

No. XXXIV.

WEIGHTS AND
MEASURES.

An Act to amend the Laws relating to Weights and Measures. [21st December, 1852.]

Preamble.

3 Wm. IV. No. 4.

WHEREAS an Act of Council was passed in the third year of the reign of His late Majesty King William the Fourth intituled “*An Act for establishing Standard Weights and Measures and for preventing the use of such as are false and deficient*” which said Act does not apply to Troy Weights and is in other respects insufficient And whereas it is therefore expedient to repeal the same and make other provisions instead thereof Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof as follows:—

3 Wm. IV. No. 4
repealed but so as
not to interfere with
things already done
or to prevent the
recovery of penalties
under that Act.

1. The said recited Act shall be and is hereby repealed Provided always that nothing herein contained shall extend or be construed to extend to interfere with any acts done or appointments made under the authority of the said Act or to prevent the suing for or recovery of any penalty incurred for any offence committed against the provisions of the said Act previous to the repeal thereof hereby or to hinder or defeat any prosecution commenced or to be brought for such

Weights and Measures.

such offence but all penalties and forfeitures so incurred may be sued for and recovered in the same manner as any penalties and forfeitures incurred under the provisions of this Act are recoverable.

2. The several Weights and Measures now deposited in the Colonial Treasury at Sydney (a Schedule whereof is hereunto annexed) and such other Weights and Measures of the Standard of the United Kingdom of Great Britain and Ireland as may from time to time be deposited therein by the authority of the Governor either in addition to such Weights and Measures so now deposited therein or in substitution for the same shall be there safely kept and shall be the Standard Weights and Measures of New South Wales for the time being.

3. It shall be lawful for the Governor to cause copies and models of the several Weights and Measures so deposited in the Colonial Treasury as aforesaid to be carefully made and upon every such copy or model being verified on oath before the Colonial Treasurer (which oath he is hereby authorized to administer) and approved of by the said Governor to cause a mark or stamp to be legibly impressed or engraved thereon to shew that the same has been so verified and approved and such mark or stamp shall consist of such letters and figures as are commonly used to signify Her Majesty's name or mark together with S.W. or S.M. signifying Standard Weight or Standard Measure as the case may be and the number of pounds or other denomination of such Weight or Measure and such copies or models after having been so verified approved and marked shall be deposited with the respective Clerks of the several and respective Petty Sessions appointed to be holden in the said Colony and shall be by them respectively safely and securely kept for the purpose of reference as hereinafter directed and if any such Clerk shall falsify or otherwise wilfully injure such copies or models so deposited with him as aforesaid he shall on conviction before any such Petty Sessions forfeit and pay for every such offence the sum of fifty pounds to be recovered and applied as hereinafter directed.

4. Provided always that all copies and models already deposited with the said Clerks of Petty Sessions under the Act hereby repealed shall until called in by the Governor be deemed and taken to be legal Weights and Measures for such purpose of reference as aforesaid.

5. In case any of the said Standard Weights or Measures or the copies or models thereof shall be lost destroyed defaced or otherwise injured another Weight or Measure shall be provided with the approbation of the Governor of the same size and Weight or Measure as the Weight or Measure so lost destroyed defaced or otherwise injured and the same shall thereupon be deemed to be a true and genuine Weight or Measure to all such and the like intents and purposes as the Weight or Measure which shall have been lost destroyed defaced or injured.

6. All persons who may be desirous of comparing and adjusting any Weights and Measures shall have access to all such copies and models of the Standards so deposited as aforesaid at all reasonable times on the payment of such fee as is hereinafter mentioned and it shall be the duty of the respective Clerks of the several and respective Petty Sessions as aforesaid to compare every such Weight and Measure as shall be brought before them respectively with such copies or models as aforesaid and for every such examination of any such Weight or Measure the Clerk who shall make the same shall be entitled to demand and receive of the person who shall cause the same to be made the sum of three-pence for every Weight and Measure so compared and no more and if any such Clerk shall fail neglect or refuse to compare any such Weights and Measures at all such reasonable times as he shall

Certain Weights in the Colonial Treasury declared to be Standard.

