ANNO TERTIO

GEORGII IV. REGIS.

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CAP. CX.

An Act to amend the Laws for the Prevention of Smuggling. [5th *August* 1822.]

WHEREAS by an Act passed in the Fifty-seventh Year of the Reign of His late Majesty King *George* the Third, intituled *An Act to amend Two Acts passed in the Forty-fifth Year of His present Majesty, and in the last Session of Parliament, for the making more effectual Provision for the Prevention of Smuggling*, it is enacted, that it shall and may be lawful to and for any Justice or Justices of the Peace, before whom any Person so arrested as therein mentioned, being a Subject of His Majesty, and not being fit and able to serve His Majesty in His Naval Service, shall be carried, on the Confession of any such Person of any such Offence as therein mentioned, with which he may be charged in any Information or Complaint, to be then and there laid or exhibited by any Officer of Customs or Excise against him, or on Proof thereof on the Oath of One or more credible Witness or Witnesses, to convict such Person in such Penalty respectively as therein mentioned; and every such Person so convicted as aforesaid shall, immediately on such Conviction, pay down into the Hands of such Officer the said Penalty in which he or she shall be so convicted; and if any such Person or Persons so convicted shall not forthwith pay down the said Penalty, the said Justice or Justices shall and he and they is and are by the said Act respectively authorized and required, by Warrant under his or their Hand and Seal, to commit the Person so convicted as aforesaid to any Gaol or Prison, or House of Correction, until such Penalty shall be paid; 57 G. 3. c. 87.

paid; and that in all Cases where any Person liable to be arrested under any of the Acts made for the Prevention of Smuggling, shall be fit and able to serve His Majesty in His Naval Service, and liable under the said Acts, or any of them, to be impressed into such Service, every such Person so arrested shall be taken before such Justice or Justices as aforesaid, and shall upon such Proof as by the said Act of the Forty-fifth Year aforesaid therein mentioned, or any other Act, is required, be committed by such Justice or Justices to Prison, to answer such Information and abide such Judgment as may be thereon given against him in that Behalf; and that it shall and may be lawful for the Gaoler or Keeper of any Prison or House of Correction in which such Person shall be so imprisoned, or for any Officer of Customs or Excise, on the Order of the Commissioners of Customs or Excise respectively directing the Prosecution, to such Gaoler or Keeper and Officer respectively, to carry and convey, or cause to be carried or conveyed, any such Person on board of any of His Majesty's Ships of War, in order to his being impressed into His Majesty's Naval Service; and if such Person shall at any Time or Times after any such Commitment as aforesaid, and before the Expiration of Five Years from the Time of his Arrest, escape or desert from or leave such Custody or Service, he shall, over and beside all Punishment to which he shall be subject for such Desertion, be liable to be at any Time or Times afterwards again arrested and imprisoned, or delivered over as aforesaid: And whereas it is expedient that so much of the said Act as is herein-before recited shall be repealed, and other Provisions made in lieu thereof: Be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That so much of the said Act of the Fifty-seventh Year aforesaid, as is herein-before recited, shall be and the same is hereby repealed; and that from and after the passing of this Act, it shall and may be lawful in and throughout the United Kingdom of *Great Britain* and *Ireland*, to and for any Justice or Justices of the Peace before whom any Person liable to be arrested, and arrested under any of the Acts made for the Prevention of Smuggling, shall be carried, on the Confession of such Person of the Offence or Offences for which he shall be so detained, and with which he shall be charged in any Information or Complaint then and there exhibited or made by any Officer of Customs or Excise, or any other Officer or Person employed for the Prevention of Smuggling, against him, or on Proof thereof upon the Oath of One or more credible Witness or Witnesses, to convict in the Forms or to the Effect specified in the Schedule hereto annexed, such Person of such Offence or Offences; and every such Person so convicted as aforesaid, who shall not be a Seaman or Seafaring Man, or being such Seaman or Seafaring Man shall not be fit and able to serve His Majesty in his Naval Service, shall immediately, upon such Conviction, pay into the Hands of such Officer the Penalty of One hundred Pounds for every such Offence of which he shall be so convicted as aforesaid, or in Default thereof, the said Justice or Justices shall and he and they is and are hereby respectively authorized and required, by Warrant under his and their Hand and Seal, or Hands and Seals, to commit such Person so convicted as aforesaid, and making such Default

So much of recited Act as respects the Punishment of Persons convicted, either in paying Penalties or in certain Cases ordered to serve in the Navy, repealed.

