

1901.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

Read 1° 5 June, 1901.

(Brought in by the Minister of State for Trade and Customs,
The Right Hon. C. C. Kingston, P.C.)

A BILL

Relating to the Customs.

BE it enacted by the King's Most Excellent Majesty and the Senate **Preamble.**
and the House of Representatives of the Commonwealth of
Australia in Parliament assembled as follows:—

PART I.—INTRODUCTORY.

- 1.** This Act may be cited as the *Customs Act* 1901. **Short title.**

- tion. **2.** This Act shall commence on a day to be fixed by proclamation. **Commencement.**

- 3.** This Act is divided into parts as follows :—

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PART II.—Administration.

PART III.—Customs Control, Examination, Entries, and Securities generally.

PART IV.—The Importation of Goods.

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Division 2.—The Boarding of Ships.

Division 3.—The Report of the Cargo.

Division 4.—The Entry, Unshipment, and Landing of Goods.

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nterpretation

4. In this Act except where otherwise clearly intended—

“Answer questions” means that the person on whom the obligation of answering questions is cast shall to the best of his knowledge, information, and belief truly answer all questions on the subject mentioned that the Collector shall ask. 25

“By authority” means by the authority of the officer of Customs doing duty in the matter in relation to which the expression is used.

“Carriage” includes vehicles and conveyances of all kinds. 30

“Collector” includes the Comptroller and any Collector of Customs for the State and any principal officer of Customs doing duty at the time and place and any officer doing duty in the matter in relation to which the expression is used. 35

“Comptroller” means the Comptroller-General of Customs.

“Customs Acts” includes this Act and all laws and regulations relating to Customs in force within the Commonwealth or any part of the Commonwealth. 40

“Days” does not include Sundays or holidays.

“Documents” includes books.

“Drawback” includes bounty or allowance.

“Dutiable goods” includes all goods in respect of which any duty of Customs is payable.

“Gazette

"Gazette notice" means a notice signed by the Minister and published in the *Gazette*.

"Goods" includes all kinds of movable personal property.

"Goods under drawback" includes all goods in respect of which any claim for drawback has been made.

"Justice" means any Justice of the Peace having jurisdiction in the place.

"Master" means the person in charge or command of any ship except a pilot or Government officer.

"Officer" includes all persons employed in the service of the Customs.

"Owner" in respect of goods includes any person (other than an officer of Customs) being or holding himself out to be the owner, importer, exporter, consignee, agent, or person possessed of, or beneficially interested in, or having any control of, or power of disposition over the goods.

"Owner" in respect of a ship includes every person acting as agent for the owner or to receive freight or other charges payable in respect of the ship.

"Parts beyond the seas" means any country outside of Australia.

"Package" includes every means by which goods for carriage may be cased covered enclosed contained or packed.

"Port" means any proclaimed port.

"Prescribed" means prescribed by this Act.

"Produce documents" means that the person on whom the obligation to produce documents is cast shall to the best of his power produce to the Collector all documents relating to the subject matter mentioned.

"Ship" includes every description of vessel used in navigation not propelled by oars only.

"Smuggling" means any importation or introduction or attempted importation or introduction of goods without proper entry or with intent to defraud the revenue.

"The Customs" means the Department of Trade and Customs.

"This Act" includes all regulations made thereunder.

"Warehouse" means a warehouse licensed for the purposes of this Act.

"Wharf" means a wharf appointed for the purposes of this Act.

"Wharf owner" includes any owner or occupier of any wharf.

5. The penalties referred to at the foot of sections indicate that any contravention of the section whether by act or omission shall be an offence against this Act punishable upon conviction by a penalty not exceeding (except as hereinafter provided) the penalty mentioned.

Indication of penalties.

PART II.

PART II.—ADMINISTRATION.

Administration.

6. Until it is otherwise lawfully determined the Customs Acts shall be administered by the Minister of State for the Commonwealth administering the Customs.

Comptroller-General.

7. There shall be a Comptroller-General of Customs who under the Minister shall be the permanent head of the Customs and shall have the chief control of the Customs throughout the Commonwealth. 5

State Collector.

8. There shall in each State be a Collector of Customs who subject to the Comptroller shall be therein the Chief Officer of the Customs and shall be called the Collector of Customs for the State. 10

Delegation by Minister.

9. In relation to any particular matters or class of matters or to any particular State or District the Minister may by writing under his hand delegate any of his powers under any Customs Act (except this power of delegation) so that the delegated powers may be exercised by the delegate with respect to the matters or class of matters specified or the State or District defined in the instrument of delegation. 15

Delegation by Comptroller.

10. The Comptroller with the written approval of the Minister may similarly delegate any of his powers under any Customs Act. 20

Revocation of delegation.

11. Every delegation, whether by the Minister or Comptroller shall be revocable at will, and no delegation shall prevent the exercise of any power by the Minister or Comptroller.

Continuance of Officers.

12. All persons acting in the service of the Customs at the commencement of this Act shall be deemed to have been duly appointed. 25

Customs seal.

13. The seal of the Customs shall be the Royal Arms having the words "Australia—H.M. Customs" encircling the Arms and the name of the State and port added thereto. Such seal shall be judicially noticed. 30

Customs flag.

14. The vessels and boats employed in the service of the Customs shall be distinguished from other vessels and boats by such flag as shall be prescribed.

Appointment of boarding stations &c.

15. The Governor-General may by proclamation—

- (a) Appoint boarding stations for the boarding of ships by officers. 35
- (b) Establish ports and fix their limits.
- (c) Appoint wharfs within ports and fix their limits.

16. Ports

16. Ports and wharfs may be established or appointed for specified limited purposes or without any such limitation.

17. The Minister may by *Gazette* notice—

Appointment of
suffrance wharfs
&c.

5

(a) Appoint suffrance wharfs in any port.

(b) Appoint places for the examination of goods on landing.

18. All boarding stations ports wharfs and examination places in actual use by authority at the commencement of this Act shall continue as if established or appointed under this Act.

Continuance of
boarding stations
&c.

19. Every wharf-owner shall provide to the satisfaction of the Collector suitable office accommodation on his wharf for the exclusive use of the officer employed at the wharf.

Accommodation on
wharfs.

Penalty: Twenty pounds.

20. Carriages and lighters may be licensed for the carriage of goods subject to the control of the Customs upon payment of such fees and subject to such conditions as may be prescribed.

Licences.

21. The principal official of any railway in lieu of taking out a licence for each carriage to be used in the carriage of goods subject to the control of the Customs may give security for the due carriage and custody of all such goods on the railway, and thereupon all carriages of the railway shall be deemed to be licensed.

Licensed railway
carriages.

22. All carriages and lighters licensed for the purposes of any State Customs Act at the commencement of this Act shall be deemed to be similarly licensed under this Act; but unless actually licensed under this Act such carriages and lighters shall cease to be licensed on the expiration of the period for which the last payment of licence-fee was made prior to the commencement of this Act or such further time if any as may be prescribed, or as may be allowed by the Minister by *Gazette* notice.

Continuance of
licences.

23. The licence for any carriage or lighter may be revoked by the Collector if the licensee shall be guilty of any fraud or misconduct or shall fail to comply with this Act.

Revocation of
licence.

24. No person shall use any unlicensed carriage or lighter for the conveyance of goods subject to the control of the Customs.

Penalty: Twenty pounds.

Unlicensed
carriages or
lighters

25. Declarations under this Act may be made before the Minister or any Collector or any Justice and also before any person authorized in that behalf by the Minister or Comptroller.

Before whom
declarations may
be made.

26. No officer shall knowingly receive a declaration by any person under the age of eighteen years.

Declaration by
youths.

27. If

State inspection
laws.

27. If the Governor-General shall so direct by proclamation any State Act relating to the inspection or testing of imported goods may be executed and enforced by the Customs.

Working days
and hours.

28. The working days and hours of the Customs shall be as prescribed and except when working overtime is permitted by the Collector cargo shall only be received loaded or worked on or discharged from any ship on working days and during working hours.
Penalty : Fifty pounds.

Overtime charges.

29. When working overtime is permitted overtime at prescribed rates shall be charged for the services of the officers.

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PART III.—CUSTOMS CONTROL EXAMINATION ENTRIES AND SECURITIES GENERALLY.

Customs control of
goods.

30. Goods shall be subject to the control of the Customs as follows :—

- (a) As to all goods imported—from the time of actual importation until delivery for home consumption or until exportation to parts beyond the seas whichever shall first happen. 15
- (b) As to all goods under drawback—from the time of the claim for drawback until exportation into parts beyond the seas. 20
- (c) As to all goods subject to any export duty—from the time when the same are brought to any port or place for exportation until the payment of the duty.

Right of
examination.

31. The Control of the Customs especially includes the right of the Customs to examine all goods subject to such control. 25

Customs control of
goods.

32. No goods subject to the control of the Customs shall be moved altered or interfered with except by authority and in accordance with this Act.

Penalty : One hundred pounds.

30

No claim for
compensation for
loss.

33. The Customs shall not be liable for any loss or damage occasioned to any goods subject to the control of the Customs except by the wilful neglect or wanton act of some officer.

Goods imported
through post.

34. Goods imported through the Post Office shall be subject to the control of the Customs equally with goods otherwise imported. 35

Entries.

35. Entries may be made and passed for all goods subject to the control of the Customs.

Owner to make
entry.

36. Entries shall be made by the delivery of the entry by the owner to the Collector.

37. Entries

37. Entries shall be passed by the Collector signing the entry, and on the passing of the entry the goods shall be deemed to be entered, and any entry so passed shall be warrant for dealing with the goods in accordance with the entry and the goods shall forth-
5 with be dealt with accordingly.

Collector to pass entries.

Penalty: One hundred pounds.

38. Goods being the personal baggage of passengers in any ship and not being dutiable goods may subject to any prescribed conditions, be imported or exported without entry.

Passengers' baggage.

39. The Customs shall have the right to require and take securities for compliance with this Act and generally for the protection of the revenue of the Customs, and pending the giving of the required security in relation to any goods subject to the control of the Customs may refuse to deliver the goods or to pass any entry
15 relating thereto.

Right to require security.

40. Where any security is required to be given such security may be by bond or guarantee or cash deposit or all or any of such methods so that in each case the security shall be approved by the Collector.

Security.

41. When security is required for any particular purpose security may by the authority of the Comptroller be accepted to cover all transactions for such time and for such amount as the Comptroller may approve.

General bonds may be given.

42. All Customs securities may after the expiration of three
25 years from the date thereof or from the time specified for the performance of the conditions thereof be cancelled by the Comptroller.

Cancellation of bonds.

43. If the Collector shall not at any time be satisfied with the sufficiency of any security the Collector may require a fresh security
30 and a fresh security shall be given accordingly.

New sureties.

44. The form of Customs security in Schedule I. hereto shall suffice for all the purposes of a bond or guarantee under this Act and without sealing shall bind its subscribers as if sealed and unless otherwise provided therein jointly and severally and for the full amount.

Form of Customs security.

45. Whenever any such Customs security is put in suit by the Collector the production thereof without further proof shall entitle the Collector to judgment for their stated liability against the persons appearing to have executed the same unless the defendants shall prove compliance with the condition or that the security was not
40 executed by them.

Effect of Customs security.

PART IV.

PART IV.—THE IMPORTATION OF GOODS.

Importation.

46. In order to the due importation of goods—

- (1) The ship may be boarded.
- (2) The cargo shall be reported.
- (3) The goods shall be entered unshipped landed and examined. 5

*Division 1.—Prohibited Imports.*Importations
allowed.**47.** No prohibited imports shall be imported.

Penalty: One hundred pounds.

Unregistered ships.

48. No goods may be imported in any ship which has not been lawfully registered in the country to which she belongs or which has not her certificate of registry on board unless the absence of the certificate is satisfactorily accounted for.

Penalty: One hundred pounds.

Prohibited imports.

49. The following are prohibited imports:—

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- (a) Any work which is or appears to be an infringement of any copyright existing in any part of the King's dominions and of the existence of which copyright written notice shall have been given to the Minister by or on behalf of the proprietor. 20
- (b) False money and counterfeit sterling and any coin or money not being of the proper standard in weight or fineness.
- (c) Blasphemous indecent or obscene works or articles.
- (d) Goods manufactured or produced wholly or in part by prison labour or which have been made within or in connexion with any prison, gaol, or penitentiary. 25
- (e) Exhausted tea, and tea adulterated with spurious leaf or with exhausted leaves, or being unfit for human use, or unwholesome. 30
- (f) Oleomargarine butterine or any similar substitute for butter.
- (g) All goods the importation of which may be prohibited by proclamation.
- (h) All goods having thereon or therewith any false suggestion of any warranty guarantee or concern in the production or quality thereof by any public officials Government or country. 35

Restrictions of
spirits, &c.

50. No spirits, opium, tobacco, snuff, cigars or cigarettes shall be imported except in packages of the prescribed size.

40

Penalty: One hundred pounds.

51. All

51. All goods lawfully prohibited to be imported into any State shall as regards that State be prohibited imports for the purposes of this Act. State prohibitions]

Division 2.—The Boarding of Ships.

5 **52.** The master of a ship shall not suffer his ship to enter any place other than a port unless from stress of weather or other reasonable cause. Ships to enter ports.

Penalty: One hundred pounds.

10 **53.** The master of every ship arriving within one league of the coast shall bring his ship to for boarding on being approached by or hailed or signalled from any vessel in the service of the Customs having hoisted the Customs flag, or from any vessel in the service of His Majesty or of the Commonwealth having hoisted the proper ensign and pendant. Ship to bring to on being signalled.

15 Penalty: One hundred pounds.

54. The master of every ship from parts beyond the seas bound to or calling at any port shall bring his ship to for boarding at the boarding station appointed for that port. Ship to bring to at boarding station.

Penalty: Fifty pounds.

20 **55.** The master of every ship bringing to for boarding shall by all reasonable means facilitate boarding by the officer. Facility for boarding.

Penalty: Twenty pounds.

25 **56.** The master of every ship after his ship has been brought to at the boarding station and boarded by the officer shall come up to the proper place of mooring or unloading as quickly as practicable without touching at any other place. Ships to come quickly to place of unloading.

Penalty: Twenty pounds.

30 **57.** No ship after arrival at the proper place of mooring or unloading shall except by authority, or by direction of the harbor authority be removed therefrom before the discharge of the cargo intended to be discharged at the port. Ship not to be moved without authority.

Penalty: Twenty pounds.

Division 3.—The Report of the Cargo.

35 **58.** The master of every ship arriving from parts beyond the seas shall— Report of cargo

(a) Within one day after arrival make report of the ship and her cargo by delivering to the Collector an Inward Manifest in duplicate;

40 (b) Answer questions relating to the ship and her cargo crew passengers stores and voyage;

(c) Produce documents relating to the ship and her cargo.

Penalty: One hundred pounds.

59. When

Master of wrecked ship to report at nearest Custom house.

59. When any ship is wrecked upon the coast the master or owner shall without any unnecessary delay make report of the ship and cargo by delivering to the Collector an Inward Manifest so far as it may be possible for him to do so at the Customs house nearest to the place where the ship was lost or wrecked.

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Penalty: Twenty pounds.

Goods derelict to be delivered to officer.

60. Whoever has any dutiable goods derelict flotsam jetsam lagan or wreck in his possession shall deliver the same to an officer without unnecessary delay.

10

Penalty: Twenty pounds.

Interference with derelict goods.

61. No person shall except by authority unnecessarily move alter or interfere with any goods derelict flotsam jetsam lagan or wreck.

Penalty: Twenty pounds.

Division 4.—The Entry, Unshipment, Landing, and Examination of Goods. 15

Entries.
Kinds of entries.

62. All imported goods shall be entered either

- (a) For home consumption; or
- (b) For warehousing; or
- (c) For transhipment.

20

Sight Entry.

63. If the owner shall satisfy the Collector that he cannot immediately supply the full particulars for making an entry he may with the consent of the Collector make a Sight Entry.

Passing of Sight Entry.

64. A Sight Entry on being passed by the Collector shall be warrant for the landing and examination of the goods.

25

Completion of Sight Entry.

65. Within three days after the examination of the goods pursuant to any Sight Entry the owner shall make complete entry of the goods by the addition to the Sight Entry of the required particulars.

Entry within seven days.

66. Entries shall be made of the whole of any cargo landed or to be landed not later than seven days after the report of the ship or within such further time if any as the Collector may see fit to allow; and so that if the goods are placed in quarantine seven days at the least shall be allowed for entry after their release from quarantine.

30

- (a) If default shall be made in the entry of any goods pursuant to this section the Collector may cause the goods to be removed to a warehouse; and if the goods are

are not claimed and entries passed therefor within six months after such removal the goods may be sold by the Collector.

- 5 (b) If the goods are of a perishable nature they may be sold at any time the Collector thinks fit either before or after warehousing.

67. The bulk cargo of a ship arriving within one league of the coast shall not be broken except with the permission of the Collector or as regards goods for which entry has been passed.

- 10 Penalty: One hundred pounds.

68. Goods may only be unshipped pursuant to—

Authority for un-shipment.

(1) A Collector's permit; or

(2) An entry passed.

Penalty: One hundred pounds.

- 15 69. All goods unshipped shall be either—

Unshipment of goods.

(a) Landed directly at a wharf or after conveyance thereto in a licensed lighter direct from the ship; or

- (b) Transhipped direct to the ship into which they are to be transhipped or after conveyance thereto in a licensed carriage or lighter direct from the ship.

- 20 Penalty: One hundred pounds.

70. Goods unshipped and landed under a Collector's permit shall be placed by and at the expense of the master or owner of the ship from which they were unshipped in a place of security approved by the Collector, and shall until lawfully removed therefrom be at the risk of the master or owner of the ship as if they had not been unshipped.

Goods landed on permit at ship's risk.

71. Any goods may by authority be repacked or skipped on the wharf before warehousing.

Repacking on wharf.

- 30 PART V.—THE WAREHOUSING OF GOODS.

Division 1.—Licensed Warehouses.

72. Dutiable goods may be warehoused in warehouses licensed by the Minister.

Dutiable goods may be warehoused

73. There shall be four classes of licensed warehouses as follows:—

Classes of warehouses.

Class I.—General warehouses to be used for warehousing goods generally.

Class II.—Private warehouses to be used only for warehousing goods the property of the licensee.

Class III.

Class III.—Machinery warehouses to be used only for warehousing machinery and similar heavy or bulky goods.

Class IV.—Manufacturing warehouses to be used for warehousing goods for use in such warehouse in any manufacture trade or process and for carrying on in such warehouse any manufacture trade or process which the Minister may by *Gazette* notice declare that it is desirable to encourage.

Annual fee.

74. An annual fee to the amount set out in Schedule II. hereto for each class of warehouse shall be paid by the licensee by equal quarterly payments in advance on the first days of January April July and October in each year.

Cancellation of licences.

75. In default of payment of any part of any licence-fee for thirty days after any quarter day the Minister may by *Gazette* notice cancel the licence and thereupon the warehouse shall be closed and the goods therein shall be removed by the Collector to some other warehouse.

Continuation of existing licences.

76. All warehouses licensed for the purposes of any State Customs Act at the commencement of this Act shall be deemed to be similarly licensed under this Act but unless actually licensed under this Act such warehouses shall cease to be licensed on the expiration of the period for which the last payment of licence-fee was made prior to the commencement of this Act or such further time as may be prescribed or as may be allowed by the Minister by *Gazette* notice.

Officer to take account of goods landed to be warehoused.

77. Upon the landing of any goods to be warehoused or so soon as practicable thereafter the officer shall take a particular account of the goods and shall enter such account in a book.

Unless where otherwise provided such account shall be that upon which the duties shall be ascertained and paid.

Completion of warehousing.

78. When any goods entered for warehousing have been duly deposited in the warehouse the officer shall certify that the warehousing is complete by signing a receipt for the goods.

Removal of goods to warehouse.

79. If any goods entered to be warehoused are not warehoused accordingly by the owner the Collector may remove them to the warehouse.

The licensee of the warehouse shall pay all charges for the removal of goods removed by the Collector and shall have a lien on the goods for such charges.

80. Goods

80. Goods entered for warehousing shall be deposited in the warehouse in the packages in which they were imported except goods repacked or skipped on the wharf which shall be deposited in the packages in which they were when the account was taken.

Packages in which goods to be deposited.

81. The Collector may in prescribed cases permit the owner to sort bottle pack or repack goods in any warehouse.

Repacking in warehouse.

82. Whenever goods are sorted bottled packed or repacked in a warehouse a fresh account of the goods shall be taken by the officer and shall be substituted for the original account.

Fresh account to be taken.

83. In all prescribed cases warehoused goods in manufacturing warehouses may in manner prescribed be utilized for manufacturing purposes and the manufactured article may be delivered for home consumption subject only to the payment of such duty (if any) as may be prescribed.

Delivery of goods manufactured in warehouses.

84. Warehoused spirits being not less than sixty per cent. over proof in strength may in manner prescribed be methylated so as to be rendered unfit for human use as a beverage and incapable of being converted to that use and when so methylated may be entered for home consumption for use in the arts and manufactures subject to the payment of such duty (if any) as may be prescribed.

Methylation of spirits.

85. No person shall treat refine or distil any methylated spirit for the purpose of rendering it fit for human use as a beverage or shall sell or offer for sale any methylated spirit so treated refined or distilled, or sell or offer for sale for human use as a food or beverage any goods containing methylated spirits.

Penalty : One hundred pounds.

86. The licensee of every warehouse shall—

(1) Stack and arrange the goods in the warehouse so that reasonable access to and examination of every package may be had at all times.

Refiningmethylated spirits.

(2) Provide sufficient lights and just scales and weights for the use of the officer.

(3) Find all labour and materials requisite for the storing examining packing marking cooeping weighing and taking stock of the warehoused goods whenever the Collector may desire.

Duty of licensee.

(4) Pay the duty on all warehoused goods removed from his warehouse except by authority and on all warehoused goods not produced to the officer on demand unless such goods are accounted for to the satisfaction of the Collector.

Penalty: Twenty pounds.

87. No

Opening warehouse.

87. No person shall except by authority open any warehouse or gain access to the goods therein.

Penalty : Twenty pounds.

Collector may order removal of goods from private to public warehouse.

88. The Collector may require the owner of any goods in any private warehouse within a time to be specified by him to remove them to some general warehouse or to pay the duty thereon and if the order is not complied with the goods may be sold by the Collector. 5

Period of warehousing.

89. Goods warehoused in any warehouse for three years shall if not removed therefrom or re-warehoused be sold by the Collector. 10

Re-warehousing.

90. Re-warehousing shall be effected as follows :—

- (a) An application for re-warehousing shall be made by the owner to the Collector.
- (b) The goods shall be examined by the officer at the expense of the owner. 15
- (c) Duty shall be paid on any disallowed deficiency.
- (d) A re-warehousing entry shall be made by the owner for the goods according to the result of the examination.
- (e) On the passing of the entry a fresh account shall be substituted for the last account and this shall complete the re-warehousing. 20

Goods for exhibition.

91. In prescribed cases warehoused goods may be permitted to be taken out of the warehouse without payment of duty for the purpose of public exhibition or any similar purpose for such convenient time and in such suitable quantities as may be prescribed subject to the prescribed security for the return of the goods or payment of the duty. 25

Collector to have access to warehouse.

92. The Collector at all hours of the day and night shall have access to every part of any warehouse and power to examine the goods therein and for that purpose to break open the warehouse or any premises necessary to be passed through to secure access. 30

Regauging or reweighing of goods.

93. Warehoused goods may be regauged remeasured reweighed or examined by the officer either by direction of the Collector or at the request and expense of the owner and duty shall be payable according to the result unless the Collector is of opinion that any loss shown is excessive in which case the duty shall be paid on the original entry with any reduction which the Collector may see fit to allow. 35

94. Warehoused

94. Warehoused goods subject to an *ad valorem* duty which have deteriorated in value may be revalued on the application of the owner and duty shall be paid according to the result if the Collector is satisfied that the deterioration has been accidentally
5 caused. Revaluation.

95. If the warehouse dues on any warehoused goods shall be in arrear for six months the goods may be sold by the Collector. If warehouse fees in arrear goods to be sold.

96. The Comptroller may cause any warehoused goods which in the opinion of the Collector are not worth the duty payable thereon
10 to be destroyed and may remit the duty. Goods not worth duty may be destroyed.

The owner of any goods destroyed shall pay to the licensee of the warehouse or to the Collector in case the goods were in a King's warehouse the rent and charges payable in respect of the destroyed goods.

15 97. No goods of a combustible or inflammable nature shall be warehoused except by permission of the Collector, and if any such goods shall be landed the same may be deposited in any safe available place that the Collector shall approve, and whilst so deposited the same shall be deemed to be in a King's warehouse and be liable to be
20 sold by the Collector at the expiration of fourteen days in the same manner as goods of a perishable nature deposited in a King's warehouse unless duly cleared or warehoused in some warehouse with the approval of the Collector, and such goods shall be charged with the expenses for removing securing watching and guarding the
25 same until sold. Combustible or inflammable goods.

98. Warehoused goods may be entered—

- (a) For home consumption.
- (b) For export to parts beyond the seas.
- (c) For removal for warehousing elsewhere.

30 99. If after goods have been entered for warehousing either on importation or removal and before they have been actually warehoused they shall be entered for home consumption exportation or removal the goods so entered shall be considered as constructively warehoused and may be delivered for home consumption exportation or removal
35 as if actually warehoused. Constructive warehousing.

Division 2.—King's Warehouses.

100. King's warehouses may be appointed by the Minister by King's warehouse.
Gazette notice.

101. Rent and charges shall be paid in respect of any goods Rent.
40 warehoused in any King's warehouse according to such scale as may be prescribed. 102. King's

Continuation of
existing ware-
houses.

102. King's warehouses in actual use by authority at the commencement of this Act shall continue as if appointed under this Act unless otherwise determined by the Minister.

Power to sell.

103. If any goods warehoused in a King's warehouse shall not be lawfully removed within six months after warehousing the goods may be sold by the Collector. 5

Purposes of King's
warehouses.

104. King's warehouses shall be wholly under the control of the Customs and shall be specially available for the examination of goods and the storage of seized and unclaimed goods but otherwise all the provisions of this Act relating to warehouses shall so far as practicable apply to King's warehouses. 10

PART VI.—THE EXPORTATION OF GOODS.

Exportation.

105. No prohibited exports shall be exported.
Penalty: One hundred pounds.

Prohibited exports.

106. The following are prohibited exports namely— 15
All arms explosives military and naval stores the export of which is prohibited by proclamation including any article which the proclamation shall declare to be military or naval stores or to be capable of being converted into them or of being made useful in increasing the quantity thereof. 20
The proclamation may prohibit the exportation or carrying coastwise of the prohibited goods either generally or to any particular country or place and the prohibition shall have effect accordingly.

Size of exporting
vessel.

107. Except by the permission of the Collector no goods subject to the control of the Customs shall be exported in any ship of less than fifty tons gross register. 25
Penalty: One hundred pounds.

Conditions for
export.

108. Before any goods are taken on board a ship for export—
(1) The ship shall be entered outwards and the goods shall be entered for export but— 30
(a) In the case of free goods it shall suffice if they be entered not later than three days after shipment; and
(b) The ship may be stiffened by permission of the Collector before entry outwards or export entry. 35

Goods to be shipped
at wharf.

109. Goods subject to the control of the Customs for exportation or removal coastwise shall be shipped either directly at a wharf or after conveyance to the ship in a licensed lighter direct from a wharf. 40

110. If

110. If any goods entered for export are not shipped according to the entry— Short-shipped goods.

(1) The owner shall immediately report the fact to the officer and amend his entry for the goods not later than three days after the clearance of the ship.

(2) The goods if dutiable shall forthwith be warehoused.

Penalty : Twenty pounds.

111. The Collector may require the owner to produce documents for any goods entered for export and in the case of goods subject to the control of the Customs to give security that the same will be landed at the place for which they are entered or otherwise accounted for to the satisfaction of the Collector. Documents and security.

112. The master of any ship shall not depart with his ship from any port without receiving from the Collector a Certificate of Clearance. Certificate of clearance.

Penalty : One hundred pounds.

113. Before any Certificate of Clearance shall be granted the master of the ship shall— Requisites for obtaining clearance.

- (a) Deliver to the Collector an Outward Manifest in duplicate.
- (b) Answer questions relating to the ship and her cargo crew passengers stores and voyage.
- (c) Produce documents relating to the ship and her cargo.

114. The master of any ship shall not suffer any goods other than passengers' baggage not specified or referred to in the Outward Manifest to be taken on board his ship. Shipment of unspecified goods.

Penalty : Fifty pounds.

115. A copy of the Outward Manifest shall be attached to the Certificate of Clearance and be sealed with the Customs seal. Manifest to be attached to clearance.

116. No Certificate of Clearance shall be granted for any ship unless all her inward cargo and stores shall have been duly accounted for to the satisfaction of the Collector nor unless all the other requirements of the law in regard to such ship and her inward and outward cargo have been duly complied with. Time of clearance.

117. The master of every ship departing from any port shall bring his ship to at the boarding station appointed for the port and by all reasonable means facilitate boarding by the officer, and shall not depart with his ship from any port with any officer on board such ship in the discharge of his duty without the consent of such officer. Ship to bring to at proper stations.

Penalty : One hundred pounds.

C

118. The

Master to account
for missing goods.

118. The master of every ship after clearance shall—

(a) On demand by an officer produce the Certificate of Clearance;

(b) Account to the satisfaction of the Collector for any goods specified or referred to in the Outward Manifest and not on board his ship. 5

Penalty : Fifty pounds.

Goods exported to
be landed at proper
destination.

119. No goods shipped for export shall be unshipped or landed at any place other than that for which they have been entered without the permission of the Collector. 10

Penalty : Fifty pounds.

Certificate of land-
ing.

120. If required by the Collector a certificate in such form and to be given by such person as may be prescribed shall be produced in proof of the due landing according to the export entry of any goods subject to the control of the Customs, and the Collector may refuse to allow any other goods subject to the control of the Customs to be exported by any person who fails within a reasonable time to produce such certificate of the landing of any such goods previously exported by him. 15

PART VII.—SHIPS' STORES.

20

Ships' stores.

121. The prescribed allowance of stores for the use of the passengers and crew and for the service of the ship may be shipped free of duty on board any ship of not less than fifty tons gross registered tonnage entered outwards for parts beyond the seas.

Use of ships' stores.

122. Ships' stores shall only be used by the passengers and crew and for the service of the ship. 25

Re-landing ships'
stores.

123. No stores after being shipped shall be unshipped except by permission of the Collector.

Penalty : Fifty pounds.

PART VIII.—THE DUTIES.

30

Division 1.—The Payment and Computation of Duties Generally.

Exemption.

124. No goods the property of the Commonwealth shall be liable to any duty of Customs.

Import duties.

125. All import duties shall be paid at the rate in force when the goods are entered for home consumption. 35

Export duties.

126. All export duties shall be finally payable at the rate in force when the goods are actually exported but in the first instance payment shall be made by the owner to the Collector at the rate in force when the goods are entered for export.

127. Where

127. Where duties are imposed according to weight or measure the weight or measurement of the goods shall be ascertained according to the standard weights and measures by law established. Weights and Measures.

128. Where duties are imposed according to a specified quantity weight size or value the duties shall apply in proportion to any greater or lesser quantity weight size or value. Proportion.

129. Whenever goods are sold or prepared for sale as or are reputed to be of a size or quantity greater than their actual size or quantity duties shall be charged according to such first-mentioned size or quantity.

130. All duties shall be paid in British currency. British currency.

131. If any goods enumerated in the Tariff are or can be classed under two or more names headings or descriptions with a resulting difference as to duty duty shall be charged when it is a difference between liability to or freedom from duty and the higher or highest of the duties applicable shall be charged when it is a difference as to two or more duties. Highest duties to be charged.

132. Whenever any goods are imported which in the opinion of the Minister are a substitute for any dutiable goods or are intended to be or can be used as such substitute or for any purpose for which such dutiable goods can be used or for any similar purpose the Minister may by *Gazette* notice direct that such first mentioned goods shall be charged with the duty chargeable upon such dutiable goods and the same shall be so charged accordingly. Substitutes for dutiable goods.

133. (1) Whenever any dutiable goods are composed of two or more separate parts any part though imported by itself shall be proportionately chargeable with duty at the rate applicable to the complete goods. Duty on parts.

(2) When the duty on the complete goods is specific or both specific and *ad valorem* the Minister may fix the proportionate rate of duty with which any part shall be chargeable.

134. Duty shall be charged on all essences condensations concentrations or preparations of goods liable to duty according to the quantity of dutiable goods into which such essences condensations concentrations or preparations can be converted. Duty on condensed articles.

135. Goods charged with duty by measurement shall at the expense of the owner be heaped piled sorted framed or otherwise placed in such manner as the Collector may require to enable measurement and account thereof to be taken ; and in all cases where the same are measured in bulk the measurement shall be taken to the full extent of the heap or pile. Measurement for duty.

136. Goods

Goods in transitu.

136. Goods exported to Australia from any country but passing through another country shall be valued for duty as if they were imported directly from such first mentioned country.

Proprietary medicines.

137. All medicinal or toilet preparations not completely manufactured but imported for completing the manufacture thereof or for the manufacture of any other article by the addition of any ingredient or by mixing such preparations or by putting up or labelling the same alone or with other articles or compounds under any proprietary or trade name shall be irrespective of cost valued for duty and duty shall be paid thereon at the ordinary market value in the country whence imported of the completed preparation when put up and labelled under such proprietary or trade name less the actual cost of labour and material used or expended in Australia in completing the manufacture thereof or of putting up or labelling the same. 5 10

Value of goods sold.

138. When the duty on any goods sold at any Collector's sale shall be *ad valorem* the value of such goods shall if approved by the Collector be taken to be the value as shown by the sale. 15

Strength of spirits.

139. The strength of spirits may be ascertained for the purposes of duty by means of a hydrometer approved by the Comptroller.

Obscuration.

140. If in the opinion of the Collector the strength of any spirits cannot immediately be accurately ascertained by hydrometer the strength may be ascertained after distillation or in any prescribed manner. 20

Derelict goods dutiable.

141. All goods derelict flotsam jetsam or lagan or landed saved or coming ashore from any wreck or sold as droits of Admiralty shall be charged with duty as if imported in the ordinary course. 25

As to payment of duty on goods in manifest but not produced or landed.

142. If any dutiable goods which are included in the report of any ship shall not be produced to the officer the master or owner of the ship, or the owner of the goods shall on demand by the Collector pay the duty thereon as estimated by the Collector unless the goods are accounted for to the satisfaction of the Collector. 30

Samples.

143. Small samples of the bulk of any goods subject to the control of the Customs may subject to the prescribed conditions be delivered free of duty.

Samples.

144. Samples of duty paid goods or goods the produce of Australia sent out of Australia may subject to any prescribed conditions be re-imported or brought back to Australia without payment of duty. 35

145. If

145. If after any agreement is made for the sale or delivery of goods duty paid any alteration takes place in the Tariff affecting such goods before they are delivered for home consumption then in the absence of express written provision to the contrary the agreement shall be altered as follows:—

Alteration of
agreements where
Tariff altered.

- (a) In the event of the Tariff being altered by a new or increased duty the seller after payment of the new or increased duty may add the difference caused by the alteration to the agreed price.
- (b) In the event of the Tariff being altered by the abolition or reduction of duty the purchaser may deduct the difference caused by the alteration from the agreed price.

146. All duties shall constitute Crown debts charged upon the goods in respect of which the same are payable and payable by the owner of the goods and recoverable at any time in any court of competent jurisdiction by proceedings in the name of the Collector.

Recovery of duties.

Division 2.—Ad Valorem Duties.

147. When any duty is imposed according to value—

- (a) The value shall be taken to be the fair market value of the goods in the principal markets of the country whence the same were exported in the usual and ordinary commercial acceptance of the term and free on board at the port of export in such country and a further addition of ten per cent. on such market value.
- (b) The value shall be verified at the time of entry by the production of the genuine invoice and by a declaration signed by the owner in the presence of the Collector.
- (c) The invoice shall be stamped by the Collector with the Customs stamp, and shall be produced to the officer prior to the delivery of the goods for home consumption or for warehousing.
- (d) If the non-production of the genuine invoice shall be accounted for to the satisfaction of the Collector proof of its contents by a copy or otherwise may be received in lieu of its production.

Value for duty.

148. The Genuine Invoice means—

Genuine invoice.

- (a) The original invoice prepared and issued by the seller in the country whence the goods were exported showing the true description of the goods and the actual money price paid or to be paid for the goods by the purchaser in the country whence the same were exported without any deduction; or

(b) In

(b) In the case of goods consigned for sale in Australia the original invoice prepared and issued by the consignor showing the true description of the goods and the actual money price for cash at which such goods were saleable in the principal markets of the country whence such goods were exported at the date of the shipment of such goods free on board at the port of export in such country. 5

Foreign invoices.

149. Where the genuine invoice shows the value of the goods in any currency other than British currency the equivalent value of the goods in British currency shall be ascertained according to a fair rate to be declared in case of doubt by the Minister. 10

Value may be assessed.

150. Whenever the Collector has a doubt as to the accuracy of the declared value of dutiable goods he may detain such goods and assess the value thereof. 15

Should the owner object to the value so assessed he may request that the value may be ascertained by experts in manner prescribed.

Should the owner refuse to pay the duty as assessed by the Collector or ascertained by experts the Collector may sell the goods. 20

The provisions of this section shall not apply in cases where the Minister is of opinion that any evasion of this Act has been committed or attempted.

Blank invoices.

151. No person shall send or bring into Australia or have in his possession without reasonable excuse any blank or partly blank invoice form capable of being filled up and used as a genuine invoice. 25

Penalty: Twenty pounds.

Minister to determine value in some cases.

152. Whenever it is difficult to determine the value of goods for duty, either because the goods are not sold for use or consumption in the country of production or because a lease of the goods or the right of using the same is sold or given but not the right of property therein, or because the goods have a royalty imposed thereon and the royalty is uncertain or is not a reliable means of estimating the value of the goods, or because the goods are usually or exclusively sold by or to agents or by subscription or are sold or imported in or under any other unusual or peculiar manner or conditions (of all which matters the Minister shall be judge) the Minister may determine the value for duty of the goods. 30 35

Division 3.—Deposits, Abatements, Remissions, and Refunds of Duties.

Deposits.

153. In prescribed cases the duty paid on any goods may be retained by the Customs on deposit for a period not exceeding six months, and the deposit may be returned to the owner if the goods are exported within the prescribed time. 40

154. (1) Whenever

154. (1) Whenever goods—

Refund of duty.

(a) Have received damage or have been pillaged during the voyage; or

5 (b) Have whilst under Customs control been damaged pillaged lost or destroyed; or

(2) Whenever duty has been paid through manifest error of fact or patent misconception of the law—

a refund rebate or remission of the duty as the case may require shall be made in manner prescribed.

10 **155.** The Collector may remit any duty on any goods that have been wasted or lost in sorting bottling packing or repacking in a warehouse. Duty on waste.

15 **156.** When any duty has been short levied or erroneously refunded the person who should have paid the amount short levied or to whom the refund has erroneously been made shall pay the amount short levied or repay the amount erroneously refunded on demand being made by the Collector within twelve months from the date of the short levy or refund. Short paid duty may be recovered

20 **157.** If any practice of the Customs relating to classifying or enumerating any article for duty shall be altered so that less duty is charged upon such article, no person shall thereby become entitled to any refund on account of any duty paid before such alteration. No refund if duty altered.

Division 4.—Disputes as to Duty.

25 **158.** If any dispute shall arise as to the amount or rate of duty or as to the liability of goods to duty the owner may deposit with the Collector the amount of duty demanded and thereupon the following consequences shall ensue: Deposit of duty.

(1) The owner upon making proper entry shall be entitled to delivery of the goods.

30 (2) The deposit shall be deemed the proper duty unless by action commenced by the owner against the Collector within six months after making the deposit the contrary shall be determined, in which case any excess of the deposit over the proper duty shall be refunded by the Collector to the owner with Five pounds per centum per annum interest added.

35

The provisions of this section shall not apply in cases where the Minister is of opinion that any evasion of this Act has been committed or attempted.

PART IX.

PART IX.—DRAWBACKS.

- Drawbacks allowed.** **159.** Drawbacks of import duty may be allowed on exportation in respect of such goods (other than spirits wine beer tobacco cigars cigarettes and opium) to such amount and in such manner as may be prescribed. 5
- Limit of value.** **160.** No drawback shall be allowed on any goods of a less value for home consumption than the amount of the drawback or on which the import duty paid did not amount to One pound.
- Examination of goods under drawback.** **161.** All goods in respect of which any claim for drawback shall be made shall before exportation be produced for examination by the Customs and shall be examined accordingly. 10
- Debenture to be passed.** **162.** For the purpose of claiming drawback a drawback debenture shall be presented to the Collector, who shall as soon as the goods have been exported cause the debenture to be passed for payment. 15
- Declaration on debenture.** **163.** The person claiming drawback on any goods shall make a declaration upon the debenture that the goods have been exported and have not been re-landed and are not intended to be re-landed and that such person at the time of shipping was entitled to the drawback, and the name of such person shall be stated in the debenture, and the receipt of such person on the debenture countersigned by the holder of such debenture if the same shall have been transferred in the meantime shall be a sufficient discharge for such drawback. 20
- Payment of drawback debentures.** **164.** No drawback debenture shall be paid except with the consent of the Minister— 25
- (a) Unless presented for payment within one year from the date of the shipment of the goods for export.
- And the Minister may
- (b) Prohibit the payment in whole or in part of any drawback debenture. 30

PART X.—THE COASTING TRADE.

- What are coasting vessels.** **165.** All ships trading or plying or going from one port or place in Australia to another port or place therein and not trading plying or going beyond the limits of Australia shall be considered as engaged in the coasting trade, and such ships shall be deemed to be coasting ships for the purposes of any Customs Act. 35
- Coasters not to take in cargo at sea or deviate.** **166.** The master of any coasting ship shall not suffer any goods to be taken into or put out of his ship from or into any other ship at sea except with the sanction of the Collector, nor suffer his ship to deviate from her voyage unless forced to do so by unavoidable circumstances. 40

Penalty : One hundred pounds.

167. The

167. The owner of any ship employed in the coasting trade may with the consent of the Collector report such ship inwards or outwards in lieu of the master thereof. Owner may report ship.

5 Every such owner so reporting shall be subject to the same provisions and liable to the same penalties under the Customs Act as the master of such ship.

168. The master of every coasting ship shall at prescribed ports deliver to the Collector in the prescribed form particulars of all cargo consisting of Australian produce or manufactures then on board his ship. Account of Australian goods.

169. The coasting trade generally as regards the Customs shall be regulated in manner prescribed and books shall be kept, documents produced, and entries made accordingly. Regulation.

PART XI.—AGENTS.

15 **170.** Any owner of goods may comply with the provisions of this Act as by agent lawfully authorized. Authorized agents.

171. Any officer may require from any agent the production of his written authority from the principal for whom he claims to act, and in default of the production of such authority may refuse to recognise the agency. Authority to be produced.