Copies of Standards to be made by order of the Governor.

And having been verified and marked

to be deposited with the Clerks of the several Petty Sessions.

Penalty if Clerk shall falsify or wilfully injure such copies.

Copies already deposited under repealed Act to be deemed sufficient.

In case of Standards or copies being lost others to be supplied.

Clerks to compare such Weights and Measures as shall be brought before them for that purpose.

Penalty if they should neglect or refuse.

Weights and Measures.

shall be thereunto required he shall on conviction before any such Petty Sessions forfeit and pay the sum of ten pounds.

Inspectors to be appointed.

7. As soon as conveniently may be after the passing of this Act and from time to time as occasion may require the Justices in their respective Petty Sessions shall appoint one or more persons in their respective Districts to be Inspectors of Weights and Measures for the discharge of the duties hereinafter mentioned and the Governor shall cause to be delivered to such Inspectors good and sufficient stamps for the stamping or sealing Weights and Measures used or to be used in the District for which such Inspectors respectively shall be appointed.

Inspectors to be provided with stamps.

8. All Weights and Measures whatsoever except as hereinafter excepted which shall be used for buying and selling or for the collecting of any tolls or duties or for the making of any charges in the conveyance of any goods or merchandise after the first day of January one thousand eight hundred and fifty-four shall be examined and compared with one or more of the copies or models of the Standard Weights and Measures provided under the authority of this Act or of the said repealed Act by such Inspectors who shall stamp in such a manner as best to prevent fraud such Weights and Measures when so examined and compared if found to correspond with the said copies Provided always that nothing herein contained shall extend to require any single Weight of above fifty-six pounds to be inspected and stamped and that nothing herein contained shall extend to require any wooden or wicker Measure used in the sale of lime or other articles of the like nature or any glass or earthenware jug or drinking cup though represented as containing the amount of any Imperial Measure or of any multiple thereof to be stamped but any person buying by any vessel represented as containing the amount of any Imperial Measure or of any multiple thereof is hereby authorized to require the contents of such vessel to be ascertained by a comparison with a stamped Measure such stamped Measure to be found and provided by the person who shall use such wooden or wicker Measure glass jug or drinking cup as aforesaid and in case the person who shall use such last-mentioned Measure or vessel shall refuse to make such comparison or if upon such comparison being made such wooden or wicker Measure glass jug or drinking cup shall be found to be deficient in quantity the person who shall use the same shall on conviction be subject to the forfeitures and penalties hereinbefore imposed on any person using light or unjust Weights or Measures.

Penalty for using Weights and Measures not authorized by Act &c.

9. From and after the said first day of January one thousand eight hundred and fifty-four every person who shall use any Weight or Measure other than such as shall have been compared and stamped under the provisions hereof and from and after the passing of this Act every person who shall use any Weight or Measure other than those authorized by this Act or an aliquot part or multiple thereof or which shall be found light or otherwise unjust shall on conviction forfeit a sum not exceeding five pounds except in the case of Troy weight in which case he shall forfeit and pay any sum not exceeding fifty pounds and any contract bargain or sale made by any such Weights or Measures shall be wholly null and void and every such light or unjust Weight or Measure shall on being discovered by any Inspector appointed as aforesaid be seized and shall be forfeited.

All articles to be sold by Avoirdupois except as herein stated.

10. All articles sold by weight shall be sold by Avoirdupois weight except gold silver platina diamonds or other precious stones which shall be sold by Troy weight and drugs which when sold by retail may be sold by Apothecaries' weight.

The stone hundred-weight and ton to be of one standard.