Justices before whom Offenders against the Acts for Prevention of Smuggling shall be brought, shall, on Conviction, order Punishment by Fine, Imprisonment, or Impressment, in the Manner herein mentioned.

fault as aforesaid, to any Gaol or Prison or House of Correction, there to remain until every such Penalty for every such Offence of which he shall be so convicted shall be paid, such One hundred Pounds to be levied and applied as the Penalty hereby repealed; and if the Person so convicted as aforesaid shall be a Seaman or Seafaring Man, and fit and able to serve His Majesty in His Naval Service, and liable, under the said Acts, or any of them, for the Offence or Offences of which he shall be so convicted as aforesaid, to be impressed into such Service, and shall not prove that he is not a Subject of His Majesty, it shall and may be lawful for any such Officer or Person as aforesaid, and he and they is and are hereby required, upon such Conviction of such Person as aforesaid, to carry or convey, or cause to be carried or conveyed, such Person on board of any of His Majesty's Ships, in order to his serving His Majesty in His Naval Service; and if such Person shall at any Time or Times after such Conviction as aforesaid, and before the Expiration of Five Years from the Time of such Conviction, by any Means escape or desert from such Custody or Service respectively, so as not to complete the Service of Five Years in His Majesty's Navy, according to the true Intent and Meaning of this Act, he shall, over and above all Punishment to which he shall be subject for Desertion, be liable to be at any Time or Times afterwards again arrested and delivered over as aforesaid: Provided always, that if it shall be made appear to any such Justice or Justices, that convenient Arrangements cannot be at once made for carrying or conveying such Seaman or Seafaring Man, so convicted as aforesaid, on board any of His Majesty's Ships, in order to serve His Majesty, it shall and may be lawful for any such Justice or Justices, and he or they are hereby required to commit any such Seaman or Seafaring Man so convicted as aforesaid, to any Prison or Gaol, there to remain in safe Custody for any Period not exceeding One Month, in order that Time may be given to make Arrangements for so conveying such Seamen or Seafaring Men on board any of His Majesty's Ships as aforesaid: Provided always, that the Commissioners of His Majesty's Treasury, or any Three or more of them, shall have full Power and Authority to remit or mitigate any such Penalty, Punishment, or Service as aforesaid, whether the Parties shall be Seafaring Men or otherwise; provided that no Justice or Justices shall accept or receive any Bail for any Person liable to be arrested, and arrested as aforesaid; any thing in this or any other Act or Acts to the contrary thereof notwithstanding.

Treasury may mitigate Punishment.

II. And whereas by an Act passed in the Twenty-fourth Year of His said late Majesty's Reign, intituled *An Act for the more effectual Prevention of Smuggling in this Kingdom*, a Penalty of Five hundred Pounds is imposed on the Master or other Person having Charge of any *British* Ship or Vessel, not being in the Service of His Majesty's Navy, or His Majesty's Revenue of the Customs or Excise, who shall carry or hoist any Pendant or Ensign as therein mentioned: And whereas His late Majesty by His Royal Proclamation, bearing Date the First Day of *January* One thousand eight hundred and one, was pleased, with the Advice of His Privy Council, to order and appoint what Ensign or Colours should be borne at Sea by Merchant Ships or Vessels

Penalty on Persons hoisting on board any Vessel any Colours or Flags used in the Navy, 500*l.*, &c. 24 G. 3. c. 47.

Vessels belonging to any of His Majesty's Subjects of the United Kingdom of *Great Britain* and *Ireland*, and of the Dominions thereunto belonging, thereby charging and commanding all His Majesty's Subjects whatsoever that they should not presume to wear in any of their Ships or Vessels His Majesty's Jack, commonly called the Union Jack, nor any Pendants, nor any such Colours as are usually worn by His Majesty's Ships, without particular Warrant for their so doing from His Majesty, or His High Admiral of *Great Britain*, or the Commissioners for executing the Office of High Admiral for the Time being, and also commanding His Majesty's Subjects that without such Warrant as aforesaid they should presume not to wear on board their Ships or Vessels any Flags, Jacks, Pendants, or Colours, made in imitation of or resembling those of His Majesty, or any Kind of Pendant whatsoever, or any other Ensign than the Ensign described in the Margin of the said Proclamation: And whereas it is expedient that all Doubts that may have been entertained as to the Law on this Subject should be removed, and that Provision should be made for carrying the said Proclamation into Effect; be it therefore enacted and declared, That from and after the passing of this Act, it shall not be lawful for any of His Majesty's Subjects whomsoever to hoist, carry, or wear in or on board any Ship, Vessel, or Fishing Boat, or any other Vessel or Boat whatever, whether Merchant or otherwise, belonging to any of His Majesty's Subjects, His Majesty's Jack, commonly called the Union Jack, or any Pendant, or any such Colours as are usually worn by His Majesty's Ships, or any Flag, Jack, Pendant or Colours whatever, made in imitation of or resembling those of His Majesty, or any Kind of Pendant whatsoever, or any Ensign or Colours whatever, other than those prescribed by the said Proclamation; and that if any Person or Persons shall nevertheless presume to hoist, carry, or wear in or on board any Ship or Vessel, Fishing Boat, or other Vessel or Boat whatever, belonging to any of His Majesty's Subjects, whether the same be Merchant or otherwise, His Majesty's Jack, commonly called the Union Jack, or any Pendant or Colours such as are commonly worn by His Majesty's Ships, or any Jack, Flag, Pendant or Colours whatever, made in imitation of or resembling those of His Majesty, or any Kind of Pendant whatever, without such Warrant as aforesaid, or any other Ensign or Colours than the Ensign or Colours prescribed by the said Proclamation to be worn, then and in every such Case the Master or other Person having charge of such Ship, Vessel, or Boat, or the Owner or Owners thereof, being on board the same, and every other Person so offending, shall for every such Offence forfeit and pay the Sum of Five hundred Pounds, to be recovered with Costs of Suit, either in the High Court of Admiralty, or in any of His Majesty's Courts of King's Bench or Exchequer at *Westminster* or *Dublin*, or in the Courts of Session or Exchequer in *Scotland* respectively; and that it shall be lawful for any Officer of His Majesty's Navy, Customs, or Excise, to enter on board any Ship, Vessel, or Boat so hoisting, wearing or carrying any Jack, Flag, Ensign, Pendant, or Colours prohibited by the said Proclamation and by this Act to be hoisted, worn, or carried, and to seize and take away the same; and the same shall thereupon become forfeited.