172. When any person is expressly or impliedly authorized by the owner to act as his agent in relation to any goods for all or any purposes of any Customs Act or represents or passes himself or acts or assumes to act as such agent such person shall for such purpose be also deemed to be the owner of such goods and shall be personally liable for any penalties recoverable under this Act in the same manner and to the same extent as his principal. But nothing herein contained shall be taken to relieve any principal from liability. Agents personally liable.

173. Any declaration authorized by this Act made by any employé or agent of any person shall be held to have been made with the knowledge and consent of such person, and in any prosecution in respect of any declaration made by any such employé or agent such person shall be liable to the pecuniary punishment provided by any Customs Act as if such declaration had been made by himself. Principal liable for agents acting.

PART XII.—OFFICERS.

Division I.—Powers of Officers.

174. The commander or officer in charge of any ship or boat in His Majesty's service or in the service of the Commonwealth or Customs, such ship or boat having hoisted and carrying the proper Ships and boats to bring to.

D ensign

ensign and pendant or Customs flag, may chase any ship which does not bring to when lawfully signalled or required to do so and may (after having fired a gun as a signal) fire at or into such ship to compel her to bring to.

Officers may board ships hovering on coast.

175. Any officer may require the master of any ship hovering within one league of the coast to depart, and if such ship shall fail to depart accordingly within twelve hours thereafter any officer may board and bring such ship into port and search her. 5

The Collector may examine all persons on board of such ship and they shall each thereupon answer questions relating to the ship and her cargo crew passengers stores and voyage and produce documents relating to the ship and her cargo. 10

Penalty : One hundred pounds.

Examine all goods

176. Any officer may open packages and examine weigh mark and seal any goods subject to the control of the Customs, and the expense of the examination including the cost of removal to the place of examination shall be borne by the owner. 15

Power to board and search ships.

177. Any officer may—

(1) Board any ship.

(2) Search any ship.

(3) Secure any goods on any ship. 20

Boarding.

178. The power of an officer to board shall extend to staying on board any ship and the Collector may station an officer on board any ship, and the master shall provide sleeping accommodation in the cabin and suitable and sufficient food for such officer. 25

Penalty: Fifty pounds.

Searching.

179. The power of an officer to search shall extend to every part of any ship, and shall authorise the opening of any package, locker, or place and the examination of all goods.

Securing goods.

180. The power of an officer to secure any goods shall extend to fastening down hatchways and other openings into the hold and locking up, sealing, marking, or otherwise securing any goods. 30

Seals &c. not to be broken.

181. No fastening, lock, mark, or seal placed by an officer upon any goods or upon any door hatchway opening or place upon any ship shall be opened, altered, broken or erased, except by authority, whilst the goods upon which the fastening lock, mark, or seal is placed or which are intended to be secured thereby shall remain subject to the control of the Customs. 35

Penalty: Fifty pounds.

182. Any

182. Any officer and any person acting in his aid when on duty may patrol upon and pass freely along and over any part of the coast or any railway or the shores, banks, or beaches of any port bay harbor lake or river.

Officers may patrol
coasts &c.

5 **183.** The officer in charge for the time being of any vessel or
boat employed in the service of the Customs may haul any such
vessel or boat upon any part of the coast or the shores banks or
beaches of any port bay harbor lake or river and may moor any
such vessel or boat thereon and continue such vessel or boat so
10 moored as aforesaid for such time as he shall deem necessary.

Boats on service
may be moored in
any place.

184. Any person on board any ship or boat or who may have
landed from or got out of any ship or boat may be questioned by any
officer as to whether he has any dutiable goods upon his person or in
his possession or in his baggage.

Power to question
passengers.

15 **185.** If any officer of Customs or of police shall have reasonable
cause to suspect that any person is unlawfully carrying or has any
goods subject to the control of the Customs secreted about him the
following consequences shall ensue :—

Suspected persons
—detention and
search.

- (1) The officer may detain and search the suspected person.
- 20 (2) Before the suspected person shall be searched he may
require to be taken before a Justice or the Collector.
- (3) The justice or Collector may order the suspected person to
be searched or may discharge him without search.

But females shall only be searched by a female searcher
25 appointed by the justice or Collector.

186. Any officer of Customs or police upon reasonable suspicion
may stop and search any carriage for the purpose of ascertaining
whether any dutiable goods are contained therein and the driver of
any carriage shall stop and permit such search whenever required by
30 any such officer.

Power to stop
vehicles.

Penalty: Twenty pounds.

187. Any Judge of the High Court of Australia or any Judge
of the Supreme Court of any State having jurisdiction in the State
where the application is made may grant a writ of assistance upon
35 application made to him for that purpose by a Minister of State for
the Commonwealth or by the Comptroller or a State Collector, and
such writ unless superseded shall be in force so long as any person
named therein remains an officer of Customs whether in the same
capacity or not.

Writs of assistance.

188. The

Customs warrants

188. The Comptroller or a State Collector may grant a Customs Warrant in the form of Schedule III. hereto under the Customs Seal to any officer, and such warrant shall remain in force for one month from the date thereof.

A Customs Warrant granted by a State Collector shall only have force in the State where it is granted. 5

Power to search.

189. Any officer having with him a Writ of Assistance or a Customs Warrant may at any time in the day or night enter into any house premises or place and may break open the same and any chests trunks or packages in which goods may be or are supposed to be. 10

Power to take assistants.

190. Any officer acting under a Writ of Assistance or Customs Warrant may take with him and have the assistance of any police officer and such assistants as he may think necessary.

Power to call for aid.

191. Any person lawfully making any seizure under any Customs Act may call upon any person present in the King's name to assist him, and such assistance shall be rendered accordingly. 15

Penalty: Twenty pounds.

Power to seize goods.

192. Any officer of His Majesty's forces or any officer of Customs or police may seize any forfeited ship or goods upon land or water or any ship or goods which he has reasonable cause to believe are forfeited. 20

Seized goods to be secured.

193. All seized goods shall be taken to the nearest King's warehouse or to such other place of security as the Collector shall direct. 25

Notice to be given of goods seized.

194. When any ship or goods have been seized as forfeited the seizing officer shall give notice in writing of such seizure and the cause thereof to the master or owner of the ship or goods (unless such master or owner be present at the seizure in which case no notice shall be necessary) either by delivering such notice to him personally or by letter addressed to him and transmitted by post to or delivered at his last known place of abode or business and all ships or goods seized shall be deemed to be condemned and may be sold by the Collector unless the person from whom such ship or goods shall have been seized or the owner shall within one month from the date of seizure give notice in writing to the Collector at the nearest port that he claims them; but if any things so seized shall be of a perishable nature or shall be live animals the same may be forthwith sold by the Collector. 30 35

Seized goods may be returned on security.

195. The Comptroller or a State Collector may authorize any ship or goods seized to be delivered to the claimant on his giving security to pay their value in case of their condemnation. 40

196. Whenever

- 196.** Whenever any goods have been seized by any officer and claim to such goods has been served on the Collector by the owner of such goods, the Collector may retain possession of the goods without taking any proceedings for their condemnation, and may by notice
5 under his hand require the claimant to enter an action against him for the recovery of the goods, and if such claimant shall not within four months after the date of such notice enter such action the goods shall be deemed to be condemned without any further proceedings.
- 197.** All forfeited ships and goods except prohibited imports shall
10 be disposed of or destroyed in such manner as may be prescribed or as the Comptroller may direct.
- 198.** All goods seized by any person not being a Customs officer shall forthwith be conveyed to the nearest Customs House and there delivered to an officer.
- 199.** Any officer of Customs or police may without warrant arrest
15 any person whom he has reasonable cause to believe has been guilty of any offence against this Act, and no person shall resist or prevent such arrest.
Penalty : Twenty pounds.
- 200.** Any officer arresting any person shall on demand give him a
20 statement in writing of the reason for his arrest.
- 201.** Every person arrested may be detained until such time as he can without undue delay be taken before a Justice.
- 202.** Any Justice before whom any person is brought under this
25 Act may—
(1) Commit such person to gaol until he can be brought before Justices to be dealt with according to law ; (or)
(2) Admit him to bail upon his giving sufficient security for
30 his appearance before Justices at the time and place appointed for the hearing of the charge.
- 203.** Whenever information in writing has been given on oath to the Collector that goods have been unlawfully imported undervalued or entered or illegally dealt with, or that it is intended to unlawfully import undervalue enter or illegally deal with any goods, or whenever
35 any goods have been seized or detained, the owner shall immediately upon being required so to do by the Collector produce and hand over to him all books and documents relating to the goods so imported entered seized or detained undervalued or illegally dealt with, or intended to be unlawfully imported undervalued entered or illegally
40 dealt with, and of all other goods imported by him at any time within the
- Collector may retain goods and require owner to proceed for restoration.
- Disposal of forfeited ships and goods.
- Delivery of seized goods.
- Arresting suspects.
- Reasons for arrests.
- Arrested persons to go before Justices.
- Powers of Justices with offenders.
- Production of documents &c. in cases of seizure.

the period of five years immediately preceding such request seizure or detention, and shall also produce for the inspection of the Collector or such other officer as he may authorize for that purpose and allow such Collector or officer to make copies of or extracts from all books or documents of any kind whatsoever wherein any entry or memorandum appears in any way relating to any such goods. 5

Penalty : One hundred pounds.

Collector may
impound
documents.

204. The Collector may impound or retain any document presented in connexion with any entry or required to be produced under this Act, but the person otherwise entitled to such document shall in lieu thereof be entitled to a copy certified as correct by the Collector and such certified copy shall be received in all courts as evidence and of equal validity with the original. 10

Collector may
require further
proof of proper
entry.

205. The Collector may require from the owner of any goods proof by declaration or the production of documents that the goods are owned as claimed and are properly described valued or rated for duty and the Collector may refuse to deliver the goods or to pass any entry relating thereto pending such proof. 15

Translations of
foreign invoices.

206. If any document in a foreign language be presented to any officer for any purpose connected with Customs business, the Collector may require to be supplied with an English translation to be made at the expense of the owner by such person as the Collector may approve or to be verified as he may require. 20

Customs samples.

207. Samples of any goods under the control of the Customs may for any purpose deemed necessary by the Collector be taken utilized and disposed of by any officer in manner prescribed. 25

General power of
Collector.

208. In all cases not herein otherwise provided for the Collector may exercise any power exercisable by the Customs.

Division 2.—Protection to Officers.

Reasonable cause
for seizure a bar to
action.

209. No person shall be liable for any seizure under this Act for which there shall have been reasonable cause, and when any claimant recovers any ship or goods seized or any proceeds thereof and at the same time reasonable cause for the seizure is found such finding shall bar all proceedings against all persons concerned in the seizing. 30

Notice of action to
be given.

210. No proceeding shall be commenced against any officer for anything done in execution of or by reason of his office until one month next after notice in writing shall have been delivered to him or left at his usual place of abode by the plaintiff his attorney or agent in which notice shall be clearly stated the cause and nature of the proceeding and the court in which the same is intended to be instituted, the name and place of abode of the plaintiff and the name and place of business of such attorney or agent. 40

211. Upon

211. Upon any proceeding instituted in pursuance of such notice the plaintiff shall not be at liberty to advance any evidence of any cause of action except such as has been distinctly stated in such notice nor shall the plaintiff be entitled to a verdict without proving
5 on the trial that such notice has been duly served and in default of such proof the defendant shall receive a verdict with costs.

No evidence to be produced but that contained in notice.

212. It shall be lawful for any officer to whom notice of proceeding shall have been given at any time within one month after such notice to tender amends to the plaintiff his attorney or agent
10 and in case such amends be not accepted to plead such tender in defence either alone or with other defences and if the amends tendered shall be found to have been sufficient no costs shall be recovered against an officer and he shall be entitled to costs if he shall have brought the amount into court when entering his defence.

Officer may tender amends.

213. Every proceeding against any officer shall be commenced within four months after its cause shall have arisen and not afterwards and the venue shall be local and the defendant may plead the general issue and give any special matter in evidence.
15

Commencement of proceedings against officers.

PART XIII.—PENAL PROVISIONS.

Division 1.—Forfeitures.

214. The following ships shall be forfeited to His Majesty :—
20

Forfeited ships.

- (1) Any ship used in smuggling or in the unlawful importation exportation or conveyance of any goods.
- (2) Any ship found within one league of the coast failing to
25 bring to for boarding upon being lawfully required to do so.
- (3) Any ship hovering within one league of the coast and not departing within twelve hours after being required to depart by an officer.
- (4) Any ship from which any goods are thrown overboard
30 staved or destroyed to prevent seizure by the Customs.
- (5) Any ship found within any port with cargo on board and afterwards found light or in ballast or with the cargo deficient and the master of which is unable to lawfully
35 account for the difference.
- (6) Any ship within one league of the coast having false bulk heads false bows double sides or bottoms or any secret or disguised place adapted for the purpose of concealing
40 goods or having any hole pipe or other device adapted for the purpose of running goods.

215. The

Forfeited goods.

215. The following goods shall be forfeited to His Majesty:—

- (a) All goods which are smuggled, or unlawfully imported, exported, or conveyed.
- (b) All goods imported which are prohibited imports excepting only goods the importation of which is prohibited by proclamation and which shall have been shipped to be imported without knowledge of the proclamation by the shipper and before the expiration of a reasonable time for the acquisition of knowledge thereof at the port of shipment. 5 10
- (c) All goods imported in any ship in which goods are prohibited to be imported.
- (d) All dutiable goods found on any ship being unlawfully in any place.
- (e) All goods found on any ship after arrival in any port and not being specified or referred to in the Inward Manifest and not being baggage belonging to the crew or passengers and not being satisfactorily accounted for. 15
- (f) All goods in respect of which bulk is unlawfully broken.
- (g) All goods which being subject to the control of the Customs shall be moved altered or interfered with except by authority and in accordance with this Act. 20
- (h) All goods which by this Act are required to be moved or dealt with in any way and which shall not be moved or dealt with accordingly. 25
- (i) All goods in respect of which any entry invoice declaration answer statement or representation which is false or misleading in any particular has been delivered made or produced.
- (j) Any carriage or animal used in smuggling or in the unlawful importation, exportation, or conveyance of any goods. 30
- (k) The cargo of any ship which ship hovers about the coast and does not depart within twelve hours after being required by an officer to depart. 35
- (l) All spirits opium tobacco snuff cigars or cigarettes in packages of less than the prescribed size found on or attached to any ship or boat.
- (m) All goods not being passengers' baggage found on any ship after clearance and not specified or referred to in the Outward Manifest. 40
- (n) All prohibited exports put on any ship for export or brought to any wharf or place for the purpose of export.

(o) All

- (o) All dutiable goods concealed in any manner.
- (p) Any package having concealed therein goods not enumerated in the entry or being so packed as to deceive the officer.
- 5 (q) All dutiable goods found in the possession or in the baggage of any person who has got out of or landed from any ship or boat and who has denied that he has any dutiable goods in his possession, or who when
- 10 questioned by an officer has not fully disclosed that such goods are in his possession or baggage.
- (r) All goods offered for sale on the pretence that the same are prohibited or smuggled goods.
- (s) All spirits which having been methyated are afterwards treated filtered refined distilled or otherwise dealt with
- 15 in any manner so that any substance may be extracted therefrom.

216. The forfeiture of any goods shall extend to the forfeiture of the packages in which the goods are contained and the forfeiture of any package shall extend to all goods packed or contained in the

20 package.

Forfeited packages and goods

Division 2.—Penalties.

217. All persons to the number of two or more assembled for the purpose of smuggling, or for preventing the seizure of, or for rescuing after seizure any smuggled goods shall be guilty of an

25 indictable offence and shall be liable to imprisonment with or without hard labour for any term not exceeding Five years.

Armed persons assisting in illegal landing of goods.

218. Whoever

- (a) Being an officer of the Customs or Police makes any collusive seizure or delivers up or makes any agreement to deliver up or not to seize any ship or goods liable to forfeiture or conspires or connives with any person to import or export, or is in any way concerned in the importation or exportation of any goods for the purpose of seizing any ship or goods and obtaining any reward for such seizure ;
- 30
- 35
- (b) Gives, or procures to be given, or offers or promises to give or procure to be given any bribe recompense or reward to, or makes any collusive agreement with any officer to induce him in any way to neglect his duty, or who by threats demands or promises attempts to influence any officer in the discharge of his duty ;
- 40
- Collusive seizures penalty.
- Bribe offered to officer penalty.

E

(c) Rescues

Rescuing goods.

- (c) Rescues any goods which have been seized or before or at or after any seizure staves breaks or destroys any goods or documents relating thereto to prevent the seizure thereof or the securing the same or the proof of any offence ;

5

Persons assaulting or obstructing officers.

- (d) Assaults or by force resists molests or obstructs or endeavours to intimidate any officer or any person acting in his aid or assistance in the execution of his duties,

shall be guilty of an indictable offence and shall be liable to imprisonment with or without hard labour for any term not exceeding Three years.

Penalty for smuggling by master.

219. No person shall smuggle or unlawfully import, export, convey or have in his possession any goods and no master of a ship shall use or suffer his ship to be used in smuggling or in the unlawful importation, exportation, or conveyance of any goods.

15

Penalty : One hundred pounds.

Customs offences.

220. No person shall—

- (a) Evade payment of any duty which is payable ;
- (b) Obtain any drawback which is not payable ;
- (c) Prepare pass or present any document purporting to be a genuine invoice which is not in fact a genuine invoice ;
- (d) Make any entry which is false in any particular ;
- (e) Make in any declaration or document produced to any officer any statement which is untrue in any particular or produce or deliver to any officer any declaration or document containing any such statement ;
- (f) Mislead any officer in any particular likely to affect the discharge of his duty ;
- (g) Refuse or fail to answer questions or to produce documents ;
- (h) Sell or offer for sale any goods upon the pretence that such goods are prohibited imports or smuggled goods ;

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Penalty : One hundred pounds.

False oath or affirmation.

221. Whoever wilfully makes any false statement on oath under this Act shall be guilty of an indictable offence and shall be liable to imprisonment with hard labour for any period not exceeding four years.

35

Aiders and abettors.

222. Whoever aids abets counsels or procures or by act or omission is in any way directly or indirectly concerned in the commission of any offence against this Act shall be deemed to have committed such offence and shall be punishable accordingly.

40

Attempts.

223. Any attempt to commit an offence against this Act shall be an offence against this Act punishable as if the offence had been committed.

224. Any

45

224. Any person who is guilty by act or omission of any contravention or evasion of this Act for which no other penalty is provided shall be liable to a penalty of not more than Ten pounds.

Offences not specifically provided for.

225. All penalties shall be in addition to any forfeiture.

Penalties in addition to forfeitures.

5 **226.** If any penalty hereby provided shall be less than three times the value of any goods in respect of which the offence has been committed the maximum penalty shall be thrice the value of the goods.

Maximum penalty in certain cases.

10 **227.** Any person may at the same time be charged with an offence against this Act and with an intent to defraud the revenue and if in addition to such offence he is convicted of such intent the maximum penalty shall be double that otherwise provided.

Maximum penalty in case of intent to defraud.

15 **228.** When any person is convicted of any offence against this Act for which a pecuniary penalty is provided and it shall appear that such person had been previously convicted of any similar offence the Court may in lieu of or in addition to imposing any penalty order that such person shall be imprisoned with hard labour for a period not less than six months nor more than two years and with or without the right of release on payment of a penalty.

If previous conviction defendant may be imprisoned.

20 **229.** The minimum penalty for any offence against this Act shall be one-twentieth of the prescribed maximum.

Minimum penalty.

PART XIV.—CUSTOMS PROSECUTIONS.

230. Proceedings by the Customs for the recovery of penalties under this Act or for the condemnation of ships or goods seized as forfeited are herein referred to as Customs Prosecutions.

Interpretation.

231. Customs prosecutions may be instituted in the name of the Minister by action information or other appropriate proceeding—

How instituted.

(a) In the High Court of Australia ; or

(b) In the Supreme Court of any State

30 and when the penalty does not exceed Five hundred pounds or the excess is abandoned the Customs prosecution may be instituted in the name of the Collector in

(c) Any Court of summary jurisdiction.

232. Every Customs prosecution in the High Court of Australia or the Supreme Court of any State may be commenced prosecuted and proceeded with in accordance with any rules of practice established by the Court for Crown suits in revenue matters or in accordance with the usual practice and procedure of the Court in civil cases or in accordance with the directions of the Court or a

Prosecution in accordance with practice rules.

40 Judge. **233.** Subject

State Court
practice.

233. Subject to the provisions of this Act the provisions of the law relating to summary proceedings before Justices in force in the State where the proceedings are instituted shall apply to all Customs prosecutions before a Court of Summary Jurisdiction in such State, and an appeal shall lie from any conviction order for condemnation or order of dismissal to the Court and in the manner provided by the law of the State where such conviction or order is made for appeals from convictions or orders of dismissal. 5

Commencement of
prosecutions.

234. Customs prosecutions may be instituted at any time within five years after the cause thereof. 10

Information &c. to
be valid &c. if in
words of Act.

235. All informations summonses convictions condemnations and warrants shall suffice if the offence or forfeiture is set forth as nearly as may be in the words of this Act.

No objection for
informality.

236. No objection shall be taken or allowed to any information or summons for any alleged defect therein in substance or in form or for any variance between such information or summons and the evidence adduced at the hearing in support thereof, and the Court shall at all times make any amendment necessary to determine the real question in dispute or which may appear desirable. 15

Conviction not to
be quashed.

237. No conviction warrant of commitment or condemnation order or other proceeding matter or thing done or transacted in relation to the execution or carrying out of any Customs Act shall be held void quashed or set aside by reason of any defect therein or want of form and no party shall be entitled to be discharged out of custody on account of such defect. 20 25

Protection to
witnesses.

238. No witness on behalf of the Minister or Collector in any Customs prosecution shall be compelled to disclose the fact that he received or gave any information or the nature thereof or the name of the person who gave such information, and no officer appearing as a witness shall be compelled to produce any reports made or received by him confidentially in his official capacity or containing confidential information. 30

Defendant a
competent witness.

239. (1) In every Customs prosecution the defendant shall be competent to give evidence.

(2) In every Customs prosecution except for an indictable offence the defendant shall be compellable to give evidence and if called as a witness for the prosecution shall be liable to cross-examination as a witness adverse to the prosecution. 35

240. In

240. In every Customs prosecution the averment of the prosecutor or plaintiff contained in the information declaration or claim shall be deemed to be proved in the absence of proof to the contrary but so that—

Averment of prosecution sufficient.

- 5 (a) When an intent to defraud the revenue is charged the averment shall not be deemed sufficient to prove the intent and—
- (b) In all proceedings for an indictable offence the guilt of the defendant must be established by evidence.

- 10 **241.** The production of the *Gazette* containing any proclamation
 gazette notice or regulation appearing to have been issued or made
 under this Act or the production of any document certified by the
 Comptroller or a State Collector to be a true copy of, or extract from,
 any such proclamation, gazette notice, or regulation issued or made
 15 under this Act shall be *prima facie* evidence of the issue or making
 of such proclamation, gazette notice, or regulation, and that the same
 is in force.

Proof of proclamations &c.

- 242.** No minimum penalty imposed by this Act shall be liable to
 reduction under any power of mitigation which would but for this
 20 section be possessed by the Court.

Minimum penalties.

243. Where any pecuniary penalty is adjudged to be paid by
 any convicted person the Court may—

Treatment of convicted offenders.

- (1) commit the offender to gaol until the penalty is paid ; or
 (2) may release the offender upon his giving security for the
 25 payment of the penalty ; or
 (3) may exercise for the enforcement and recovery of the
 penalty any power of distress or execution possessed by
 the Court for the enforcement and recovery of penalties
 in any other case.

- 30 **244.** When any pecuniary penalty adjudged against any person
 is unpaid the Collector may levy the same by sale of any goods
 belonging to such person which may then or thereafter be subject to
 the control of the Customs.

Collector may levy on goods in his possession.

- 245.** The gaoler of any gaol to which any person has been com-
 35 mitted for non-payment of any penalty shall discharge such person—

Release of offenders.

- (I) on payment to him of the penalty adjudged ;
 (II) on a certificate by the Collector that the penalty has been
 paid or realized ;

F

(III) if

(III) if the penalty adjudged to be paid is not paid or realized according to the following table :—

Amount of Penalty.	Period after commencement of imprisonment at the expiration of which defendant is to be discharged.	
£2 or under	Seven days.	5
Over £2 and not more than £5	Fourteen days.	
Over £5 and not more than £20	One month.	
Over £20 and not more than £50	Two months.	10
Over £50 and not more than £100	Three months.	
Over £100 and not more than £200	Six months.	
Over £200	One year.	

Imprisonment not to release penalty.

246. No person shall be twice imprisoned upon the same conviction but the suffering of imprisonment for non-payment of a penalty shall not release the penalty or affect the right of the Customs to collect the amount in any manner provided by this Act other than by imprisonment of the person convicted. 15

Conviction to operate as a condemnation.

247. Where the committal of any offence causes a forfeiture of any goods the conviction of any person for such offence shall have effect as a condemnation of the goods in respect of which the offence is committed. 20

Parties may recover costs.

248. In all Customs prosecutions the Court may award costs against any party or claimant, and all provisions relating to the recovery of penalties shall extend to the recovery of any costs adjudged to be paid. 25

Application of penalties.

249. All penalties and forfeitures recovered under any Customs Act shall be applied to the following purposes in such proportions as the Minister may direct, and in default of such direction in the following proportion— 30

(a) One half shall be paid into the consolidated revenue and the other half to the seizing officer ;

(b) If there be an informer as well as a seizing officer, one-third shall be paid into the consolidated revenue, one-third to the seizing officer, and one-third to the informer. 35

But no officer shall receive a share as seizing officer and also as informer and no person shall be entitled at law to recover any share in any such penalty or forfeiture.

Minister may distribute shares of seizure.

250. The Minister may direct the distribution of the seisor's share or reward on account of any seizure or penalty so that any other person who may by the Minister be deemed to be entitled to participate therein shall receive such proportion as the Minister shall think right. 40

PART XV.

PART XV.—SETTLEMENT OF CASES BY THE MINISTER.

251. If any dispute shall arise between any officer and any person with reference to any contravention of this Act, the Minister may in manner prescribed with the written consent of such person
 5 inquire into and determine the dispute and shall have power by order to impose enforce mitigate or remit any penalty or forfeiture which he shall determine shall have been incurred.

Settlement of
disputes by
Minister.

252. Every such order shall be final and without appeal and shall not be liable to be quashed on any account and a copy thereof shall
 10 be delivered to such person and may be enforced in the same manner as the order of a court of summary jurisdiction.

253. The Minister in holding any inquiry under this Part of this Act may—

Powers of Minister
at inquiries

- 15 (a) Summon the parties and any witnesses before him.
 (b) Take evidence on oath.
 (c) Require the production of documents.
 (d) Allow reasonable expenses to witnesses and costs to successful parties.

254. No person being summoned as a witness at any inquiry
 20 under this Act shall—

- (a) Disobey such summons;
 (b) Refuse to be sworn as such witness;
 (c) Refuse or fail to produce any document he may be required to produce;
 25 (d) Being sworn as a witness refuse or fail to answer any question lawfully put to him.

Penalty: Twenty pounds.

PART XVI.—REGULATIONS.

255. The Minister may make regulations prescribing all matters
 30 which by this Act are required or permitted to be prescribed or as may be necessary or convenient to be prescribed for giving effect to this Act or for the conduct of any business relating to the Customs.

Regulations to have
force of law.

256. All regulations made by the Minister may afterwards be confirmed by the Governor-General and after such confirmation
 35 shall—

- (i) Be published in the *Gazette*;
 (ii) Take effect from the date of publication or from a later date to be specified in such regulations; and
 40 (iii) Be laid before both Houses of the Parliament within thirty days after publication if Parliament is in session and if not then within thirty days after the commencement of the next session;
 (v) But

- (v) But if both Houses of the Parliament pass resolutions at any time within thirty sitting days after such regulations have been laid before Parliament disallowing any regulation such regulation shall thereupon cease to have effect.

5

PART XVII.—MISCELLANEOUS.

Date of collection of
new duties.

257. If any Tariff or Tariff alteration shall hereafter be proposed to the House of Representatives by a Minister of State for the Commonwealth and the House of Representatives shall in connexion with such proposal adopt a resolution authorizing the Minister to take any necessary steps for the protection of the revenue duties may thereupon be collected as proposed at any increased rate or on any goods previously free but so that any excess collected above any amount imposed by Parliament during the session shall be refunded.

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Dutiable goods
passing from one
State to another.

258. As regards goods imported before the imposition of uniform duties of Customs into any State or into any Colony which whilst the goods remain therein becomes a State and which on thence passing into another State within two years after the imposition of such duties become liable by the Commonwealth of Australia Constitution Act to any duty chargeable upon the importation of such goods into the Commonwealth less any duty paid in respect of the goods on their importation this Act shall apply to the collection of the duty to which such goods are liable in manner prescribed.

20

Records of
Inter-State trade.

259. During the first five years after the imposition of uniform duties of Customs and thereafter until the Parliament otherwise provides the Customs shall in manner prescribed collect particulars of the duties of Customs chargeable on goods imported into a State and afterwards passing into another State for consumption and the duties of excise paid on goods produced or manufactured in a State and afterwards passing into another State for consumption and the same shall be furnished to the Treasurer of the Commonwealth so that the accounts between the States may be kept as required by the Constitution.

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30

Commissioned ships
to be reported.

260. The person in command of any ship holding commission from His Majesty or from any foreign State having on board any goods other than ship's stores laden in parts beyond the seas shall when called upon by the Comptroller or a State Collector or an officer specially authorized by the Minister or the Comptroller or a State Collector so to do

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40

- (a) deliver an account in writing of the quantity of such goods, the marks and numbers thereof, and the names of the shippers and consignees, and declare to the truth thereof;

- (b) Answer questions relating to such goods.

45

261. Ships

261. Ships under commission from His Majesty or any foreign State having on board any goods other than ship's stores laden in parts beyond the seas may be boarded and searched by an officer especially authorized as mentioned in the last section in the same manner as other ships, and the officer may bring any such goods ashore and place them in a King's Warehouse.

Commissioned ships
may be searched.

262. As to sales by the Collector—

Collectors' sales.

- (a) The goods shall be sold by auction or by tender and after such public notice as may be prescribed, and where not prescribed after reasonable public notice.
- (b) The goods may be sold either be free of or subject to duty and charges and the price shall be paid in cash on the acceptance of the bidding or tender.
- (c) No bidding or tender shall be necessarily accepted and the goods may be re-offered until sold at a price satisfactory to the Collector.

263. The proceeds of any goods sold by the Collector shall be applied as follows :—

Proceeds of sales.

- Firstly, in the payment of the expenses of the sale.
 - Secondly, in payment of the duty.
 - Thirdly, in payment of the warehouse rent and charges.
 - Fourthly, in payment of the freight if any due upon the goods if written notice of such freight shall have been given to the Collector.
- And the balance if any shall be paid to the Treasurer on account of the person entitled thereto.

SCHEDULES.

SCHEDULE I.

COMMONWEALTH OF AUSTRALIA.

Security to the Customs.

By this Security the subscribers are, pursuant to the *Customs Act 1901*, bound to the Customs of the Commonwealth of Australia in the sum of—[*here insert amount or mode of ascertaining amount intended to be paid in default of compliance with condition*—subject only to this condition that if—[*here insert the condition of the security*—then this security shall be thereby discharged.*

Dated the day of 19 .

Names and Descriptions of Subscribers.	Signatures of Subscribers.	Signatures of Witnesses.

* NOTE.—If liability is not intended to be joint and several and for the full amount, here state what is intended as, for example, thus—“The liability of the subscribers is joint only,” or “the liability of (mentioning subscriber) is limited to (here state amount of limit of liability or mode of ascertaining limit).”

SCHEDULE II.

ANNUAL FEES TO BE CHARGED FOR BONDING WAREHOUSES.

Class I.	When only one locker in the opinion of the Minister is required	£200 per annum	
	For each additional locker considered necessary by the Minister	£150	„
Class II.	When in the opinion of the Minister the whole services of a locker are required	£200	„
	When in the opinion of the Minister the partial services of a locker are required	£25	„
	When £25 only shall be paid a further charge of 2s. per hour for each hour or portion thereof a locker may be in attendance shall be charged in addition to the annual fee.		
Class III.	For any warehouse requiring in the opinion of the Minister the entire services of a locker	£150	„
	When in the opinion of the Minister only partial services of a locker are required	£25	„
	When £25 only shall be paid a further charge of 2s. per hour for every hour or part thereof a locker may be in attendance shall be charged in addition to the annual fee.		
Class IV.	For any warehouse requiring in the opinion of the Minister the entire services of a locker	£200	„
	For each additional officer required in the opinion of the Minister	£150	„
	When in the opinion of the Minister only partial services of a locker are required	£25	„

When

When £25 only shall be paid a further charge of 2s. per hour for each hour or part thereof an officer may be in attendance shall be paid in addition to the annual fee.

The Minister shall determine the number of officers or the extent of the necessary attendance of officers required in each case.

The above scale of fees shall apply to the following places only:—

Brisbane, Rockhampton, Townsville.

Sydney and Newcastle.

Melbourne.

Hobart and Launceston.

Adelaide and Port Adelaide.

Fremantle, Perth, Albany, and Geraldton.

At any other place such fees shall be charged as may be prescribed.

SCHEDULE III.

THE COMMONWEALTH OF AUSTRALIA.

To

CUSTOMS WARRANT.

You are hereby authorized to enter into, at any time in the day or night, if necessary, and search any house, premises, or place ; and to break open the same, and any chests, trunks, or packages in which goods may be or are supposed to be, and to seize and take away any forfeited goods or goods which you have reasonable grounds to believe are forfeited, you may find therein, and forthwith to put and secure the same in the King's warehouse, or such other place of security as the Collector may direct : And for so doing this shall be your sufficient warrant.

This warrant shall remain in force for one month from the date thereof.

Dated this day of in the year One thousand
nine hundred and

(SEAL)

Signature.

THESE DOCUMENTS SONT
DEPOSES A LA BIBLIOTHEQUE

PART VIII.—The Duties.

Division 1.—The Payment and Computation of Duties generally.

Division 2.—Ad valorem Duties.

Division 3.—Deposits Abatements Remissions and Refunds. 5

Division 4.—Disputes as to Duty.

PART IX.—Drawbacks.

PART X.—The Coasting Trade.

PART XI.—Agents. 10

PART XII.—Officers.

Division 1.—Powers of Officers.

Division 2.—Protection to Officers.

PART XIII.—Penal Provisions.

Division 1.—Forfeitures. 15

Division 2.—Penalties.

PART XIV.—Customs Prosecutions.

PART XV.—Settlement of Cases by the Minister.

PART XVI.—Regulations.

PART XVII.—Miscellaneous. 20

Interpretation.

4. In this Act except where otherwise clearly intended—

“Answer questions” means that the person on whom the obligation of answering questions is cast shall to the best of his knowledge, information, and belief truly answer all questions on the subject mentioned that the Collector shall ask. 25

“By authority” means by the authority of the officer of Customs doing duty in the matter in relation to which the expression is used.

“Carriage” includes vehicles and conveyances of all kinds. 30

“Collector” includes the Comptroller and any Collector of Customs for the State and any principal officer of Customs doing duty at the time and place and any officer doing duty in the matter in relation to which the expression is used. 35

“Comptroller” means the Comptroller-General of Customs.

“Customs Acts” includes this Act and all laws and regulations relating to Customs in force within the Commonwealth or any part of the Commonwealth. 40

“Days” does not include Sundays or holidays.

“Documents” includes books.

“Drawback” includes bounty or allowance.

“Dutiable goods” includes all goods in respect of which any duty of Customs is payable.

“Gazette

"Gazette notice" means a notice signed by the Minister and published in the *Gazette*.

"Goods" includes all kinds of movable personal property.

5 "Goods under drawback" includes all goods in respect of which any claim for drawback has been made.

"Justice" means any Justice of the Peace having jurisdiction in the place.

"Master" means the person in charge or command of any ship except a pilot or Government officer.

10 "Officer" includes all persons employed in the service of the Customs.

15 "Owner" in respect of goods includes any person (other than an officer of Customs) being or holding himself out to be the owner, importer, exporter, consignee, agent, or person possessed of, or beneficially interested in, or having any control of, or power of disposition over the goods.

"Owner" in respect of a ship includes every person acting as agent for the owner or to receive freight or other charges payable in respect of the ship.

20 "Parts beyond the seas" means any country outside of Australia.

"Package" includes every means by which goods for carriage may be cased covered enclosed contained or packed.

"Port" means any proclaimed port.

25 "Prescribed" means prescribed by this Act.

"Produce documents" means that the person on whom the obligation to produce documents is cast shall to the best of his power produce to the Collector all documents relating to the subject matter mentioned.

30 "Ship" includes every description of vessel used in navigation not propelled by oars only.

"Smuggling" means any importation or introduction or attempted importation or introduction of goods without proper entry or with intent to defraud the revenue.

35 "The Customs" means the Department of Trade and Customs.

"This Act" includes all regulations made thereunder.

"Warehouse" means a warehouse licensed for the purposes of this Act.

40 "Wharf" means a wharf appointed for the purposes of this Act.

"Wharf owner" includes any owner or occupier of any wharf.

5. The penalties referred to at the foot of sections indicate that any contravention of the section whether by act or omission shall be an offence against this Act punishable upon conviction by a penalty not exceeding (except as hereinafter provided) the penalty mentioned.

Indication of penalties.

PART II.

PART II.—ADMINISTRATION.

Administration.

6. Until it is otherwise lawfully determined the Customs Acts shall be administered by the Minister of State for the Commonwealth administering the Customs.

Comptroller-General.

7. There shall be a Comptroller-General of Customs who under the Minister shall be the permanent head of the Customs and shall have the chief control of the Customs throughout the Commonwealth.

State Collector.

8. There shall in each State be a Collector of Customs who subject to the Comptroller shall be therein the Chief Officer of the Customs and shall be called the Collector of Customs for the State.

Delegation by Minister.

9. In relation to any particular matters or class of matters or to any particular State or District the Minister may by writing under his hand delegate any of his powers under any Customs Act (except this power of delegation) so that the delegated powers may be exercised by the delegate with respect to the matters or class of matters specified or the State or District defined in the instrument of delegation.

Delegation by Comptroller.

10. The Comptroller with the written approval of the Minister may similarly delegate any of his powers under any Customs Act.

Revocation of delegation.

11. Every delegation, whether by the Minister or Comptroller shall be revocable in writing at will, and no delegation shall prevent the exercise of any power by the Minister or Comptroller.

Continuance of Officers.

12. All persons acting in the service of the Customs at the commencement of this Act shall be deemed to have been duly appointed.

Customs seal.

13. The seal of the Customs shall be the Royal Arms having the words "Australia—H.M. Customs" encircling the Arms and the name of the State and port added thereto. Such seal shall be judicially noticed.

Customs flag.

14. The vessels and boats employed in the service of the Customs shall be distinguished from other vessels and boats by such flag as shall be prescribed.

Appointment of boarding stations &c.

15. The Governor-General may by proclamation—

(a) Appoint boarding stations for the boarding of ships by officers.

(b) Establish ports and fix their limits.

(c) Appoint wharfs within ports and fix their limits.

16. Ports

16. Ports and wharfs may be established or appointed for specified limited purposes or without any such limitation. Appointment of ports and wharfs.

17. The Minister may by *Gazette* notice—

(a) Appoint sufferance wharfs in any port. Appointment of sufferance wharfs &c.

(b) Appoint places for the examination of goods on landing.

18. All boarding stations ports wharfs and examination places in actual use by authority at the commencement of this Act shall continue as if established or appointed under this Act. Continuance of boarding stations &c.

19. Every wharf-owner shall provide to the satisfaction of the Collector suitable office accommodation on his wharf for the exclusive use of the officer employed at the wharf. Accommodation on wharfs.
Penalty: Twenty pounds.

20. Carriages and lighters may be licensed for the carriage of goods subject to the control of the Customs upon payment of such fees and subject to such conditions as may be prescribed. Licences.

21. The principal official of any railway in lieu of taking out a licence for each carriage to be used in the carriage of goods subject to the control of the Customs may give security for the due carriage and custody of all such goods on the railway, and thereupon all carriages of the railway shall be deemed to be licensed. Licensed railway carriages.

22. All carriages and lighters licensed for the purposes of any State Customs Act at the commencement of this Act shall be deemed to be similarly licensed under this Act; but unless actually licensed under this Act such carriages and lighters shall cease to be licensed on the expiration of the period for which the last payment of licence-fee was made prior to the commencement of this Act or such further time if any as may be prescribed, or as may be allowed by the Minister by *Gazette* notice. Continuance of licences.

23. The licence for any carriage or lighter may be revoked by the Collector if the licensee shall be guilty of any fraud or misconduct or shall fail to comply with this Act. Revocation of licence.

24. No person shall use any unlicensed carriage or lighter for the conveyance of goods subject to the control of the Customs. Unlicensed carriages or lighters
Penalty: Twenty pounds.

25. Declarations under this Act may be made before the Minister or any Collector or any Justice and also before any person authorized in that behalf by the Minister or Comptroller. Before whom declarations may be made.

26. No officer shall knowingly receive a declaration by any person under the age of eighteen years. Declaration by youths.

27. If

State inspection
laws.

27. If the Governor-General shall so direct by proclamation any State Act relating to the inspection or testing of imported goods may be executed and enforced by the Customs.

Working days
and hours.

28. The working days and hours of the Customs shall be as prescribed and except when working overtime is permitted by the Collector cargo shall only be received loaded or worked on or discharged from any ship on working days and during working hours. 5
Penalty : Fifty pounds.

Overtime charges.

29. When working overtime is permitted overtime at prescribed rates shall be charged for the services of the officers. 10

PART III.—CUSTOMS CONTROL EXAMINATION ENTRIES AND SECURITIES GENERALLY.

Customs control of
goods.

30. Goods shall be subject to the control of the Customs as follows :—

- (a) As to all goods imported—from the time of importation until delivery for home consumption or until exportation to parts beyond the seas whichever shall first happen. 15
- (b) As to all goods under drawback—from the time of the claim for drawback until exportation to parts beyond the seas. 20
- (c) As to all goods subject to any export duty—from the time when the same are brought to any port or place for exportation until the payment of the duty.

Right of
examination.

31. The Control of the Customs especially includes the right of the Customs to examine all goods subject to such control. 25

Customs control of
goods.

32. No goods subject to the control of the Customs shall be moved altered or interfered with except by authority and in accordance with this Act.

Penalty : One hundred pounds. 30

No claim for
compensation for
loss.

33. The Customs shall not be liable for any loss or damage occasioned to any goods subject to the control of the Customs except by the neglect or wilful act of some officer.

Goods imported
through post.

34. Goods imported through the Post Office shall be subject to the control of the Customs equally with goods otherwise imported. 35

Entries.

35. Entries may be made and passed for all goods subject to the control of the Customs.

Owner to make
entry.

36. Entries shall be made by the delivery of the entry by the owner to the Collector.

37. Entries

37. Entries shall be passed by the Collector signing the entry, and on the passing of the entry the goods shall be deemed to be entered, and any entry so passed shall be warrant for dealing with the goods in accordance with the entry and the goods shall forth-
5 with be dealt with accordingly.

Collector to pass entries.

Penalty : One hundred pounds.

38. Goods being the personal baggage of passengers in any ship and not being dutiable goods may subject to any prescribed conditions, be imported or exported without entry.