11. The weight denominated a stone shall in all cases consist of fourteen pounds standard weight Avoirdupois and the weight denominated

Weights and Measures.

nated one hundredweight shall consist of eight such stones and the weight denominated a ton shall consist of twenty such hundredweight. Provided always that nothing herein contained shall prevent any bargain sale or contract from being made by any multiple or by some aliquot part of the pound weight.

12. All Weights which shall be made after the passing of this Act of the weight of one pound Avoirdupois or more shall have the number of pounds contained in every such Weight stamped or cast on the top or side thereof in legible figures and letters and all Measures of capacity which shall be made after the passing of this Act shall have their contents denominated stamped or marked on the outside of such Measures in legible figures and letters.

13. From and after the said first day of January one thousand eight hundred and fifty-four no Weight made of lead or pewter or of any mixture thereof shall be stamped or used. Provided always that nothing herein contained shall prevent the use of lead or pewter or of any mixture thereof in the manufacture of Weights if they be wholly and substantially cased with brass copper or iron and legibly stamped or marked "cased" or shall prevent the insertion of such a plug of lead or pewter into Weights as shall be *bona fide* necessary for the purpose of adjusting them and of affixing thereon the stamp hereinafter mentioned.

14. From and after the said first day of January one thousand eight hundred and fifty-four the use of the heaped Measure shall be abolished and all bargains sales and contracts which shall thereafter be made after the passing of this Act by the heaped Measure shall be null and void and every person who shall sell any articles by the heaped Measure shall on conviction be liable to a penalty not exceeding forty shillings for every such sale.

15. And whereas some articles heretofore sold by heaped Measure are from their size and shape incapable of being stricken and from their nature and quality may not conveniently be sold by weight. Be it therefore enacted That all such articles may henceforth be sold by a bushel Measure of the standard capacity of eight standard gallons made round with a plain and even bottom of the depth of nineteen inches and a half from outside to outside or by any multiple or by some aliquot part such as the half the quarter or the eighth part thereof filled in all parts as nearly to the level of the brim as the size and shape of the articles will admit. Provided always that nothing herein contained shall prevent the sale by weight of any article heretofore sold by heaped Measures.

16. Every Inspector appointed under this Act shall forthwith enter into a bond or recognizance to the Queen to be sued for in any Court of Record in the sum of two hundred pounds for the due and punctual performance of the duties of his office and for the safety of the stamps and copies of the Standard Weights and Measures committed to his charge and for their due restoration and surrender to such person or persons as may be appointed to receive them by the Justices of the Petty Sessions by which he may have been appointed immediately on his removal or other cessation of office and every such Inspector shall be entitled to fees according to the scale contained in the second Schedule to this Act for every such examination comparison and stamping as is hereby required to be made by him and in case any Inspector of Weights and Measures or any other person legally authorized to examine and stamp any Weights or Measures shall stamp any Weight or Measure without duly verifying the same by comparison with a copy of the Standard or shall be guilty of a breach of any duty imposed upon him by this Act or shall otherwise misconduct himself in the execution of his office every such offender shall upon conviction forfeit a sum not exceeding five pounds for every such offence.

Contents of Weights
and Measures to be
stamped on them.

Weights made of
lead or pewter not to
be stamped.

Heaped Measure
abolished.

Articles heretofore
sold by heaped
Measure how to be
sold.

Recognizance of
Inspectors.

Penalty for counter-
feiting Stamps on
Weights and Mea-
sures.

Weights and Measures.

Power to Justices and Inspectors to enter shops &c. and examine balances &c.

Penalties for having unjust Weights Measures or Balances.

Penalty on persons obstructing examiner in refusing to produce Weights or Measures for examination.

Penalty for counterfeiting stamps on Weights and Measures

Adjudication of offences.

Application of forfeitures.

If penalties not paid offenders to be committed.

