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.

130. 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.

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

131. 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.

Customs.

132. 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.

Smuggling.

Persons detained and afterwards escaping.

133. And be it 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 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.

Officers making collusive seizures to forfeit £500.

134. 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.

Persons offering a bribe to forfeit £200.

*(Registry.)**Registry.*

135. And whereas doubts have arisen as to how far penalties and forfeitures inflicted and incurred by the third and fourth William the Fourth chapter fifty-five 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.

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

136. And be it enacted That no appeal shall be prosecuted Appeals. 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 may be incurred through such an appeal in the event of the decree being confirmed.

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.

Customs.

B.

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

New South Wales }
to wit: }

Given under our hands and seals this
in the year of our Lord

day of

6

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 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 days after such distrain unless the said sum of
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 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
to wit. { of the in the

WHEREAS C. D. has been duly convicted before us
Esquires 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 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 authorize 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 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

Sydney Police Rate.

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 puncheon per week | ... | .. | .. | .. | 4 |
| Half pipe or hogshead | ... | ... | ... | ... | 2 |
| Barrel quarter cask case or box | ... | ... | ... | ... | 1 |
| Seron or case of tobacco | ... | ... | ... | ... | 1 |
| Keg of tobacco | ... | ... | ... | ... | 0 ¹ ₂ |
| Basket ditto | ... | ... | ... | ... | 0 ¹ ₄ |