Passengers' baggage.

39. The Customs shall have the right to require and take securities for compliance with this Act and generally for the protection of the revenue of the Customs, and pending the giving of the required security in relation to any goods subject to the control of the Customs may refuse to deliver the goods or to pass any entry
15 relating thereto.

Right to require security.

40. Where any security is required to be given such security may be by bond or guarantee or cash deposit or all or any of such methods so that in each case the security shall be approved by the Collector.

Security.

41. When security is required for any particular purpose security may by the authority of the Comptroller be accepted to cover all transactions for such time and for such amount as the Comptroller may approve.

General bonds may be given.

42. All Customs securities may after the expiration of three
25 years from the date thereof or from the time specified for the performance of the conditions thereof be cancelled by the Comptroller.

Cancellation of bonds.

43. If the Collector shall not at any time be satisfied with the sufficiency of any security the Collector may require a fresh security
30 and a fresh security shall be given accordingly.

New sureties.

44. The form of Customs security in Schedule I. hereto shall suffice for all the purposes of a bond or guarantee under this Act and without sealing shall bind its subscribers as if sealed and unless otherwise provided therein jointly and severally and for the full amount.

Form of Customs security.

45. Whenever any such Customs security is put in suit by the Collector the production thereof without further proof shall entitle the Collector to judgment for their stated liability against the persons appearing to have executed the same unless the defendants shall prove compliance with the condition or that the security was not
40 executed by them.

Effect of Customs security.

PART IV.—THE IMPORTATION OF GOODS.

Importation.

46. In order to the due importation of goods—

- (1) The ship may be boarded.
- (2) The cargo shall be reported.
- (3) The goods shall be entered unshipped landed and examined. 5

*Division 1.—Prohibited Imports.*Importations
allowed.**47.** No prohibited imports shall be imported.

Penalty: One hundred pounds.

Unregistered ships.

48. No goods may be imported in any ship which has not been lawfully registered in the country to which she belongs or which has not her certificate of registry on board unless the absence of the certificate is satisfactorily accounted for. 10

Penalty : One hundred pounds.

Prohibited imports.

49. The following are prohibited imports :— 15

- (a) Any work which is or appears to be an infringement of any copyright existing in any part of the King's dominions and of the existence of which copyright written notice shall have been given to the Minister by or on behalf of the proprietor. 20
- (b) False money and counterfeit sterling and any coin or money not being of the proper standard in weight or fineness.
- (c) Blasphemous indecent or obscene works or articles.
- (d) Goods manufactured or produced wholly or in part by prison labour or which have been made within or in connexion with any prison, gaol, or penitentiary. 25
- (e) Exhausted tea, and tea adulterated with spurious leaf or with exhausted leaves, or being unfit for human use, or unwholesome. 30
- (f) Oleomargarine butterine or any similar substitute for butter.
- (g) All goods the importation of which may be prohibited by proclamation.
- (h) All goods having thereon or therewith any false suggestion of any warranty guarantee or concern in the production or quality thereof by any persons public officials Government or country. 35

Restrictions of
spirits, &c.

50. No spirits, opium, tobacco, snuff, cigars or cigarettes shall be imported except in packages of the prescribed size. 40

Penalty : One hundred pounds.

State prohibitions.

51. All goods lawfully prohibited to be imported into any State shall as regards that State be prohibited imports for the purposes of this Act. 51A. The

51A. The power of prohibiting importation of goods shall authorize prohibition subject to any specified condition or restriction and goods imported contrary to any such condition or restriction shall be prohibited imports. Prohibition subject to restriction.

5 *Division 2.—The Boarding of Ships.*

52. The master of a ship shall not suffer his ship to enter any place other than a port unless from stress of weather or other reasonable cause. Ships to enter ports.

Penalty: One hundred pounds.

10 **53.** The master of every ship arriving within one league of the coast shall bring his ship to for boarding on being approached by or hailed or signalled from any vessel in the service of the Customs having hoisted the Customs flag, or from any vessel in the service of His Majesty or of the Commonwealth having hoisted the proper
15 ensign and pendant. Ship to bring to on being signalled.

Penalty: One hundred pounds.

54. The master of every ship from parts beyond the seas bound to or calling at any port shall bring his ship to for boarding at the boarding station appointed for that port. Ship to bring to at boarding station.

20 Penalty: Fifty pounds.

55. The master of every ship bringing to for boarding shall by all reasonable means facilitate boarding by the officer. Facility for boarding.

Penalty: Twenty pounds.

56. The master of every ship after his ship has been brought to
25 at the boarding station and boarded by the officer shall come up to the proper place of mooring or unlading as quickly as practicable without touching at any other place. Ships to come quickly to place of unlading.

Penalty: Twenty pounds.

57. No ship after arrival at the proper place of mooring or
30 unlading shall except by authority, or by direction of the harbor authority be removed therefrom before the discharge of the cargo intended to be discharged at the port. Ship not to be moved without authority.

Penalty: Twenty pounds.

Division 3.—The Report of the Cargo.

35 **58.** The master of every ship arriving from parts beyond the seas shall— Report of cargo.

(a) Within one day after arrival make report of the ship and her cargo by delivering to the Collector an Inward Manifest in duplicate;

40 (b) Answer questions relating to the ship and her cargo crew passengers stores and voyage;

(c) Produce documents relating to the ship and her cargo.

Penalty: One hundred pounds.

59. When

Master of wrecked
ship to report at
nearest Custom
house.

59. When any ship is wrecked upon the coast the master or owner shall without any unnecessary delay make report of the ship and cargo by delivering to the Collector an Inward Manifest so far as it may be possible for him to do so at the Customs house nearest to the place where the ship was lost or wrecked or at the chief Customs house of the State where the ship was lost or wrecked. 5

Penalty: Twenty pounds.

Goods derelict to
be delivered to
officer.

60. Whoever has any dutiable goods derelict flotsam jetsam lagan or wreck in his possession shall deliver the same to an officer without unnecessary delay. 10

Penalty: Twenty pounds.

Interference with
derelict goods.

61. No person shall except by authority unnecessarily move alter or interfere with any goods derelict flotsam jetsam lagan or wreck. 15

Penalty: Twenty pounds.

Division 4.—The Entry, Unshipment, Landing, and Examination of Goods.

Entries.
Kinds of entries

62. All imported goods shall be entered either

- (a) For home consumption; or
- (b) For warehousing; or
- (c) For transhipment.

20

Sight Entry.

63. If the owner shall satisfy the Collector that he cannot immediately supply the full particulars for making an entry he may with the consent of the Collector make a Sight Entry.

Passing of Sight
Entry

64. A Sight Entry on being passed by the Collector shall be warrant for the landing and examination of the goods. 25

Completion of Sight
Entry

65. Within three days after the examination of the goods pursuant to any Sight Entry the owner shall make complete entry of the goods by the addition to the Sight Entry of the required particulars. 30

Entry within seven
days.

66. Entries shall be made of the whole of any cargo landed or to be landed not later than seven days after the report of the ship or within such further time if any as the Collector may see fit to allow; and so that if the goods are placed in quarantine seven days at the least shall be allowed for entry after their release from quarantine. 35

(a) If default shall be made in the entry of any goods pursuant to this section the Collector may cause the goods to be removed to a warehouse; and if the goods are

are not claimed and entries passed therefor within six months after such removal the goods may be sold by the Collector.

(b) If the goods are of a perishable nature they may be sold at any time the Collector thinks fit either before or after warehousing.

67. The bulk cargo of a ship arriving within one league of the coast shall not be broken except with the permission of the Collector; or as regards goods for which entry has been passed.

Penalty: One hundred pounds.

68. Goods may only be unshipped pursuant to—

(1) A Collector's permit; or

(2) An entry passed.

Penalty: One hundred pounds.

69. All goods unshipped shall be either—

(a) Landed directly at a wharf or after conveyance thereto in a licensed lighter direct from the ship; or

(b) Transhipped direct to the ship into which they are to be transhipped or after conveyance thereto in a licensed carriage or lighter direct from the ship.

Penalty: One hundred pounds.

70. Goods unshipped and landed under a Collector's permit shall be placed by and at the expense of the master or owner of the ship from which they were unshipped in a place of security approved by the Collector, and shall until lawfully removed therefrom be at the risk of the master or owner of the ship as if they had not been unshipped.

71. Any goods may by authority be repacked or skipped on the wharf.

PART V.—THE WAREHOUSING OF GOODS.

Division 1.—Licensed Warehouses.

72. Dutiable goods may be warehoused in warehouses licensed by the Minister.

73. There may be four classes of licensed warehouses as follows:

Class I.—General warehouses to be used for warehousing goods generally.

Class II.—Private warehouses to be used only for warehousing goods the property of the licensee.

Class III.

Class III.—Machinery warehouses to be used only for warehousing machinery and similar heavy or bulky goods.

Class IV.—Manufacturing warehouses to be used for warehousing goods for use in such warehouse in any manufacture trade or process and for carrying on in such warehouse any manufacture trade or process which the Minister may by *Gazette* notice declare that it is desirable to encourage.

Annual fee.

74. An annual fee to the amount set out in Schedule II. hereto for each class of warehouse shall be paid by the licensee by equal quarterly payments in advance on the first days of January April July and October in each year.

Cancellation of licences.

75. In default of payment of any part of any licence-fee for thirty days after any quarter day the Minister may by *Gazette* notice cancel the licence and thereupon the warehouse shall be closed and the goods therein shall be removed by the Collector to some other warehouse.

Continuation of existing licences.

76. All warehouses licensed for the purposes of any State Customs Act at the commencement of this Act shall be deemed to be similarly licensed under this Act but unless actually licensed under this Act such warehouses shall cease to be licensed on the expiration of the period for which the last payment of licence-fee was made prior to the commencement of this Act or such further time as may be prescribed or as may be allowed by the Minister by *Gazette* notice.

Officer to take account of goods landed to be warehoused.

77. Upon the landing of any goods to be warehoused or so soon as practicable thereafter the officer shall take a particular account of the goods and shall enter such account in a book.

Unless where otherwise provided such account shall be that upon which the duties shall be ascertained and paid.

Completion of warehousing.

78. When any goods entered for warehousing have been duly deposited in the warehouse the officer shall certify that the warehousing is complete by signing a receipt for the goods.

Removal of goods to warehouse.

79. If any goods entered to be warehoused are not warehoused accordingly by the owner the Collector may remove them to the warehouse.

The licensee of the warehouse shall pay all charges for the removal of goods removed by the Collector and shall have a lien on the goods for such charges.

80. Goods

80. Goods entered for warehousing shall be deposited in the warehouse in the packages in which they were imported except goods repacked or skipped on the wharf which shall be deposited in the packages in which they were when the account was taken.

Packages in which goods to be deposited.

5 81. The Collector may in prescribed cases permit the owner to sort bottle pack or repack goods in any warehouse.

Repacking in ware house.

82. Whenever goods are sorted bottled packed or repacked in a warehouse a fresh account of the goods shall be taken by the officer and shall be substituted for the original account.

Fresh account to be taken.

10 83. In all prescribed cases warehoused goods in manufacturing warehouses may in manner prescribed be utilized for manufacturing purposes and the manufactured article may be delivered for home consumption subject only to the payment of such duty (if any) as may be prescribed.

Delivery of goods manufactured in warehouses.

15 84. Warehoused spirits being not less than sixty per cent. over proof in strength may in manner prescribed be methylated so as to be rendered unfit for human use as a beverage and incapable of being converted to that use and when so methylated may be entered for home consumption for use in the arts and manufactures
20 subject to the payment of such duty (if any) as may be prescribed.

Methylation of spirits.

85. No person shall treat refine or distil any methylated spirit for the purpose of rendering it fit for human use as a beverage or shall sell or offer for sale any methylated spirit so treated refined or distilled, or sell or offer for sale for human use as a food or beverage
25 any goods containing methylated spirits.

Refining methylated spirits.

Penalty : One hundred pounds.

86. The licensee of every warehouse shall—

- (1) Stack and arrange the goods in the warehouse so that reasonable access to and examination of every package may be had at all times.
- (2) Provide sufficient lights and just scales and weights for the use of the officer.
- (3) Find all labour and materials requisite for the storing examining packing marking cooeping weighing and taking stock of the warehoused goods whenever the Collector may desire.
- (4) Pay the duty on all warehoused goods removed from his warehouse except by authority and on all warehoused goods not produced to the officer on demand unless such goods are accounted for to the satisfaction of the Collector.

Duty of licensee.

Penalty: Twenty pounds.

87. No

Opening warehouse.

87. No person shall except by authority open any warehouse or gain access to the goods therein.

Penalty: Twenty pounds.

Collector may order removal of goods from private to public warehouse.

88. The Collector may require the owner of any goods in any private warehouse within a time to be specified by him to remove them to some general warehouse or to pay the duty thereon and if the order is not complied with the goods may be sold by the Collector. 5

Period of warehousing.

89. Goods warehoused in any warehouse for three years shall if not removed therefrom or re-warehoused be sold by the Collector. 10

Re-warehousing.

90. Re-warehousing shall be effected as follows:—

- (a) An application for re-warehousing shall be made by the owner to the Collector.
- (b) The goods shall be examined by the officer at the expense of the owner. 15
- (c) Duty shall be paid on any disallowed deficiency.
- (d) A re-warehousing entry shall be made by the owner for the goods according to the result of the examination.
- (e) On the passing of the entry a fresh account shall be substituted for the last account and this shall complete the re-warehousing. 20

Goods for exhibition.

91. In prescribed cases warehoused goods may be permitted to be taken out of the warehouse without payment of duty for the purpose of public exhibition or any similar purpose for such convenient time and in such suitable quantities as may be prescribed subject to the prescribed security for the return of the goods or payment of the duty. 25

Collector to have access to warehouse.

92. The Collector at all hours of the day and night shall have access to every part of any warehouse and power to examine the goods therein and for that purpose to break open the warehouse or any premises necessary to be passed through to secure access. 30

Regauging or reweighing of goods.

93. Warehoused goods may be regauged remeasured reweighed or examined by the officer either by direction of the Collector or at the request and expense of the owner and duty shall be payable according to the result unless the Collector is of opinion that any loss shown is excessive in which case the duty shall be paid on the original entry with any reduction which the Collector may see fit to allow. 35

94. Warehoused

94. Warehoused goods subject to an *ad valorem* duty which have deteriorated in value may be revalued on the application of the owner and duty shall be paid according to the result if the Collector is satisfied that the deterioration has been accidentally
5 caused.

Revaluation.

95. If the warehouse dues on any warehoused goods shall be in arrear for six months the goods may be sold by the Collector.

If warehouse fees in arrear goods to be sold.

96. The Comptroller may cause any warehoused goods which in the opinion of the Collector are not worth the duty payable thereon
10 to be destroyed and may remit the duty.

Goods not worth duty may be destroyed.

The owner of any goods destroyed shall pay to the licensee of the warehouse or to the Collector in case the goods were in a King's warehouse the rent and charges payable in respect of the destroyed goods.

15 97. No goods of a combustible or inflammable nature shall be warehoused except by permission of the Collector, and if any such goods shall be landed the same may be deposited in any safe available place that the Collector shall approve, and whilst so deposited the same shall be deemed to be in a King's warehouse and be liable to be
20 sold by the Collector at the expiration of fourteen days in the same manner as goods of a perishable nature deposited in a King's warehouse unless duly cleared or warehoused in some warehouse with the approval of the Collector, and such goods shall be charged with the expenses for removing securing watching and guarding the
25 same until sold.

Combustible or inflammable goods.

Penalty: One hundred pounds.

98. Warehoused goods may be entered—

Entry of warehoused goods.

- 30 (a) For home consumption.
(b) For export to parts beyond the seas.
(c) For removal for warehousing elsewhere.

99. If after goods have been entered for warehousing either on importation or removal and before they have been actually warehoused they shall be entered for home consumption exportation or removal the goods so entered shall be considered as constructively warehoused
35 and may be delivered for home consumption exportation or removal as if actually warehoused.

Constructive warehousing.

Division 2.—King's Warehouses.

100. King's warehouses may be appointed by the Minister by
Gazette notice.

King's warehouse.

40 101. Rent and charges shall be paid in respect of any goods warehoused in any King's warehouse according to such scale as may be prescribed.

Rent.

102. King's

Continuation of
existing ware-
houses.

102. King's warehouses in actual use by authority at the commencement of this Act shall continue as if appointed under this Act unless otherwise determined by the Minister by *Gazette* notice.

Power to sell.

103. If any goods warehoused in a King's warehouse shall not be lawfully removed within six months after warehousing the goods may be sold by the Collector. 5

Purposes of King's
warehouses.

104. King's warehouses shall be wholly under the control of the Customs and shall be specially available for the examination of goods and the storage of seized and unclaimed goods but otherwise all the provisions of this Act relating to warehouses shall so far as practicable apply to King's warehouses. 10

PART VI.—THE EXPORTATION OF GOODS.

Exportation.

105. No prohibited exports shall be exported.
Penalty: One hundred pounds.

Prohibited exports

106. The following are prohibited exports namely— 15
All arms explosives military and naval stores the export of which is prohibited by proclamation including any article which the proclamation shall declare to be military or naval stores or to be capable of being converted into them or of being made useful in increasing the quantity thereof. 20
The proclamation may prohibit the exportation or carrying coastwise of the prohibited goods either generally or to any particular country or place and the prohibition shall have effect accordingly.

Size of exporting
vessel.

107. Except by the permission of the Collector no goods subject to the control of the Customs shall be exported in any ship of less than fifty tons gross register. 25
Penalty: One hundred pounds.

Conditions for
export.

108. Before any goods are taken on board a ship for export—
(1) The ship shall be entered outwards and the goods shall be entered for export but— 30
(a) In the case of free goods it shall suffice if they be entered not later than three days after shipment; and
(b) The ship may be stiffened by permission of the Collector before entry outwards or export entry. 35

Goods to be shipped
at wharf.

109. Goods subject to the control of the Customs for exportation or removal coastwise shall be shipped either directly at a wharf or after conveyance to the ship in a licensed lighter direct from a wharf. 40
Penalty: One hundred pounds. **110.** If

110. If any goods entered for export are not shipped according to the entry— Short-shipped goods.

(1) The owner shall immediately report the fact to the officer and amend his entry for the goods not later than three days after the clearance of the ship.

(2) The goods if dutiable shall forthwith be warehoused.

Penalty: Twenty pounds.

111. The Collector may require the owner to produce documents for any goods entered for export and in the case of goods subject to the control of the Customs to give security that the same will be landed at the place for which they are entered or otherwise accounted for to the satisfaction of the Collector. Documents and security.

112. The master of any ship shall not depart with his ship from any port without receiving from the Collector a Certificate of Clearance. Certificate of clearance.

Penalty: One hundred pounds.

113. Before any Certificate of Clearance shall be granted the master of the ship shall— Requisites for obtaining clearance.

(a) Deliver to the Collector an Outward Manifest in duplicate.

(b) Answer questions relating to the ship and her cargo crew passengers stores and voyage.

(c) Produce documents relating to the ship and her cargo.

114. The master of any ship shall not suffer any goods other than passengers' baggage not specified or referred to in the Outward Manifest to be taken on board his ship. Shipment of unspecified goods.

Penalty: Fifty pounds.

115. A copy of the Outward Manifest shall be attached to the Certificate of Clearance and be sealed with the Customs seal. Manifest to be attached to clearance.

116. No Certificate of Clearance shall be granted for any ship unless all her inward cargo and stores shall have been duly accounted for to the satisfaction of the Collector nor unless all the other requirements of the law in regard to such ship and her inward and outward cargo have been duly complied with. Time of clearance.

117. The master of every ship departing from any port shall bring his ship to at the boarding station appointed for the port and by all reasonable means facilitate boarding by the officer, and shall not depart with his ship from any port with any officer on board such ship in the discharge of his duty without the consent of such officer. Ship to bring to at proper stations.

Penalty: One hundred pounds.

118. The

Master to account
for missing goods.

118. The master of every ship after clearance shall—

- (a) On demand by an officer produce the Certificate of Clearance;
- (b) Account to the satisfaction of the Collector for any goods specified or referred to in the Outward Manifest and not on board his ship. 5

Penalty : Fifty pounds.

Goods exported to
be landed at proper
destination.

119. No goods shipped for export shall be unshipped or landed at any place other than that for which they have been entered without the permission of the Collector. 10

Penalty : Fifty pounds.

Certificate of land-
ing.

120. If required by the Collector a certificate in such form and to be given by such person as may be prescribed shall be produced in proof of the due landing according to the export entry of any goods subject to the control of the Customs, and the Collector may refuse to allow any other goods subject to the control of the Customs to be exported by any person who fails within a reasonable time to produce such certificate of the landing of any such goods previously exported by him. 15

PART VII.—SHIPS' STORES.

20

Ships' stores.

121. The prescribed allowance of stores for the use of the passengers and crew and for the service of the ship may be shipped free of duty on board any ship of not less than fifty tons gross registered tonnage entered outwards for parts beyond the seas.

Use of ships' stores.

122. Ships' stores shall only be used by the passengers and crew and for the service of the ship after the departure of such ship from her last port of departure in the Commonwealth. 25

Re-landing ships'
stores.

123. No stores after being shipped shall be unshipped except by permission of the Collector.

Penalty : Fifty pounds.

30

PART VIII.—THE DUTIES.

Division 1.—The Payment and Computation of Duties Generally.

Exemption.

124. No goods the property of the Commonwealth shall be liable to any duty of Customs.

Import duties.

125. All import duties shall be paid at the rate in force when the goods are entered for home consumption. 35

Export duties.

126. All export duties shall be finally payable at the rate in force when the goods are actually exported but in the first instance payment shall be made by the owner to the Collector at the rate in force when the goods are entered for export. 40

127. Where

127. Where duties are imposed according to weight or measure the weight or measurement of the goods shall be ascertained according to the standard weights and measures by law established. Weights and Measures.

128. Where duties are imposed according to a specified quantity weight size or value the duties shall apply in proportion to any greater or lesser quantity weight size or value. Proportion.

129. Whenever goods are sold or prepared for sale as or are reputed to be of a size or quantity greater than their actual size or quantity duties shall be charged according to such first-mentioned size or quantity.

130. All duties shall be paid in British currency. British currency.

131. If any goods enumerated in the Tariff are or can be classed under two or more names headings or descriptions with a resulting difference as to duty duty shall be charged when it is a difference between liability to or freedom from duty and the higher or highest of the duties applicable shall be charged when it is a difference as to two or more duties. Highest duties to be charged.

132. Whenever any goods are imported which in the opinion of the Minister are a substitute for any dutiable goods or are intended to be or can be used as such substitute or for any purpose for which such dutiable goods can be used or for any similar purpose the Minister may by *Gazette* notice direct that such first mentioned goods shall be charged with the duty chargeable upon such dutiable goods and the same shall be so charged accordingly. Substitutes for dutiable goods.

133. (1) Whenever any dutiable goods are composed of two or more separate parts any part though imported by itself shall be proportionately chargeable with duty at the rate applicable to the complete goods. Duty on parts.

(2) When the duty on the complete goods is specific or both specific and *ad valorem* the Minister may fix the proportionate rate of duty with which any part shall be chargeable.

134. Duty shall be charged on all essences condensations concentrations or preparations of goods liable to duty according to the quantity of dutiable goods into which such essences condensations concentrations or preparations can be converted. Duty on condensed articles.

135. Goods charged with duty by measurement shall at the expense of the owner be heaped piled sorted framed or otherwise placed in such manner as the Collector may require to enable measurement and account thereof to be taken ; and in all cases where the same are measured in bulk the measurement shall be taken to the full extent of the heap or pile. Measurement for duty.

136. Goods

Goods in transitu.

136. Goods exported to Australia from any country but passing through another country shall be valued for duty as if they were imported directly from such first mentioned country.

Proprietary medicines.

137. All medicinal or toilet preparations not completely manufactured but imported for completing the manufacture thereof or for the manufacture of any other article by the addition of any ingredient or by mixing such preparations or by putting up or labelling the same alone or with other articles or compounds under any proprietary or trade name shall be irrespective of cost valued for duty and duty shall be paid thereon at the ordinary market value in the country whence imported of the completed preparation when put up and labelled under such proprietary or trade name less the actual cost of labour and material used or expended in Australia in completing the manufacture thereof or of putting up or labelling the same. 5 10

Value of goods sold.

138. When the duty on any goods sold at any Collector's sale shall be *ad valorem* the value of such goods shall if approved by the Collector be taken to be the value as shown by the sale. 15

Strength of spirits.

139. The strength of spirits may be ascertained for the purposes of duty by means of a hydrometer approved by the Comptroller.

Obscuration.

140. If in the opinion of the Collector the strength of any spirits cannot immediately be accurately ascertained by hydrometer the strength may be ascertained after distillation or in any prescribed manner. 20

Derelict goods dutiable.

141. All goods derelict flotsam jetsam or lagan or landed saved or coming ashore from any wreck or sold as droits of Admiralty shall be charged with duty as if imported in the ordinary course. 25

As to payment of duty on goods in manifest but not produced or landed.

142. If any dutiable goods which are included in the report of any ship shall not be produced to the officer the master or owner of the ship, or the owner of the goods shall on demand by the Collector pay the duty thereon as estimated by the Collector unless the goods are accounted for to the satisfaction of the Collector. 30

Samples.

143. Small samples of the bulk of any goods subject to the control of the Customs may subject to the prescribed conditions be delivered free of duty.

Samples.

144. Samples of duty paid goods or goods the produce of Australia sent out of Australia may subject to any prescribed conditions be re-imported or brought back to Australia without payment of duty. 35

145. If

145. If after any agreement is made for the sale or delivery of goods duty paid any alteration takes place in the Tariff affecting such goods before they are delivered for home consumption then in the absence of express written provision to the contrary the agreement shall be altered as follows :—

Alteration of
agreements where
Tariff altered.

- (a) In the event of the Tariff being altered by a new or increased duty the seller after payment of the new or increased duty may add the difference caused by the alteration to the agreed price.
- (b) In the event of the Tariff being altered by the abolition or reduction of duty the purchaser may deduct the difference caused by the alteration from the agreed price.

146. All duties shall constitute Crown debts charged upon the goods in respect of which the same are payable and payable by the owner of the goods and recoverable at any time in any court of competent jurisdiction by proceedings in the name of the Collector.

Recovery of duties.

Division 2.—Ad Valorem Duties.

147. When any duty is imposed according to value—

- (a) The value shall be taken to be the fair market value of the goods in the principal markets of the country whence the same were exported in the usual and ordinary commercial acceptation of the term and free on board at the port of export in such country and a further addition of ten per cent. on such market value.
- (b) The value shall be verified at the time of entry by the production of the genuine invoice and by a declaration signed by the owner in the presence of the Collector.
- (c) The invoice shall be stamped by the Collector with the Customs stamp, and shall be produced to the officer prior to the delivery of the goods for home consumption or for warehousing.
- (d) If the non-production of the genuine invoice shall be accounted for to the satisfaction of the Collector proof of its contents by a copy or otherwise may be received in lieu of its production.

Value for duty.

148. The Genuine Invoice means—

Genuine invoice.

- (a) The original invoice prepared and issued by the seller in the country whence the goods were exported showing the true description of the goods and the actual money price paid or to be paid for the goods by the purchaser in the country whence the same were exported without any deduction ; or

(b) In

(b) In the case of goods consigned for sale in Australia the original invoice prepared and issued by the consignor showing the true description of the goods and the actual money price for cash at which such goods were saleable in the principal markets of the country whence such goods were exported at the date of the shipment of such goods free on board at the port of export in such country. 5

Foreign invoices.

149. Where the genuine invoice shows the value of the goods in any currency other than British currency the equivalent value of the goods in British currency shall be ascertained according to a fair rate to be declared in case of doubt by the Minister. 10

Value may be assessed.

150. Whenever the Collector has a doubt as to the accuracy of the declared value of dutiable goods he may detain such goods and assess the value thereof. 15

Should the owner object to the value so assessed he may request that the value may be ascertained by experts in manner prescribed.

Should the owner refuse to pay the duty as assessed by the Collector or ascertained by experts the Collector may sell the goods. 20

The provisions of this section shall not apply in cases where the Minister is of opinion that any evasion of this Act has been committed or attempted.

Blank invoices.

151. No person shall send or bring into Australia or have in his possession without reasonable excuse any blank or partly blank invoice form capable of being filled up and used as a genuine invoice. 25
Penalty: Twenty pounds.

Minister to determine value in some cases.

152. Whenever it is difficult to determine the value of goods for duty, either because the goods are not sold for use or consumption in the country of production or because a lease of the goods or the right of using the same is sold or given but not the right of property therein, or because the goods have a royalty imposed thereon and the royalty is uncertain or is not a reliable means of estimating the value of the goods, or because the goods are usually or exclusively sold by or to agents or by subscription or are sold or imported in or under any other unusual or peculiar manner or conditions (of all which matters the Minister shall be judge) the Minister may determine the value for duty of the goods. 30 35

Deposits.

Division 3.—Deposits, Abatements, Remissions, and Refunds of Duties.

153. In prescribed cases the duty paid on any goods may be retained by the Customs on deposit for a period not exceeding six months, and the deposit may be returned to the owner if the goods are exported within the prescribed time. 40

154. (1) Whenever

154. (1) Whenever goods—

Refund of duty.

(a) Have received damage or have been pillaged during the voyage; or

(b) Have whilst under Customs control been damaged pillaged lost or destroyed; or

(2) Whenever duty has been paid through manifest error of fact or patent misconception of the law—

a refund rebate or remission of the duty as the case may require shall be made in manner prescribed.

155. The Collector may remit any duty on any goods that have been wasted or lost in sorting bottling packing or repacking in a warehouse.

Duty on waste.

156. When any duty has been short levied or erroneously refunded the person who should have paid the amount short levied or to whom the refund has erroneously been made shall pay the amount short levied or repay the amount erroneously refunded on demand being made by the Collector within twelve months from the date of the short levy or refund.

Short paid duty may be recovered

157. If any practice of the Customs relating to classifying or enumerating any article for duty shall be altered so that less duty is charged upon such article, no person shall thereby become entitled to any refund on account of any duty paid before such alteration.

No refund if duty altered.

Division 4.—Disputes as to Duty.

158. If any dispute shall arise as to the amount or rate of duty or as to the liability of goods to duty the owner may deposit with the Collector the amount of duty demanded and thereupon the following consequences shall ensue:

Deposit of duty.

(1) The owner upon making proper entry shall be entitled to delivery of the goods.

(2) The deposit shall be deemed the proper duty unless by action commenced by the owner against the Collector within six months after making the deposit the contrary shall be determined, in which case any excess of the deposit over the proper duty shall be refunded by the Collector to the owner with Five pounds per centum per annum interest added.

The provisions of this section shall not apply in cases where the Minister is of opinion that any evasion of this Act has been committed or attempted.

PART IX.

PART IX.—DRAWBACKS.

Drawbacks allowed.

159. Drawbacks of import duty may be allowed on exportation in respect of such goods (other than spirits wine beer tobacco cigars cigarettes and opium) to such amount and in such manner as may be prescribed.

5

Provision in case
Western Australia
continues Inter-
colonial Duties.

159A. If the Parliament of the State of Western Australia in exercise of the power conferred by the Constitution imposes duties of Customs on goods passing into that State and not originally imported from beyond the limits of the Commonwealth, then whilst such duties are so imposed drawback may be allowed in the State in which import duty has been paid and on any such goods as if exported.

10

Limit of value.

160. No drawback shall be allowed on any goods of a less value for home consumption than the amount of the drawback or on which the import duty paid did not amount to One pound.

15

Examination of
goods under
drawback.

161. All goods in respect of which any claim for drawback shall be made shall before exportation be produced for examination by the Customs and shall be examined accordingly.

Debenture to be
passed.

162. For the purpose of claiming drawback a drawback debenture shall be presented to the Collector, who shall as soon as the goods have been exported cause the debenture to be passed for payment.

20

Declaration on de-
benture.

163. The person claiming drawback on any goods shall make a declaration upon the debenture that the goods have been exported and have not been re-landed and are not intended to be re-landed and that such person at the time of shipping was entitled to the drawback, and the name of such person shall be stated in the debenture, and the receipt of such person on the debenture countersigned by the holder of such debenture if the same shall have been transferred in the meantime shall be a sufficient discharge for such drawback.

25

30

Payment of draw-
back debentures.

164. No drawback debenture shall be paid except with the consent of the Minister—

(a) Unless presented for payment within one year from the date of the shipment of the goods for export.

35

And the Minister may

(b) Prohibit the payment in whole or in part of any drawback debenture.

PART X.—THE COASTING TRADE.

What are coasting
vessels.

165. All ships trading or plying or going from one port or place in Australia to another port or place therein and not trading plying or going beyond the limits of Australia shall be considered as engaged in the coasting trade, and such ships shall be deemed to be coasting ships for the purposes of any Customs Act.

40

166. The

166. The master of any coasting ship shall not suffer any goods to be taken into or put out of his ship from or into any other ship at sea except with the sanction of the Collector, nor suffer his ship to deviate from her voyage unless forced to do so by unavoidable circumstances or under circumstances explained to the satisfaction of the Collector.

Coasters not to take in cargo at sea or deviate.

Penalty : One hundred pounds.

167. The owner of any ship employed in the coasting trade may with the consent of the Collector report such ship inwards or outwards in lieu of the master thereof.

Owner may report ship.

Every such owner so reporting shall be subject to the same provisions and liable to the same penalties under the Customs Act as the master of such ship.

168. The master or owner of every coasting ship shall at prescribed ports deliver to the Collector as prescribed particulars of all cargo consisting of Australian produce or manufactures then on board his ship.

Account of Australian goods.

169. The coasting trade generally as regards the Customs shall be regulated in manner prescribed and books shall be kept, documents produced, and entries made accordingly.

Regulation.

PART XI.—AGENTS.

170. Any owner of goods may comply with the provisions of this Act by an agent lawfully authorized being either a person exclusively in the employment of the owner or being duly licensed in manner prescribed.

Authorized agents.

171. Any officer may require from any agent the production of his written authority from the principal for whom he claims to act, and in default of the production of such authority may refuse to recognise the agency.

Authority to be produced.

172. When any person is expressly or impliedly authorized by the owner to act as his agent in relation to any goods for all or any purposes of any Customs Act or represents or passes himself or acts or assumes to act as such agent such person shall for such purpose be also deemed to be the owner of such goods and shall be personally liable for any penalties recoverable under this Act in the same manner and to the same extent as if he were principal. But nothing herein contained shall be taken to relieve any principal from liability.

Agents personally liable.

173. Any declaration authorized by this Act made by any employé or agent of any person shall be held to have been made with the knowledge and consent of such person, so that in any prosecution in respect of any declaration made by any such employé or agent such person shall be liable only to the pecuniary punishment provided by any Customs Act as if such declaration had been made by himself.

Principal liable for agents acting.

PART XII.—OFFICERS.

Division I.—Powers of Officers.

Ships and boats to bring to.

174. The commander or officer in charge of any ship or boat in His Majesty's service or in the service of the Commonwealth or Customs, such ship or boat having hoisted and carrying the proper ensign and pendant or Customs flag, may chase any ship which does not bring to when lawfully signalled or required to do so and may (after having fired a gun as a signal) fire at or into such ship to compel her to bring to. 5

Officers may board ships hovering on coast.

175. Any officer may require the master of any ship hovering within one league of the coast to depart, and if such ship shall fail to depart accordingly within twelve hours thereafter any officer may board and bring such ship into port and search her. 10

The Collector may examine all persons on board of such ship and they shall each thereupon answer questions relating to the ship and her cargo crew passengers stores and voyage and produce documents relating to the ship and her cargo. 15

Penalty : One hundred pounds.

Examine all goods.

176. Any officer may open packages and examine weigh mark and seal any goods subject to the control of the Customs, and the expense of the examination including the cost of removal to the place of examination shall be borne by the owner. 20

Power to board and search ships.

177. Any officer may—

(1) Board any ship.

(2) Search any ship. 25

(3) Secure any goods on any ship.

Boarding.

178. The power of an officer to board shall extend to staying on board any ship and the Collector may station an officer on board any ship, and the master shall provide sleeping accommodation in the cabin and suitable and sufficient food for such officer. 30

Penalty: Fifty pounds.

Searching.

179. The power of an officer to search shall extend to every part of any ship, and shall authorize the opening of any package, locker, or place and the examination of all goods.

Securing goods.

180. The power of an officer to secure any goods shall extend to fastening down hatchways and other openings into the hold and locking up, sealing, marking, or otherwise securing any goods or the removal of any goods to the King's warehouse. 35

Seals &c. not to be broken.

181. No fastening, lock, mark, or seal placed by an officer upon any goods or upon any door hatchway opening or place upon any ship shall be opened, altered, broken or erased, except by authority, whilst the goods upon which the fastening lock, mark, or seal is placed 40
or

or which are intended to be secured thereby shall remain subject to the control of the Customs and if any ship shall arrive in any port with any such fastening, lock, mark, or seal open, altered, broken, or erased, except as aforesaid the master shall be guilty of an offence
5 against this Act.

Penalty: Fifty pounds.

182. Any officer and any person acting in his aid when on duty may patrol upon and pass freely along and over any part of the coast or any railway or the shores, banks, or beaches of any port bay
10 harbor lake or river.

Officers may patrol
coasts &c.

183. The officer in charge for the time being of any vessel or boat employed in the service of the Customs may haul any such vessel or boat upon any part of the coast or the shores banks or beaches of any port bay harbor lake or river and may moor any
15 such vessel or boat thereon and continue such vessel or boat so moored as aforesaid for such time as he shall deem necessary.

Boats on service
may be moored in
any place.

184. Any person on board any ship or boat or who may have landed from or got out of any ship or boat may be questioned by any officer as to whether he has any dutiable goods upon his person or in
20 his possession or in his baggage.

Power to question
passengers

185. If any officer of Customs or of police shall have reasonable cause to suspect that any person is unlawfully carrying or has any goods subject to the control of the Customs secreted about him the following consequences shall ensue :—

Suspected persons
—detention and
search.

- 25 (1) The officer may detain and search the suspected person.
(2) Before the suspected person shall be searched he may require to be taken before a Justice or the Collector.
(3) The justice or Collector may order the suspected person to be searched or may discharge him without search.

30 But females shall only be searched by a female searcher appointed by the justice or Collector.

186. Any officer of Customs or police upon reasonable suspicion may stop and search any carriage for the purpose of ascertaining whether any dutiable goods are contained therein and the driver of
35 any carriage shall stop and permit such search whenever required by any such officer.

Power to stop
vehicles.

Penalty: Twenty pounds.

187. Any Judge of the High Court of Australia or any Judge of the Supreme Court of any State having jurisdiction in the State
40 where the application is made may grant a writ of assistance upon application

Writs of assistance

application made to him for that purpose by a Minister of State for the Commonwealth or by the Comptroller or a State Collector, and such writ unless superseded shall be in force so long as any person named therein remains an officer of Customs whether in the same capacity or not.

5

Customs warrants.

188. The Comptroller or a State Collector may grant a Customs Warrant in the form of Schedule III. hereto under the Customs Seal to any officer, and such warrant shall remain in force for one month from the date thereof.

A Customs Warrant granted by a State Collector shall only have force in the State where it is granted.

Power to search.

189. Any officer having with him a Writ of Assistance or a Customs Warrant may at any time in the day or night enter into any house premises or place and may break open the same and any chests trunks or packages in which goods may be or are supposed to be.

15

Power to take assistants.

190. Any officer acting under a Writ of Assistance or Customs Warrant may take with him and have the assistance of any police officer and such assistants as he may think necessary.

Power to call for aid.

191. Any person lawfully making any seizure under any Customs Act may call upon any person present in the King's name to assist him, and such assistance shall be rendered accordingly.
Penalty: Twenty pounds.

20

Power to seize goods.

192. Any officer of His Majesty's forces or any officer of Customs or police may seize any forfeited ship or goods upon land or water or any ship or goods which he has reasonable cause to believe are forfeited.

25

Seized goods to be secured.

193. All seized goods shall be taken to the nearest King's warehouse or to such other place of security as the Collector shall direct.

30

Notice to be given of goods seized.

194. When any ship or goods have been seized as forfeited the seizing officer shall give notice in writing of such seizure and the cause thereof to the master or owner of the ship or goods (unless such master or owner be present at the seizure in which case no notice shall be necessary) either by delivering such notice to him personally or by letter addressed to him and transmitted by post to or delivered at his last known place of abode or business and all ships or goods seized shall be deemed to be condemned and may be sold by the Collector unless the person from whom such ship or goods shall have been seized or the owner shall within one month from the date of seizure give notice in writing to the Collector at the nearest port that he claims them; but if any things so seized shall be of a perishable nature or shall be live animals the same may be forthwith sold by the Collector.

35

40

195. The

195. The Comptroller or a State Collector may authorize any ship or goods seized to be delivered to the claimant on his giving security to pay their value in case of their condemnation.

Seized goods may be returned on security.

196. Whenever any goods have been seized by any officer and claim to such goods has been served on the Collector by the owner of such goods, the Collector may retain possession of the goods without taking any proceedings for their condemnation, and may by notice under his hand require the claimant to enter an action against him for the recovery of the goods, and if such claimant shall not within four months after the date of such notice enter such action the goods shall be deemed to be condemned without any further proceedings.

Collector may retain goods and require owner to proceed for restoration.

197. All forfeited ships and goods shall be disposed of or destroyed in such manner as may be prescribed or as the Comptroller may direct.

Disposal of forfeited ships and goods.

198. All goods seized by any person not being a Customs officer shall forthwith be conveyed to the nearest Customs House and there delivered to an officer.

Delivery of seized goods.

199. Any officer of Customs or police may without warrant arrest any person whom he has reasonable cause to believe has been guilty of any offence against this Act, and no person shall resist or prevent such arrest.

Arresting suspects.

Penalty : Twenty pounds.

200. Any officer arresting any person shall on demand give him a statement in writing of the reason for his arrest.

Reasons for arrests.

201. Every person arrested may be detained until such time as he can without undue delay be taken before a Justice.

Arrested persons to go before Justices.

202. Any Justice before whom any person is brought under this Act may—

Powers of Justices with offenders.

- (1) Commit such person to gaol until he can be brought before Justices to be dealt with according to law ; (or)
- (2) Admit him to bail upon his giving sufficient security for his appearance before Justices at the time and place appointed for the hearing of the charge.

203. Whenever information in writing has been given on oath to the Collector that goods have been unlawfully imported undervalued or entered or illegally dealt with, or that it is intended to unlawfully import undervalue enter or illegally deal with any goods, or whenever any goods have been seized or detained, the owner shall immediately upon being required so to do by the Collector produce and hand over to

Production of documents &c. in cases of seizure.

to him all books and documents relating to the goods so imported entered seized or detained undervalued or illegally dealt with, or intended to be unlawfully imported undervalued entered or illegally dealt with, and of all other goods imported by him at any time within the period of five years immediately preceding such request seizure or detention, and shall also produce for the inspection of the Collector or such other officer as he may authorize for that purpose and allow such Collector or officer to make copies of or extracts from all books or documents of any kind whatsoever wherein any entry or memorandum appears in any way relating to any such goods. 5 10

Penalty : One hundred pounds.

Collector may impound documents.