17. It shall be lawful for every Justice of the Peace or for any Inspector authorized in writing under the hand of any Justice of the Peace at all seasonable times to enter any shop store house warehouse stall yard or place whatsoever wherein goods shall be kept or exposed for sale or shall be weighed for purchase conveyance or carriage and there to examine all weights measures steelyards or other weighing machines and to compare and try the same with the copies of the Standard Weights and Measures required and authorized to be provided under this Act and if upon such examination it shall appear that the said Weights and Measures are light or otherwise unjust or if it shall appear that such steelyard or other weighing machine is incorrect or otherwise unjust the same shall be liable to seizure and the person in whose possession the same shall be found shall upon conviction thereof before any two Justices of the Peace forfeit a sum not exceeding five pounds unless such Weights shall be Troy Weights or such weighing machine shall have been used or shall be such as is commonly used with Troy Weights in which case such penalty shall be any sum not exceeding fifty pounds.

18. If any person shall wilfully obstruct hinder resist or in anywise oppose any of the persons hereby authorized and empowered to view and examine such Balances Weights and Measures in the execution of his office or if any person selling or retailing or purchasing or charging by Weight or Measure shall refuse to produce his Balances Weights or Measures in order to be viewed or examined he shall for every such offence on being duly convicted on oath before any two or more Justices of the Peace forfeit and pay a sum not exceeding five pounds nor less than forty shillings as such Justices shall adjudge.

19. If any person shall make forge or counterfeit or cause or procure to be made forged or counterfeited or knowingly act or assist in the making forging or counterfeiting any stamp or mark now used or which may hereafter be used for the stamping or marking of any Weights or Measures under this Act every person so offending shall for every such offence forfeit on conviction a sum not exceeding fifty nor less than ten pounds and if any person shall knowingly sell alter dispose of or expose to sale any Weight or Measure with such forged or counterfeit stamp or mark thereon every person so offending shall for every such offence forfeit on conviction a sum not exceeding ten pounds nor less than forty shillings and all Weights and Measures with such forged or counterfeited stamps or marks shall be forfeited and broken up and the proceeds thereof shall be disposed of in the manner hereinafter mentioned.

20. Any two or more Justices of the Peace in Petty Sessions assembled shall have power and authority to hear and determine in a summary way all offences against this Act and upon the conviction of any offender the Justices before whom such conviction shall take place shall cause the amount of the forfeiture which shall be levied or paid by virtue of any such conviction to be applied towards the payment of a just and reasonable recompense and satisfaction of such person or persons as shall be appointed to examine Weights and Measures as hereinbefore directed and towards the other expenses of carrying this Act into execution and the residue (if any) shall go to the use of Her Majesty and in case such penalties and forfeitures with the said costs and charges shall not be forthwith paid it shall be lawful for such Justices or either of them and they and he are and is hereby authorized and required by warrant under their or his hands and seals or hand and seal to commit such offender to the gaol or house of correction for any time not exceeding three calendar months unless the penalties costs and charges in which such offender shall be convicted shall be sooner paid.

Weights and Measures.

21. The Justices of the Peace before whom any offender shall be convicted as aforesaid shall cause the conviction to be made out in the manner and form following or in any other form to the same effect *mutatis mutandis* that is to say—

“ Be it remembered that on the day of one
“ thousand eight hundred and at before
“ us and Esquires Justices
“ of the Peace in and for the said Colony
“ of was duly convicted before us the said
“ Justices for that he the said on the
“ day of now last past at contrary
“ to the form of the Act in Council in that case made and
“ provided (here state the offence) and we the said Justices
“ do declare and adjudge that the said
“ hath for such offence forfeited the said Balances (Weights
“ or Measures as the case may be) and hath also forfeited
“ the sum of of lawful British money to be applied
“ as the said Act directs and the further sum of
“ of like lawful money for the reasonable costs and charges
“ attending this conviction Given under our hands and
“ seals at on the day and year first above
“ written.”