204. The Collector may impound or retain any document presented in connexion with any entry or required to be produced under this Act, but the person otherwise entitled to such document shall in lieu thereof be entitled to a copy certified as correct by the Collector and such certified copy shall be received in all courts as evidence and of equal validity with the original. 15

Collector may require further proof of proper entry.

205. The Collector may require from the owner of any goods proof by declaration or the production of documents that the goods are owned as claimed and are properly described valued or rated for duty and the Collector may refuse to deliver the goods or to pass any entry relating thereto pending such proof. 20

Translations of foreign invoices.

206. If any document in a foreign language be presented to any officer for any purpose connected with Customs business, the Collector may require to be supplied with an English translation to be made at the expense of the owner by such person as the Collector may approve or to be verified as he may require. 25

Customs samples.

207. Samples of any goods under the control of the Customs may for any purpose deemed necessary by the Collector be taken utilized and disposed of by any officer in manner prescribed. 30

General power of Collector.

208. In all cases not herein otherwise provided for the Collector may exercise any power exercisable by the Customs.

Division 2.—Protection to Officers.

Reasonable cause for seizure a bar to action.

209. No person shall be liable for any seizure under this Act for which there shall have been reasonable cause, and when any claimant recovers any ship or goods seized or any proceeds thereof and at the same time reasonable cause for the seizure is found such finding shall bar all proceedings against all persons concerned in the seizing. 35

210. No

210. No proceeding shall be commenced against any officer for anything done in execution of or by reason of his office until one month next after notice in writing shall have been delivered to him or left at his usual place of abode by the plaintiff his attorney or agent in which notice shall be clearly stated the cause and nature of the proceeding and the court in which the same is intended to be instituted, the name and place of abode of the plaintiff and the name and place of business of such attorney or agent.

Notice of action to be given.

211. Upon any proceeding instituted in pursuance of such notice the plaintiff shall not be at liberty to advance any evidence of any cause of action except such as has been distinctly stated in such notice nor shall the plaintiff be entitled to a verdict without proving on the trial that such notice has been duly served and in default of such proof the defendant shall receive a verdict with costs.

No evidence to be produced but that contained in notice.

212. It shall be lawful for any officer to whom notice of proceeding shall have been given at any time within one month after such notice to tender amends to the plaintiff his attorney or agent and in case such amends be not accepted to plead such tender in defence either alone or with other defences and if the amends tendered shall be found to have been sufficient no costs shall be recovered against an officer and he shall be entitled to costs if he shall have brought the amount into court when entering his defence.

Officer may tender amends.

213. Every proceeding against any officer shall except as mentioned in the next section be commenced within six months after its cause shall have arisen and not afterwards and the venue shall be local and the defendant may plead the general issue and give any special matter in evidence.

Commencement of proceedings against officers.

213A. No proceeding for anything done for the protection of the revenue in relation to any Tariff or Tariff alteration proposed in Parliament shall except as mentioned in the next section be commenced before the close of the session in which such Tariff or Tariff alteration is proposed.

Time for commencing action.

213AA. The preceding section shall apply to proceedings as well against officers as otherwise.

Section to apply to proceedings against officers.

213B. The High Court of Australia or the Supreme Court of any State on the application of any person who desires to commence any proceeding mentioned in the last section against an officer may require the officer to give security to the satisfaction of the Court to abide the result of the proceeding and in default of the giving of such security may sanction the immediate commencement of the proceeding.

Security may be required.

PART XIII.—PENAL PROVISIONS.

Division 1.—Forfeitures.

Forfeited ships.

214. The following ships shall be forfeited to His Majesty :—

- (1) Any ship used in smuggling.
- (2) Any ship found within one league of the coast failing to bring to for boarding upon being lawfully required to do so. 5
- (3) Any ship hovering within one league of the coast and not departing within twelve hours after being required to depart by an officer. 10
- (4) Any ship from which any goods are thrown overboard staved or destroyed to prevent seizure by the Customs.
- (5) Any ship found within any port with cargo on board and afterwards found light or in ballast or with the cargo deficient and the master of which is unable to lawfully account for the difference. 15
- (6) Any ship within one league of the coast having false bulk heads false bows sides or bottoms or any secret or disguised place adapted for the purpose of concealing goods or having any hole pipe or other device adapted for the purpose of running goods. 20

Forfeited goods.

215. The following goods shall be forfeited to His Majesty :—

- (a) All goods which are smuggled, or unlawfully imported, exported, or conveyed.
- (b) All goods imported which are prohibited imports excepting only goods the importation of which is prohibited by proclamation and which shall have been shipped to be imported without knowledge of the proclamation by the shipper and before the expiration of a reasonable time for the acquisition of knowledge thereof at the port of shipment. 25
- (c) All goods imported in any ship in which goods are prohibited to be imported.
- (d) All dutiable goods found on any ship being unlawfully in any place. 35
- (e) All goods found on any ship after arrival in any port and not being specified or referred to in the Inward Manifest and not being baggage belonging to the crew or passengers and not being satisfactorily accounted for.
- (f) All goods in respect of which bulk is unlawfully broken. 40
- (g) All goods which being subject to the control of the Customs shall be moved altered or interfered with except by authority and in accordance with this Act.
- (h) All

- (h) All goods which by this Act are required to be moved or dealt with in any way and which shall not be moved or dealt with accordingly.
- 5 (i) All goods in respect of which any entry invoice declaration answer statement or representation which is false or misleading in any particular has been delivered made or produced.
- 10 (j) Any carriage or animal used in smuggling or in the unlawful importation, exportation, or conveyance of any goods.
- (k) The cargo of any ship which ship hovers about the coast and does not depart within twelve hours after being required by an officer to depart.
- 15 (l) All spirits opium tobacco snuff cigars or cigarettes in packages of less than the prescribed size found on or attached to any ship or boat.
- (m) All goods not being passengers' baggage found on any ship after clearance and not specified or referred to in the Outward Manifest and not accounted for to the satisfaction of the Collector.
- 20 (n) All prohibited exports put on any ship for export or brought to any wharf or place for the purpose of export.
- (o) All dutiable goods concealed in any manner.
- 25 (p) Any package having concealed therein goods not enumerated in the entry or being so packed as to deceive the officer.
- (q) All dutiable goods found in the possession or in the baggage of any person who has got out of or landed from any ship or boat and who has denied that he has any dutiable goods in his possession, or who when questioned by an officer has not fully disclosed that such goods are in his possession or baggage.
- 30 (r) All goods offered for sale on the pretence that the same are prohibited or smuggled goods.
- 35 (s) All spirits which having been methylated are afterwards treated filtered refined distilled or otherwise dealt with in any manner so that any substance may be extracted therefrom.

40 **216.** The forfeiture of any goods shall extend to the forfeiture of the packages in which the goods are contained and the forfeiture of any package shall extend to all goods packed or contained in the package. Forfeited packages and goods.

Division 2.—Penalties.

Armed persons
assisting in illegal
landing of goods.

217. All persons to the number of two or more assembled for the purpose of smuggling, or for preventing the seizure of, or for rescuing after seizure any smuggled goods shall be guilty of an indictable offence and shall be liable to imprisonment with or without hard labour for any term not exceeding Five years. 5

218. Whoever

Collusive seizures
penalty.

(a) Being an officer of the Customs or Police makes any collusive seizure or delivers up or makes any agreement to deliver up or not to seize any ship or goods liable to forfeiture or conspires or connives with any person to import or export, or is in any way concerned in the importation or exportation of any goods for the purpose of seizing any ship or goods and obtaining any reward for such seizure; 10 15

Bribe offered to
officer penalty.

(b) Gives, or procures to be given, or offers or promises to give or procure to be given any bribe recompense or reward to, or makes any collusive agreement with any officer to induce him in any way to neglect his duty, or who by threats demands or promises attempts to influence any officer in the discharge of his duty; 20

Rescuing goods.

(c) Rescues any goods which have been seized or before or at or after any seizure staves breaks or destroys any goods or documents relating thereto to prevent the seizure thereof or the securing the same or the proof of any offence; 25

Persons assaulting
or obstructing
officers.

(d) Assaults or by force resists molests or obstructs or endeavours to intimidate any officer or any person acting in his aid or assistance in the execution of his duties, 30

shall be guilty of an indictable offence and shall be liable to imprisonment with or without hard labour for any term not exceeding Three years.

Penalty for
smuggling by
master.

219. No person shall smuggle or unlawfully import, export, convey or have in his possession any goods and no master of a ship shall use or suffer his ship to be used in smuggling or in the unlawful importation, exportation, or conveyance of any goods. 35

Penalty : One hundred pounds.

Customs offences.

220. No person shall—

- (a) Evade payment of any duty which is payable; 40
- (b) Obtain any drawback which is not payable;
- (c) Prepare pass or present any document purporting to be a genuine invoice which is not in fact a genuine invoice;
- (d) Make

- (d) Make any entry which is false in any particular ;
 (e) Make in any declaration or document produced to any officer any statement which is untrue in any particular or produce or deliver to any officer any declaration or document containing any such statement ;
 5 (f) Mislead any officer in any particular likely to affect the discharge of his duty ;
 (g) Refuse or fail to answer questions or to produce documents ;
 10 (h) Sell or offer for sale any goods upon the pretence that such goods are prohibited imports or smuggled goods ;

Penalty : One hundred pounds.

221. Whoever wilfully makes any false statement on oath under this Act shall be guilty of an indictable offence and shall be
 15 liable to imprisonment with hard labour for any period not exceeding four years.

False oath or affirmation.

222. Whoever aids abets counsels or procures or by act or omission is in any way directly or indirectly concerned in the commission of any offence against this Act shall be deemed to have
 20 committed such offence and shall be punishable accordingly.

Aiders and abettors.

223. Any attempt to commit an offence against this Act shall be an offence against this Act punishable as if the offence had been committed.

Attempts.

224. Any person who is guilty by act or omission of any contravention or evasion of this Act for which no other penalty is provided shall be liable to a penalty of not more than Ten pounds.

Offences not specifically provided for.

225. All penalties shall be in addition to any forfeiture.

Penalties in addition to forfeitures.

226. If any penalty hereby provided shall be less than three times the value of any goods in respect of which the offence has been
 30 committed the maximum penalty shall be thrice the value of the goods.

Maximum penalty in certain cases.

227. Any person may at the same time be charged with an offence against this Act and with an intent to defraud the revenue and if in addition to such offence he is convicted of such intent the maximum
 35 penalty shall be double that otherwise provided.

Maximum penalty in case of intent to defraud.

228. When any person is convicted of any offence against this Act for which a pecuniary penalty is provided and it shall appear that such person had been previously convicted of any similar offence the Court may in lieu of or in addition to imposing any penalty order
 40 that such person shall be imprisoned with hard labour for a period not less than six months nor more than two years and with or without the right of release on payment of a penalty.

If previous conviction defendant may be imprisoned.

229. The

Minimum penalty.

229. The minimum pecuniary penalty for any offence against this Act shall be one-twentieth of the maximum which is prescribed in pounds.

PART XIV.—CUSTOMS PROSECUTIONS.

Interpretation.

230. Proceedings by the Customs for the recovery of penalties under this Act or for the condemnation of ships or goods seized as forfeited are herein referred to as Customs Prosecutions. 5

How instituted.

231. Customs prosecutions may be instituted in the name of the Minister by action information or other appropriate proceeding—

(a) In the High Court of Australia ; or 10

(b) In the Supreme Court of any State

and when the prosecution is for a pecuniary penalty not exceeding Five hundred pounds or the excess is abandoned the Customs prosecution may be instituted in the name of the Collector in

(c) Any County Court District Court Local Court or Court of 15
summary jurisdiction.

Defendant to have
right of trial in
High or State
Court.

231A. In any Customs prosecution where the penalty exceeds One hundred pounds and the excess is not abandoned the defendant within seven days after service of process shall have the right in manner prescribed to elect to have the case tried in the option of the 20
prosecution either in the High Court of Australia or in the Supreme Court of the State in which such prosecution has been instituted and thereupon the proceedings shall stand removed accordingly and may be continued as if originally instituted in the Court to which they are 25
so removed.

Prosecution in
accordance with
practice rules.

232. Every Customs prosecution in the High Court of Australia or the Supreme Court of any State may be commenced prosecuted and proceeded with in accordance with any rules of practice established by the Court for Crown suits in revenue matters or in accordance with the usual practice and procedure of the Court in 30
civil cases or in accordance with the directions of the Court or a Judge.

State Court
practice.

233. Subject to the provisions of this Act the provisions of the law relating to summary proceedings before Justices in force in the State where the proceedings are instituted shall apply to all Customs 35
prosecutions before a Court of Summary Jurisdiction in such State, and an appeal shall lie from any conviction order for condemnation or order of dismissal to the Court and in the manner provided by the law of the State where such conviction or order is made for appeals 40
from convictions or orders of dismissal.

Commencement of
prosecutions.

234. Customs prosecutions may be instituted at any time within five years after the cause thereof. **235.** All

235. All informations summonses convictions condemnations and warrants shall suffice if the offence or forfeiture is set forth as nearly as may be in the words of this Act.

Information &c. to be valid &c. if in words of Act.

236. No objection shall be taken or allowed to any information or summons for any alleged defect therein in substance or in form or for any variance between such information or summons and the evidence adduced at the hearing in support thereof, and the Court shall at all times make any amendment necessary to determine the real question in dispute or which may appear desirable, and if any such defect or variance shall appear to the Court to be such that the defendant has been thereby deceived or misled it shall be lawful for the Court upon such terms as it may think just to adjourn the hearing of the case to some future day.

No objection for informality.

237. No conviction warrant of commitment or condemnation order or other proceeding matter or thing done or transacted in relation to the execution or carrying out of any Customs Act shall be held void quashed or set aside by reason of any defect therein or want of form and no party shall be entitled to be discharged out of custody on account of such defect.

Conviction not to be quashed.

238. No witness on behalf of the Minister or Collector in any Customs prosecution shall be compelled to disclose the fact that he received any information or the nature thereof or the name of the person who gave such information, and no officer appearing as a witness shall be compelled to produce any reports made or received by him confidentially in his official capacity or containing confidential information.

Protection to witnesses.

239. (1) In every Customs prosecution the defendant shall be competent to give evidence.

Defendant a competent witness.

(2) In every Customs prosecution except for an indictable offence the defendant shall be compellable to give evidence and if called as a witness for the prosecution shall be liable to cross-examination as a witness adverse to the prosecution.

240. In every Customs prosecution the averment of the prosecutor or plaintiff contained in the information declaration or claim shall be deemed to be proved in the absence of proof to the contrary but so that—

Averment of prosecution sufficient.

(a) When an intent to defraud the revenue is charged the averment shall not be deemed sufficient to prove the intent and—

(b) In all proceedings for an indictable offence or for an offence directly punishable by imprisonment the guilt of the defendant must be established by evidence.

Proof of
proclamations &c.

241. The production of the *Gazette* containing any proclamation gazette notice or regulation appearing to have been issued or made under this Act or the production of any document certified by the Comptroller or a State Collector to be a true copy of, or extract from any such proclamation, gazette notice, or regulation issued or made under this Act shall be *prima facie* evidence of the issue or making of such proclamation, gazette notice, or regulation, and that the same is in force. 5

Minimum penalties.

242. No minimum penalty imposed by this Act shall be liable to reduction under any power of mitigation which would but for this section be possessed by the Court. 10

Treatment of
convicted
offenders.

243. Where any pecuniary penalty is adjudged to be paid by any convicted person the Court may—

- (1) commit the offender to gaol until the penalty is paid; or
- (2) may release the offender upon his giving security for the payment of the penalty; or
- (3) may exercise for the enforcement and recovery of the penalty any power of distress or execution possessed by the Court for the enforcement and recovery of penalties in any other case. 15 20

Collector may levy
on goods in his
possession.

244. When any pecuniary penalty adjudged against any person is unpaid the Collector may levy the same by sale of any goods belonging to such person which may then or thereafter be subject to the control of the Customs.

Release of offenders.

245. The gaoler of any gaol to which any person has been committed for non-payment of any penalty shall discharge such person— 25

- (I) on payment to him of the penalty adjudged;
- (II) on a certificate by the Collector that the penalty has been paid or realized;
- (III) if the penalty adjudged to be paid is not paid or realized according to the following table:— 30

Amount of Penalty.	Period after commencement of imprisonment at the expiration of which defendant is to be discharged.
£2 or under	Seven days.
Over £2 and not more than £5	Fourteen days.
Over £5 and not more than £20	One month.
Over £20 and not more than £50	Two months.
Over £50 and not more than £100	Three months.
Over £100 and not more than £200	Six months.
Over £200	One year.

246. No person shall be twice imprisoned upon the same conviction but the suffering of imprisonment for non-payment of a penalty shall not release the penalty or affect the right of the Customs to collect the amount in any manner provided by this Act other than by imprisonment of the person convicted.

Imprisonment not to release penalty.

247. Where the committal of any offence causes a forfeiture of any goods the conviction of any person for such offence shall have effect as a condemnation of the goods in respect of which the offence is committed.

Conviction to operate as a condemnation.

248. In all Customs prosecutions the Court may award costs against any party or claimant, and all provisions of this Act relating to the recovery of penalties except commitment to gaol shall extend to the recovery of any costs adjudged to be paid.

Parties may recover costs.

249. All penalties and forfeitures recovered under any Customs Act shall be applied to such purposes and in such proportions as the Minister may direct.

Application of penalties.

PART XV.—SETTLEMENT OF CASES BY THE MINISTER.

251. If any dispute shall arise between any officer and any person with reference to any contravention of this Act, the Minister may in manner prescribed with the written consent of such person inquire into and determine the dispute and shall have power by order to impose enforce mitigate or remit any penalty or forfeiture which he shall determine shall have been incurred.

Settlement of disputes by Minister.

252. Every such order shall be final and without appeal and shall not be liable to be quashed on any account and a copy thereof shall be delivered to such person and may be enforced in the same manner as the order of a court of summary jurisdiction.

Minister's order to be final.

253. The Minister in holding any inquiry under this Part of this Act may—

Powers of Minister at inquiries.

- 30**
- (a) Summon the parties and any witnesses before him.
 - (b) Take evidence on oath.
 - (c) Require the production of documents.
 - (d) Allow reasonable expenses to witnesses and costs to successful parties.

35 **254.** No person being summoned as a witness at any inquiry under this Act shall—

- (a) Disobey such summons;
- (b) Refuse to be sworn as such witness;

(c) Refuse

(c) Refuse or fail to produce any document he may be required to produce;

(d) Being sworn as a witness refuse or fail to answer any question lawfully put to him.

Penalty: Twenty pounds.

5

PART XVI.—REGULATIONS.

Regulations to have
force of law.

255. The Minister may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or as may be necessary or convenient to be prescribed for giving effect to this Act or for the conduct of any business relating to the Customs. 10

Publication of
regulations.

256. All regulations made by the Minister may afterwards be confirmed by the Governor-General and after such confirmation shall—

- (i) Be published in the *Gazette*;
- (ii) Take effect from the date of publication or from a later date to be specified in such regulations; and
- (iii) Be laid before both Houses of the Parliament within seven days after publication if Parliament is in session and if not then within seven days after the commencement of the next session;

15

But if either House of the Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation such regulation shall thereupon cease to have effect.

25

PART XVII.—MISCELLANEOUS.

Dutiable goods
passing from one
State to another.

258. As regards goods imported before the imposition of uniform duties of Customs into any State or into any Colony which whilst the goods remain therein becomes a State and which on thence passing into another State within two years after the imposition of such duties become liable by the Constitution Act to any duty chargeable upon the importation of such goods into the Commonwealth less any duty paid in respect of the goods on their importation this Act shall apply to the collection of the duty to which such goods are liable in manner prescribed. 30 35

Records of
Inter-State trade.

259. During the first five years after the imposition of uniform duties of Customs and thereafter until the Parliament otherwise provides the Customs shall in manner prescribed collect particulars of the duties of Customs chargeable on goods imported into a State and afterwards passing into another State for consumption and the duties of excise paid on goods produced or manufactured in a State and afterwards passing into another State for consumption and the same shall be furnished to the Treasurer of the Commonwealth so that the accounts between the States may be kept as required by the Constitution. 40 45

260. The

260. The person in command of any ship holding commission from His Majesty or from any foreign State having on board any goods other than ship's stores laden in parts beyond the seas shall when called upon by the Comptroller or a State Collector or an officer specially authorized by the Minister or the Comptroller or a State Collector so to do

Commissioned ships
to be reported.

(a) deliver an account in writing of the quantity of such goods, the marks and numbers thereof, and the names of the shippers and consignees, and declare to the truth thereof;

(b) Answer questions relating to such goods.

261. Ships under commission from His Majesty or any foreign State having on board any goods other than ship's stores laden in parts beyond the seas may be boarded and searched by an officer especially authorized as mentioned in the last section in the same manner as other ships, and the officer may bring any such goods ashore and place them in a King's Warehouse.

Commissioned ships
may be searched.

262. As to sales by the Collector—

(a) The goods shall be sold by auction or by tender and after such public notice as may be prescribed, and where not prescribed after reasonable public notice.

Collectors' sales.

(b) The goods may be sold either free of or subject to duty and charges and the price shall be paid in cash on the acceptance of the bidding or tender.

(c) No bidding or tender shall be necessarily accepted and the goods may be re-offered until sold at a price satisfactory to the Collector.

263. The proceeds of any goods sold by the Collector shall be applied as follows :—

Proceeds of sales.

Firstly, in the payment of the expenses of the sale.

Secondly, in payment of the duty.

Thirdly, in payment of the warehouse rent and charges.

Fourthly, in payment of the freight if any due upon the goods if written notice of such freight shall have been given to the Collector.

And the balance if any shall be paid to the Treasurer on account of the person entitled thereto.

SCHEDULES.

SCHEDULE I.

COMMONWEALTH OF AUSTRALIA.

Security to the Customs.

By this Security the subscribers are, pursuant to the *Customs Act 1901*, bound to the Customs of the Commonwealth of Australia in the sum of—[*here insert amount or mode of ascertaining amount intended to be paid in default of compliance with condition*—subject only to this condition that if—[*here insert the condition of the security*—then this security shall be thereby discharged.*

Dated the day of 19 .

Names and Descriptions of Subscribers.	Signatures of Subscribers.	Signatures of Witnesses.

* NOTE.—If liability is not intended to be joint and several and for the full amount, here state what is intended as, for example, thus—"The liability of the subscribers is joint only," or "the liability of (mentioning subscriber) is limited to (here state amount of limit of liability or mode of ascertaining limit).

SCHEDULE II.

ANNUAL FEES TO BE CHARGED FOR BONDING WAREHOUSES.

Class I.	When only one locker in the opinion of the Minister is required	£200 per annum	
	For each additional locker considered necessary by the Minister	£150	,
Class II.	When in the opinion of the Minister the whole services of a locker are required	£200	,
	When in the opinion of the Minister the partial services of a locker are required	£25	,
	When £25 only shall be paid a further charge of 2s. per hour for each hour or portion thereof a locker may be in attendance shall be charged in addition to the annual fee.		
Class III.	For any warehouse requiring in the opinion of the Minister the entire services of a locker	£150	,
	When in the opinion of the Minister only partial services of a locker are required	£25	,
	When £25 only shall be paid a further charge of 2s. per hour for every hour or part thereof a locker may be in attendance shall be charged in addition to the annual fee.		
Class IV.	For any warehouse requiring in the opinion of the Minister the entire services of a locker	£200	,
	For each additional officer required in the opinion of the Minister	£150	,
	When in the opinion of the Minister only partial services of a locker are required	£25	,

When

When £25 only shall be paid a further charge of 2s. per hour for each hour or part thereof an officer may be in attendance shall be paid in addition to the annual fee.

The Minister shall determine the number of officers or the extent of the necessary attendance of officers required in each case.

The above scale of fees shall apply to the following places only:—

Brisbane, Rockhampton, Townsville.

Sydney and Newcastle.

Melbourne.

Hobart and Launceston.

Adelaide and Port Adelaide.

Fremantle, Perth, Albany, and Geraldton.

At any other place such fees shall be charged as may be prescribed.

SCHEDULE III.

THE COMMONWEALTH OF AUSTRALIA.

To

CUSTOMS WARRANT.

You are hereby authorized to enter into, at any time in the day or night, if necessary, and search any house, premises, or place; and to break open the same, and any chests, trunks, or packages in which goods may be or are supposed to be, and to seize and take away any forfeited goods or goods which you have reasonable grounds to believe are forfeited, you may find therein, and forthwith to put and secure the same in the King's warehouse, or such other place of security as the Collector may direct: And for so doing this shall be your sufficient warrant.

This warrant shall remain in force for one month from the date thereof.

Dated this day of in the year One thousand
nine hundred and

(SEAL)

Signature.

1901.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

Read 1^o 5 June, 1901.*(As reported from Committee of the Whole, after re-committal,
30th July, 1901.)*

A BILL

Relating to the Customs.

BE it enacted by the King's Most Excellent Majesty the Senate Preamble.
and the House of Representatives of the Commonwealth of
Australia in Parliament assembled as follows:—

PART I.—INTRODUCTORY.

- 5 1. This Act may be cited as the *Customs Act* 1901. Short title.
2. This Act shall commence on a day to be fixed by proclama- Commencement.
tion.
3. This Act is divided into parts as follows:— Parts.
- PART I.—Introductory.
- 10 PART II.—Administration.
- PART III.—Customs Control, Examination, Entries, and
Securities generally.
- PART IV.—The Importation of Goods.
- 15 Division 1.—Prohibited Imports.
- Division 2.—The Boarding of Ships.
- Division 3.—The Report of the Cargo.
- Division 4.—The Entry, Unshipment, and
Landing of Goods.
- 20 PART V.—The Warehousing of Goods.
- Division 1.—Licensed Warehouses.
- Division 2.—King's Warehouses.
- PART VI.—The Exportation of Goods.
- PART VII.—Ships' Stores.

[C. 16]—150/30.7.1901—F.5493.

[PART VIII.]

PART VIII.—The Duties.

Division 1.—The Payment and Computation of Duties generally.

Division 2.—Ad valorem Duties.

Division 3.—Deposits Abatements Remissions and Refunds. 5

Division 4.—Disputes as to Duty.

PART IX.—Drawbacks.

PART X.—The Coasting Trade.

PART XI.—Agents. 10

PART XII.—Officers.

Division 1.—Powers of Officers.

Division 2.—Protection to Officers.

PART XIII.—Penal Provisions.

Division 1.—Forfeitures. 15

Division 2.—Penalties.

PART XIV.—Customs Prosecutions.

PART XV.—Settlement of Cases by the Minister.

PART XVI.—Regulations.

PART XVII.—Miscellaneous. 20

Interpretation

4. In this Act except where otherwise clearly intended—

“Answer questions” means that the person on whom the obligation of answering questions is cast shall to the best of his knowledge, information, and belief truly answer all questions on the subject mentioned that the Collector shall ask. 25

“By authority” means by the authority of the officer of Customs doing duty in the matter in relation to which the expression is used.

“Carriage” includes vehicles and conveyances of all kinds. 30

“Collector” includes the Comptroller and any Collector of Customs for the State and any principal officer of Customs doing duty at the time and place and any officer doing duty in the matter in relation to which the expression is used. 35

“Comptroller” means the Comptroller-General of Customs.

“Customs Acts” includes this Act and all laws and regulations relating to Customs in force within the Commonwealth or any part of the Commonwealth. 40

“Days” does not include Sundays or holidays.

“Documents” includes books.

“Drawback” includes bounty or allowance.

“Dutiable goods” includes all goods in respect of which any duty of Customs is payable.

“Gazette

"*Gazette* notice" means a notice signed by the Minister and published in the *Gazette*.

"Goods" includes all kinds of movable personal property.

5 "Goods under drawback" includes all goods in respect of which any claim for drawback has been made.

"Justice" means any Justice of the Peace having jurisdiction in the place.

"Master" means the person in charge or command of any ship except a pilot or Government officer.

10 "Officer" includes all persons employed in the service of the Customs.

"Owner" in respect of goods includes any person (other than an officer of Customs) being or holding himself out to be the owner, importer, exporter, consignee, agent, or person possessed of, or beneficially interested in, or having any control of, or power of disposition over the goods.

15 "Owner" in respect of a ship includes every person acting as agent for the owner or to receive freight or other charges payable in respect of the ship.

20 "Parts beyond the seas" means any country outside of Australia.

"Package" includes every means by which goods for carriage may be cased covered enclosed contained or packed.

"Port" means any proclaimed port.

25 "Prescribed" means prescribed by this Act.

"Produce documents" means that the person on whom the obligation to produce documents is cast shall to the best of his power produce to the Collector all documents relating to the subject matter mentioned.

30 "Ship" includes every description of vessel used in navigation not propelled by oars only.

"Smuggling" means any importation or introduction or attempted importation or introduction of goods with intent to defraud the revenue.

35 "The Customs" means the Department of Trade and Customs.

"This Act" includes all regulations made thereunder.

"Warehouse" means a warehouse licensed for the purposes of this Act.

40 "Wharf" means a wharf appointed for the purposes of this Act.

"Wharf owner" includes any owner or occupier of any wharf.

5. The penalties referred to at the foot of sections indicate that any contravention of the section whether by act or omission shall be an offence against this Act punishable upon conviction by a penalty not exceeding (except as hereinafter provided) the penalty mentioned.

Indication of penalties.

PART II.

PART II.—ADMINISTRATION.

Administration.

6. Until it is otherwise lawfully determined the Customs Acts shall be administered by the Minister of State for the Commonwealth administering the Customs.

Comptroller-General.

7. There shall be a Comptroller-General of Customs who under the Minister shall be the permanent head of the Customs and shall have the chief control of the Customs throughout the Commonwealth. 5

State Collector.

8. There shall in each State be a Collector of Customs who subject to the Comptroller shall be therein the Chief Officer of the Customs and shall be called the Collector of Customs for the State. 10

Delegation by Minister.

9. In relation to any particular matters or class of matters or to any particular State or District the Minister may by writing under his hand delegate any of his powers under any Customs Act (except this power of delegation) so that the delegated powers may be exercised by the delegate with respect to the matters or class of matters specified or the State or District defined in the instrument of delegation. 15

Delegation by Comptroller.

10. The Comptroller with the written approval of the Minister may similarly delegate any of his powers under any Customs Act. 20

Revocation of delegation.

11. Every delegation, whether by the Minister or Comptroller shall be revocable in writing at will, and no delegation shall prevent the exercise of any power by the Minister or Comptroller.

Continuance of Officers.

12. All persons acting in the service of the Customs at the commencement of this Act shall be deemed to have been duly appointed. 25

Customs seal.

13. The seal of the Customs shall be the Royal Arms having the words "Australia—H.M. Customs" encircling the Arms and the name of the State and port added thereto. Such seal shall be judicially noticed. 30

Customs flag.

14. The vessels and boats employed in the service of the Customs shall be distinguished from other vessels and boats by such flag as shall be prescribed.

Appointment of boarding stations &c.

15. The Governor-General may by proclamation—

- (a) Appoint boarding stations for the boarding of ships by officers. 35
- (b) Establish ports and fix their limits.
- (c) Appoint wharfs within ports and fix their limits.

16. Ports

16. Ports and wharfs may be established or appointed for specified limited purposes or without any such limitation. Appointment of ports and wharfs.

17. The Minister may by *Gazette* notice—

(a) Appoint sufferance wharfs in any port. Appointment of sufferance wharfs &c.

(b) Appoint places for the examination of goods on landing.

18. All boarding stations ports wharfs and examination places in actual use by authority at the commencement of this Act shall continue as if established or appointed under this Act. Continuance of boarding stations &c.

19. Every wharf-owner shall provide to the satisfaction of the Collector suitable office accommodation on his wharf for the exclusive use of the officer employed at the wharf. Accommodation on wharfs.

Penalty: Twenty pounds.

20. Carriages and lighters may be licensed for the carriage of goods subject to the control of the Customs upon payment of such fees and subject to such conditions as may be prescribed. Licences.

21. The principal official of any railway in lieu of taking out a licence for each carriage to be used in the carriage of goods subject to the control of the Customs may give security for the due carriage and custody of all such goods on the railway, and thereupon all carriages of the railway shall be deemed to be licensed. Licensed railway carriages.

22. All carriages and lighters licensed for the purposes of any State Customs Act at the commencement of this Act shall be deemed to be similarly licensed under this Act; but unless actually licensed under this Act such carriages and lighters shall cease to be licensed on the expiration of the period for which the last payment of licence-fee was made prior to the commencement of this Act or such further time if any as may be prescribed, or as may be allowed by the Minister by *Gazette* notice. Continuance of licences.

23. The licence for any carriage or lighter may be revoked by the Collector if the licensee shall be guilty of any fraud or misconduct or shall fail to comply with this Act. Revocation of licence.

24. No person shall use any unlicensed carriage or lighter for the conveyance of goods subject to the control of the Customs. Unlicensed carriages or lighters]

Penalty: Twenty pounds.

25. Declarations under this Act may be made before the Minister or any Collector or any Justice and also before any person authorized in that behalf by the Minister or Comptroller. Before whom declarations may be made.

26. No officer shall knowingly receive a declaration by any person under the age of eighteen years. Declaration by youths.

27. If

State inspection
laws.

27. If the Governor-General shall so direct by proclamation any State Act relating to the inspection or testing of imported goods may be executed and enforced by the Customs.

Working days
and hours.

28. The working days and hours of the Customs shall be as prescribed and except when working overtime is permitted by the Collector cargo shall only be received loaded or worked on or discharged from any ship on working days and during working hours. 5
Penalty : Fifty pounds.

Overtime charges

29. When working overtime is permitted overtime at prescribed rates shall be charged for the services of the officers. 10

PART III.—CUSTOMS CONTROL EXAMINATION ENTRIES AND SECURITIES GENERALLY.

Customs control of
goods.

30. Goods shall be subject to the control of the Customs as follows :—

- (a) As to all goods imported—from the time of importation until delivery for home consumption or until exportation to parts beyond the seas whichever shall first happen. 15
- (b) As to all goods under drawback—from the time of the claim for drawback until exportation to parts beyond the seas. 20
- (c) As to all goods subject to any export duty—from the time when the same are brought to any port or place for exportation until the payment of the duty.

Right of
examination.

31. The Control of the Customs especially includes the right of the Customs to examine all goods subject to such control. 25

Customs control of
goods.

32. No goods subject to the control of the Customs shall be moved altered or interfered with except by authority and in accordance with this Act.

Penalty : One hundred pounds. 30

No claim for
compensation for
loss.

33. The Customs shall not be liable for any loss or damage occasioned to any goods subject to the control of the Customs except by the neglect or wilful act of some officer.

Goods imported
through post.

34. Goods imported through the Post Office shall be subject to the control of the Customs equally with goods otherwise imported. 35

Entries.

35. Entries may be made and passed for all goods subject to the control of the Customs.

Owner to make
entry.

36. Entries shall be made by the delivery of the entry by the owner to the Collector.

37. Entries

37. Entries shall be passed by the Collector signing the entry, and on the passing of the entry the goods shall be deemed to be entered, and any entry so passed shall be warrant for dealing with the goods in accordance with the entry and the goods shall forth-
5 with be dealt with accordingly.

Collector to pass entries.

Penalty : One hundred pounds.

38. Goods being the personal baggage of passengers in any ship and not being dutiable goods may subject to any prescribed conditions, be imported or exported without entry.

Passengers' baggage.

39. The Customs shall have the right to require and take securities for compliance with this Act and generally for the protection of the revenue of the Customs, and pending the giving of the required security in relation to any goods subject to the control of the Customs may refuse to deliver the goods or to pass any entry
15 relating thereto.

Right to require security.

40. Where any security is required to be given such security may be by bond or guarantee or cash deposit or all or any of such methods so that in each case the security shall be approved by the Collector.

Security.

41. When security is required for any particular purpose security may by the authority of the Comptroller be accepted to cover all transactions for such time and for such amount as the Comptroller may approve.

General bonds may be given.

42. All Customs securities may after the expiration of three
25 years from the date thereof or from the time specified for the performance of the conditions thereof be cancelled by the Comptroller.

Cancellation of bonds.

43. If the Collector shall not at any time be satisfied with the sufficiency of any security the Collector may require a fresh security
30 and a fresh security shall be given accordingly.

New sureties.

44. The form of Customs security in Schedule I. hereto shall suffice for all the purposes of a bond or guarantee under this Act and without sealing shall bind its subscribers as if sealed and unless otherwise provided therein jointly and severally and for the full amount.

Form of Customs security.

45. Whenever any such Customs security is put in suit by the Collector the production thereof without further proof shall entitle the Collector to judgment for their stated liability against the persons appearing to have executed the same unless the defendants shall prove compliance with the condition or that the security was not
40 executed by them.

Effect of Customs security.

PART IV.

PART IV.—THE IMPORTATION OF GOODS.

Importation.

46. In order to the due importation of goods—

- (1) The ship may be boarded.
- (2) The cargo shall be reported.
- (3) The goods shall be entered unshipped landed and 5
examined.

*Division 1.—Prohibited Imports.*Importations
allowed.**47.** No prohibited imports shall be imported.

Penalty: One hundred pounds.

Unregistered ships.

48. No goods may be imported in any ship which has not been 10
lawfully registered in the country to which she belongs or which has
not her certificate of registry on board unless the absence of the
certificate is satisfactorily accounted for.

Penalty: One hundred pounds.

Prohibited imports.

49. The following are prohibited imports :—

15

- (a) Any work which is or appears to be an infringement of any
copyright existing in any part of the King's dominions
and of the existence of which copyright written notice
shall have been given to the Minister by or on behalf
of the proprietor. 20
- (b) False money and counterfeit sterling and any coin or
money not being of the proper standard in weight or
fineness.
- (c) Blasphemous indecent or obscene works or articles.
- (d) Goods manufactured or produced wholly or in part by 25
prison labour or which have been made within or in
connexion with any prison, gaol, or penitentiary.
- (e) Exhausted tea, and tea adulterated with spurious leaf or
with exhausted leaves, or being unfit for human use, or
unwholesome. 30
- (f) Oleomargarine butterine or any similar substitute for
butter.
- (g) All goods the importation of which may be prohibited by
proclamation.
- (h) All goods having thereon or therewith any false suggestion 35
of any warranty guarantee or concern in the pro-
duction or quality thereof by any persons public officials
Government or country.

Restrictions of
spirits, &c.

50. No spirits, opium, tobacco, snuff, cigars or cigarettes shall
be imported except in packages of the prescribed size. 40

Penalty: One hundred pounds.

State prohibitions.]

51. All goods lawfully prohibited to be imported into any State
shall as regards that State be prohibited imports for the purposes
of this Act.

51A. The

51A. The power of prohibiting importation of goods shall authorize prohibition subject to any specified condition or restriction and goods imported contrary to any such condition or restriction shall be prohibited imports.

Prohibition subject to restriction.

5 *Division 2.—The Boarding of Ships.*

52. The master of a ship shall not suffer his ship to enter any place other than a port unless from stress of weather or other reasonable cause.

Ships to enter ports.

Penalty: One hundred pounds.

10 **53.** The master of every ship arriving within one league of the coast shall bring his ship to for boarding on being approached by or hailed or signalled from any vessel in the service of the Customs having hoisted the Customs flag, or from any vessel in the service of His Majesty or of the Commonwealth having hoisted the proper

Ship to bring to on being signalled.

15 ensign and pendant.

Penalty: One hundred pounds.

54. The master of every ship from parts beyond the seas bound to or calling at any port shall bring his ship to for boarding at the boarding station appointed for that port.

Ship to bring to at boarding station.

20 Penalty: Fifty pounds.

55. The master of every ship bringing to for boarding shall by all reasonable means facilitate boarding by the officer.

Facility for boarding.

Penalty: Twenty pounds.

25 **56.** The master of every ship after his ship has been brought to at the boarding station and boarded by the officer shall come up to the proper place of mooring or unloading as quickly as practicable without touching at any other place.

Ships to come quickly to place of unloading.

Penalty: Twenty pounds.

30 **57.** No ship after arrival at the proper place of mooring or unloading shall except by authority, or by direction of the harbor authority be removed therefrom before the discharge of the cargo intended to be discharged at the port.

Ship not to be moved without authority.

Penalty: Twenty pounds.

Division 3.—The Report of the Cargo.

35 **58.** The master of every ship arriving from parts beyond the seas shall—

Report of cargo

(a) Within one day after arrival make report of the ship and her cargo by delivering to the Collector an Inward Manifest in duplicate;

40 (b) Answer questions relating to the ship and her cargo crew passengers stores and voyage;

(c) Produce documents relating to the ship and her cargo.

Penalty: One hundred pounds.

59. When

Master of wrecked
ship to report at
nearest Custom
house.

59. When any ship is wrecked upon the coast the master or owner shall without any unnecessary delay make report of the ship and cargo by delivering to the Collector an Inward Manifest so far as it may be possible for him to do so at the Customs house nearest to the place where the ship was lost or wrecked or at the chief Customs house of the State where the ship was lost or wrecked. 5
Penalty: Twenty pounds.

Goods derelict to
be delivered to
officer.

60. Whoever has any dutiable goods derelict flotsam jetsam lagan or wreck in his possession shall deliver the same to an officer without unnecessary delay. 10
Penalty: Twenty pounds.

Interference with
derelict goods.

61. No person shall except by authority unnecessarily move alter or interfere with any goods derelict flotsam jetsam lagan or wreck. 15
Penalty: Twenty pounds.

Division 4.—The Entry, Unshipment, Landing, and Examination of Goods.

Entries.
Kinds of entries

62. All imported goods shall be entered either
(a) For home consumption; or
(b) For warehousing; or
(c) For transhipment. 20

Sight Entry.

63. If the owner cannot immediately supply the full particulars for making an entry and shall make a declaration to that effect before the Collector he may make a Sight Entry.

Passing of Sight
Entry

64. A Sight Entry on being passed by the Collector shall be 25
warrant for the landing and examination of the goods.

Completion of Sight
Entry

65. Within three days after the examination of the goods pursuant to any Sight Entry the owner shall make complete entry of the goods by the addition to the Sight Entry of the required particulars. 30

Entry within seven
days.

66. Entries shall be made of the whole of any cargo landed or to be landed not later than seven days after the report of the ship or within such further time if any as the Collector may see fit to allow; and so that if the goods are placed in quarantine seven days at the least shall be allowed for entry after 35
their release from quarantine.

(a) If default shall be made in the entry of any goods pursuant to this section the Collector may cause the goods to be removed to a warehouse; and if the goods are

are not claimed and entries passed therefor within six months after such removal the goods may be sold by the Collector.

- 5 (b) If the goods are of a perishable nature they may be sold at any time the Collector thinks fit either before or after warehousing.

67. The bulk cargo of a ship arriving within one league of the coast shall not be broken except with the permission of the Collector or as regards goods for which entry has been passed.

- 10 Penalty : One hundred pounds.

68. Goods may only be unshipped pursuant to—

- (1) A Collector's permit; or
(2) An entry passed.

Penalty : One hundred pounds.

Authority for un-shipment.

- 15 69. All goods unshipped shall be either—

- (a) Landed directly at a wharf or after conveyance thereto in a licensed lighter direct from the ship ; or
(b) Transhipped direct to the ship into which they are to be transhipped or after conveyance thereto in a licensed carriage or lighter direct from the ship.

- 20 Penalty : One hundred pounds.

Unshipment of goods.

70. Goods unshipped and landed under a Collector's permit shall be placed by and at the expense of the master or owner of the ship from which they were unshipped in a place of security approved by the Collector, and shall until lawfully removed therefrom be at the risk of the master or owner of the ship as if they had not been unshipped.

Goods landed on permit at ship's risk.

71. Any goods may by authority be repacked or skipped on the wharf.

Repacking on wharf.

30 PART V.—THE WAREHOUSING OF GOODS.

Division 1.—Licensed Warehouses.

72. Dutiable goods may be warehoused in warehouses licensed by the Minister.

Dutiable goods may be warehoused

73. There may be four classes of licensed warehouses as follows :—

Classes of warehouses.

Class I.—General warehouses to be used for warehousing goods generally.

Class II.—Private warehouses to be used only for warehousing goods the property of the licensee.

Class III.

Class III.—Machinery warehouses to be used only for warehousing machinery and similar heavy or bulky goods.

Class IV.—Manufacturing warehouses to be used for warehousing goods for use in such warehouse in any manufacture trade or process and for carrying on in such warehouse any manufacture trade or process which the Minister may by *Gazette* notice declare that it is desirable to encourage. 5

Annual fee.

74. Fees for warehouses according to the scale in Schedule II. shall be paid by the licensee as to the annual fees by equal quarterly payments in advance on the first days of January April July and October in each year, and as to the fees for lockers' attendance by monthly payments. 10

Cancellation of licences.

75. In default of payment of any part of any licence-fee for thirty days after any quarter day the Minister may by *Gazette* notice cancel the licence and thereupon the warehouse shall be closed and the goods therein shall be removed by the Collector to some other warehouse. 15

Continuation of existing licences.

76. All warehouses licensed for the purposes of any State Customs Act at the commencement of this Act shall be deemed to be similarly licensed under this Act but unless actually licensed under this Act such warehouses shall cease to be licensed on the expiration of the period for which the last payment of licence-fee was made prior to the commencement of this Act or such further time as may be prescribed or as may be allowed by the Minister by *Gazette* notice. 20 25

Officer to take account of goods landed to be warehoused.

77. Upon the landing of any goods to be warehoused or so soon as practicable thereafter the officer shall take a particular account of the goods and shall enter such account in a book.

Unless where otherwise provided such account shall be that upon which the duties shall be ascertained and paid. 30

Completion of warehousing.

78. When any goods entered for warehousing have been duly deposited in the warehouse the officer shall certify that the warehousing is complete by signing a receipt for the goods.

Removal of goods to warehouse.

79. If any goods entered to be warehoused are not warehoused accordingly by the owner the Collector may remove them to the warehouse. 35

The licensee of the warehouse shall pay all charges for the removal of goods removed by the Collector and shall have a lien on the goods for such charges.

80. Goods

80. Goods entered for warehousing shall be deposited in the warehouse in the packages in which they were imported except goods repacked or skipped on the wharf which shall be deposited in the packages in which they were when the account was taken.

Packages in which goods to be deposited.

5 **81.** The Collector may in prescribed cases permit the owner to sort bottle pack or repack goods in any warehouse.

Repacking in warehouse.

82. Whenever goods are sorted bottled packed or repacked in a warehouse a fresh account of the goods shall be taken by the officer and shall be substituted for the original account.

Fresh account to be taken.

10 **83.** In all prescribed cases warehoused goods in manufacturing warehouses may in manner prescribed be utilized for manufacturing purposes and the manufactured article may be delivered for home consumption subject only to the payment of such duty (if any) as may be prescribed.

Delivery of goods manufactured in warehouses.

15 **84.** Warehoused spirits being not less than sixty per cent. over proof in strength may in manner prescribed be methylated so as to be rendered unfit for human use as a beverage and incapable of being converted to that use and when so methylated may be entered for home consumption for use in the arts and manufactures
20 subject to the payment of such duty (if any) as may be prescribed.

Methylation of spirits.

85. No person shall treat refine or distil any methylated spirit for the purpose of rendering it fit for human use as a beverage or shall sell or offer for sale any methylated spirit so treated refined or distilled, or sell or offer for sale for human use as a food or beverage
25 any goods containing methylated spirits.
Penalty : One hundred pounds.

Refiningmethylated spirits.

86. The licensee of every warehouse shall—

- (1) Stack and arrange the goods in the warehouse so that reasonable access to and examination of every package may be had at all times.
30 (2) Provide sufficient lights and just scales and weights for the use of the officer.
(3) Find all labour and materials requisite for the storing examining packing marking cooeping weighing and taking stock of the warehoused goods whenever the Collector may desire.
35 (4) Pay the duty on all warehoused goods removed from his warehouse except by authority and on all warehoused goods not produced to the officer on demand unless such goods are accounted for to the satisfaction of the Collector.
40

Duty of licensee.

Penalty: Twenty pounds.

87. No

Opening warehouse.

87. No person shall except by authority open any warehouse or gain access to the goods therein.

Penalty : Twenty pounds.

Collector may order removal of goods from private to public warehouse.

88. The Collector may require the owner of any goods in any private warehouse within a time to be specified by him to remove them to some general warehouse or to pay the duty thereon and if the order is not complied with the goods may be sold by the Collector. 5

Period of warehousing.

89. Goods warehoused in any warehouse for three years shall if not removed therefrom or re-warehoused be sold by the Collector. 10

Re-warehousing.

90. Re-warehousing shall be effected as follows :—

- (a) An application for re-warehousing shall be made by the owner to the Collector.
- (b) The goods shall be examined by the officer at the expense of the owner. 15
- (c) Duty shall be paid on any disallowed deficiency.
- (d) A re-warehousing entry shall be made by the owner for the goods according to the result of the examination.
- (e) On the passing of the entry a fresh account shall be substituted for the last account and this shall complete the re-warehousing. 20

Goods for exhibition.

91. In prescribed cases warehoused goods may be permitted to be taken out of the warehouse without payment of duty for the purpose of public exhibition or any similar purpose for such convenient time and in such suitable quantities as may be prescribed subject to the prescribed security for the return of the goods or payment of the duty. 25

Collector to have access to warehouse.

92. The Collector at all hours of the day and night shall have access to every part of any warehouse and power to examine the goods therein and for that purpose to break open the warehouse or any premises necessary to be passed through to secure access. 30

Regauging or reweighing of goods.

93. Warehoused goods may be regauged remeasured reweighed or examined by the officer either by direction of the Collector or at the request and expense of the owner and duty shall be payable according to the result unless the Collector is of opinion that any loss shown is excessive in which case the duty shall be paid on the original entry with any reduction which the Collector may see fit to allow. 35

94. Warehoused

94. Warehoused goods subject to an *ad valorem* duty which have deteriorated in value may be revalued on the application of the owner and duty shall be paid according to the result if the Collector is satisfied that the deterioration has been accidentally
5 caused.

Revaluation.

95. If the warehouse dues on any warehoused goods shall be in arrear for six months the goods may be sold by the Collector.

If warehouse fees in arrear goods to be sold.

96. The Comptroller may cause any warehoused goods which in the opinion of the Collector are not worth the duty payable thereon
10 to be destroyed and may remit the duty.

Goods not worth duty may be destroyed.

The owner of any goods destroyed shall pay to the licensee of the warehouse or to the Collector in case the goods were in a King's warehouse the rent and charges payable in respect of the destroyed goods.

97. No goods of a combustible or inflammable nature shall be warehoused except by permission of the Collector, and if any such goods shall be landed the same may be deposited in any safe available place that the Collector shall approve, and whilst so deposited the same shall be deemed to be in a King's warehouse and be liable to be
20 sold by the Collector at the expiration of fourteen days in the same manner as goods of a perishable nature deposited in a King's warehouse unless duly cleared or warehoused in some warehouse with the approval of the Collector, and such goods shall be charged with the expenses for removing securing watching and guarding the
25 same until sold.

Combustible or inflammable goods.

Penalty: One hundred pounds.

98. Warehoused goods may be entered—

Entry of warehoused goods.

(a) For home consumption.
(b) For export to parts beyond the seas.
30 (c) For removal for warehousing elsewhere.

99. If after goods have been entered for warehousing either on importation or removal and before they have been actually warehoused they shall be entered for home consumption exportation or removal the goods so entered shall be considered as constructively warehoused
35 and may be delivered for home consumption exportation or removal as if actually warehoused.

Constructive warehousing.

Division 2.—King's Warehouses.

100. King's warehouses may be appointed by the Minister by
Gazette notice.

King's warehouse.

40 101. Rent and charges shall be paid in respect of any goods warehoused in any King's warehouse according to such scale as may be prescribed.

Rent.

102. King's

Continuation of
existing ware-
houses.

102. King's warehouses in actual use by authority at the commencement of this Act shall continue as if appointed under this Act unless otherwise determined by the Minister by *Gazette* notice.

Power to sell.

103. If any goods warehoused in a King's warehouse shall not be lawfully removed within six months after warehousing the goods 5 may be sold by the Collector.

Purposes of King's
warehouses.

104. King's warehouses shall be wholly under the control of the Customs and shall be specially available for the examination of goods and the storage of seized and unclaimed goods but otherwise all the provisions of this Act relating to warehouses shall so far as 10 practicable apply to King's warehouses.

PART VI.—THE EXPORTATION OF GOODS.

Exportation.

105. No prohibited exports shall be exported.
Penalty: One hundred pounds.

Prohibited exports

106. The following are prohibited exports namely— 15
All arms explosives military and naval stores the export of which is prohibited by proclamation including any article which the proclamation shall declare to be military or naval stores or to be capable of being converted into them or of being made useful in increasing the quantity thereof. 20
The proclamation may prohibit the exportation or carrying coastwise of the prohibited goods either generally or to any particular country or place and the prohibition shall have effect accordingly.

Size of exporting
vessel.

107. Except by the permission of the Collector no goods 25 subject to the control of the Customs shall be exported in any ship of less than fifty tons gross register.
Penalty: One hundred pounds.

Conditions for
export.

108. Before any goods are taken on board a ship for export—
(1) The ship shall be entered outwards and the goods shall be 30 entered for export but—
(a) In the case of free goods it shall suffice if they be entered not later than three days after shipment; and
(b) The ship may be stiffened by permission of the 35 Collector before entry outwards or export entry.

Goods to be shipped
at wharf.

109. Goods subject to the control of the Customs for exportation or removal coastwise shall be shipped either directly at a wharf or after conveyance to the ship in a licensed lighter direct from a wharf. 40
Penalty: One hundred pounds. **110.** If

110. If any goods entered for export are not shipped according to the entry— Short-shipped goods.

(1) The owner shall immediately report the fact to the officer and amend his entry for the goods not later than three days after the clearance of the ship.

(2) The goods if dutiable shall forthwith be warehoused.

Penalty: Twenty pounds.

111. The Collector may require the owner to produce documents for any goods entered for export and in the case of goods subject to the control of the Customs to give security that the same will be landed at the place for which they are entered or otherwise accounted for to the satisfaction of the Collector. Documents and security.

112. The master of any ship shall not depart with his ship from any port without receiving from the Collector a Certificate of Clearance. Certificate of clearance.

Penalty: One hundred pounds.

113. Before any Certificate of Clearance shall be granted the master of the ship shall— Requisites for obtaining clearance.

- (a) Deliver to the Collector an Outward Manifest in duplicate.
- (b) Answer questions relating to the ship and her cargo crew passengers stores and voyage.
- (c) Produce documents relating to the ship and her cargo.

114. The master of any ship shall not suffer any goods other than passengers' baggage not specified or referred to in the Outward Manifest to be taken on board his ship. Shipment of unspecified goods.

Penalty: Fifty pounds.

115. A copy of the Outward Manifest shall be attached to the Certificate of Clearance and be sealed with the Customs seal. Manifest to be attached to clearance.

116. No Certificate of Clearance shall be granted for any ship unless all her inward cargo and stores shall have been duly accounted for to the satisfaction of the Collector nor unless all the other requirements of the law in regard to such ship and her inward and outward cargo have been duly complied with. Time of clearance.

117. The master of every ship departing from any port shall bring his ship to at the boarding station appointed for the port and by all reasonable means facilitate boarding by the officer, and shall not depart with his ship from any port with any officer on board such ship in the discharge of his duty without the consent of such officer. Ship to bring to at proper stations.

Penalty: One hundred pounds.

C

118. The

Master to account
for missing goods.

118. The master of every ship after clearance shall—

- (a) On demand by an officer produce the Certificate of Clearance;
- (b) Account to the satisfaction of the Collector for any goods specified or referred to in the Outward Manifest and not on board his ship. 5

Penalty : Fifty pounds.

Goods exported to
be landed at proper
destination.

119. No goods shipped for export shall be unshipped or landed without the permission of the Collector except in parts beyond the seas. 10
Penalty : Fifty pounds.

Certificate of land-
ing.

120. If required by the Collector a certificate in such form and to be given by such person as may be prescribed shall be produced in proof of the due landing according to the export entry of any goods subject to the control of the Customs, and the Collector may refuse to allow any other goods subject to the control of the Customs to be exported by any person who fails within a reasonable time to produce such certificate of the landing of any such goods previously exported by him or to account for such goods to the satisfaction of the Collector. 15

PART VII.—SHIPS' STORES.

20

Ships' stores.

121. The prescribed allowance of stores for the use of the passengers and crew and for the service of the ship may be shipped free of duty on board any ship of not less than fifty tons gross registered tonnage entered outwards for parts beyond the seas.

Use of ships' stores.

122. Ships' stores shall only be used by the passengers and crew and for the service of the ship after the departure of such ship from her last port of departure in the Commonwealth. 25

Re-landing ships'
stores.

123. No stores after being shipped shall be unshipped except by permission of the Collector.

Penalty : Fifty pounds.

30

PART VIII.—THE DUTIES.

Division 1.—The Payment and Computation of Duties Generally.

Duties payable
under State Act.

123A. This Part of this Act shall not affect any duties payable under any State Act.

Exemption.

124. No goods the property of the Commonwealth shall be liable to any duty of Customs. 35

Import duties.

125. All import duties shall be paid at the rate in force when the goods are entered for home consumption.

Export duties.

126. All export duties shall be finally payable at the rate in force when the goods are actually exported but in the first instance payment shall be made by the owner to the Collector at the rate in force when the goods are entered for export. 40
127. Where

127. Where duties are imposed according to weight or measure the weight or measurement of the goods shall be ascertained according to the standard weights and measures by law established. Weights and Measures.

128. Where duties are imposed according to a specified quantity weight size or value the duties shall apply in proportion to any greater or lesser quantity weight size or value. Proportion.

129. Whenever goods are sold or prepared for sale as or are reputed to be of a size or quantity greater than their actual size or quantity duties shall be charged according to such first-mentioned size or quantity.

130. All duties shall be paid in British currency. British currency.

131. If any goods enumerated in the Tariff are or can be classed under two or more names headings or descriptions with a resulting difference as to duty duty shall be charged when it is a difference between liability to or freedom from duty and the higher or highest of the duties applicable shall be charged when it is a difference as to two or more duties. Highest duties to be charged.

132. Whenever any goods are imported which in the opinion of the Minister are a substitute for any dutiable goods or are intended to be or can be used as such substitute or for any purpose for which such dutiable goods can be used or for any similar purpose the Minister may by *Gazette* notice direct that such first mentioned goods shall be charged with the duty chargeable upon such dutiable goods and the same shall be so charged accordingly. Substitutes for dutiable goods.

133. (1) Whenever any dutiable goods are composed of two or more separate parts any part though imported by itself shall if so directed by the Minister be chargeable with duty at the rate applicable to the complete goods. Duty on parts.

(2) When the duty on the complete goods is specific or both specific and *ad valorem* the Minister may fix the proportionate rate of duty with which any part shall be chargeable.

134. Duty shall be charged on all essences condensations concentrations or preparations of goods liable to duty according to the quantity of dutiable goods into which such essences condensations concentrations or preparations can be converted. Duty on condensed articles.

135. Goods charged with duty by measurement shall at the expense of the owner be heaped piled sorted framed or otherwise placed in such manner as the Collector may require to enable measurement and account thereof to be taken ; and in all cases where the same are measured in bulk the measurement shall be taken to the full extent of the heap or pile. Measurement for duty.

136. Goods

Goods in transitu.

136. Goods exported to Australia from any country but passing through another country shall be valued for duty as if they were imported directly from such first mentioned country.

Proprietary medicines.

137. All medicinal or toilet preparations not completely manufactured but imported for completing the manufacture thereof or for the manufacture of any other article by the addition of any ingredient or by mixing such preparations or by putting up or labelling the same alone or with other articles or compounds under any proprietary or trade name shall be irrespective of cost valued for duty and duty shall be paid thereon at the ordinary market value in the country whence imported of the completed preparation when put up and labelled under such proprietary or trade name less the actual cost of labour and material used or expended in Australia in completing the manufacture thereof or of putting up or labelling the same. 5 10

Value of goods sold.

138. When the duty on any goods sold at any Collector's sale shall be *ad valorem* the value of such goods shall if approved by the Collector be taken to be the value as shown by the sale. 15

Strength of spirits.

139. The strength of spirits may be ascertained for the purposes of duty by means of a hydrometer approved by the Comptroller.

Obscuration.

140. If in the opinion of the Collector the strength of any spirits cannot immediately be accurately ascertained by hydrometer the strength may be ascertained after distillation or in any prescribed manner. 20

Derelict goods dutiable.

141. All goods derelict flotsam jetsam or lagan or landed saved or coming ashore from any wreck or sold as droits of Admiralty shall be charged with duty as if imported in the ordinary course. 25

As to payment of duty on goods in manifest but not produced or landed.

142. If any dutiable goods which are included in the report of any ship shall not be produced to the officer the master or owner of the ship, or the owner of the goods shall on demand by the Collector pay the duty thereon as estimated by the Collector unless the goods are accounted for to the satisfaction of the Collector. 30

Samples.

143. Small samples of the bulk of any goods subject to the control of the Customs may subject to the prescribed conditions be delivered free of duty.

Samples.

144. Samples of duty paid goods or goods the produce of Australia sent out of Australia may subject to any prescribed conditions be re-imported or brought back to Australia without payment of duty. 35

145. If

145. If after any agreement is made for the sale or delivery of goods duty paid any alteration takes place in the duty collected affecting such goods before they are entered for home consumption then in the absence of express written provision to the contrary the agreement shall be altered as follows:—

Alteration of
agreements where
Tariff altered.

- (a) In the event of the alteration being a new or increased duty the seller after payment of the new or increased duty may add the difference caused by the alteration to the agreed price.
- 10 (b) In the event of the alteration being the abolition or reduction of duty the purchaser may deduct the difference caused by the alteration from the agreed price.
- (c) Any refund or payment of increased duty resulting from the alteration not being finally adopted shall be allowed
- 15 between the parties as the case may require.

146. All duties shall constitute Crown debts charged upon the goods in respect of which the same are payable and payable by the owner of the goods and recoverable at any time in any court of competent jurisdiction by proceedings in the name of the Collector.

Recovery of duties.

20 *Division 2.—Ad Valorem Duties.*

147. When any duty is imposed according to value—

Value for duty.

- (a) The value shall be taken to be the fair market value of the goods in the principal markets of the country whence the same were exported in the usual and ordinary commercial acceptance of the term and free on board at the port of export in such country and a further addition of ten per cent. on such market value.
- 25 (b) The value shall be verified at the time of entry by the production of the genuine invoice and by a declaration signed by the owner in the presence of the Collector.
- 30 (c) The invoice shall be stamped by the Collector with the Customs stamp, and shall be produced to the officer prior to the delivery of the goods for home consumption or for warehousing.
- 35 (d) If the non-production of the genuine invoice shall be accounted for to the satisfaction of the Collector proof of its contents by a copy or otherwise may be received in lieu of its production.

148. The Genuine Invoice means—

Genuine invoice.

- 40 (a) The original invoice prepared and issued by the seller in the country whence the goods were exported showing the true description of the goods and the actual money price paid or to be paid for the goods by the purchaser in the country whence the same were
- 45 exported without any deduction; or (b) In

(b) In the case of goods consigned for sale in Australia the original invoice prepared and issued by the consignor showing the true description of the goods and the actual money price for cash at which such goods were saleable in the principal markets of the country whence such goods were exported at the date of the shipment of such goods free on board at the port of export in such country. 5

Foreign invoices.

149. Where the genuine invoice shows the value of the goods in any currency other than British currency the equivalent value of the goods in British currency shall be ascertained according to a fair rate to be declared in case of doubt by the Minister. 10

Value may be assessed.

150. Whenever the Collector has a doubt as to the accuracy of the declared value of dutiable goods he may detain such goods and assess the value thereof. 15

Should the owner object to the value so assessed he may request that the value may be ascertained by experts in manner prescribed.

Should the owner refuse to pay the duty as assessed by the Collector or ascertained by experts the Collector may sell the goods. 20

The provisions of this section shall not apply in cases where the Minister is of opinion that any evasion of this Act has been committed or attempted.

Blank invoices.

151. No person shall send or bring into Australia or have in his possession without reasonable excuse any blank or partly blank invoice form capable of being filled up and used as a genuine invoice. 25

Penalty: Twenty pounds.

Minister to determine value in some cases.

152. Whenever it is difficult to determine the value of goods for duty, either because the goods are not sold for use or consumption in the country of production or because a lease of the goods or the right of using the same is sold or given but not the right of property therein, or because the goods have a royalty imposed thereon and the royalty is uncertain or is not a reliable means of estimating the value of the goods, or because the goods are usually or exclusively sold by or to agents or by subscription or are sold or imported in or under any other unusual or peculiar manner or conditions (of all which matters the Minister shall be judge) the Minister may determine the value for duty of the goods. 30 35

Division 3.—Deposits, Abatements, Remissions, and Refunds of Duties.

Deposits.

153. In prescribed cases the duty paid on any goods may be retained by the Customs on deposit for a period not exceeding six months, and the deposit may be returned to the owner if the goods are exported within the prescribed time. 40

154. (1) Whenever

154. (1) Whenever goods—

Refund of duty.

(a) Have received damage or have been pillaged during the voyage; or

5 (b) Have whilst under Customs control been damaged pillaged lost or destroyed; or

(2) Whenever duty has been paid through manifest error of fact or patent misconception of the law—

a refund rebate or remission of the duty as the case may require shall be made in manner prescribed.

10 **155.** The Collector may remit any duty on any goods that have been wasted or lost in sorting bottling packing or repacking in a warehouse. Duty on waste.

15 **156.** When any duty has been short levied or erroneously refunded the person who should have paid the amount short levied or to whom the refund has erroneously been made shall pay the amount short levied or repay the amount erroneously refunded on demand being made by the Collector within twelve months from the date of the short levy or refund. Short paid duty may be recovered¹

20 **157.** If any practice of the Customs relating to classifying or enumerating any article for duty shall be altered so that less duty is charged upon such article, no person shall thereby become entitled to any refund on account of any duty paid before such alteration. No refund if duty altered.

Division 4.—Disputes as to Duty.

25 **158.** If any dispute shall arise as to the amount or rate of duty or as to the liability of goods to duty the owner may deposit with the Collector the amount of duty demanded and thereupon the following consequences shall ensue : Deposit of duty.

(1) The owner upon making proper entry shall be entitled to delivery of the goods.

30 (2) The deposit shall be deemed the proper duty unless by action commenced by the owner against the Collector within six months after making the deposit the contrary shall be determined, in which case any excess of the deposit over the proper duty shall be refunded by the Collector to the owner with Five pounds per centum per annum interest added.

35

The provisions of this section shall not apply in cases where the Minister is of opinion that any evasion of this Act has been committed or attempted.

PART IX.

PART IX.—DRAWBACKS.

Drawbacks allowed.

159. Drawbacks of import duty may be allowed on exportation in respect of such goods (other than spirits wine beer tobacco cigars cigarettes and opium) to such amount and in such manner as may be prescribed.

5

Provision in case
Western Australia
continues Inter-
colonial Duties.

159A. If the Parliament of the State of Western Australia in exercise of the power conferred by the Constitution imposes duties of Customs on goods passing into that State then whilst such duties are so imposed drawback may be allowed in the State in which import duty has been paid in respect of any such goods as if exported.

10

Limit of value.

160. No drawback shall be allowed on any goods of a less value for home consumption than the amount of the drawback or on which the import duty paid did not amount to One pound.

Examination of
goods under
drawback.

161. All goods in respect of which any claim for drawback shall be made shall before exportation be produced for examination by the Customs and shall be examined accordingly.

15

Debenture to be
passed.

162. For the purpose of claiming drawback a drawback debenture shall be presented to the Collector, who shall as soon as the goods have been exported cause the debenture to be passed for payment.

20

Declaration on de-
benture.

163. The person claiming drawback on any goods shall make a declaration upon the debenture that the goods have been exported and have not been re-landed and are not intended to be re-landed and that such person at the time of shipping was entitled to the drawback, and the name of such person shall be stated in the debenture, and the receipt of such person on the debenture countersigned by the holder of such debenture if the same shall have been transferred in the meantime shall be a sufficient discharge for such drawback.

25

30

Payment of draw-
back debentures.

164. No drawback debenture shall be paid except with the consent of the Minister—

(a) Unless presented for payment within one year from the date of the shipment of the goods for export.

And the Minister may

35

(b) Prohibit the payment in whole or in part of any drawback debenture.

PART X.—THE COASTING TRADE.

What are coasting
vessels.

165. All ships trading or plying or going from one port or place in Australia to another port or place therein and not trading plying or going to any other port or place shall be considered as engaged in the coasting trade, and such ships shall be deemed to be coasting ships for the purposes of any Customs Act.

40

166. The

166. The master of any coasting ship shall not suffer any goods to be taken into or put out of his ship from or into any other ship at sea except with the sanction of the Collector, nor suffer his ship to deviate from her voyage unless forced to do so by unavoidable
5 circumstances or under circumstances explained to the satisfaction of the Collector.

Coasters not to take in cargo at sea or deviate.

Penalty : One hundred pounds.

167. The owner of any ship employed in the coasting trade may with the consent of the Collector report such ship inwards or outwards
10 in lieu of the master thereof.

Owner may report ship.

Every such owner so reporting shall be subject to the same provisions and liable to the same penalties under the Customs Act as the master of such ship.

168. The master or owner of every coasting ship shall at pre-
15 scribed ports deliver to the Collector as prescribed particulars of all cargo consisting of Australian produce or manufactures then on board his ship.

Account of Australian goods.

169. The coasting trade generally as regards the Customs shall be regulated in manner prescribed and books shall be kept, documents
20 produced, and entries made accordingly.

Regulation.

PART XI.—AGENTS.

170. Any owner of goods may comply with the provisions of this Act by an agent lawfully authorized being either a person exclu-
25 sively in the employment of the owner or being duly licensed in manner prescribed.

Authorized agents.

171. Any officer may require from any agent the production of his written authority from the principal for whom he claims to act, and in default of the production of such authority may refuse to recognise the agency.

Authority to be produced.

172. When any person is expressly or impliedly authorized by the owner to act as his agent in relation to any goods for all or any purposes of any Customs Act or represents or passes himself or acts or assumes to act as such agent such person shall for such purpose be also deemed to be the owner of such goods and shall be personally
35 liable for any penalties recoverable under this Act in the same manner and to the same extent as if he were principal. But nothing herein contained shall be taken to relieve any principal from liability.

Agents personally liable.

173. Any declaration authorized by this Act made by any employé or agent of any person shall be held to have been made with
40 the knowledge and consent of such person, so that in any prosecution in respect of any declaration made by any such employé or agent such person shall be liable only to the pecuniary punishment provided by any Customs Act as if such declaration had been made by himself.

Principal liable for agents acting.

PART XII.—OFFICERS.

Division I.—Powers of Officers.

Ships and boats to bring to.

174. The commander or officer in charge of any ship or boat in His Majesty's service or in the service of the Commonwealth or Customs, such ship or boat having hoisted and carrying the proper ensign and pendant or Customs flag, may chase any ship which does not bring to when lawfully signalled or required to do so and may (after having fired a gun as a signal) fire at or into such ship to compel her to bring to. 5

Officers may board ships hovering on coast.

175. Any officer may require the master of any ship hovering within one league of the coast to depart, and if such ship shall fail to depart accordingly within twelve hours thereafter any officer may board and bring such ship into port and search her. 10

The Collector may examine all persons on board of such ship and they shall each thereupon answer questions relating to the ship and her cargo crew passengers stores and voyage and produce documents relating to the ship and her cargo. 15

Penalty : One hundred pounds.

Examine all goods.

176. Any officer may open packages and examine weigh mark and seal any goods subject to the control of the Customs, and the expense of the examination including the cost of removal to the place of examination shall be borne by the owner. 20

Power to board and search ships.

177. Any officer may—

(1) Board any ship.

(2) Search any ship. 25

(3) Secure any goods on any ship.

Boarding.

178. The power of an officer to board shall extend to staying on board any ship and the Collector may station an officer on board any ship, and the master shall provide sleeping accommodation in the cabin and suitable and sufficient food for such officer. 30

Penalty: Fifty pounds.

Searching.

179. The power of an officer to search shall extend to every part of any ship, and shall authorize the opening of any package, locker, or place and the examination of all goods.

Securing goods.

180. The power of an officer to secure any goods shall extend to fastening down hatchways and other openings into the hold and locking up, sealing, marking, or otherwise securing any goods or the removal of any goods to the King's warehouse. 35

Seals &c. not to be broken.

181. No fastening, lock, mark, or seal placed by an officer upon any goods or upon any door hatchway opening or place upon any ship shall be opened, altered, broken or erased, except by authority, whilst the goods upon which the fastening lock, mark, or seal is placed 40

or

or which are intended to be secured thereby shall remain subject to the control of the Customs and if any ship shall arrive in any port with any such fastening, lock, mark, or seal open, altered, broken, or erased, except as aforesaid the master shall be guilty of an offence
5 against this Act.

Penalty: Fifty pounds.

182. Any officer and any person acting in his aid when on duty may patrol upon and pass freely along and over any part of the coast or any railway or the shores, banks, or beaches of any port bay
10 harbor lake or river.

Officers may patrol
coasts &c.

183. The officer in charge for the time being of any vessel or boat employed in the service of the Customs may haul any such vessel or boat upon any part of the coast or the shores banks or beaches of any port bay harbor lake or river and may moor any
15 such vessel or boat thereon and continue such vessel or boat so moored as aforesaid for such time as he shall deem necessary.

Boats on service
may be moored in
any place.

184. Any person on board any ship or boat or who may have landed from or got out of any ship or boat may be questioned by any officer as to whether he has any dutiable goods upon his person or in
20 his possession or in his baggage.

Power to question
passengers.

185. If any officer of Customs or of police shall have reasonable cause to suspect that any person is unlawfully carrying or has any goods subject to the control of the Customs secreted about him the following consequences shall ensue :—

Suspected persons
—detention and
search.

- 25 (1) The officer may detain and search the suspected person.
(2) Before the suspected person shall be searched he may require to be taken before a Justice or the Collector.
(3) The justice or Collector may order the suspected person to be searched or may discharge him without search.

30 But females shall only be searched by a female searcher appointed by the justice or Collector.

186. Any officer of Customs or police upon reasonable suspicion may stop and search any carriage for the purpose of ascertaining whether any dutiable goods are contained therein and the driver of
35 any carriage shall stop and permit such search whenever required by any such officer.

Power to stop
vehicles.

Penalty: Twenty pounds.

187. Any Judge of the High Court of Australia or any Judge of the Supreme Court of any State having jurisdiction in the State
40 where the application is made may grant a writ of assistance upon application

Writs of assistance

application made to him for that purpose by a Minister of State for the Commonwealth or by the Comptroller or a State Collector, and such writ unless superseded shall be in force so long as any person named therein remains an officer of Customs whether in the same capacity or not.

5

Customs warrants.

188. The Comptroller or a State Collector may grant a Customs Warrant in the form of Schedule III. hereto under the Customs Seal to any officer, and such warrant shall remain in force for one month from the date thereof.

A Customs Warrant granted by a State Collector shall only have force in the State where it is granted.

Power to search.

189. Any officer having with him a Writ of Assistance or a Customs Warrant may at any time in the day or night enter into any house premises or place and may break open the same and any chests trunks or packages in which goods may be or are supposed to be.

15

Power to take assistants.

190. Any officer acting under a Writ of Assistance or Customs Warrant may take with him and have the assistance of any police officer and such assistants as he may think necessary.

Power to call for aid.

191. Any person lawfully making any seizure under any Customs Act may call upon any person present in the King's name to assist him, and such assistance shall be rendered accordingly.

20

Penalty: Twenty pounds.

Power to seize goods.

192. Any officer of His Majesty's forces or any officer of Customs or police may seize any forfeited ship or goods upon land or water or any ship or goods which he has reasonable cause to believe are forfeited.

25

Seized goods to be secured.

193. All seized goods shall be taken to the nearest King's warehouse or to such other place of security as the Collector shall direct.

30

Notice to be given of goods seized.

194. When any ship or goods have been seized as forfeited the seizing officer shall give notice in writing of such seizure and the cause thereof to the master or owner of the ship or goods (unless such master or owner be present at the seizure in which case no notice shall be necessary) either by delivering such notice to him personally or by letter addressed to him and transmitted by post to or delivered at his last known place of abode or business and all ships or goods seized shall be deemed to be condemned and may be sold by the Collector unless the person from whom such ship or goods shall have been seized or the owner shall within one month from the date of seizure give notice in writing to the Collector at the nearest port that he claims them; but if any things so seized shall be of a perishable nature or shall be live animals the same may be forthwith sold by the Collector.

35

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195. The

195. The Comptroller or a State Collector may authorize any ship or goods seized to be delivered to the claimant on his giving security to pay their value in case of their condemnation. Seized goods may be returned on security.

196. Whenever any goods have been seized by any officer and claim to such goods has been served on the Collector by the owner of such goods, the Collector may retain possession of the goods without taking any proceedings for their condemnation, and may by notice under his hand require the claimant to enter an action against him for the recovery of the goods, and if such claimant shall not within four months after the date of such notice enter such action the goods shall be deemed to be condemned without any further proceedings. Collector may retain goods and require owner to proceed for restoration.

197. All forfeited ships and goods shall be disposed of or destroyed in such manner as may be prescribed or as the Comptroller may direct. Disposal of forfeited ships and goods.

198. All goods seized by any person not being a Customs officer shall forthwith be conveyed to the nearest Customs House and there delivered to an officer. Delivery of seized goods.

199. Any officer of Customs or police may without warrant arrest any person whom he has reasonable cause to believe has been guilty of any offence against this Act, and no person shall resist or prevent such arrest. Arresting suspects.

Penalty : Twenty pounds.

200. Any officer arresting any person shall on demand give him a statement in writing of the reason for his arrest. Reasons for arrests.

201. Every person arrested may be detained until such time as he can without undue delay be taken before a Justice. Arrested persons to go before Justices.

202. Any Justice before whom any person is brought under this Act may— Powers of Justices with offenders.

- (1) Commit such person to gaol until he can be brought before Justices to be dealt with according to law ; (or)
- (2) Admit him to bail upon his giving sufficient security for his appearance before Justices at the time and place appointed for the hearing of the charge.

203. Whenever information in writing has been given on oath to the Collector that goods have been unlawfully imported undervalued or entered or illegally dealt with, or that it is intended to unlawfully import undervalue enter or illegally deal with any goods, or whenever any goods have been seized or detained, the owner shall immediately upon being required so to do by the Collector produce and hand over to Production of documents &c. in cases of seizure.

to him all books and documents relating to the goods so imported entered seized or detained undervalued or illegally dealt with, or intended to be unlawfully imported undervalued entered or illegally dealt with, and of all other goods imported by him at any time within the period of five years immediately preceding such request seizure or detention, and shall also produce for the inspection of the Collector or such other officer as he may authorize for that purpose and allow such Collector or officer to make copies of or extracts from all books or documents of any kind whatsoever wherein any entry or memorandum appears in any way relating to any such goods. 5 10

Penalty : One hundred pounds.

Collector may impound documents.

204. The Collector may impound or retain any document presented in connexion with any entry or required to be produced under this Act, but the person otherwise entitled to such document shall in lieu thereof be entitled to a copy certified as correct by the Collector and such certified copy shall be received in all courts as evidence and of equal validity with the original. 15

Collector may require further proof of proper entry.

205. The Collector may require from the owner of any goods proof by declaration or the production of documents that the goods are owned as claimed and are properly described valued or rated for duty and the Collector may refuse to deliver the goods or to pass any entry relating thereto pending such proof. 20

Translations of foreign invoices.

206. If any document in a foreign language be presented to any officer for any purpose connected with Customs business, the Collector may require to be supplied with an English translation to be made at the expense of the owner by such person as the Collector may approve or to be verified as he may require. 25

Customs samples.

207. Samples of any goods under the control of the Customs may for any purpose deemed necessary by the Collector be taken utilized and disposed of by any officer in manner prescribed. 30

General power of Collector.

208. In all cases not herein otherwise provided for the Collector may exercise any power exercisable by the Customs.

Division 2.—Protection to Officers.

Reasonable cause for seizure a bar to action.

209. No person shall be liable for any seizure under this Act for which there shall have been reasonable cause, and when any claimant recovers any ship or goods seized or any proceeds thereof and at the same time reasonable cause for the seizure is found such finding shall bar all proceedings against all persons concerned in the seizing. 35

210. No

210. No proceeding shall be commenced against any officer for anything done in execution of or by reason of his office until one month next after notice in writing shall have been delivered to him or left at his usual place of abode by the plaintiff his attorney or
 5 agent in which notice shall be clearly stated the cause and nature of the proceeding and the court in which the same is intended to be instituted, the name and place of abode of the plaintiff and the name and place of business of such attorney or agent.

Notice of action to be given.

211. Upon any proceeding instituted in pursuance of such notice
 10 the plaintiff shall not be at liberty to advance any evidence of any cause of action except such as has been distinctly stated in such notice nor shall the plaintiff be entitled to a verdict without proving on the trial that such notice has been duly served and in default of such proof the defendant shall receive a verdict with costs.

No evidence to be produced but that contained in notice.

212. It shall be lawful for any officer to whom notice of proceeding shall have been given at any time within one month after such notice to tender amends to the plaintiff his attorney or agent and in case such amends be not accepted to plead such tender in
 15 defence either alone or with other defences and if the amends
 20 tendered shall be found to have been sufficient no costs shall be recovered against an officer and he shall be entitled to costs if he shall have brought the amount into court when entering his defence.

Officer may tender amends.

213. Every proceeding against any officer shall except as mentioned in the next section be commenced within six months
 25 after its cause shall have arisen and not afterwards and the venue shall be local and the defendant may plead the general issue and give any special matter in evidence.

Commencement of proceedings against officers.

213A. No proceeding whether against an officer or otherwise for anything done for the protection of the revenue in relation
 30 to any Tariff or Tariff alteration proposed in Parliament shall except as mentioned in the next section be commenced before the close of the session in which such Tariff or Tariff alteration is proposed.

Time for commencing action.

213B. The High Court of Australia or the Supreme Court of
 35 any State on the application of any person who desires to commence any proceeding mentioned in the last section against an officer may require the officer to give security to the satisfaction of the Court to abide the result of the proceeding and in default of the giving of such security may sanction the immediate commencement of the
 40 proceeding.

Security may be required.

PART XIII.—PENAL PROVISIONS.

Division 1.—Forfeitures.

Forfeited ships.

214. The following ships shall be forfeited to His Majesty :—

- (1) Any ship used in smuggling.
- (2) Any ship found within one league of the coast failing to bring to for boarding upon being lawfully required to do so. 5
- (3) Any ship hovering within one league of the coast and not departing within twelve hours after being required to depart by an officer. 10
- (4) Any ship from which any goods are thrown overboard staved or destroyed to prevent seizure by the Customs.
- (5) Any ship found within any port with cargo on board and afterwards found light or in ballast or with the cargo deficient and the master of which is unable to lawfully account for the difference. 15
- (6) Any ship within one league of the coast having false bulk heads false bows sides or bottoms or any secret or disguised place adapted for the purpose of concealing goods or having any hole pipe or other device adapted for the purpose of running goods. 20

Forfeited goods.

215. The following goods shall be forfeited to His Majesty :—

- (a) All goods which are smuggled, or unlawfully imported, exported, or conveyed.
- (b) All goods imported which are prohibited imports excepting only goods the importation of which is prohibited by proclamation and which shall have been shipped to be imported without knowledge of the proclamation by the shipper and before the expiration of a reasonable time for the acquisition of knowledge thereof at the port of shipment. 25 30
- (c) All goods imported in any ship in which goods are prohibited to be imported.
- (d) All dutiable goods found on any ship being unlawfully in any place. 35
- (e) All goods found on any ship after arrival in any port and not being specified or referred to in the Inward Manifest and not being baggage belonging to the crew or passengers and not being satisfactorily accounted for.
- (f) All goods in respect of which bulk is unlawfully broken. 40
- (g) All goods which being subject to the control of the Customs shall be moved altered or interfered with except by authority and in accordance with this Act.
- (h) All

- (h) All goods which by this Act are required to be moved or dealt with in any way and which shall not be moved or dealt with accordingly.
- 5 (i) All goods in respect of which any entry invoice declaration answer statement or representation which is false or misleading in any particular has been delivered made or produced.
- 10 (j) Any carriage or animal used in smuggling or in the unlawful importation, exportation, or conveyance of any goods.
- (k) The cargo of any ship which ship hovers about the coast and does not depart within twelve hours after being required by an officer to depart.
- 15 (l) All spirits opium tobacco snuff cigars or cigarettes in packages of less than the prescribed size found on or attached to any ship or boat.
- 20 (m) All goods not being passengers' baggage found on any ship after clearance and not specified or referred to in the Outward Manifest and not accounted for to the satisfaction of the Collector.
- (n) All prohibited exports put on any ship for export or brought to any wharf or place for the purpose of export.
- (o) All dutiable goods concealed in any manner.
- 25 (p) Any package having concealed therein goods not enumerated in the entry or being so packed as to deceive the officer.
- 30 (q) All dutiable goods found in the possession or in the baggage of any person who has got out of or landed from any ship or boat and who has denied that he has any dutiable goods in his possession, or who when questioned by an officer has not fully disclosed that such goods are in his possession or baggage.
- 35 (r) All goods offered for sale on the pretence that the same are prohibited or smuggled goods.
- (s) All spirits which having been methylated are afterwards treated filtered refined distilled or otherwise dealt with in any manner so that any substance may be extracted therefrom.

40 **216.** The forfeiture of any goods shall extend to the forfeiture of the packages in which the goods are contained and the forfeiture of any package shall extend to all goods packed or contained in the package. Forfeited packages and goods.

Division 2.—Penalties.

Armed persons
assisting in illegal
landing of goods.

217. All persons to the number of two or more assembled for the purpose of smuggling, or for preventing the seizure of, or for rescuing after seizure any smuggled goods shall be guilty of an indictable offence and shall be liable to imprisonment with or without hard labour for any term not exceeding Five years. 5

218. Whoever

Collusive seizures
penalty.

(a) Being an officer of the Customs or Police makes any collusive seizure or delivers up or makes any agreement to deliver up or not to seize any ship or goods liable to forfeiture or conspires or connives with any person to import or export, or is in any way concerned in the importation or exportation of any goods for the purpose of seizing any ship or goods and obtaining any reward for such seizure; 10 15

Bribe offered to
officer penalty.