22. All actions for things done in execution of this Act or Protection to Justices otherwise by any Justice or Inspector or any Constable or Assistant to such Justice or Inspector for effectually preventing the use of Balances of Weights and Measures otherwise than in accordance with the provisions hereof shall be commenced within three calendar months after the act committed or thing done and not otherwise and notice in writing of such action and of the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action and in such action the defendant may plead the general issue and give this Act and the special matter in evidence at any trial to be held thereupon and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made by or on behalf of the defendant before such action brought or if a sufficient sum of money shall have been paid into Court by or on his behalf after such action brought and before the said cause shall have been set down for trial and if a verdict shall pass for the defendant or the plaintiff become nonsuit or discontinue such action after issue joined or if after demurrer or otherwise judgment shall be given against the plaintiff the defendant shall recover his full costs of suit as between attorney and client and have the like remedy for the same as any defendant has by law in other cases.

Weights and Measures.

SCHEDULE OF STANDARD WEIGHTS AND MEASURES DEPOSITED IN THE COLONIAL TREASURY SYDNEY.

STANDARD WEIGHTS.

AVOIRDUPOIS.	TROY WEIGHTS.
Fifty-six Pounds	Six Pounds
Twenty-eight Pounds	Three Pounds
Fourteen Pounds	Two Pounds
Seven Pounds	One Pound
Four Pounds	Six Ounces
Two Pounds	Three Ounces
One Pound	Two Ounces
One-half Pound	One Ounce
One-quarter Pound	Ten Pennyweights
Two Ounces	Five Pennyweights
One Ounce	Three Pennyweights
Eight Drachms	Two Pennyweights
Four Drachms	One Pennyweight
Two Drachms	Twelve Grains
One Drachm.	Six Grains
	Three Grains
	Two Grains
	One Grain.

STANDARD MEASURES OF LENGTH.

One Yard
One Foot
One Inch.

STANDARD MEASURES OF CAPACITY.

One Bushel
One-half Bushel
One Peck
One Gallon
One-half Gallon
One Quart
One Pint
One-half Pint
One Gill
One-half Gill.

SCHEDULE OF FEES.

To be taken by all Inspectors of Weights and Measures under the authority of this Act.

For examining comparing and stamping all Brass Weights within their respective jurisdictions.

	s. d.
Each Half Hundredweight ...	0 9
Each Quarter of a Hundredweight ...	0 6
Each Stone ...	0 4
Each Weight under a Stone to a Pound inclusive ...	0 1
Each Weight under a Pound ...	0 0½
Each Set of Weights of a Pound and under ...	0 2

Postage.

For examining comparing and stamping all Iron Weights or Weights of other descriptions not made of Brass within their respective jurisdictions.

							s. d.
Each Half Hundredweight	...	...	...	...	...	...	0 3
Each Quarter of a Hundredweight	...	...	...	...	...	...	0 2
Each Stone	...	...	...	...	...	...	0 1
Each Weight under a Stone	...	...	...	...	...	...	0 0 $\frac{1}{2}$
Each Set of Weights of a Pound and under	...	...	...	...	...	...	0 2

For examining comparing and stamping all Wooden Measures within their respective jurisdictions.

							s. d.
Each Bushel	...	...	...	...	...	...	0 3
Each Half Bushel	...	...	...	...	...	...	0 2
Each Peck and all under	...	...	...	...	...	...	0 1
Each Yard	...	...	...	...	...	...	0 0 $\frac{1}{2}$

For examining comparing and stamping all Measures of Capacity of Liquids made of Copper or other metal within their respective jurisdictions.

							s. d.
Each Five Gallon	...	...	...	...	...	...	1 0
Each Four Gallon	...	...	...	...	...	...	0 9
Each Three Gallon	...	...	...	...	...	...	0 6
Each Two Gallon	...	...	...	...	...	...	0 4
Each Gallon	...	...	...	...	...	...	0 2
Each Half Gallon	...	...	...	...	...	...	0 1
Each Quart and under	...	...	...	...	...	...	0 0 $\frac{1}{2}$