(b) Gives, or procures to be given, or offers or promises to give or procure to be given any bribe recompense or reward to, or makes any collusive agreement with any officer to induce him in any way to neglect his duty, or who by threats demands or promises attempts to influence any officer in the discharge of his duty; 20

Rescuing goods.

(c) Rescues any goods which have been seized or before or at or after any seizure staves breaks or destroys any goods or documents relating thereto to prevent the seizure thereof or the securing the same or the proof of any offence; 25

Persons assaulting
or obstructing
officers.

(d) Assaults or by force resists molests or obstructs or endeavours to intimidate any officer or any person acting in his aid or assistance in the execution of his duties, 30

shall be guilty of an indictable offence and shall be liable to imprisonment with or without hard labour for any term not exceeding Three years.

Penalty for
smuggling by
master.

219. No person shall smuggle or unlawfully import, export, convey or have in his possession any goods and no master of a ship shall use or suffer his ship to be used in smuggling or in the unlawful importation, exportation, or conveyance of any goods. 35

Penalty : One hundred pounds.

Customs offences.

220. No person shall—

- (a) Evade payment of any duty which is payable; 40
- (b) Obtain any drawback which is not payable;
- (c) Prepare pass or present any document purporting to be a genuine invoice which is not in fact a genuine invoice;
- (d) Make

- (d) Make any entry which is false in any particular ;
 (e) Make in any declaration or document produced to any officer any statement which is untrue in any particular or produce or deliver to any officer any declaration or document containing any such statement ;
 5 (f) Mislead any officer in any particular likely to affect the discharge of his duty ;
 (g) Refuse or fail to answer questions or to produce documents ;
 10 (h) Sell or offer for sale any goods upon the pretence that such goods are prohibited imports or smuggled goods ;

Penalty : One hundred pounds.

221. Whoever wilfully makes any false statement on oath under this Act shall be guilty of an indictable offence and shall be
 15 liable to imprisonment with hard labour for any period not exceeding four years. False oath or affirmation.

222. Whoever aids abets counsels or procures or by act or omission is in any way directly or indirectly concerned in the commission of any offence against this Act shall be deemed to have
 20 committed such offence and shall be punishable accordingly. Aiders and abettors.

223. Any attempt to commit an offence against this Act shall be an offence against this Act punishable as if the offence had been committed. Attempts.

224. Any person who is guilty by act or omission of any contravention or evasion of this Act for which no other penalty is provided shall be liable to a penalty of not more than Ten pounds. Offences not specifically provided for.

225. All penalties shall be in addition to any forfeiture. Penalties in addition to forfeitures.

226. If any penalty hereby provided shall be less than three times the value of any goods in respect of which the offence has been
 30 committed the maximum penalty shall be thrice the value of the goods. Maximum penalty in certain cases.

227. Any person may at the same time be charged with an offence against this Act and with an intent to defraud the revenue and if in addition to such offence he is convicted of such intent the maximum
 35 penalty shall be double that otherwise provided. Maximum penalty in case of intent to defraud.

228. When any person is convicted of any offence against this Act for which a pecuniary penalty is provided and it shall appear that such person had been previously convicted of any similar offence the Court may in lieu of or in addition to imposing any penalty order
 40 that such person shall be imprisoned with hard labour for a period not less than six months nor more than two years and with or without the right of release on payment of a penalty. If previous conviction defendant may be imprisoned.

229. The

Minimum penalty. **229.** The minimum pecuniary penalty for any offence against this Act shall be one-twentieth of the maximum which is prescribed in pounds.

PART XIV.—CUSTOMS PROSECUTIONS.

Interpretation. **230.** Proceedings by the Customs for the recovery of penalties under this Act or for the condemnation of ships or goods seized as forfeited are herein referred to as Customs Prosecutions. 5

How instituted. **231.** Customs prosecutions may be instituted in the name of the Minister by action information or other appropriate proceeding—

(a) In the High Court of Australia ; or 10

(b) In the Supreme Court of any State

and when the prosecution is for a pecuniary penalty not exceeding Five hundred pounds or the excess is abandoned the Customs prosecution may be instituted in the name of the Collector in

(c) Any County Court District Court Local Court or Court of summary jurisdiction. 15

Defendant to have right of trial in High or State Court. **231A.** In any Customs prosecution where the penalty exceeds One hundred pounds and the excess is not abandoned the defendant within seven days after service of process shall have the right in manner prescribed to elect to have the case tried in the option of the prosecutor either in the High Court of Australia or in the Supreme Court of the State in which such prosecution has been instituted and thereupon the proceedings shall stand removed accordingly and may be continued as if originally instituted in the Court to which they are so removed. 20 25

Prosecution in accordance with practice rules. **232.** Every Customs prosecution in the High Court of Australia or the Supreme Court of any State may be commenced prosecuted and proceeded with in accordance with any rules of practice established by the Court for Crown suits in revenue matters or in accordance with the usual practice and procedure of the Court in civil cases or in accordance with the directions of the Court or a Judge. 30

State Court practice. **233.** Subject to the provisions of this Act the provisions of the law relating to summary proceedings before Justices in force in the State where the proceedings are instituted shall apply to all Customs prosecutions before a Court of Summary Jurisdiction in such State, and an appeal shall lie from any conviction order for condemnation or order of dismissal to the Court and in the manner provided by the law of the State where such conviction or order is made for appeals from convictions or orders of dismissal. 40

Commencement of prosecutions. **234.** Customs prosecutions may be instituted at any time within five years after the cause thereof. **235.** All

235. All informations summonses convictions condemnations and warrants shall suffice if the offence or forfeiture is set forth as nearly as may be in the words of this Act.

Information &c. to be valid &c. if in words of Act.

236. No objection shall be taken or allowed to any information or summons for any alleged defect therein in substance or in form or for any variance between such information or summons and the evidence adduced at the hearing in support thereof, and the Court shall at all times make any amendment necessary to determine the real question in dispute or which may appear desirable, and if any such defect or variance shall appear to the Court to be such that the defendant has been thereby deceived or misled it shall be lawful for the Court upon such terms as it may think just to adjourn the hearing of the case to some future day.

No objection for informality

237. No conviction warrant of commitment or condemnation order or other proceeding matter or thing done or transacted in relation to the execution or carrying out of any Customs Act shall be held void quashed or set aside by reason of any defect therein or want of form and no party shall be entitled to be discharged out of custody on account of such defect.

Conviction not to be quashed.

238. No witness on behalf of the Minister or Collector in any Customs prosecution shall be compelled to disclose the fact that he received any information or the nature thereof or the name of the person who gave such information, and no officer appearing as a witness shall be compelled to produce any reports made or received by him confidentially in his official capacity or containing confidential information.

Protection to witnesses.

239. (1) In every Customs prosecution the defendant shall be competent to give evidence.

Defendant a competent witness.

(2) In every Customs prosecution except for an indictable offence or for an offence directly punishable by imprisonment the defendant shall be compellable to give evidence and if called as a witness for the prosecution shall be liable to cross-examination as a witness adverse to the prosecution.

240. In every Customs prosecution the averment of the prosecutor or plaintiff contained in the information declaration or claim shall be deemed to be proved in the absence of proof to the contrary but so that—

Averment of prosecution sufficient.

(a) When an intent to defraud the revenue is charged the averment shall not be deemed sufficient to prove the intent and—

(b) In all proceedings for an indictable offence or for an offence directly punishable by imprisonment the guilt of the defendant must be established by evidence.

Proof of
proclamations &c.

241. The production of the *Gazette* containing any proclamation gazette notice or regulation appearing to have been issued or made under this Act or the production of any document certified by the Comptroller or a State Collector to be a true copy of, or extract from any such proclamation, gazette notice, or regulation issued or made under this Act shall be *prima facie* evidence of the issue or making of such proclamation, gazette notice, or regulation, and that the same is in force. 5

Minimum penalties.

242. No minimum penalty imposed by this Act shall be liable to reduction under any power of mitigation which would but for this section be possessed by the Court. 10

Treatment of
convicted
offenders.

243. Where any pecuniary penalty is adjudged to be paid by any convicted person the Court may—

- (1) commit the offender to gaol until the penalty is paid; or
- (2) may release the offender upon his giving security for the payment of the penalty; or 15
- (3) may exercise for the enforcement and recovery of the penalty any power of distress or execution possessed by the Court for the enforcement and recovery of penalties in any other case. 20

Collector may levy
on goods in his
possession.

244. When any pecuniary penalty adjudged against any person is unpaid the Collector may levy the same by sale of any goods belonging to such person which may then or thereafter be subject to the control of the Customs.

Release of offenders.

245. The gaoler of any gaol to which any person has been committed for non-payment of any penalty shall discharge such person— 25

- (I) on payment to him of the penalty adjudged;
- (II) on a certificate by the Collector that the penalty has been paid or realized;
- (III) if the penalty adjudged to be paid is not paid or realized according to the following table :— 30

Amount of Penalty.	Period after commencement of imprisonment at the expiration of which defendant is to be discharged.	35
£2 or under	Seven days.	
Over £2 and not more than £5	Fourteen days.	
Over £5 and not more than £20	One month.	
Over £20 and not more than £50	Two months.	
Over £50 and not more than £100	Three months.	40
Over £100 and not more than £200	Six months.	
Over £200	One year.	

246. No person shall be twice imprisoned upon the same conviction but the suffering of imprisonment for non-payment of a penalty shall not release the penalty or affect the right of the Customs to collect the amount in any manner provided by this Act other than by imprisonment of the person convicted.

Imprisonment not to release penalty.

247. Where the committal of any offence causes a forfeiture of any goods the conviction of any person for such offence shall have effect as a condemnation of the goods in respect of which the offence is committed.

Conviction to operate as a condemnation.

248. In all Customs prosecutions the Court may award costs against any party or claimant, and all provisions of this Act relating to the recovery of penalties except commitment to gaol shall extend to the recovery of any costs adjudged to be paid.

Parties may recover costs.

249. All penalties and forfeitures recovered under any Customs Act shall be applied to such purposes and in such proportions as the Minister may direct.

Application of penalties.

PART XV.—SETTLEMENT OF CASES BY THE MINISTER.

251. If any dispute shall arise between any officer and any person with reference to any contravention of this Act, the Minister may in manner prescribed with the written consent of such person inquire into and determine the dispute and shall have power by order to impose enforce mitigate or remit any penalty or forfeiture which he shall determine shall have been incurred.

Settlement of disputes by Minister.

252. Every such order shall be final and without appeal and shall not be liable to be quashed on any account and a copy thereof shall be delivered to such person and may be enforced in the same manner as the order of a court of summary jurisdiction.

Minister's order to be final.

253. The Minister in holding any inquiry under this Part of this Act may—

Powers of Minister at inquiries.

- (a) Summon the parties and any witnesses before him.
- (b) Take evidence on oath.
- (c) Require the production of documents.
- (d) Allow reasonable expenses to witnesses and costs to successful parties.

254. No person being summoned as a witness at any inquiry under this Act shall—

- (a) Disobey such summons;
- (b) Refuse to be sworn as such witness;

(c) Refuse

(c) Refuse or fail to produce any document he may be required to produce;

(d) Being sworn as a witness refuse or fail to answer any question lawfully put to him.

Penalty: Twenty pounds.

5

PART XVI.—REGULATIONS.

Regulations to have force of law.

255. The Minister may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or as may be necessary or convenient to be prescribed for giving effect to this Act or for the conduct of any business relating to the Customs. 10

Publication of regulations.

256. All regulations made by the Minister may afterwards be confirmed by the Governor-General and after such confirmation shall—

(i) Be published in the *Gazette*;

15

(ii) Take effect from the date of publication or from a later date to be specified in such regulations; and

(iii) Be laid before both Houses of the Parliament within seven days after publication if Parliament is in session and if not then within seven days after the commencement of the next session; 20

But if either House of the Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation such regulation shall thereupon cease to have effect. 25

PART XVII.—MISCELLANEOUS.

Dutiable goods passing from one State to another.

258. As regards goods imported before the imposition of uniform duties of Customs into any State or into any Colony which whilst the goods remain therein becomes a State and which on thence passing into another State within two years after the imposition of such duties become liable by the Constitution Act to any duty chargeable upon the importation of such goods into the Commonwealth less any duty paid in respect of the goods on their importation this Act shall apply to the collection of the duty to which such goods are liable in manner prescribed. 30 35

Records of Inter-State trade.

259. During the first five years after the imposition of uniform duties of Customs and thereafter until the Parliament otherwise provides the Customs shall in manner prescribed collect particulars of the duties of Customs chargeable on goods imported into a State and afterwards passing into another State for consumption and the duties of excise paid on goods produced or manufactured in a State and afterwards passing into another State for consumption and the same shall be furnished to the Treasurer of the Commonwealth so that the accounts between the States may be kept as required by the Constitution. 40 45

260. The

260. The person in command of any ship holding commission from His Majesty or from any foreign State having on board any goods other than ship's stores laden in parts beyond the seas shall when called upon by the Comptroller or a State Collector or an officer specially authorized by the Minister or the Comptroller or a State Collector so to do

Commissioned ships
to be reported.

(a) deliver an account in writing of the quantity of such goods, the marks and numbers thereof, and the names of the shippers and consignees, and declare to the truth thereof;

(b) Answer questions relating to such goods.

261. Ships under commission from His Majesty or any foreign State having on board any goods other than ship's stores laden in parts beyond the seas may be boarded and searched by an officer especially authorized as mentioned in the last section in the same manner as other ships, and the officer may bring any such goods ashore and place them in a King's Warehouse.

Commissioned ships
may be searched.

262. As to sales by the Collector—

(a) The goods shall be sold by auction or by tender and after such public notice as may be prescribed, and where not prescribed after reasonable public notice.

Collectors' sales.

(b) The goods may be sold either free of or subject to duty and charges and the price shall be paid in cash on the acceptance of the bidding or tender.

(c) No bidding or tender shall be necessarily accepted and the goods may be re-offered until sold at a price satisfactory to the Collector.

263. The proceeds of any goods sold by the Collector shall be applied as follows:—

Proceeds of sales.

Firstly, in the payment of the expenses of the sale.

Secondly, in payment of the duty.

Thirdly, in payment of the warehouse rent and charges.

Fourthly, in payment of the freight if any due upon the goods if written notice of such freight shall have been given to the Collector.

And the balance if any shall be paid to the Treasurer on account of the person entitled thereto.

SCHEDULES.

SCHEDULE I.

COMMONWEALTH OF AUSTRALIA.

Security to the Customs.

By this Security the subscribers are, pursuant to the *Customs Act 1901*, bound to the Customs of the Commonwealth of Australia in the sum of—*[here insert amount or mode of ascertaining amount intended to be paid in default of compliance with condition]*—subject only to this condition that if—*[here insert the condition of the security]*—then this security shall be thereby discharged.*

Dated the day of 19 .

Names and Descriptions of Subscribers.	Signatures of Subscribers.	Signatures of Witnesses.

* NOTE.—If liability is not intended to be joint and several and for the full amount, here state what is intended as, for example, thus—"The liability of the subscribers is joint only," or "the liability of (mentioning subscriber) is limited to (here state amount of limit of liability or mode of ascertaining limit)."

SCHEDULE II.

SCALE OF FEES FOR WAREHOUSES TO BE PAID BY LICENSEES.

When the whole services of a locker are required	£200 per annum
When the whole services of more than one locker are required, for each additional locker after the first	£150 „
When the whole service of a locker are not required, a charge of 2s. per hour for each hour or part of an hour necessary for the locker to be in attendance, and a sum to be fixed by the Minister, not exceeding	£50 „

All questions as to the number of lockers required and the time necessary for their attendance shall be determined by the Minister.

The above scale shall apply to the following places only:—

Sydney,
Melbourne,
Brisbane,
Hobart,
Adelaide and Port Adelaide,
Perth and Fremantle.

At any other place such fees not exceeding the above scale shall be charged as may be prescribed.

SCHEDULE

SCHEDULE III.

THE COMMONWEALTH OF AUSTRALIA.

To

CUSTOMS WARRANT.

You are hereby authorized to enter into, at any time in the day or night, if necessary, and search any house, premises, or place ; and to break open the same, and any chests, trunks, or packages in which goods may be or are supposed to be, and to seize and take away any forfeited goods or goods which you have reasonable grounds to believe are forfeited, you may find therein, and forthwith to put and secure the same in the King's warehouse, or such other place of security as the Collector may direct : And for so doing this shall be your sufficient warrant.

This warrant shall remain in force for one month from the date thereof.

Dated this day of in the year One thousand
 nine hundred and

(SEAL)

Signature.

PART VIII.—The Duties.

Division 1.—The Payment and Computation of Duties generally.

Division 2.—Ad valorem Duties.

Division 3.—Deposits Abatements Remissions and Refunds of Duties. 5

Division 4.—Disputes as to Duty.

PART IX.—Drawbacks.

PART X.—The Coasting Trade.

PART XI.—Agents. 10

PART XII.—Officers.

Division 1.—Powers of Officers.

Division 2.—Protection to Officers.

PART XIII.—Penal Provisions.

Division 1.—Forfeitures. 15

Division 2.—Penalties.

PART XIV.—Customs Prosecutions.

PART XV.—Settlement of Cases by the Minister.

PART XVI.—Regulations.

PART XVII.—Miscellaneous. 20

Interpretation.

4. In this Act except where otherwise clearly intended—

“Answer questions” means that the person on whom the obligation of answering questions is cast shall to the best of his knowledge, information, and belief truly answer all questions on the subject mentioned that the Collector shall ask. 25

“By authority” means by the authority of the officer of Customs doing duty in the matter in relation to which the expression is used.

“Carriage” includes vehicles and conveyances of all kinds. 30

“Collector” includes the Comptroller and any Collector of Customs for the State and any principal officer of Customs doing duty at the time and place and any officer doing duty in the matter in relation to which the expression is used. 35

“Comptroller” means the Comptroller-General of Customs.

“Customs Acts” includes this Act and all laws and regulations relating to Customs in force within the Commonwealth or any part of the Commonwealth.

“Days” does not include Sundays or holidays. 40

“Documents” includes books.

“Drawback” includes bounty or allowance.

“Dutiable goods” includes all goods in respect of which any duty of Customs is payable.

“Gazette

"*Gazette* notice" means a notice signed by the Minister and published in the *Gazette*.

"Goods" includes all kinds of movable personal property.

5 "Goods under drawback" includes all goods in respect of which any claim for drawback has been made.

"Justice" means any Justice of the Peace having jurisdiction in the place.

"Master" means the person in charge or command of any ship except a pilot or Government officer.

10 "Officer" includes all persons employed in the service of the Customs.

"Owner" in respect of goods includes any person (other than an officer of Customs) being or holding himself out to be the owner, importer, exporter, consignee, agent, or person possessed of, or beneficially interested in, or having any control of, or power of disposition over the goods.

15 "Owner" in respect of a ship includes every person acting as agent for the owner or to receive freight or other charges payable in respect of the ship.

20 "Parts beyond the seas" means any country outside of Australia.

"Package" includes every means by which goods for carriage may be cased covered enclosed contained or packed.

"Port" means any proclaimed port.

25 "Prescribed" means prescribed by this Act.

"Produce documents" means that the person on whom the obligation to produce documents is cast shall to the best of his power produce to the Collector all documents relating to the subject matter mentioned.

30 "Ship" includes every description of vessel used in navigation not propelled by oars only.

"Smuggling" means any importation or introduction or attempted importation or introduction of goods with intent to defraud the revenue.

35 "The Customs" means the Department of Trade and Customs.

"This Act" includes all regulations made thereunder.

"Warehouse" means a warehouse licensed for the purposes of this Act.

40 "Wharf" means a wharf appointed for the purposes of this Act.

"Wharf owner" includes any owner or occupier of any wharf.

5. The penalties referred to at the foot of sections indicate that any contravention of the section whether by act or omission shall be an offence against this Act punishable upon conviction by a penalty not exceeding (except as hereinafter provided) the penalty mentioned.

Indication of penalties.

PART II.

PART II.—ADMINISTRATION.

Administration.

6. Until it is otherwise lawfully determined the Customs Acts shall be administered by the Minister of State for the Commonwealth administering the Customs.

Comptroller-General.

7. There shall be a Comptroller-General of Customs who under the Minister shall be the permanent head of the Customs and shall have the chief control of the Customs throughout the Commonwealth.

State Collector.

8. There shall in each State be a Collector of Customs who subject to the Comptroller shall be therein the Chief Officer of the Customs and shall be called the Collector of Customs for the State.

Delegation by Minister.

9. In relation to any particular matters or class of matters or to any particular State or District the Minister may by writing under his hand delegate any of his powers under any Customs Act (except this power of delegation) so that the delegated powers may be exercised by the delegate with respect to the matters or class of matters specified or the State or District defined in the instrument of delegation.

Delegation by Comptroller.

10. The Comptroller with the written approval of the Minister may similarly delegate any of his powers under any Customs Act.

Revocation of delegation.

11. Every delegation, whether by the Minister or Comptroller shall be revocable in writing at will, and no delegation shall prevent the exercise of any power by the Minister or Comptroller.

Continuance of Officers.

12. All persons acting in the service of the Customs at the commencement of this Act shall be deemed to have been duly appointed.

Customs seal.

13. The seal of the Customs shall be the Royal Arms having the words "Australia—H.M. Customs" encircling the Arms and the name of the State and port added thereto. Such seal shall be judicially noticed.

Customs flag.

14. The vessels and boats employed in the service of the Customs shall be distinguished from other vessels and boats by such flag as shall be prescribed.

Appointment of boarding stations &c.

15. The Governor-General may by proclamation—

- (a) Appoint boarding stations for the boarding of ships by officers.
- (b) Establish ports and fix their limits.
- (c) Appoint wharfs within ports and fix their limits.

16. Ports

16. Ports and wharfs may be established or appointed for specified limited purposes or without any such limitation. Appointment of ports and wharfs.

17. The Minister may by *Gazette* notice—

(a) Appoint sufferance wharfs in any port. Appointment of sufferance wharfs &c.

(b) Appoint places for the examination of goods on landing.

18. All boarding stations ports wharfs and examination places in actual use by authority at the commencement of this Act shall continue as if established or appointed under this Act. Continuance of boarding stations &c.

19. Every wharf-owner shall provide to the satisfaction of the Collector suitable office accommodation on his wharf for the exclusive use of the officer employed at the wharf. Accommodation on wharfs.
Penalty: Twenty pounds.

20. Carriages and lighters may be licensed for the carriage of goods subject to the control of the Customs upon payment of such fees and subject to such conditions as may be prescribed. Licences.

21. The principal official of any railway in lieu of taking out a licence for each carriage to be used in the carriage of goods subject to the control of the Customs may give security for the due carriage and custody of all such goods on the railway, and thereupon all carriages of the railway shall be deemed to be licensed. Licensed railway carriages.

22. All carriages and lighters licensed for the purposes of any State Customs Act at the commencement of this Act shall be deemed to be similarly licensed under this Act; but unless actually licensed under this Act such carriages and lighters shall cease to be licensed on the expiration of the period for which the last payment of licence-fee was made prior to the commencement of this Act or such further time if any as may be prescribed, or as may be allowed by the Minister by *Gazette* notice. Continuance of licences.

23. The licence for any carriage or lighter may be revoked by the Collector if the licensee shall be guilty of any fraud or misconduct or shall fail to comply with this Act. Revocation of licence.

24. No person shall use any unlicensed carriage or lighter for the conveyance of goods subject to the control of the Customs. Unlicensed carriages or lighters.
Penalty: Twenty pounds.

25. Declarations under this Act may be made before the Minister or any Collector or any Justice and also before any person authorized in that behalf by the Minister or Comptroller. Before whom declarations may be made.

26. No officer shall knowingly receive a declaration by any person under the age of eighteen years. Declaration by youths.

27. If

State inspection
laws.

27. If the Governor-General shall so direct by proclamation any State Act relating to the inspection or testing of imported goods may be executed and enforced by the Customs.

Working days
and hours.

28. The working days and hours of the Customs shall be as prescribed and except when working overtime is permitted by the Collector cargo shall only be received loaded or worked on or discharged from any ship on working days and during working hours.
Penalty : Fifty pounds. 5

Overtime charges.

29. When working overtime is permitted overtime at prescribed rates shall be charged for the services of the officers. 10

PART III.—CUSTOMS CONTROL EXAMINATION ENTRIES AND SECURITIES GENERALLY.

Customs control of
goods.

30. Goods shall be subject to the control of the Customs as follows :—

- (a) As to all goods imported—from the time of importation until delivery for home consumption or until exportation to parts beyond the seas whichever shall first happen. 15
- (b) As to all goods under drawback—from the time of the claim for drawback until exportation to parts beyond the seas. 20
- (c) As to all goods subject to any export duty—from the time when the same are brought to any port or place for exportation until the payment of the duty.

Right of
examination.

31. The Control of the Customs especially includes the right of the Customs to examine all goods subject to such control. 25

Customs control of
goods.

32. No goods subject to the control of the Customs shall be moved altered or interfered with except by authority and in accordance with this Act.

Penalty : One hundred pounds. 30

No claim for
compensation for
loss.

33. The Customs shall not be liable for any loss or damage occasioned to any goods subject to the control of the Customs except by the neglect or wilful act of some officer.

Goods imported
through post.

34. Goods imported through the Post Office shall be subject to the control of the Customs equally with goods otherwise imported. 35

Entries.

35. Entries may be made and passed for all goods subject to the control of the Customs.

Owner to make
entry.

36. Entries shall be made by the delivery of the entry by the owner to the Collector.

37. Entries

37. Entries shall be passed by the Collector signing the entry, and on the passing of the entry the goods shall be deemed to be entered, and any entry so passed shall be warrant for dealing with the goods in accordance with the entry and the goods shall forth-
5 with be dealt with accordingly.

Penalty : One hundred pounds.

38. Goods being the personal baggage of passengers in any ship and not being dutiable goods may subject to any prescribed conditions, be imported or exported without entry.

39. The Customs shall have the right to require and take securities for compliance with this Act and generally for the protection of the revenue of the Customs, and pending the giving of the required security in relation to any goods subject to the control of the Customs may refuse to deliver the goods or to pass any entry
15 relating thereto.

40. Where any security is required to be given such security may be by bond or guarantee or cash deposit or all or any of such methods so that in each case the security shall be approved by the Collector.

41. When security is required for any particular purpose security may by the authority of the Comptroller be accepted to cover all transactions for such time and for such amount as the Comptroller may approve.

42. All Customs securities may after the expiration of three
25 years from the date thereof or from the time specified for the performance of the conditions thereof be cancelled by the Comptroller.

43. If the Collector shall not at any time be satisfied with the sufficiency of any security the Collector may require a fresh security
30 and a fresh security shall be given accordingly.

44. The form of Customs security in Schedule I. hereto shall suffice for all the purposes of a bond or guarantee under this Act and without sealing shall bind its subscribers as if sealed and unless otherwise provided therein jointly and severally and for the full amount.

45. Whenever any such Customs security is put in suit by the Collector the production thereof without further proof shall entitle the Collector to judgment for their stated liability against the persons appearing to have executed the same unless the defendants shall prove compliance with the condition or that the security was not
40 executed by them.

PART IV.

PART IV.—THE IMPORTATION OF GOODS.

Importation.

46. In order to the due importation of goods—

- (1) The ship may be boarded.
- (2) The cargo shall be reported.
- (3) The goods shall be entered unshipped landed and examined. 5

*Division 1.—Prohibited Imports.*Importations
allowed.**47.** No prohibited imports shall be imported.

Penalty: One hundred pounds.

Unregistered ships.

48. No goods may be imported in any ship which has not been lawfully registered in the country to which she belongs or which has not her certificate of registry on board unless the absence of the certificate is satisfactorily accounted for. 10

Penalty : One hundred pounds.

Prohibited imports.

49. The following are prohibited imports :— 15

- (a) Any work which is or appears to be an infringement of any copyright existing in any part of the King's dominions and of the existence of which copyright written notice shall have been given to the Minister by or on behalf of the proprietor. 20
- (b) False money and counterfeit sterling and any coin or money not being of the proper standard in weight or fineness.
- (c) Blasphemous indecent or obscene works or articles.
- (d) Goods manufactured or produced wholly or in part by prison labour or which have been made within or in connexion with any prison, gaol, or penitentiary. 25
- (e) Exhausted tea, and tea adulterated with spurious leaf or with exhausted leaves, or being unfit for human use, or unwholesome. 30
- (f) Oleomargarine butterine or any similar substitute for butter.
- (g) All goods the importation of which may be prohibited by proclamation.
- (h) All goods having thereon or therewith any false suggestion of any warranty guarantee or concern in the production or quality thereof by any persons public officials Government or country. 35

Restrictions of
spirits, &c.

50. No spirits, opium, tobacco, snuff, cigars or cigarettes shall be imported except in packages of the prescribed size. 40

Penalty : One hundred pounds.

State prohibitions.

51. All goods lawfully prohibited to be imported into any State shall as regards that State be prohibited imports for the purposes of this Act.

52. The

52. The power of prohibiting importation of goods shall authorize prohibition subject to any specified condition or restriction and goods imported contrary to any such condition or restriction shall be prohibited imports. Prohibition subject to restriction.

5 *Division 2.—The Boarding of Ships.*

53. The master of a ship shall not suffer his ship to enter any place other than a port unless from stress of weather or other reasonable cause. Ships to enter ports.

Penalty: One hundred pounds.

10 **54.** The master of every ship arriving within one league of the coast shall bring his ship to for boarding on being approached by or hailed or signalled from any vessel in the service of the Customs having hoisted the Customs flag, or from any vessel in the service of His Majesty or of the Commonwealth having hoisted the proper Ship to bring to on being signalled.

15 ensign and pendant.
Penalty: One hundred pounds.

55. The master of every ship from parts beyond the seas bound to or calling at any port shall bring his ship to for boarding at the boarding station appointed for that port. Ship to bring to at boarding station.

20 Penalty: Fifty pounds.

56. The master of every ship bringing to for boarding shall by all reasonable means facilitate boarding by the officer. Facility for boarding.

Penalty: Twenty pounds.

25 **57.** The master of every ship after his ship has been brought to at the boarding station and boarded by the officer shall come up to the proper place of mooring or unlading as quickly as practicable without touching at any other place. Ships to come quickly to place of unlading.

Penalty: Twenty pounds.

30 **58.** No ship after arrival at the proper place of mooring or unlading shall except by authority, or by direction of the harbor authority be removed therefrom before the discharge of the cargo intended to be discharged at the port. Ship not to be moved without authority.

Penalty: Twenty pounds.

Division 3.—The Report of the Cargo.

35 **59.** The master of every ship arriving from parts beyond the seas shall— Report of cargo.

(a) Within one day after arrival make report of the ship and her cargo by delivering to the Collector an Inward Manifest in duplicate;

40 (b) Answer questions relating to the ship and her cargo crew passengers stores and voyage;

(c) Produce documents relating to the ship and her cargo.

Penalty: One hundred pounds.

60. When

Master of wrecked
ship to report.

60. When any ship is wrecked upon the coast the master or owner shall without any unnecessary delay make report of the ship and cargo by delivering to the Collector an Inward Manifest so far as it may be possible for him to do so at the Customs house nearest to the place where the ship was lost or wrecked or at the chief Customs house of the State where the ship was lost or wrecked. 5

Penalty: Twenty pounds.

Goods derelict to
be delivered to
officer.

61. Whoever has any dutiable goods derelict flotsam jetsam lagan or wreck in his possession shall deliver the same to an officer without unnecessary delay. 10

Penalty: Twenty pounds.

Interference with
derelict goods.

62. No person shall except by authority unnecessarily move alter or interfere with any goods derelict flotsam jetsam lagan or wreck.

Penalty: Twenty pounds. 15

*Division 4.—The Entry, Unshipment, Landing, and Examination
of Goods.*

Entries.
Kinds of entries.

63. All imported goods shall be entered either—

- (a) For home consumption; or
- (b) For warehousing; or
- (c) For transhipment.

20

Sight Entry.

64. If the owner cannot immediately supply the full particulars for making an entry and shall make a declaration to that effect before the Collector he may make a Sight Entry.

Passing of Sight
Entry.

65. A Sight Entry on being passed by the Collector shall be warrant for the landing and examination of the goods. 25

Completion of Sight
Entry.

66. Within three days after the examination of the goods pursuant to any Sight Entry the owner shall make complete entry of the goods by the addition to the Sight Entry of the required particulars. 30

Entry within seven
days.

67. Entries shall be made of the whole of any cargo landed or to be landed not later than seven days after the report of the ship or within such further time if any as the Collector may see fit to allow; and so that if the goods are placed in quarantine seven days at the least shall be allowed for entry after their release from quarantine. 35

- (a) If default shall be made in the entry of any goods pursuant to this section the Collector may cause the goods to be removed to a warehouse; and if the goods are

are not claimed and entries passed therefor within six months after such removal the goods may be sold by the Collector.

- 5 (b) If the goods are of a perishable nature they may be sold at any time the Collector thinks fit either before or after warehousing.

68. The bulk cargo of a ship arriving within one league of the coast shall not be broken except with the permission of the Collector or as regards goods for which entry has been passed.

- 10 Penalty : One hundred pounds.

69. Goods may only be unshipped pursuant to—

- (1) A Collector's permit; or
(2) An entry passed.

Penalty : One hundred pounds.

Authority for un-shipment.

- 15 70. All goods unshipped shall be either—

(a) Landed directly at a wharf or after conveyance thereto in a licensed lighter direct from the ship ; or

(b) Transhipped direct to the ship into which they are to be transhipped or after conveyance thereto in a licensed carriage or lighter direct from the ship.

- 20 Penalty : One hundred pounds.

Unshipment of goods.

- 25 71. Goods unshipped and landed under a Collector's permit shall be placed by and at the expense of the master or owner of the ship from which they were unshipped in a place of security approved by the Collector, and shall until lawfully removed therefrom be at the risk of the master or owner of the ship as if they had not been unshipped.

Goods landed on permit at ship's risk.

72. Any goods may by authority be repacked or skipped on the wharf.

Repacking on wharf.

- 30 PART V.—THE WAREHOUSING OF GOODS.

Division 1.—Licensed Warehouses.

73. Dutiable goods may be warehoused in warehouses licensed by the Minister.

Dutiable goods may be warehoused.

- 35 74. There may be four classes of licensed warehouses as follows :—

Classes of warehouses.

Class I.—General warehouses to be used for warehousing goods generally.

Class II.—Private warehouses to be used only for warehousing goods the property of the licensee.

Class III.

Class III.—Machinery warehouses to be used only for warehousing machinery and similar heavy or bulky goods.

Class IV.—Manufacturing warehouses to be used for warehousing goods for use in such warehouse in any manufacture trade or process and for carrying on in such warehouse any manufacture trade or process which the Minister may by *Gazette* notice declare that it is desirable to encourage. 5

Annual fee.

75. Fees for warehouses according to the scale in Schedule II. shall be paid by the licensee as to the annual fees by equal quarterly payments in advance on the first days of January April July and October in each year, and as to the fees for lockers' attendance by monthly payments. 10

Cancellation of licences.

76. In default of payment of any part of any licence-fee for thirty days after any quarter day the Minister may by *Gazette* notice cancel the licence and thereupon the warehouse shall be closed and the goods therein shall be removed by the Collector to some other warehouse. 15

Continuation of existing licences.

77. All warehouses licensed for the purposes of any State Customs Act at the commencement of this Act shall be deemed to be similarly licensed under this Act but unless actually licensed under this Act such warehouses shall cease to be licensed on the expiration of the period for which the last payment of licence-fee was made prior to the commencement of this Act or such further time as may be prescribed or as may be allowed by the Minister by *Gazette* notice. 25

Officer to take account of goods landed to be warehoused.

78. Upon the landing of any goods to be warehoused or so soon as practicable thereafter the officer shall take a particular account of the goods and shall enter such account in a book.

Unless where otherwise provided such account shall be that upon which the duties shall be ascertained and paid. 30

Completion of warehousing.

79. When any goods entered for warehousing have been duly deposited in the warehouse the officer shall certify that the warehousing is complete by signing a receipt for the goods.

Removal of goods to warehouse.

80. If any goods entered to be warehoused are not warehoused accordingly by the owner the Collector may remove them to the warehouse. 35

The licensee of the warehouse shall pay all charges for the removal of goods removed by the Collector and shall have a lien on the goods for such charges.

81. Goods

81. Goods entered for warehousing shall be deposited in the warehouse in the packages in which they were imported except goods repacked or skipped on the wharf which shall be deposited in the packages in which they were when the account was taken.

Packages in which goods to be deposited.

5 **82.** The Collector may in prescribed cases permit the owner to sort bottle pack or repack goods in any warehouse.

Repacking in warehouse.

83. Whenever goods are sorted bottled packed or repacked in a warehouse a fresh account of the goods shall be taken by the officer and shall be substituted for the original account.

Fresh account to be taken.

10 **84.** In all prescribed cases warehoused goods in manufacturing warehouses may in manner prescribed be utilized for manufacturing purposes and the manufactured article may be delivered for home consumption subject only to the payment of such duty (if any) as may be prescribed.

Delivery of goods manufactured in warehouses.

15 **85.** Warehoused spirits being not less than sixty per cent. over proof in strength may in manner prescribed be methylated so as to be rendered unfit for human use as a beverage and incapable of being converted to that use and when so methylated may be entered for home consumption for use in the arts and manufactures
20 subject to the payment of such duty (if any) as may be prescribed.

Methylation of spirits.

86. No person shall treat refine or distil any methylated spirit for the purpose of rendering it fit for human use as a beverage or shall sell or offer for sale any methylated spirit so treated refined or distilled, or sell or offer for sale for human use as a food or beverage
25 any goods containing methylated spirits.
Penalty : One hundred pounds.

Refining methylated spirits.

87. The licensee of every warehouse shall—

- 30 (1) Stack and arrange the goods in the warehouse so that reasonable access to and examination of every package may be had at all times.
- (2) Provide sufficient lights and just scales and weights for the use of the officer.
- 35 (3) Find all labour and materials requisite for the storing examining packing marking cooeping weighing and taking stock of the warehoused goods whenever the Collector may desire.
- 40 (4) Pay the duty on all warehoused goods removed from his warehouse except by authority and on all warehoused goods not produced to the officer on demand unless such goods are accounted for to the satisfaction of the Collector.

Duty of licensee.

Penalty: Twenty pounds,

88. No

Opening warehouse.

88. No person shall except by authority open any warehouse or gain access to the goods therein.

Penalty : Twenty pounds.

Collector may order removal of goods from private to public warehouse.

89. The Collector may require the owner of any goods in any private warehouse within a time to be specified by him to remove them to some general warehouse or to pay the duty thereon and if the order is not complied with the goods may be sold by the Collector. 5

Period of warehousing.

90. Goods warehoused in any warehouse for three years shall if not removed therefrom or re-warehoused be sold by the Collector. 10

Re-warehousing.

91. Re-warehousing shall be effected as follows :—

- (a) An application for re-warehousing shall be made by the owner to the Collector.
- (b) The goods shall be examined by the officer at the expense of the owner. 15
- (c) Duty shall be paid on any disallowed deficiency.
- (d) A re-warehousing entry shall be made by the owner for the goods according to the result of the examination.
- (e) On the passing of the entry a fresh account shall be substituted for the last account and this shall complete the re-warehousing. 20

Goods for exhibition.

92. In prescribed cases warehoused goods may be permitted to be taken out of the warehouse without payment of duty for the purpose of public exhibition or any similar purpose for such convenient time and in such suitable quantities as may be prescribed subject to the prescribed security for the return of the goods or payment of the duty. 25

Collector to have access to warehouse.

93. The Collector at all hours of the day and night shall have access to every part of any warehouse and power to examine the goods therein and for that purpose to break open the warehouse or any premises necessary to be passed through to secure access. 30

Regauging or reweighing of goods.

94. Warehoused goods may be regauged remeasured reweighed or examined by the officer either by direction of the Collector or at the request and expense of the owner and duty shall be payable according to the result unless the Collector is of opinion that any loss shown is excessive in which case the duty shall be paid on the original entry with any reduction which the Collector may see fit to allow. 35

95. Warehoused

95. Warehoused goods subject to an *ad valorem* duty which have deteriorated in value may be revalued on the application of the owner and duty shall be paid according to the result if the Collector is satisfied that the deterioration has been accidentally
5 caused.

Revaluation.

96. If the warehouse dues on any warehoused goods shall be in arrear for six months the goods may be sold by the Collector.

If warehouse fees in arrear goods to be sold.

97. The Comptroller may cause any warehoused goods which in the opinion of the Collector are not worth the duty payable thereon
10 to be destroyed and may remit the duty.

Goods not worth duty may be destroyed.

The owner of any goods destroyed shall pay to the licensee of the warehouse or to the Collector in case the goods were in a King's warehouse the rent and charges payable in respect of the destroyed goods.

15 98. No goods of a combustible or inflammable nature shall be warehoused except by permission of the Collector, and if any such goods shall be landed the same may be deposited in any safe available place that the Collector shall approve, and whilst so deposited the same shall be deemed to be in a King's warehouse and be liable to be
20 sold by the Collector at the expiration of fourteen days in the same manner as goods of a perishable nature deposited in a King's warehouse unless duly cleared or warehoused in some warehouse with the approval of the Collector, and such goods shall be charged with the expenses for removing securing watching and guarding the
25 same until sold.

Combustible or inflammable goods.

Penalty: One hundred pounds.

99. Warehoused goods may be entered—

Entry of warehoused goods.

- 30 (a) For home consumption.
(b) For export to parts beyond the seas.
(c) For removal for warehousing elsewhere.

100. If after goods have been entered for warehousing either on importation or removal and before they have been actually warehoused they shall be entered for home consumption exportation or removal the goods so entered shall be considered as constructively warehoused
35 and may be delivered for home consumption exportation or removal as if actually warehoused.

Constructive warehousing.

Division 2.—King's Warehouses.

101. King's warehouses may be appointed by the Minister by
Gazette notice.

King's warehouse.

40 102. Rent and charges shall be paid in respect of any goods warehoused in any King's warehouse according to such scale as may be prescribed.

Rent.

103. King's

Continuation of
existing ware-
houses.

103. King's warehouses in actual use by authority at the commencement of this Act shall continue as if appointed under this Act unless otherwise determined by the Minister by *Gazette* notice.

Power to sell.

104. If any goods warehoused in a King's warehouse shall not be lawfully removed within six months after warehousing the goods 5 may be sold by the Collector.

Purposes of King's
warehouses.

105. King's warehouses shall be wholly under the control of the Customs and shall be specially available for the examination of goods and the storage of seized and unclaimed goods but otherwise all the provisions of this Act relating to warehouses shall so far as 10 practicable apply to King's warehouses.

PART VI.—THE EXPORTATION OF GOODS.

Exportation.

106. No prohibited exports shall be exported.
Penalty: One hundred pounds.

Prohibited exports.

107. The following are prohibited exports namely— 15
All arms explosives military and naval stores the export of which is prohibited by proclamation including any article which the proclamation shall declare to be military or naval stores or to be capable of being converted into them or of being made useful in increasing the quantity thereof. 20
The proclamation may prohibit the exportation or carrying coastwise of the prohibited goods either generally or to any particular country or place and the prohibition shall have effect accordingly.

Size of exporting
vessel.

108. Except by the permission of the Collector no goods 25 subject to the control of the Customs shall be exported in any ship of less than fifty tons gross register.
Penalty: One hundred pounds.

Conditions for
export.

109. Before any goods are taken on board a ship for export—
The ship shall be entered outwards and the goods shall be 30 entered for export but—
(a) In the case of free goods it shall suffice if they be entered not later than three days after shipment; and
(b) The ship may be stiffened by permission of the 35 Collector before entry outwards or export entry.

Goods to be shipped
at wharf.

110. Goods subject to the control of the Customs for exportation or removal coastwise shall be shipped either directly at a wharf or after conveyance to the ship in a licensed lighter direct from a wharf. 40
Penalty: One hundred pounds. **111.** If

111. If any goods entered for export are not shipped according to the entry— Short-shipped goods.

(1) The owner shall immediately report the fact to the officer and amend his entry for the goods not later than three days after the clearance of the ship.

(2) The goods if dutiable shall forthwith be warehoused.

Penalty: Twenty pounds.

112. The Collector may require the owner to produce documents for any goods entered for export and in the case of goods subject to the control of the Customs to give security that the same will be landed at the place for which they are entered or otherwise accounted for to the satisfaction of the Collector. Documents and security.

113. The master of any ship shall not depart with his ship from any port without receiving from the Collector a Certificate of Clearance. Certificate of clearance.

Penalty: One hundred pounds.

114. Before any Certificate of Clearance shall be granted the master of the ship shall— Requisites for obtaining clearance.

- (a) Deliver to the Collector an Outward Manifest in duplicate.
- (b) Answer questions relating to the ship and her cargo crew passengers stores and voyage.
- (c) Produce documents relating to the ship and her cargo.

115. The master of any ship shall not suffer any goods other than passengers' baggage not specified or referred to in the Outward Manifest to be taken on board his ship. Shipment of unspecified goods.

Penalty: Fifty pounds.

116. A copy of the Outward Manifest shall be attached to the Certificate of Clearance and be sealed with the Customs seal. Manifest to be attached to clearance.

117. No Certificate of Clearance shall be granted for any ship unless all her inward cargo and stores shall have been duly accounted for to the satisfaction of the Collector nor unless all the other requirements of the law in regard to such ship and her inward and outward cargo have been duly complied with. Time of clearance.

118. The master of every ship departing from any port shall bring his ship to at the boarding station appointed for the port and by all reasonable means facilitate boarding by the officer, and shall not depart with his ship from any port with any officer on board such ship in the discharge of his duty without the consent of such officer. Ship to bring to a proper stations.

Penalty: One hundred pounds.

c

119. The

Master to account
for missing goods.

119. The master of every ship after clearance shall—

(a) On demand by an officer produce the Certificate of Clearance ;

(b) Account to the satisfaction of the Collector for any goods specified or referred to in the Outward Manifest and not on board his ship. 5

Penalty : Fifty pounds.

Goods exported to
be landed at proper
destination.

120. No goods shipped for export shall be unshipped or landed without the permission of the Collector except in parts beyond the seas.

Penalty : Fifty pounds. 10

Certificate of land-
ing.

121. If required by the Collector a certificate in such form and to be given by such person as may be prescribed shall be produced in proof of the due landing according to the export entry of any goods subject to the control of the Customs, and the Collector may refuse to allow any other goods subject to the control of the Customs to be exported by any person who fails within a reasonable time to produce such certificate of the landing of any such goods previously exported by him or to account for such goods to the satisfaction of the Collector. 15

PART VII.—SHIPS' STORES. 20

Ships' stores.

122. The prescribed allowance of stores for the use of the passengers and crew and for the service of the ship may be shipped free of duty on board any ship of not less than fifty tons gross registered tonnage entered outwards for parts beyond the seas.

Use of ships' stores.

123. Ships' stores shall only be used by the passengers and crew and for the service of the ship after the departure of such ship from her last port of departure in the Commonwealth. 25

Re-landing ships'
stores.

124. No stores after being shipped shall be unshipped except by permission of the Collector.

Penalty : Fifty pounds. 30

PART VIII.—THE DUTIES.

Division 1.—The Payment and Computation of Duties Generally.

Duties payable
under State Act.

125. This Part of this Act shall not affect any duties payable under any State Act.

Exemption.

126. No goods the property of the Commonwealth shall be liable to any duty of Customs. 35

Import duties.

127. All import duties shall be paid at the rate in force when the goods are entered for home consumption.

Export duties.

128. All export duties shall be finally payable at the rate in force when the goods are actually exported but in the first instance payment shall be made by the owner to the Collector at the rate in force when the goods are entered for export. 40

129. Where

129. Where duties are imposed according to weight or measure the weight or measurement of the goods shall be ascertained according to the standard weights and measures by law established. Weights and Measures.

130. Where duties are imposed according to a specified quantity weight size or value the duties shall apply in proportion to any greater or lesser quantity weight size or value. Proportion.

131. Whenever goods are sold or prepared for sale as or are reputed to be of a size or quantity greater than their actual size or quantity duties shall be charged according to such first-mentioned size or quantity. Duty how fixed.

132. All duties shall be paid in British currency. British currency.

133. If any goods enumerated in the Tariff are or can be classed under two or more names headings or descriptions with a resulting difference as to duty duty shall be charged when it is a difference between liability to or freedom from duty and the higher or highest of the duties applicable shall be charged when it is a difference as to two or more duties. Highest duties to be charged.

134. Whenever any goods are imported which in the opinion of the Minister are a substitute for any dutiable goods or are intended to be or can be used as such substitute or for any purpose for which such dutiable goods can be used or for any similar purpose the Minister may by *Gazette* notice direct that such first mentioned goods shall be charged with the duty chargeable upon such dutiable goods and the same shall be so charged accordingly. Substitutes for dutiable goods.

135. (1) Whenever any dutiable goods are composed of two or more separate parts any part though imported by itself shall if so directed by the Minister be chargeable with duty at the rate applicable to the complete goods. Duty on parts.

(2) When the duty on the complete goods is specific or both specific and *ad valorem* the Minister may fix the proportionate rate of duty with which any part shall be chargeable.

136. Duty shall be charged on all essences condensations concentrations or preparations of goods liable to duty according to the quantity of dutiable goods into which such essences condensations concentrations or preparations can be converted. Duty on condensed articles.

137. Goods charged with duty by measurement shall at the expense of the owner be heaped piled sorted framed or otherwise placed in such manner as the Collector may require to enable measurement and account thereof to be taken ; and in all cases where the same are measured in bulk the measurement shall be taken to the full extent of the heap or pile. Measurement for duty.

138. Goods

Goods in transitu.

138. Goods exported to Australia from any country but passing through another country shall be valued for duty as if they were imported directly from such first mentioned country.

Proprietary medicines.

139. All medicinal or toilet preparations not completely manufactured but imported for completing the manufacture thereof or for the manufacture of any other article by the addition of any ingredient or by mixing such preparations or by putting up or labelling the same alone or with other articles or compounds under any proprietary or trade name shall be irrespective of cost valued for duty and duty shall be paid thereon at the ordinary market value in the country whence imported of the completed preparation when put up and labelled under such proprietary or trade name less the actual cost of labour and material used or expended in Australia in completing the manufacture thereof or of putting up or labelling the same. 5 10

Value of goods sold.

140. When the duty on any goods sold at any Collector's sale shall be *ad valorem* the value of such goods shall if approved by the Collector be taken to be the value as shown by the sale. 15

Strength of spirits.

141. The strength of spirits may be ascertained for the purposes of duty by means of a hydrometer approved by the Comptroller.

Obscuration.

142. If in the opinion of the Collector the strength of any spirits cannot immediately be accurately ascertained by hydrometer the strength may be ascertained after distillation or in any prescribed manner. 20

Derelict goods dutiable.

143. All goods derelict flotsam jetsam or lagan or landed saved or coming ashore from any wreck or sold as droits of Admiralty shall be charged with duty as if imported in the ordinary course. 25

As to payment of duty on goods in manifest but not produced or landed.

144. If any dutiable goods which are included in the report of any ship shall not be produced to the officer the master or owner of the ship, or the owner of the goods shall on demand by the Collector pay the duty thereon as estimated by the Collector unless the goods are accounted for to the satisfaction of the Collector. 30

Samples.

145. Small samples of the bulk of any goods subject to the control of the Customs may subject to the prescribed conditions be delivered free of duty.

Samples.

146. Samples of duty paid goods or goods the produce of Australia sent out of Australia may subject to any prescribed conditions be re-imported or brought back to Australia without payment of duty.

147. If

147. If after any agreement is made for the sale or delivery of goods duty paid any alteration takes place in the duty collected affecting such goods before they are entered for home consumption then in the absence of express written provision to the contrary the agreement shall be altered as follows :—

Alteration of agreements where duty altered.

- (a) In the event of the alteration being a new or increased duty the seller after payment of the new or increased duty may add the difference caused by the alteration to the agreed price.
- (b) In the event of the alteration being the abolition or reduction of duty the purchaser may deduct the difference caused by the alteration from the agreed price.
- (c) Any refund or payment of increased duty resulting from the alteration not being finally adopted shall be allowed between the parties as the case may require.

148. All duties shall constitute Crown debts charged upon the goods in respect of which the same are payable and payable by the owner of the goods and recoverable at any time in any court of competent jurisdiction by proceedings in the name of the Collector.

Recovery of duties.

20 *Division 2.—Ad Valorem Duties.*

149. When any duty is imposed according to value—

Value for duty.

- (a) The value shall be taken to be the fair market value of the goods in the principal markets of the country whence the same were exported in the usual and ordinary commercial acceptance of the term and free on board at the port of export in such country and a further addition of ten per cent. on such market value.
- (b) The value shall be verified at the time of entry by the production of the genuine invoice and by a declaration signed by the owner in the presence of the Collector.
- (c) The invoice shall be stamped by the Collector with the Customs stamp, and shall be produced to the officer prior to the delivery of the goods for home consumption or for warehousing.
- (d) If the non-production of the genuine invoice shall be accounted for to the satisfaction of the Collector proof of its contents by a copy or otherwise may be received in lieu of its production.

150. The Genuine Invoice means—

Genuine invoice.

- (a) The original invoice prepared and issued by the seller in the country whence the goods were exported showing the true description of the goods and the actual money price paid or to be paid for the goods by the purchaser in the country whence the same were exported without any deduction ; or
- (b) In

(b) In the case of goods consigned for sale in Australia the original invoice prepared and issued by the consignor showing the true description of the goods and the actual money price for cash at which such goods were saleable in the principal markets of the country whence such goods were exported at the date of the shipment of such goods free on board at the port of export in such country. 5

Foreign invoices.

151. Where the genuine invoice shows the value of the goods in any currency other than British currency the equivalent value of the goods in British currency shall be ascertained according to a fair rate to be declared in case of doubt by the Minister. 10

Value may be assessed.

152. Whenever the Collector has a doubt as to the accuracy of the declared value of dutiable goods he may detain such goods and assess the value thereof. 15

Should the owner object to the value so assessed he may request that the value may be ascertained by experts in manner prescribed.

Should the owner refuse to pay the duty as assessed by the Collector or ascertained by experts the Collector may sell the goods. 20

The provisions of this section shall not apply in cases where the Minister is of opinion that any evasion of this Act has been committed or attempted.

Blank invoices.

153. No person shall send or bring into Australia or have in his possession without reasonable excuse any blank or partly blank invoice form capable of being filled up and used as a genuine invoice. 25

Penalty: Twenty pounds.

Minister to determine value in some cases.

154. Whenever it is difficult to determine the value of goods for duty, either because the goods are not sold for use or consumption in the country of production or because a lease of the goods or the right of using the same is sold or given but not the right of property therein, or because the goods have a royalty imposed thereon and the royalty is uncertain or is not a reliable means of estimating the value of the goods, or because the goods are usually or exclusively sold by or to agents or by subscription or are sold or imported in or under any other unusual or peculiar manner or conditions (of all which matters the Minister shall be judge) the Minister may determine the value for duty of the goods. 30 35

Deposits.

Division 3.—Deposits, Abatements, Remissions, and Refunds of Duties.

155. In prescribed cases the duty paid on any goods may be retained by the Customs on deposit for a period not exceeding six months, and the deposit may be returned to the owner if the goods are exported within the prescribed time. 40

156. (1) Whenever

156. (1) Whenever goods—

Refund of duty.

(a) Have received damage or have been pillaged during the voyage; or

(b) Have whilst under Customs control been damaged pillaged lost or destroyed; or

(2) Whenever duty has been paid through manifest error of fact or patent misconception of the law—

a refund rebate or remission of the duty as the case may require shall be made in manner prescribed.

157. The Collector may remit any duty on any goods that have been wasted or lost in sorting bottling packing or repacking in a warehouse.

Duty on waste.

158. When any duty has been short levied or erroneously refunded the person who should have paid the amount short levied or to whom the refund has erroneously been made shall pay the amount short levied or repay the amount erroneously refunded on demand being made by the Collector within twelve months from the date of the short levy or refund.

Short paid duty may be recovered.

159. If any practice of the Customs relating to classifying or enumerating any article for duty shall be altered so that less duty is charged upon such article, no person shall thereby become entitled to any refund on account of any duty paid before such alteration.

No refund if duty altered.

Division 4.—Disputes as to Duty.

160. If any dispute shall arise as to the amount or rate of duty or as to the liability of goods to duty the owner may deposit with the Collector the amount of duty demanded and thereupon the following consequences shall ensue :—

Deposit of duty.

(1) The owner upon making proper entry shall be entitled to delivery of the goods.

(2) The deposit shall be deemed the proper duty unless by action commenced by the owner against the Collector within six months after making the deposit the contrary shall be determined, in which case any excess of the deposit over the proper duty shall be refunded by the Collector to the owner with Five pounds per centum per annum interest added.

The provisions of this section shall not apply in cases where the Minister is of opinion that any evasion of this Act has been committed or attempted.

PART IX.

PART IX.—DRAWBACKS.

Drawbacks allowed.

161. Drawbacks of import duty may be allowed on exportation in respect of such goods (other than spirits wine beer tobacco cigars cigarettes and opium) to such amount and in such manner as may be prescribed.

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Provision in case
Western Australia
continues Inter-
State Duties.

162. If the Parliament of the State of Western Australia in exercise of the power conferred by the Constitution imposes duties of Customs on goods passing into that State then whilst such duties are so imposed drawback may be allowed in the State in which import duty has been paid in respect of any such goods as if exported.

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Limit of value.

163. No drawback shall be allowed on any goods of a less value for home consumption than the amount of the drawback or on which the import duty paid did not amount to One pound.

Examination of
goods under
drawback.

164. All goods in respect of which any claim for drawback shall be made shall before exportation be produced for examination by the Customs and shall be examined accordingly.

15

Debenture to be
passed.

165. For the purpose of claiming drawback a drawback debenture shall be presented to the Collector, who shall as soon as the goods have been exported cause the debenture to be passed for payment.

20

Declaration on de-
benture.

166. The person claiming drawback on any goods shall make a declaration upon the debenture that the goods have been exported and have not been re-landed and are not intended to be re-landed and that such person at the time of shipping was entitled to the drawback, and the name of such person shall be stated in the debenture, and the receipt of such person on the debenture countersigned by the holder of such debenture if the same shall have been transferred in the meantime shall be a sufficient discharge for such drawback.

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Payment of draw-
back debentures.

167. No drawback debenture shall be paid except with the consent of the Minister—

(a) Unless presented for payment within one year from the date of the shipment of the goods for export.

And the Minister may

35

(b) Prohibit the payment in whole or in part of any drawback debenture.

PART X.—THE COASTING TRADE.

What are coasting
vessels.

168. All ships trading or plying or going from one port or place in Australia to another port or place therein and not trading plying or going to any other port or place shall be considered as engaged in the coasting trade, and such ships shall be deemed to be coasting ships for the purposes of any Customs Act.

40

169. The

169. The master of any coasting ship shall not suffer any goods to be taken into or put out of his ship from or into any other ship at sea except with the sanction of the Collector, nor suffer his ship to deviate from her voyage unless forced to do so by unavoidable
5 circumstances or under circumstances explained to the satisfaction of the Collector.

Coasters not to take in cargo at sea or deviate.

Penalty : One hundred pounds.

170. The owner of any ship employed in the coasting trade may with the consent of the Collector report such ship inwards or outwards
10 in lieu of the master thereof.

Owner may report ship.

Every such owner so reporting shall be subject to the same provisions and liable to the same penalties under the Customs Act as the master of such ship.

171. The master or owner of every coasting ship shall at pre-
15 scribed ports deliver to the Collector as prescribed particulars of all cargo consisting of Australian produce or manufactures then on board his ship.

Account of Australian goods.

172. The coasting trade generally as regards the Customs shall be regulated in manner prescribed and books shall be kept, documents
20 produced, and entries made accordingly.

Regulation.

PART XI.—AGENTS.

173. Any owner of goods may comply with the provisions of this Act by an agent lawfully authorized being either a person exclu-
25 sively in the employment of the owner or being duly licensed in manner prescribed.

Authorized agents.

174. Any officer may require from any agent the production of his written authority from the principal for whom he claims to act, and in default of the production of such authority may refuse to recognise the agency.

Authority to be produced.

175. When any person is expressly or impliedly authorized by the owner to act as his agent in relation to any goods for all or any purposes of any Customs Act or represents or passes himself or acts or assumes to act as such agent such person shall for such purpose be also deemed to be the owner of such goods and shall be personally
30 liable for any penalties recoverable under this Act in the same manner and to the same extent as if he were principal. But nothing herein contained shall be taken to relieve any principal from liability.

Agents personally liable.

176. Any declaration authorized by this Act made by any employé or agent of any person shall be held to have been made with
40 the knowledge and consent of such person, so that in any prosecution in respect of any declaration made by any such employé or agent such person shall be liable only to the pecuniary punishment provided by any Customs Act as if such declaration had been made by himself.

Principal liable for agents acting.

PART XII.—OFFICERS.

*Division I.—Powers of Officers.*Ships and boats to
bring to.

177. The commander or officer in charge of any ship or boat in His Majesty's service or in the service of the Commonwealth or Customs, such ship or boat having hoisted and carrying the proper ensign and pendant or Customs flag, may chase any ship which does not bring to when lawfully signalled or required to do so and may (after having fired a gun as a signal) fire at or into such ship to compel her to bring to. 5

Officers may board
ships hovering on
coast.

178. Any officer may require the master of any ship hovering within one league of the coast to depart, and if such ship shall fail to depart accordingly within twelve hours thereafter any officer may board and bring such ship into port and search her. 10

The Collector may examine all persons on board of such ship and they shall each thereupon answer questions relating to the ship and her cargo crew passengers stores and voyage and produce documents relating to the ship and her cargo. 15

Penalty : One hundred pounds.

Examine all goods.

179. Any officer may open packages and examine weigh mark and seal any goods subject to the control of the Customs, and the expense of the examination including the cost of removal to the place of examination shall be borne by the owner. 20

Power to board and
search ships.

180. Any officer may—

(1) Board any ship.

(2) Search any ship. 25

(3) Secure any goods on any ship.

Boarding.

181. The power of an officer to board shall extend to staying on board any ship and the Collector may station an officer on board any ship, and the master shall provide sleeping accommodation in the cabin and suitable and sufficient food for such officer. 30

Penalty : Fifty pounds.

Searching.

182. The power of an officer to search shall extend to every part of any ship, and shall authorize the opening of any package, locker, or place and the examination of all goods.

Securing goods.

183. The power of an officer to secure any goods shall extend to fastening down hatchways and other openings into the hold and locking up, sealing, marking, or otherwise securing any goods or the removal of any goods to the King's warehouse. 35

Seals &c. not to be
broken.

184. No fastening, lock, mark, or seal placed by an officer upon any goods or upon any door hatchway opening or place upon any ship shall be opened, altered, broken or erased, except by authority, whilst the goods upon which the fastening lock, mark, or seal is placed 40

or

or which are intended to be secured thereby shall remain subject to the control of the Customs and if any ship shall arrive in any port with any such fastening, lock, mark, or seal open, altered, broken, or erased, except as aforesaid the master shall be guilty of an offence
5 against this Act.

Penalty: Fifty pounds.

185. Any officer and any person acting in his aid when on duty may patrol upon and pass freely along and over any part of the coast or any railway or the shores, banks, or beaches of any port bay
10 harbor lake or river.

Officers may patrol coasts &c.

186. The officer in charge for the time being of any vessel or boat employed in the service of the Customs may haul any such vessel or boat upon any part of the coast or the shores banks or beaches of any port bay harbor lake or river and may moor any
15 such vessel or boat thereon and continue such vessel or boat so moored as aforesaid for such time as he shall deem necessary.

Boats on service may be moored in any place.

187. Any person on board any ship or boat or who may have landed from or got out of any ship or boat may be questioned by any officer as to whether he has any dutiable goods upon his person or in
20 his possession or in his baggage.

Power to question passengers

188. If any officer of Customs or of police shall have reasonable cause to suspect that any person is unlawfully carrying or has any goods subject to the control of the Customs secreted about him the following consequences shall ensue :—

Suspected persons —detention and search.

- 25 (1) The officer may detain and search the suspected person.
(2) Before the suspected person shall be searched he may require to be taken before a Justice or the Collector.
(3) The justice or Collector may order the suspected person to be searched or may discharge him without search.

30 But females shall only be searched by a female searcher appointed by the Justice or Collector.

189. Any officer of Customs or police upon reasonable suspicion may stop and search any carriage for the purpose of ascertaining whether any dutiable goods are contained therein and the driver of
35 any carriage shall stop and permit such search whenever required by any such officer.

Power to stop vehicles.

Penalty: Twenty pounds.

190. Any Judge of the High Court of Australia or any Judge of the Supreme Court of any State having jurisdiction in the State
40 where the application is made may grant a writ of assistance upon application

Writs of assistance.

application made to him for that purpose by a Minister of State for the Commonwealth or by the Comptroller or a State Collector, and such writ unless superseded shall be in force so long as any person named therein remains an officer of Customs whether in the same capacity or not.

5

Customs warrants.

191. The Comptroller or a State Collector may grant a Customs Warrant in the form of Schedule III. hereto under the Customs Seal to any officer, and such warrant shall remain in force for one month from the date thereof.

A Customs Warrant granted by a State Collector shall only have force in the State where it is granted.

Power to search.

192. Any officer having with him a Writ of Assistance or a Customs Warrant may at any time in the day or night enter into any house premises or place and may break open the same and any chests trunks or packages in which goods may be or are supposed to be.

15

Power to take assistants.

193. Any officer acting under a Writ of Assistance or Customs Warrant may take with him and have the assistance of any police officer and such assistants as he may think necessary.

Power to call for aid.

194. Any person lawfully making any seizure under any Customs Act may call upon any person present in the King's name to assist him, and such assistance shall be rendered accordingly.
Penalty: Twenty pounds.

20

Power to seize goods.

195. Any officer of His Majesty's forces or any officer of Customs or police may seize any forfeited ship or goods upon land or water or any ship or goods which he has reasonable cause to believe are forfeited.

25

Seized goods to be secured.

196. All seized goods shall be taken to the nearest King's warehouse or to such other place of security as the Collector shall direct.

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Notice to be given of goods seized.

197. When any ship or goods have been seized as forfeited the seizing officer shall give notice in writing of such seizure and the cause thereof to the master or owner of the ship or goods (unless such master or owner be present at the seizure in which case no notice shall be necessary) either by delivering such notice to him personally or by letter addressed to him and transmitted by post to or delivered at his last known place of abode or business and all ships or goods seized shall be deemed to be condemned and may be sold by the Collector unless the person from whom such ship or goods shall have been seized or the owner shall within one month from the date of seizure give notice in writing to the Collector at the nearest port that he claims them; but if any things so seized shall be of a perishable nature or shall be live animals the same may be forthwith sold by the Collector.

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198. The

198. The Comptroller or a State Collector may authorize any ship or goods seized to be delivered to the claimant on his giving security to pay their value in case of their condemnation.

Seized goods may be returned on security.

199. Whenever any goods have been seized by any officer and claim to such goods has been served on the Collector by the owner of such goods, the Collector may retain possession of the goods without taking any proceedings for their condemnation, and may by notice under his hand require the claimant to enter an action against him for the recovery of the goods, and if such claimant shall not within four months after the date of such notice enter such action the goods shall be deemed to be condemned without any further proceedings.

Collector may retain goods and require owner to proceed for restoration.

200. All forfeited ships and goods shall be disposed of or destroyed in such manner as may be prescribed or as the Comptroller may direct.

Disposal of forfeited ships and goods.

201. All goods seized by any person not being a Customs officer shall forthwith be conveyed to the nearest Customs House and there delivered to an officer.

Delivery of seized goods.

202. Any officer of Customs or police may without warrant arrest any person whom he has reasonable cause to believe has been guilty of any offence against this Act, and no person shall resist or prevent such arrest.

Arresting suspects.

Penalty : Twenty pounds.

203. Any officer arresting any person shall on demand give him a statement in writing of the reason for his arrest.

Reasons for arrests.

204. Every person arrested may be detained until such time as he can without undue delay be taken before a Justice.

Arrested persons to go before Justices.

205. Any Justice before whom any person is brought under this Act may—

Powers of Justices with offenders.

- (1) Commit such person to gaol until he can be brought before Justices to be dealt with according to law ; or
- (2) Admit him to bail upon his giving sufficient security for his appearance before Justices at the time and place appointed for the hearing of the charge.

206. Whenever information in writing has been given on oath to the Collector that goods have been unlawfully imported undervalued or entered or illegally dealt with, or that it is intended to unlawfully import undervalue enter or illegally deal with any goods, or whenever any goods have been seized or detained, the owner shall immediately upon being required so to do by the Collector produce and hand over to

Production of documents &c. in cases of seizure.

to him all books and documents relating to the goods so imported entered seized or detained undervalued or illegally dealt with, or intended to be unlawfully imported undervalued entered or illegally dealt with, and of all other goods imported by him at any time within the period of five years immediately preceding such request seizure or detention, and shall also produce for the inspection of the Collector or such other officer as he may authorize for that purpose and allow such Collector or officer to make copies of or extracts from all books or documents of any kind whatsoever wherein any entry or memorandum appears in any way relating to any such goods. 5 10

Penalty : One hundred pounds.

Collector may
impound
documents.

207. The Collector may impound or retain any document presented in connexion with any entry or required to be produced under this Act, but the person otherwise entitled to such document shall in lieu thereof be entitled to a copy certified as correct by the Collector and such certified copy shall be received in all courts as evidence and of equal validity with the original. 15

Collector may
require further
proof of proper
entry.

208. The Collector may require from the owner of any goods proof by declaration or the production of documents that the goods are owned as claimed and are properly described valued or rated for duty and the Collector may refuse to deliver the goods or to pass any entry relating thereto pending such proof. 20

Translations of
foreign invoices.

209. If any document in a foreign language be presented to any officer for any purpose connected with Customs business, the Collector may require to be supplied with an English translation to be made at the expense of the owner by such person as the Collector may approve or to be verified as he may require. 25

Customs samples.

210. Samples of any goods under the control of the Customs may for any purpose deemed necessary by the Collector be taken utilized and disposed of by any officer in manner prescribed. 30

General power of
Collector.

211. In all cases not herein otherwise provided for the Collector may exercise any power exercisable by the Customs.

Division 2.—Protection to Officers.

Reasonable cause
for seizure a bar to
action.

212. No person shall be liable for any seizure under this Act for which there shall have been reasonable cause, and when any claimant recovers any ship or goods seized or any proceeds thereof and at the same time reasonable cause for the seizure is found such finding shall bar all proceedings against all persons concerned in the seizing. 35

213. No

213. No proceeding shall be commenced against any officer for anything done in execution of or by reason of his office until one month next after notice in writing shall have been delivered to him or left at his usual place of abode by the plaintiff his attorney or agent in which notice shall be clearly stated the cause and nature of the proceeding and the court in which the same is intended to be instituted, the name and place of abode of the plaintiff and the name and place of business of such attorney or agent.

Notice of action to be given.

214. Upon any proceeding instituted in pursuance of such notice the plaintiff shall not be at liberty to advance any evidence of any cause of action except such as has been distinctly stated in such notice nor shall the plaintiff be entitled to a verdict without proving on the trial that such notice has been duly served and in default of such proof the defendant shall receive a verdict with costs.

No evidence to be produced but that contained in notice.

215. It shall be lawful for any officer to whom notice of proceeding shall have been given at any time within one month after such notice to tender amends to the plaintiff his attorney or agent and in case such amends be not accepted to plead such tender in defence either alone or with other defences and if the amends tendered shall be found to have been sufficient no costs shall be recovered against an officer and he shall be entitled to costs if he shall have brought the amount into court when entering his defence.

Officer may tender amends.

216. Every proceeding against any officer shall except as mentioned in the next section be commenced within six months after its cause shall have arisen and not afterwards and the venue shall be local and the defendant may plead the general issue and give any special matter in evidence.

Commencement of proceedings against officers.

217. No proceeding whether against an officer or otherwise for anything done for the protection of the revenue in relation to any Tariff or Tariff alteration proposed in Parliament shall except as mentioned in the next section be commenced before the close of the session in which such Tariff or Tariff alteration is proposed.

Time for commencing action.

218. The High Court of Australia or the Supreme Court of any State on the application of any person who desires to commence any proceeding mentioned in the last section against an officer may require the officer to give security to the satisfaction of the Court to abide the result of the proceeding and in default of the giving of such security may sanction the immediate commencement of the proceeding.

Security may be required.

PART XIII.—PENAL PROVISIONS.

Division 1.—Forfeitures.

Forfeited ships.

219. The following ships shall be forfeited to His Majesty:—

- (1) Any ship used in smuggling.
- (2) Any ship found within one league of the coast failing to
bring to for boarding upon being lawfully required to
do so. 5
- (3) Any ship hovering within one league of the coast and not
departing within twelve hours after being required to
depart by an officer. 10
- (4) Any ship from which any goods are thrown overboard
staved or destroyed to prevent seizure by the Customs.
- (5) Any ship found within any port with cargo on board and
afterwards found light or in ballast or with the cargo
deficient and the master of which is unable to lawfully
account for the difference. 15
- (6) Any ship within one league of the coast having false bulk
heads false bows sides or bottoms or any secret
or disguised place adapted for the purpose of concealing
goods or having any hole pipe or other device adapted
for the purpose of running goods. 20

Forfeited goods

220. The following goods shall be forfeited to His Majesty:—

- (a) All goods which are smuggled, or unlawfully imported,
exported, or conveyed.
- (b) All goods imported which are prohibited imports excepting
only goods the importation of which is prohibited by
proclamation and which shall have been shipped to be
imported without knowledge of the proclamation by
the shipper and before the expiration of a reasonable
time for the acquisition of knowledge thereof at the
port of shipment. 25
- (c) All goods imported in any ship in which goods are
prohibited to be imported.
- (d) All dutiable goods found on any ship being unlawfully in
any place. 30
- (e) All goods found on any ship after arrival in any port and
not being specified or referred to in the Inward Manifest
and not being baggage belonging to the crew or
passengers and not being satisfactorily accounted for. 35
- (f) All goods in respect of which bulk is unlawfully broken. 40
- (g) All goods which being subject to the control of the
Customs shall be moved altered or interfered with
except by authority and in accordance with this Act.
- (h) All

- (*h*) All goods which by this Act are required to be moved or dealt with in any way and which shall not be moved or dealt with accordingly.
- 5 (*i*) All goods in respect of which any entry invoice declaration answer statement or representation which is false or misleading in any particular has been delivered made or produced.
- 10 (*j*) Any carriage or animal used in smuggling or in the unlawful importation, exportation, or conveyance of any goods.
- (*k*) The cargo of any ship which ship hovers about the coast and does not depart within twelve hours after being required by an officer to depart.
- 15 (*l*) All spirits opium tobacco snuff cigars or cigarettes in packages of less than the prescribed size found on or attached to any ship or boat.
- 20 (*m*) All goods not being passengers' baggage found on any ship after clearance and not specified or referred to in the Outward Manifest and not accounted for to the satisfaction of the Collector.
- (*n*) All prohibited exports put on any ship for export or brought to any wharf or place for the purpose of export.
- (*o*) All dutiable goods concealed in any manner.
- 25 (*p*) Any package having concealed therein goods not enumerated in the entry or being so packed as to deceive the officer.
- 30 (*q*) All dutiable goods found in the possession or in the baggage of any person who has got out of or landed from any ship or boat and who has denied that he has any dutiable goods in his possession, or who when questioned by an officer has not fully disclosed that such goods are in his possession or baggage.
- 35 (*r*) All goods offered for sale on the pretence that the same are prohibited or smuggled goods.
- (*s*) All spirits which having been methylated are afterwards treated filtered refined distilled or otherwise dealt with in any manner so that any substance may be extracted therefrom.
- 40 **221.** The forfeiture of any goods shall extend to the forfeiture of the packages in which the goods are contained and the forfeiture of any package shall extend to all goods packed or contained in the package. Forfeited packages and goods.

Division 2.—Penalties.

Armed persons
assisting in illegal
landing of goods.

222. All persons to the number of two or more assembled for the purpose of smuggling, or for preventing the seizure of, or for rescuing after seizure any smuggled goods shall be guilty of an indictable offence and shall be liable to imprisonment with or without hard labour for any term not exceeding Five years. 5

223. Whoever—

Collusive seizures
penalty.

(a) Being an officer of the Customs or Police makes any collusive seizure or delivers up or makes any agreement to deliver up or not to seize any ship or goods liable to forfeiture or conspires or connives with any person to import or export, or is in any way concerned in the importation or exportation of any goods for the purpose of seizing any ship or goods and obtaining any reward for such seizure ; 10 15

Bribe offered to
officer penalty.

(b) Gives, or procures to be given, or offers or promises to give or procure to be given any bribe recompense or reward to, or makes any collusive agreement with any officer to induce him in any way to neglect his duty, or who by threats demands or promises attempts to influence any officer in the discharge of his duty ; 20

Rescuing goods.

(c) Rescues any goods which have been seized or before or at or after any seizure staves breaks or destroys any goods or documents relating thereto to prevent the seizure thereof or the securing the same or the proof of any offence ; 25

Persons assaulting
or obstructing
officers.

(d) Assaults or by force resists molests or obstructs or endeavours to intimidate any officer or any person acting in his aid or assistance in the execution of his duties, 30

shall be guilty of an indictable offence and shall be liable to imprisonment with or without hard labour for any term not exceeding Three years.

Penalty for
smuggling by
master.

224. No person shall smuggle or unlawfully import, export, convey or have in his possession any goods and no master of a ship shall use or suffer his ship to be used in smuggling or in the unlawful importation, exportation, or conveyance of any goods. 35

Penalty : One hundred pounds.

Customs offences.

225. No person shall—

- (a) Evade payment of any duty which is payable ; 40
- (b) Obtain any drawback which is not payable ;
- (c) Prepare pass or present any document purporting to be a genuine invoice which is not in fact a genuine invoice ;
- (d) Make

- (d) Make any entry which is false in any particular ;
 (e) Make in any declaration or document produced to any officer any statement which is untrue in any particular or produce or deliver to any officer any declaration or document containing any such statement ;
 5 (f) Mislead any officer in any particular likely to affect the discharge of his duty ;
 (g) Refuse or fail to answer questions or to produce documents ;
 10 (h) Sell or offer for sale any goods upon the pretence that such goods are prohibited imports or smuggled goods.

Penalty : One hundred pounds. .

226. Whoever wilfully makes any false statement on oath under this Act shall be guilty of an indictable offence and shall be
 15 liable to imprisonment with hard labour for any period not exceeding four years.

False oath or affirmation.

227. Whoever aids abets counsels or procures or by act or omission is in any way directly or indirectly concerned in the commission of any offence against this Act shall be deemed to have
 20 committed such offence and shall be punishable accordingly.

Aiders and abettors.

228. Any attempt to commit an offence against this Act shall be an offence against this Act punishable as if the offence had been committed.

Attempts.

229. Any person who is guilty by act or omission of any contravention or evasion of this Act for which no other penalty is provided shall be liable to a penalty of not more than Ten pounds.

Offences not specifically provided for.

230. All penalties shall be in addition to any forfeiture.

Penalties in addition to forfeitures.

231. If any penalty hereby provided shall be less than three times the value of any goods in respect of which the offence has been
 30 committed the maximum penalty shall be thrice the value of the goods.

Maximum penalty in certain cases.

232. Any person may at the same time be charged with an offence against this Act and with an intent to defraud the revenue and if in addition to such offence he is convicted of such intent the maximum
 35 penalty shall be double that otherwise provided.

Maximum penalty in case of intent to defraud.

233. When any person is convicted of any offence against this Act for which a pecuniary penalty is provided and it shall appear that such person had been previously convicted of any similar offence the Court may in lieu of or in addition to imposing any penalty order
 40 that such person shall be imprisoned with hard labour for a period not less than six months nor more than two years and with or without the right of release on payment of a penalty.

If previous conviction defendant may be imprisoned.

234. The

Minimum penalty.

234. The minimum pecuniary penalty for any offence against this Act shall be one-twentieth of the maximum which is prescribed in pounds.

PART XIV.—CUSTOMS PROSECUTIONS.

Interpretation.

235. Proceedings by the Customs for the recovery of penalties under this Act or for the condemnation of ships or goods seized as forfeited are herein referred to as Customs Prosecutions. 5

How instituted.

236. Customs prosecutions may be instituted in the name of the Minister by action information or other appropriate proceeding—

(a) In the High Court of Australia ; or 10

(b) In the Supreme Court of any State ;

and when the prosecution is for a pecuniary penalty not exceeding Five hundred pounds or the excess is abandoned the Customs prosecution may be instituted in the name of the Collector in

(c) Any County Court District Court Local Court or Court of 15
summary jurisdiction.

Defendant to have
right of trial in
High or State
Court.

237. In any Customs prosecution where the penalty exceeds One hundred pounds and the excess is not abandoned the defendant within seven days after service of process shall have the right in manner prescribed to elect to have the case tried in the option of the 20
prosecutor either in the High Court of Australia or in the Supreme Court of the State in which such prosecution has been instituted and thereupon the proceedings shall stand removed accordingly and may be continued as if originally instituted in the Court to which they are 25
so removed.

Prosecution in
accordance with
practice rules.

238. Every Customs prosecution in the High Court of Australia or the Supreme Court of any State may be commenced prosecuted and proceeded with in accordance with any rules of practice established by the Court for Crown suits in revenue matters or in accordance with the usual practice and procedure of the Court in 30
civil cases or in accordance with the directions of the Court or a Judge.

State Court
practice.

239. Subject to the provisions of this Act the provisions of the law relating to summary proceedings before Justices in force in the State where the proceedings are instituted shall apply to all Customs 35
prosecutions before a Court of Summary Jurisdiction in such State, and an appeal shall lie from any conviction order for condemnation or order of dismissal to the Court and in the manner provided by the law of the State where such conviction or order is made for appeals from convictions or orders of dismissal. 40

Commencement of
prosecutions.

240. Customs prosecutions may be instituted at any time within five years after the cause thereof. **241.** All

241. All informations summonses convictions condemnations and warrants shall suffice if the offence or forfeiture is set forth as nearly as may be in the words of this Act.

Information &c. to be valid &c. if in words of Act.

242. No objection shall be taken or allowed to any information or summons for any alleged defect therein in substance or in form or for any variance between such information or summons and the evidence adduced at the hearing in support thereof, and the Court shall at all times make any amendment necessary to determine the real question in dispute or which may appear desirable, and if any such defect or variance shall appear to the Court to be such that the defendant has been thereby deceived or misled it shall be lawful for the Court upon such terms as it may think just to adjourn the hearing of the case to some future day.

No objection for informality.

243. No conviction warrant of commitment or condemnation order or other proceeding matter or thing done or transacted in relation to the execution or carrying out of any Customs Act shall be held void quashed or set aside by reason of any defect therein or want of form and no party shall be entitled to be discharged out of custody on account of such defect.

Conviction not to be quashed.

244. No witness on behalf of the Minister or Collector in any Customs prosecution shall be compelled to disclose the fact that he received any information or the nature thereof or the name of the person who gave such information, and no officer appearing as a witness shall be compelled to produce any reports made or received by him confidentially in his official capacity or containing confidential information.

Protection to witnesses.

245. (1) In every Customs prosecution the defendant shall be competent to give evidence.

Defendant a competent witness.

(2) In every Customs prosecution except for an indictable offence or for an offence directly punishable by imprisonment the defendant shall be compellable to give evidence and if called as a witness for the prosecution shall be liable to cross-examination as a witness adverse to the prosecution.

246. In every Customs prosecution the averment of the prosecutor or plaintiff contained in the information declaration or claim shall be deemed to be proved in the absence of proof to the contrary but so that—

Averment of prosecution sufficient.

(a) When an intent to defraud the revenue is charged the averment shall not be deemed sufficient to prove the intent and—

(b) In all proceedings for an indictable offence or for an offence directly punishable by imprisonment the guilt of the defendant must be established by evidence.

Proof of
proclamations &c.

247. The production of the *Gazette* containing any proclamation gazette notice or regulation appearing to have been issued or made under this Act or the production of any document certified by the Comptroller or a State Collector to be a true copy of, or extract from any such proclamation, gazette notice, or regulation issued or made under this Act shall be *prima facie* evidence of the issue or making of such proclamation, gazette notice, or regulation, and that the same is in force. 5

Minimum penalties.

248. No minimum penalty imposed by this Act shall be liable to reduction under any power of mitigation which would but for this section be possessed by the Court. 10

Treatment of
convicted
offenders.

249. Where any pecuniary penalty is adjudged to be paid by any convicted person the Court may—

- (1) commit the offender to gaol until the penalty is paid; or
- (2) may release the offender upon his giving security for the payment of the penalty; or
- (3) may exercise for the enforcement and recovery of the penalty any power of distress or execution possessed by the Court for the enforcement and recovery of penalties in any other case. 20

Collector may levy
on goods in his
possession.

250. When any pecuniary penalty adjudged against any person is unpaid the Collector may levy the same by sale of any goods belonging to such person which may then or thereafter be subject to the control of the Customs.

Release of offenders.

251. The gaoler of any gaol to which any person has been committed for non-payment of any penalty shall discharge such person— 25

- (I) on payment to him of the penalty adjudged;
- (II) on a certificate by the Collector that the penalty has been paid or realized;
- (III) if the penalty adjudged to be paid is not paid or realized according to the following table :— 30

Amount of Penalty.	Period after commencement of imprisonment at the expiration of which defendant is to be discharged.	35
£2 or under	Seven days.	
Over £2 and not more than £5	Fourteen days.	
Over £5 and not more than £20	One month.	
Over £20 and not more than £50	Two months.	
Over £50 and not more than £100	Three months.	
Over £100 and not more than £200	Six months.	40
Over £200	One year.	

252. No

252. No person shall be twice imprisoned upon the same conviction but the suffering of imprisonment for non-payment of a penalty shall not release the penalty or affect the right of the Customs to collect the amount in any manner provided by this Act other than by imprisonment of the person convicted.

Imprisonment not to release penalty.

253. Where the committal of any offence causes a forfeiture of any goods the conviction of any person for such offence shall have effect as a condemnation of the goods in respect of which the offence is committed.

Conviction to operate as a condemnation.

254. In all Customs prosecutions the Court may award costs against any party or claimant, and all provisions of this Act relating to the recovery of penalties except commitment to gaol shall extend to the recovery of any costs adjudged to be paid.

Parties may recover costs.

255. All penalties and forfeitures recovered under any Customs Act shall be applied to such purposes and in such proportions as the Minister may direct.

Application of penalties.

PART XV.—SETTLEMENT OF CASES BY THE MINISTER.

256. If any dispute shall arise between any officer and any person with reference to any contravention of this Act, the Minister may in manner prescribed with the written consent of such person inquire into and determine the dispute and shall have power by order to impose enforce mitigate or remit any penalty or forfeiture which he shall determine shall have been incurred.

Settlement of disputes by Minister.

257. Every such order shall be final and without appeal and shall not be liable to be quashed on any account and a copy thereof shall be delivered to such person and may be enforced in the same manner as the order of a court of summary jurisdiction.

Minister's order to be final.

258. The Minister in holding any inquiry under this Part of this Act may—

Powers of Minister at inquiries.

- 30**
- (a) Summon the parties and any witnesses before him.
 - (b) Take evidence on oath.
 - (c) Require the production of documents.
 - (d) Allow reasonable expenses to witnesses and costs to successful parties.

35 **259.** No person being summoned as a witness at any inquiry under this Act shall—

- (a) Disobey such summons;
- (b) Refuse to be sworn as such witness;

(c) Refuse

(c) Refuse or fail to produce any document he may be required to produce;

(d) Being sworn as a witness refuse or fail to answer any question lawfully put to him.

Penalty: Twenty pounds.

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PART XVI.—REGULATIONS.

Regulations to have force of law.

260. The Minister may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or as may be necessary or convenient to be prescribed for giving effect to this Act or for the conduct of any business relating to the Customs. 10

Publication of regulations.

261. All regulations made by the Minister may afterwards be confirmed by the Governor-General and after such confirmation shall—

- (i) Be published in the *Gazette* ; 15
- (ii) Take effect from the date of publication or from a later date to be specified in such regulations ; and
- (iii) Be laid before both Houses of the Parliament within seven days after publication if Parliament is in session and if not then within seven days after the commencement of the next session ; 20

But if either House of the Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation such regulation shall thereupon cease to have effect. 25

PART XVII.—MISCELLANEOUS.

Dutiable goods passing from one State to another.

262. As regards goods imported before the imposition of uniform duties of Customs into any State or into any Colony which whilst the goods remain therein becomes a State and which on thence passing into another State within two years after the imposition of such duties become liable by the Constitution Act to any duty chargeable upon the importation of such goods into the Commonwealth less any duty paid in respect of the goods on their importation this Act shall apply to the collection of the duty to which such goods are liable in manner prescribed. 35

Records of Inter-State trade.

263. During the first five years after the imposition of uniform duties of Customs and thereafter until the Parliament otherwise provides the Customs shall in manner prescribed collect particulars of the duties of Customs chargeable on goods imported into a State and afterwards passing into another State for consumption and the duties of excise paid on goods produced or manufactured in a State and afterwards passing into another State for consumption and the same shall be furnished to the Treasurer of the Commonwealth so that the accounts between the States may be kept as required by the Constitution. 40

264. The 45

264. The person in command of any ship holding commission from His Majesty or from any foreign State having on board any goods other than ship's stores laden in parts beyond the seas shall when called upon by the Comptroller or a State Collector or an officer specially authorized by the Minister or the Comptroller or a State Collector so to do

Commissioned ships
to be reported.

- (a) deliver an account in writing of the quantity of such goods, the marks and numbers thereof, and the names of the shippers and consignees, and declare to the truth thereof;
- (b) Answer questions relating to such goods.

265. Ships under commission from His Majesty or any foreign State having on board any goods other than ship's stores laden in parts beyond the seas may be boarded and searched by an officer especially authorized as mentioned in the last section in the same manner as other ships, and the officer may bring any such goods ashore and place them in a King's Warehouse.

Commissioned ships
may be searched.

266. As to sales by the Collector—

- (a) The goods shall be sold by auction or by tender and after such public notice as may be prescribed, and where not prescribed after reasonable public notice.
- (b) The goods may be sold either free of or subject to duty and charges and the price shall be paid in cash on the acceptance of the bidding or tender.
- (c) No bidding or tender shall be necessarily accepted and the goods may be re-offered until sold at a price satisfactory to the Collector.

Collectors' sales.

267. The proceeds of any goods sold by the Collector shall be applied as follows :—

Proceeds of sales.

- Firstly, in the payment of the expenses of the sale.
- Secondly, in payment of the duty.
- Thirdly, in payment of the warehouse rent and charges.
- Fourthly, in payment of the freight if any due upon the goods if written notice of such freight shall have been given to the Collector.

And the balance if any shall be paid to the Treasurer on account of the person entitled thereto.

SCHEDULES.

SCHEDULE I.

COMMONWEALTH OF AUSTRALIA.

Security to the Customs.

By this Security the subscribers are, pursuant to the *Customs Act 1901*, bound to the Customs of the Commonwealth of Australia in the sum of—*[here insert amount or mode of ascertaining amount intended to be paid in default of compliance with condition]*—subject only to this condition that if—*[here insert the condition of the security]*—then this security shall be thereby discharged.*

Dated the day of 19 .

Names and Descriptions of Subscribers.	Signatures of Subscribers.	Signatures of Witnesses.

* NOTE.—If liability is not intended to be joint and several and for the full amount, here state what is intended as, for example, thus—"The liability of the subscribers is joint only," or "the liability of (mentioning subscriber) is limited to (here state amount of limit of liability or mode of ascertaining limit)."

SCHEDULE II.

SCALE OF FEES FOR WAREHOUSES TO BE PAID BY LICENSEES.

When the whole services of a locker are required ... £200 per annum

When the whole services of more than one locker are required, for
each additional locker after the first ... £150 ,,

When the whole services of a locker are not required, a charge of 2s.
per hour for each hour or part of an hour necessary for the locker
to be in attendance, and a sum to be fixed by the Minister, not
exceeding ... £50 ,,

All questions as to the number of lockers required and the time necessary for their attendance shall be determined by the Minister.

The above scale shall apply to the following places only:—

Sydney
Melbourne,
Brisbane,
Hobart,
Adelaide and Port Adelaide,
Perth and Fremantle.

At any other place such fees not exceeding the above scale shall be charged as may be prescribed.

SCHEDULE

SCHEDULE III.

THE COMMONWEALTH OF AUSTRALIA.

To

CUSTOMS WARRANT.

You are hereby authorized to enter into, at any time in the day or night, if necessary, and search any house, premises, or place ; and to break open the same, and any chests, trunks, or packages in which goods may be or are supposed to be, and to seize and take away any forfeited goods or goods which you have reasonable grounds to believe are forfeited, you may find therein, and forthwith to put and secure the same in the King's warehouse, or such other place of security as the Collector may direct : And for so doing this shall be your sufficient warrant.

This warrant shall remain in force for one month from the date thereof.

Dated this day of in the year One thousand
 nine hundred and

(SEAL)

Signature.

1901.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

Proposed Amendments in Bills.

CUSTOMS BILL.

ON THE RECOMMITTAL OF THE BILL.

Mr. Glynn to move the following Amendments:—

Clause 63—

In line 21, strike out "shall satisfy the Collector that he."

In line 23, strike out "with the consent of the Collector."

Clause 240—

Strike out the clause.

Clause 257—

Strike out the clause.

*New Clause—*Add the following new clause (to follow Clause 170):—

A. All persons at the time of the commencement of this Act licensed as agents for the purposes of the Customs Act of any State may continue to enjoy and exercise within such State the rights powers and privileges conferred by their licences.

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1901.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

Proposed Amendments in Bills.

CUSTOMS BILL.

Mr. Kingston to move that the following new clauses be added to the Bill:—

NEW CLAUSES.

After clause 213 insert the following clauses:—

213A. No proceeding against an officer for anything done for the protection of the revenue in relation to any Tariff or Tariff alteration proposed in Parliament by a Minister of State for the Crown shall except as mentioned in the next section be commenced before the close of the session in which such Tariff or Tariff alteration is proposed.

213B. The High Court of Australia or the Supreme Court of any State on the application of any person who desires to commence any proceeding mentioned in the last section may require the officer to give security to the satisfaction of the Court to abide the result of the proceedings and in default of the giving of such security may sanction the immediate commencement of the proceedings.

Mr. V. L. Solomon to move that the following new clause be added to the Bill:—

New clause (to follow clause 231).

231A. In any prosecution instituted by the Customs authorities where the penalty exceeds One hundred pounds the defendant shall have the right to elect to have the case tried by the Supreme Court of the State in which such prosecution has been instituted.

[C. 16]—500/22.7.1901.—F.5493.

22nd July, 1901.

ON THE RECOMMITTAL OF THE BILL.

Mr. Glynn to move the following Amendments:—

Clause 63—

In line 21, strike out “shall satisfy the Collector that he.”

In line 23, strike out “with the consent of the Collector.”

Clause 240—

Strike out the clause.

Clause 257—

Strike out the clause.

*New Clause—*Add the following new clause (to follow Clause 170):—

170A. All persons at the time of the commencement of this Act licensed as agents for the purposes of the Customs Act of any State may continue to enjoy and exercise within such State the rights powers and privileges conferred by their licences.

CUSTOMS BILL.

(Amendment to be proposed by Mr. Piesse.)

To add as a new sub-clause to clause 159A :—

(2) During the continuance in operation of section ninety-five of the Constitution Act drawbacks of duty may be allowed to such extent and in such manner as may be prescribed in respect to goods manufactured in the Commonwealth in the manufacture of which materials have been used upon which materials duty has been paid, when such goods are transported from any part of the Commonwealth to the State of Western Australia.

Amendments to be proposed by Mr. Kingston.)

Clause 165, page 24, line 35, strike out "beyond the limits of Australia," and insert "to any other port or place."
Schedule II., strike out all after "Schedule II.," and insert the following:—

SCALE OF FEES FOR WAREHOUSES TO BE PAID BY LICENSEES.

When the whole services of a locker are required ... £200 per annum

When the whole services of more than one locker are required,
for each additional locker after the first ... £150 per annum

When the whole service of a locker are not required, a charge
of 2s. per hour for each hour or part of an hour necessary
for the locker to be in attendance, and a sum to be fixed
by the Minister, not exceeding ... £50 per annum

All questions as to the number of lockers required and the time necessary for their attendance shall be determined by the Minister.

The above scale shall apply to the following places only :—

Sydney,
Melbourne,
Brisbane,
Hobart,
Adelaide and Port Adelaide,
Perth and Fremantle.

At any other place such fees not exceeding the above scale shall be charged as may be prescribed.

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CUSTOMS BILL.

(New clause to be proposed by Mr Kingsten)

159 A.

(NO COPIES IN STOCK)

1900

(1900-1901)

1901

(1901-1902)

NEW CLAUSES TO BE PROPOSED BY MR. KINGSTON.

263A. The State Customs Acts mentioned in Schedule IV. shall to the extent therein mentioned cease to have effect as from dates to be fixed by proclamation, but so that this section shall not affect anything previously done or any right or liability then existing and not inconsistent with this Act. Cessation of existing Acts.

263B. The power of making Regulations conferred by this Act shall extend to the cancellation of any Regulation in relation to the Customs made under the authority of any State Act. Cancellation of existing Regulations.

213c. Section 213A shall apply to all proceedings, whether against an officer or otherwise. Extent of Section 213A.

51B. The power of prohibiting importation of goods shall extend to authorized prohibition subject to any specified condition or restriction and goods imported contrary to any such condition or restriction shall be prohibited imports. Prohibition subject to restriction.

1901.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

Proposed Amendments in Bills.

CUSTOMS BILL.

Mr. Kingston to move that the following new clauses be added to the Bill :—

NEW CLAUSES.

After clause 213 insert the following clauses :—

213A. No proceeding for anything done for the protection of the revenue in relation to any Tariff or Tariff alteration proposed in Parliament shall except as mentioned in the next section be commenced before the close of the session in which such Tariff or Tariff alteration is proposed.

213B. The High Court of Australia or the Supreme Court of any State on the application of any person who desires to commence any proceeding mentioned in the last section against an officer may require the officer to give security to the satisfaction of the Court to abide the result of the proceeding and in default of the giving of such security may sanction the immediate commencement of the proceeding.

[C. 16]—150/23.7.1901.—F.5493.

SCHEDULE II.

(In lieu of Schedule II. in Bill.)

SCALE OF FEES FOR WAREHOUSES TO BE PAID BY LICENSEES

When the whole services of a locker are required £200 per annum
When the whole services of more than one locker are required, for each additional locker after the first £150 per annum
When the whole services of a locker are not required, a charge of 2s. per hour for each hour or part of an hour necessary for the locker to be in attendance, and a sum to be fixed by the Minister, not exceeding £50 per annum

All questions as to the number of lockers required and time necessary for their attendance shall be determined by the Minister.

The above scale shall apply to the following places only:—

Sydney,
Melbourne,
Brisbane,
Hobart,
Adelaide and Port Adelaide,
Perth and Fremantle.

At any other place such fees not exceeding the above scale shall be charged as may be prescribed.

CUSTOMS BILL.

(Amendments to be proposed by Mr. Kingston.)

- Section 4, page 3, lines 33 and 34, strike out "without proper entry or."
- Section 63, page 10, line 22, strike out "shall satisfy the Collector that he."
- In the same section and page, line 23, after "entry" insert "and shall make a declaration to that effect before the Collector."
- In the same section and page, line 24, strike out "with the consent of the Collector."
- Section 74, page 12, lines 10 and 11, strike out "an annual fee to the amount set out in Schedule II. thereto for each class of warehouse," and insert "fees for warehouses according to the scale in Schedule II."
- In the same section and page, line 11, after the word "license," add "as to the annual fees," and at the end of the section add "as to the fees for lockers' attendance by monthly payments."
- Section 119, page 18, line 9, strike out "at any place other than that for which they have been entered," and at the end of the section add "except in parts beyond the seas."
- Section 120, page 18, line 19, add "or to account for such goods to the satisfaction of the Collector."
- Section 165, page 24, line 35, strike out "beyond the limits of Australia," and insert "to any other port or place."
- Schedule II., strike out all after "Schedule II.," and insert the following:—

SCALE OF FEES FOR WAREHOUSES TO BE PAID BY LICENSEES.

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| When the whole services of a locker are required ... | £200 per annum |
| When the whole services of more than one locker are required,
for each additional locker after the first ... | £150 per annum |
| When the whole service of a locker are not required, a charge
of 2s. per hour for each hour or part of an hour necessary
for the locker to be in attendance, and a sum to be fixed
by the Minister, not exceeding ... | £50 per annum |
- All questions as to the number of lockers required and the time necessary for their attendance shall be determined by the Minister.
- The above scale shall apply to the following places only:—

Sydney,
Melbourne,
Brisbane,
Hobart,
Adelaide and Port Adelaide,
Perth and Fremantle.

At any other place such fees not exceeding the above scale shall be charged as may be prescribed.

CUSTOMS BILL.

New Clauses to be proposed by Mr. Kingston.

263A. The State Customs Acts mentioned in Schedule IV. shall to the extent therein mentioned cease to have effect in relation to the Customs, but so that this section shall not affect anything previously done or any right or liability then existing and not inconsistent with this Act. Cessation of existing Acts.

263B. The power of making Regulations conferred by this Act shall extend to the cancellation of any Regulation in relation to the Customs made under the authority of any State Customs Act but until so cancelled such Regulations shall continue if not inconsistent with this Act. Cancellation of existing Regulations.

SCHEDULE IV.

State.	Session and No.	Title or Short Title.	Extent of Cesser.
New South Wales	42 Vict., 19 ...	Customs Regulation Act 1879 ...	The whole
Queensland	25 Vict., 22 ...	The New South Wales Border Customs Act of 1862	The whole
	34 Vict., 20 ...	The Border Customs Duties Act ...	The whole
	37 Vict., 1 ...	The Customs Act 1873 ...	The whole
South Australia	27 & 28 Vict., 19	Customs Act 1864 ...	The whole
	35 & 36 Vict., 12	An Act to amend the Customs Act 1864	The whole
	37 Vict., 12 ...	The Border Duties Act of 1873 ...	The whole
	38 & 39 Vict., 2	An Act to provide for the allowance of drawback on broken packages exported to New Caledonia and certain other places	The whole

SCHEDULE IV.—*continued.*

State.	Session and No.	Title or Short Title.	Extent of Cesser.
South Australia	38 & 39 Vict., 10	The Intercolonial Free Trade Act 1875	The whole
	38 & 39 Vict., 19	An Act to amend the laws of the Customs relating to the allowance of drawback and for other purposes	The whole
	39 & 40 Vict., 51	The Border Duties Act 1876 ...	The whole
	42 & 43 Vict., 150	The Customs Act Amendment Act 1879	The whole
	44 Vict., 196 ...	An Act to authorize the making of conventions between South Australia and New South Wales, and arrangements between South Australia and Victoria with reference to border duties, and to amend the law relating to the duties of Customs and the mode of collection thereof and for other purposes	The whole
	45 & 46 Vict., 254	Northern Territory Customs Act 1882	The whole
	46 & 47 Vict., 291	An Act to amend the Customs Act 1864	The whole
	47 & 48 Vict., 308	An Act to amend the Northern Territory Customs Act 1882	The whole
	60 & 61 Vict., 687	The Customs Act Amendment Act	The whole
Tasmania ...	61 Vict., 6 ...	The Customs Act 1897 ...	The whole
Victoria ...	54 Vict., 1081 ...	Customs Act 1890 ...	The whole
	54 Vict., 1161 ...	Customs Act 1890 (No. 2) ...	The whole
	60 Vict., 1471 ...	Customs Act 1896 ...	The whole
Western Australia	55 Vict., 31 ...	The Customs Consolidation Act 1892	The whole, except sections 339 to 343, both inclusive

1901.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

CUSTOMS BILL.

SCHEDULE SHOWING THE AMENDMENTS MADE BY THE SENATE.

- No. 1.—Page 2, clause 3, line 7, omit “Duty,” insert “Duties.”
- No. 2.—Page 5, clause 19, line 11, after “wharf” insert “also such shed accommodation for the protection of goods as the Minister may in writing declare to be requisite.”
- No. 3.—Page 5, clause 20, line 13, after “Carriages” insert “boats.”
- No. 4.—Page 5, clause 22, line 21, after “carriages” insert “boats.”
- No. 5.—Page 5, clause 22, line 24, after “carriages” insert “boats.”
- No. 6.—Page 5, clause 23, line 29, after “carriage” insert “boat.”
- No. 7.—Page 5, clause 23, line 30, omit “Collector,” insert “Comptroller.”
- No. 8.—Page 5, clause 24, line 32, after “carriage” insert “boat.”
- No. 9.—Page 5, clause 25, line 35, after “Minister” insert “Comptroller.”
- No. 10.—Page 5 clause 25, line 36, omit “person,” insert “officer.”
- No. 11.—Page 5, clause 26, line 38, omit “officer,” insert “person.”
- No. 12.—Page 5, clause 26, line 38, after “declaration” insert “under this Act.”
- No. 13.—Page 6, after clause 30, insert the following new clause :—
 “30A. All goods on board any ship or boat from parts beyond the seas shall also be subject to the control of the Customs whilst the ship or boat is within the limits of any port in Australia.” Goods on ships subject to Customs control.
- No. 14.—Page 6, after clause 36, insert the following new clause :—
 “36A. Any person making any entry shall, if required by the Collector, answer questions relating to the goods referred to in the entry.” Person making entries to answer questions.
- No. 15.—Page 7, clause 37, line 4, after “entry” omit remainder of clause.
- No. 16.—Page 7, after clause 37, insert the following new clause :—
 “37A. All goods in respect of which any entry has been made and passed shall forthwith be dealt with in accordance with the entry. Goods to be dealt with according to entry.
 “Penalty: Fifty pounds.”
- No. 17.—Page 7, clause 45, line 40, at end of clause add “or release or satisfaction.”
- No. 18.—Page 8, clause 46, line 2, omit “In order to,” insert “For the purpose of securing.”

No. 19.—Page 8, clause 46, line 5, omit “landed.”

No. 20.—Page 8, clause 46, line 5, after “and” insert “may be.”

No. 21.—Page 8, clause 49, omit sub-clause (a), insert the following new sub-clause :—

“(a) Any reproduction except by permission of the proprietor of the copyright of any work copyrighted in the King’s dominions, and of the existence of which copyright and date of its expiration written notice has been given to the Minister by or on behalf of the proprietor of such copyright.”

No. 22.—Page 8, clause 49, line 22, omit “not being of the proper,” insert “of the King’s dominions not being of the established.”

No. 23.—Page 8, clause 49, line 32, after “butter” insert “unless coloured and branded as prescribed.”

No. 24.—Page 8, clause 49, after sub-clause (h), add the following new sub-clause :—

“(i) Mineral oil and mineral spirits unless imported under and subject to such restrictions as may be declared by proclamation.”

No. 25.—Page 8, clause 50, line 40, omit “of the,” insert “as.”

No. 26.—Page 8, clause 50, line 40, omit “size.”

No. 27.—Page 8, after clause 50, insert the following new clause :—

50A. As to all tea imported :—

- (a) Samples shall be taken without payment and examined by the Collector.
- (b) Unless the Collector is as a result of the examination satisfied that the tea is not a prohibited import he shall submit the samples for analysis to an official analyst appointed by the Governor-General for the purposes of this Act.
- (c) If as the result of the analysis it appears that the tea is a prohibited import it shall after compliance with the next succeeding paragraph be dealt with accordingly.
- (d) Notice shall be given to the owner of the report of the analyst if the tea is thereby shown to be a prohibited import, and the owner shall be allowed fourteen days after the receipt of the notice to satisfy the Collector that the tea is not a prohibited import.
- (e) Any tea not complying with the prescribed standard of strength and purity shall be deemed unfit for human use.

Tea subject to examination on importation.

No. 28.—Page 9, after clause 52, insert the following new clause :—

“52A. There shall be publicly exposed at the principal ports of Australia printed lists of all books wherein the copyright shall be subsisting, and as to which the proprietor of such copyright or his agent shall have given notice in writing that such copyright exists stating in such notice when such copyright expires.”

List of copyright books to be exposed at principal ports.

No. 29.—Page 9, clause 59, line 37, after “arrival” insert “at any port.”

No. 30.—Page 9, clause 59, line 39, after “duplicate” insert “of goods for such port.”

No. 31.—Page 10, clause 60, line 1, after “is” insert “lost or.”

No. 32.—Page 10, clause 60, line 3, omit “an Inward,” insert “a.”

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- No. 33.—Page 10, clause 67, line 32, omit “landed” (*first occurring*), insert “unshipped.”
- No. 34.—Page 10, clause 67, line 32, omit “landed not later than seven days,” insert “unshipped within such respective times.”
- No. 35.—Page 10, clause 67, line 33, after “ship” insert “as may be prescribed.”
- No. 36.—Page 11, clause 69, line 11, omit “Goods may only be unshipped,” insert “Except as prescribed goods may be unshipped only.”
- No. 37.—Page 11, clause 70, line 17, after “licensed” insert “boat or.”
- No. 38.—Page 11, clause 70, line 17, omit “direct.”
- No. 39.—Page 11, clause 70, line 20, after “carriage” insert “boat.”
- No. 40.—Page 12, clause 74, line 4, after “use” insert “under such conditions as may be prescribed.”
- No. 41.—Page 12, clause 74, line 6, after “process” omit remainder of clause.
- No. 42.—Page 13, clause 82, line 5, omit “in” insert “as.”
- No. 43.—Page 13, clause 82, line 5, omit “cases.”
- No. 44.—Page 15, clause 96, line 7, omit “six” insert “nine.”
- No. 45.—Page 16, clause 110, line 40, after “licensed” insert “boat or.”
- No. 46.—Page 17, clause 112, line 9, after “export” omit the remainder of the clause.
- No. 47.—Page 17, clause 115, line 25, after “ship” insert “except as provided in section one hundred and nine.”
- No. 48.—Page 18, clause 121, line 11, omit “Collector” insert “Comptroller.”
- No. 49.—Page 18, clause 121, line 14, after “Customs” omit the remainder of the clause.
- No. 50.—Page 18, clause 122, line 21, before “stores” insert “ships.”
- No. 51.—Page 18, clause 122, transfer clause 122 to follow after clause 124.
- No. 52.—Page 18, clause 123, line 25, after “stores” insert “whether shipped in parts beyond the seas or in the Commonwealth unless entered for home consumption or except as prescribed.”
- No. 53.—Page 18, clause 123, line 26, after “ship” insert “and.”
- No. 54.—Page 18, clause 124, line 28, after “No” insert “ships.”
- No. 55.—Page 18, clause 124, line 28, omit “after being shipped.”

No. 56.—Page 18, clause 124, line 28, after “be” insert “used contrary to the last preceding section or shall be.”

No. 57.—Page 19, clause 136, line 34, after “quantity” insert “or equivalent.”

No. 58.—Page 19, clause 136, line 35, at end of clause add “according to a standard to be prescribed.”

No. 59.—Page 20, clause 144, line 29, omit “or the owner of the goods.”

No. 60.—Page 20, clause 146, line 35, before “Samples” insert “Goods the produce of Australia or.”

No. 61.—Page 20, clause 146, lines 35 and 36, omit “or goods the produce of Australia.”

No. 62.—Page 22, after clause 150 insert the following new clause:—

150A. If the original invoice prepared and issued by the seller or consignor in the country whence the goods were exported cannot conveniently be obtained the Collector may permit to be substituted the original invoice prepared and issued by the last seller or consignor and the invoice so substituted shall be deemed the genuine invoice but so that—

- (I.) The Collector shall first be satisfied that the value shown by the invoice of the last seller or consignor is not less than the fair market value in the country of export ascertained according to section one hundred and forty-nine.
- (II.) The value shown by such invoice shall for the purpose of duty be taken to be the fair market value of the goods in the country of export ascertained according to section one hundred and forty-nine.”

No. 63.—Page 22, clause 151, line 11, after “rate” insert “of exchange.”

No. 64.—Page 22, clause 153, line 27, omit “Twenty,” insert “One hundred.”

No. 65.—Page 22, after clause 154, insert the following new clause:—

154A. “(1) For the protection of the revenue against the undervaluation of goods subject to *ad valorem* duties any goods entered as of a specified value may at any time before sale to a person having no knowledge of the entry and subject as may be prescribed be purchased by the Customs at their declared value with an addition of Ten pounds per centum on the amount of such value. Customs may take goods on paying the declared value plus ten per cent.

“(2) The purchase shall be effected by the seizure of the goods by an officer and written notice of the seizure given to the owner.

“(3) The officer shall remove the goods to a warehouse or some place of security, and the owner shall thereupon be entitled to the purchase money.

“(4) The goods shall become the property of the King immediately on seizure, and shall afterwards be disposed of as may be prescribed or as the Collector may direct.

“(5) A refund in whole or in part of any duty paid on the goods may be made by the Collector.

“(6) This section shall not limit or restrict any other power possessed by the Customs relating to the goods.”

No. 66.—Page 23, clause 160, lines 37, 38, and 39, omit “in cases where the Minister is of opinion that any evasion of this Act has been committed or attempted,” insert “to any goods which may be detained or seized for undervaluation or in respect to which any attempt to evade the payment of duty may have been made.”

- No. 67.—Page 24, clause 166, line 24, after “not” (*first occurring*) insert “to his knowledge.”
- No. 68.—Page 24, clause 167, line 37, at end of clause add “but so as not to deprive the person entitled thereto of any remedy he may have for such drawback.”
- No. 69.—Page 24, clause 168, line 41, after “place” insert “beyond Australia.”
- No. 70.—Page 25, clause 173, line 23, omit “being,” insert “and in all places to which this limitation is declared by proclamation to extend such agent shall be.”
- No. 71.—Page 25, clause 173, line 24, omit “being,” insert “shall be a Customs agent.”
- No. 72.—Page 25, clause 176, line 39, omit “employé or.”
- No. 73.—Page 25, clause 176, line 41, omit “employé or.”
- No. 74.—Page 27, clause 184, lines 2, 3, 4, and 5, omit “and if any ship shall arrive in any port with any such fastening, lock, mark, or seal open, altered, broken, or erased, except as aforesaid, the master shall be guilty of an offence against this Act.”
- No. 75.—Page 27, after clause 184 insert the following new clause :—
 “184A. No fastening, lock, mark, or seal placed by an officer upon any goods or upon any door, hatchway, opening, or place for the purpose of securing any stores upon any ship which has arrived in any port from parts beyond the seas and which is bound to any other port within the Commonwealth shall be opened, altered, broken, or erased except by authority; and if any ship enters any port with any such fastening, lock, mark, or seal opened, altered, broken, or erased contrary to this section, the master shall be guilty of an offence against this Act.
 “Penalty : One hundred pounds.”
- No. 76.—Page 27, clause 190, line 40, after “assistance” insert “in the form of Schedule III. hereto.”
- No. 77.—Page 28, clause 191, line 7, omit “III.” insert “IV.”
- No. 78.—Page 28, clause 192, line 13, after “into” insert “and search.”
- No. 79.—Page 28, clause 192, line 14, omit “the same and,” insert “and search.”
- No. 80.—Page 28, clause 197, line 31, after “ship” insert “boat.”
- No. 81.—Page 28, clause 197, line 33, after “ship” insert “boat.”
- No. 82.—Page 28, clause 197, line 37, after “ships” insert “boats.”
- No. 83.—Page 28, clause 197, line 39, after “ship” insert “boat.”
- No. 84.—Page 28, clause 197, line 42, omit “things” insert “goods.”
- No. 85.—Page 29, clause 198, line 2, after “ship” insert “boat.”

No. 86.—Page 29, clause 202, line 20, omit “any offence against,” insert “smuggling contrary to the provisions of.”

No. 87.—Page 29, clause 203, line 23, omit “on demand,” insert “as soon as practicable after arrest.”

No. 88.—Page 31, clause 213, line 8, at end of clause add “unless a Justice of the High Court of Australia or the Supreme Court of a State has granted leave to the plaintiff to proceed without notice, which leave such Justice or Judge may grant on such terms as he may think just.”

No. 89.—Page 31, after clause 213 insert the following new clause:—

“213A. No notice under the last preceding section shall be deemed invalid by reason of any defect or inaccuracy therein unless the Court is of opinion that the defect or inaccuracy would prejudice the defendant in his defence.” Defect in notice not to invalidate.

No. 90.—Page 31, clause 214, line 13, after “served” omit remainder of clause.

No. 91.—Page 32, clause 219, line 3, after “ships” insert “or boats not exceeding two hundred and fifty tons registered tonnage.”

No. 92.—Page 32, clause 219, line 4, after “ship” insert “or boat.”

No. 93.—Page 32, clause 219, line 5, after “ship” insert “or boat.”

No. 94.—Page 32, clause 219, line 8, after “ship” insert “or boat.”

No. 95.—Page 32, clause 219, line 11, after “ship” insert “or boat.”

No. 96.—Page 32, clause 219, line 13, after “ship” insert “or boat.”

No. 97.—Page 32, clause 219, line 17, after “ship” insert “or boat.”

No. 98.—Page 32, clause 219, at end of clause add—“The owner of a ship exceeding two hundred and fifty tons registered tonnage which would be forfeited if the ship were less than two hundred and fifty tons registered tonnage shall be liable to a penalty of not exceeding One thousand pounds, and the ship may be detained until the penalty is paid or until security is given for its payment.”

No. 99.—Page 32, clause 220, line 32, after “ship” insert “or boat.”

No. 100.—Page 32, clause 220, line 34, after “ship” insert “or boat.”

No. 101.—Page 33, clause 220, line 5, after “or” (*second occurring*) insert “wilfully.”

No. 102.—Page 33, clause 220, line 11, after “ship” (*first occurring*) insert “or boat.”

No. 103.—Page 33, clause 220, line 11, after “ship” (*second occurring*) insert “or boat.”

No. 104.—Page 33, clause 220, line 15, after “size” insert “or weight not being ships’ stores.”

- No. 105.—Page 33, clause 220, line 21, after “ship” insert “or boat.”
- No. 106.—Page 33, clause 221, line 42, after “package” insert “under the last preceding section.”
- No. 107.—Page 34, clause 223, line 10, after “ship” insert “boat carriage.”
- No. 108.—Page 34, clause 223, line 14, after “ship” insert “boat carriage.”
- No. 109.—Page 34, clause 223, line 32, omit “Three” and insert “Five.”
- No. 110.—Page 34, clause 224, line 35, after “goods” insert “subject to the control of the Customs.”
- No. 111.—Page 34, clause 224, line 35, after “ship” insert “or boat.”
- No. 112.—Page 34, clause 224, line 36, after “ship” insert “or boat.”
- No. 113.—Page 37, clause 245, omit sub-clause (2).
- No. 114.—Page 39, clause 256, line 21, after “order” insert “published in the *Gazette*.”
- No. 115.—Page 39, clause 258, line 29, after “Act” insert “shall hold such inquiry in public and.”
- No. 116.—Page 40, after clause 259, insert the following new clause :—
- “259A. Any matter of difference arising under this Act, or in relation to the Customs, and not involving a contravention of this Act, may, at the request of the parties interested, be referred to the Minister for decision, and thereupon the Minister shall in such manner as he shall think fit, inform his mind of the circumstances, and finally decide the difference.”
- Minister may determine differences.
- No. 117.—Page 40, clause 260, line 7, omit “Minister,” insert “Governor-General.”
- No. 118.—Page 40, clause 261, line 12, after “regulations” insert “so.”
- No. 119.—Page 40, clause 261, lines 12 and 13, omit “by the Minister may afterwards be confirmed by the Governor-General and after such confirmation.”
- No. 120.—Page 40, clause 262, line 33, after “Act” insert “and any State Act relating to Customs.”
- No. 121.—Page 42, Schedule II., after second paragraph of Schedule, insert the following new paragraph :—“When only half the services of a locker are required ... £100 per annum.”

No. 122.—Page 42, after Schedule II. insert the following new Schedule :—

SCHEDULE IIA.

COMMONWEALTH OF AUSTRALIA.

Writ of Assistance.

His Majesty the King (*or Queen, as the case may be*).

To all Peace Officers, and to all whom it may concern : Greeting.

WE command you to permit A.B. of an Officer of the Customs of the Commonwealth of Australia, and his assistants, and each and every of them at any time in the day or night to enter in and search any house premises or place and to break open and search the same and any chests trunks or packages in which goods may be or are supposed to be, and to seize any goods forfeited to Us and any goods that he the said A.B. has reasonable cause to believe are forfeited to Us, and to take such goods to the nearest King's warehouse or to such other place of security as Our Collector of Customs for Our State of in Our said Commonwealth shall direct.

And We grant to the said A.B. all powers which are capable of being granted by a Writ of Assistance.

And we command all Peace Officers and all Our loving subjects in Our said Commonwealth of Australia upon sight of this Our Writ, and upon being so required by the said A.B. to be aiding and assisting the said A.B. in the matters aforesaid : Herein fail not at your peril :

And We declare that this Our Writ of Assistance shall remain in force so long as the said A.B. remains an Officer of Customs in our Commonwealth of Australia whether in his present capacity or not.

Witness (*name and description of the Judge testing the Writ*) at
the day of One thousand nine hundred and

(SEAL)

By the Court.

E. G. BLACKMORE,
Clerk of the Parliaments.

1901.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

SCHEDULE OF THE AMENDMENTS MADE BY THE HOUSE OF REPRESENTATIVES
TO CERTAIN AMENDMENTS MADE BY THE SENATE IN THE CUSTOMS BILL.

In amendment No. 27, viz :—

No. 27.—Page 8, after clause 50, insert the following new clause :—

“50A. As to all tea imported :—

- (a) Samples shall be taken without payment and examined by the Collector.
- (b) Unless the Collector is as a result of the examination satisfied that the tea is not a prohibited import he shall submit the samples for analysis to an official analyst appointed by the Governor-General for the purposes of this Act.
- (c) If as the result of the analysis it appears that the tea is a prohibited import it shall after compliance with the next succeeding paragraph be dealt with accordingly.
- (d) Notice shall be given to the owner of the report of the analyst if the tea is thereby shown to be a prohibited import, and the owner shall be allowed fourteen days after the receipt of the notice to satisfy the Collector that the tea is not a prohibited import.
- (e) Any tea not complying with the prescribed standard of strength and purity shall be deemed unfit for human use.”

Tea subject to
examination
on importa-
tion.

At end of paragraph (d) add—

“and if the Collector is not so satisfied the tea shall be a prohibited import.”

In amendment No. 28, viz :—

No. 28.—Page 9, after clause 52, insert the following new clause :—

“52A. There shall be publicly exposed at the principal ports of Australia printed lists of all books wherein the copyright shall be subsisting, and as to which the proprietor of such copyright or his agent shall have given notice in writing that such copyright exists stating in such notice when such copyright expires.”

List of
copyright
books to be
exposed at
principal
ports.

In line 1 omit “publicly exposed” and insert “open to public inspection at the Customs House.”

In line 4 after “writing” insert “pursuant to section forty-nine.”

In amendment No. 65, viz :—

No. 65.—Page 22, after clause 154, insert the following new clause :—

“ 154A. (1) For the protection of the revenue against the undervaluation of goods subject to *ad valorem* duties any goods entered as of a specified value may at any time before sale to a person having no knowledge of the entry and subject as may be prescribed be purchased by the Customs at their declared value with an addition of Ten pounds per centum on the amount of such value. Customs may take goods on paying the declared value plus ten per cent.

“(2) The purchase shall be effected by the seizure of the goods by an officer and written notice of the seizure given to the owner.

“(3) The officer shall remove the goods to a warehouse or some place of security, and the owner shall thereupon be entitled to the purchase money.

“(4) The goods shall become the property of the King immediately on seizure, and shall afterwards be disposed of as may be prescribed or as the Collector may direct.

“(5) A refund in whole or in part of any duty paid on the goods may be made by the Collector.

“(6) This section shall not limit or restrict any other power possessed by the Customs relating to the goods.”

In line 3 omit “to a person having no” and insert “and delivery to a person who shall prove to the satisfaction of the Collector that he purchased and took delivery in good faith and without any.”

In amendment No. 79, viz :—

No. 79.—Page 28, clause 192, line 14, omit “the same and,” insert “and search.”

Omit the words “omit ‘the same and’” (and consequentially omit the further word “and”).

In amendment No. 88, viz :—

No. 88.—Page 31, clause 213, line 8, at end of clause add “unless a Justice of the High Court of Australia or the Supreme Court of a State has granted leave to the plaintiff to proceed without notice, which leave such Justice or Judge may grant on such terms as he may think just.”

After “Australia or” insert “of.”

Omit “or Judge.”

In amendment No. 89, viz :—

No. 89.—Page 31, after clause 213 insert the following new clause :—

“ 213A. No notice under the last preceding section shall be deemed invalid by reason of any defect or inaccuracy therein unless the Court is of opinion that the defect or inaccuracy would prejudice the defendant in his defence.” Defect in notice not to invalidate.

After “defence” add “and the Court may give leave to amend such notice as it thinks just.”

In amendment No. 114, viz :—

No. 114.—Page 39, clause 256, line 21, after “order” insert “published in the *Gazette*.”

Before “published” insert “which shall forthwith be.”

In amendment No. 116, viz :—

No. 116.—Page 40, after clause 259, insert the following new clause :—

“ 259A. Any matter of difference arising under this Act, or in relation to the Customs, and not involving a contravention of this Act, may, at the request of the parties interested, be referred to the Minister for decision, and thereupon the Minister shall in such manner as he shall think fit, inform his mind of the circumstances, and finally decide the difference.” Minister may determine differences.

In line 4, after “Minister” omit “shall” and insert “may.”

In amendment No. 122, viz.:—

No. 122.—Page 42, after Schedule II. insert the following new Schedule :—

SCHEDULE IIA.

COMMONWEALTH OF AUSTRALIA.

Writ of Assistance.

His Majesty the King (or Queen, *as the case may be*).

To all Peace Officers, and to all whom it may concern : Greeting.

WE command you to permit A.B. of an Officer of the Customs of the Commonwealth of Australia, and his assistants, and each and every of them at any time in the day or night to enter in and search any house premises or place and to break open and search the same and any chests trunks or packages in which goods may be or are supposed to be, and to seize any goods forfeited to Us and any goods that he the said A.B. has reasonable cause to believe are forfeited to Us, and to take such goods to the nearest King's warehouse or to such other place of security as Our Collector of Customs for Our State of in Our said Commonwealth shall direct.

And We grant to the said A.B. all powers which are capable of being granted by a Writ of Assistance.

And We command all Peace Officers and all Our loving subjects in Our said Commonwealth of Australia upon sight of this Our Writ, and upon being so required by the said A.B. to be aiding and assisting the said A.B. in the matters aforesaid : Herein fail not at your peril :

And We declare that this Our Writ of Assistance shall remain in force so long as the said A.B. remains an Officer of Customs in Our Commonwealth of Australia whether in his present capacity or not.

Witness (*name and description of the Judge testing the Writ*) at

the day of

One thousand nine hundred and

(SEAL)

By the Court.

In line 4, omit "*(or Queen as the case may be)*."

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE IN THE CUSTOMS BILL TO WHICH THE HOUSE OF REPRESENTATIVES HAS DISAGREED.

No. 46.—Page 17, clause 112, line 9, after "export" omit the remainder of the clause.

No. 49.—Page 18, clause 121, line 14, after "Customs" omit the remainder of the clause.

No. 67.—Page 24, clause 166, line 24, after "not" (*first occurring*) insert "to his knowledge."

No. 69.—Page 24, clause 168, line 41, after "place" insert "beyond Australia."

No. 101.—Page 33, clause 220, line 5, after "or" (*second occurring*) insert "wilfully."

No. 110.—Page 34, clause 224, line 35, after "goods" insert "subject to the control of the Customs."

No. 113.—Page 37, clause 245, omit sub-clause (2).

Reasons of the House of Representatives for Disagreeing to certain Amendments of the Senate.

As to Amendment No. 46 :—

Because the provision proposed to be omitted is usual and necessary for the proper protection of the revenue ; further, it is permissive and to be exercised only when the Collector sees reason to require it, instead of as in many existing Acts, in all cases.

As to Amendment No. 49 :—

Because when a person declines to comply with the law in his relations with the Customs it is reasonable that the Department should have the power to postpone, until compliance, the transaction of further business with the person in default.

As to Amendment No. 67 :—

Because the State has a right to ask for a positive assurance that the necessary conditions have been performed before paying away money which is only payable when those conditions have been performed.

As to Amendment No. 69 :—

Because the amendment is unnecessary and not altogether consistent with the context.

As to Amendment No. 101 :—

Because so long as the statement is misleading the injury to the revenue and to more careful traders is the same whatever the intention ; further, where necessary any forfeiture can be waived, but to make the right of forfeiture for misleading entries depend on proof of intention would in many cases defeat the course of justice.

As to Amendment No. 110 :—

Because the result of the amendment would be to unnecessarily limit the effect of the clause.

As to Amendment No. 113 :—

Because the amendment would prevent the truth from being elicited.

C. GAVAN DUFFY,

Clerk of the House of Representatives.

20th September, 1901.