III. And

III. And whereas it is expedient that all Seizures of Spirits and other Goods made by Officers of the Customs, or by Persons acting under the Orders or Directions of the Commissioners of His Majesty's Customs, should be delivered into the Custody of the Persons authorized by the said Commissioners to receive the same, in order to their Prosecution and Condemnation by the said Commissioners, agreeably to the Provisions and Directions of Two Acts of Parliament passed in the Forty-fifth and Forty-seventh Years of the Reign of His said late Majesty, for the more effectual Prevention of Smuggling; be it therefore enacted, That every Seizure made by any Officer or Officers of His Majesty's Customs, or Person or Persons acting under the Orders or Directions of the said Commissioners, shall, together with the Ships and other Vessels, Carts and other Carriages, Horses and other Cattle seized therewith, or on account thereof, to be delivered over to and lodged and secured under the Provisions of the said Acts made in the Forty-fifth and Forty-seventh Years of the Reign of His said late Majesty, and be disposed of or prosecuted for Condemnation by Order and under the Directions of the said Commissioners of Customs; and that such Commissioners shall and are hereby authorized to direct and pay all Rewards for the making of every such Seizure, and of all Costs and Expences relating thereto, in the Manner directed by the several Laws in force for the Prevention of Smuggling.

Seizures of Spirits and other Goods, together with the Vessels, &c. to be delivered over to the Commissioners of Customs for Condemnation, 45G.3.c.121. 47 G. 3. s.2. c. 66;

who may direct the Payment of Rewards for such Seizures.

SCHEDULE to which this Act refers.

FORM of Conviction to be used in the Case of a Smuggler not a Seaman or Seafaring Man, or not fit to serve in the Navy.

County of [*or as the Case may be*] to wit. } BE it remembered, That on the Day of in the Year of our Lord One thousand eight hundred and at in the County of *A. B.* [*the Name of the Smuggler*] hath been duly convicted before me [*Name of Justice*] One [*or*, before us and Two] of His Majesty's Justice of the Peace, in and for the County of [*or*, for the Riding, Division, City, Liberty, Town, or Borough of *as the Case may be*] of [*here state the Offence*] by him the said *A. B.* committed, against the Provisions of the Acts of Parliament made and passed for the Prevention of Smuggling, which Offence hath been duly proved before me [*or* us] on the Oath of One or more credible Witnesses; and I [*or* we] do therefore adjudge that the said *A. B.* hath, for such Offence, forfeited the Sum of pursuant to the Act passed in the Third Year

Year of King George the Fourth [*here state the Title of the present Act.*] Given under my Hand and Seal [*or* our Hands and Seals] at in the County of the Day of in the Year of the Reign of His present Majesty King and in the Year of our Lord One thousand eight hundred and

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FORM of Conviction to be used in the Case of a Smuggler being a Seaman or Seafaring Man, and fit and able to serve in the Navy.

County of [*or as the Case may be*] to wit. } BE it remembered, That on the Day of in the Year of our Lord One thousand eight hundred and *A. B.* [*the Name of the Smuggler*] hath been duly convicted before me One [*or*, before us and Two] of His Majesty's Justices of the Peace in and for the County of [*or*, for the Riding, Division, City, Liberty, Town, or Borough of *as the Case may be*] of [*here state the Offence*] by him the said *A. B.* committed against the Provisions of the Acts of Parliament made and passed for the Prevention of Smuggling; which Offence hath been duly proved before me [*or* us] on the Oath of One or more credible Witnesses; and the said *A. B.* being a Seafaring Man, and fit and able to serve His Majesty in His Navy, I [*or*, we] do hereby adjudge the said *A. B.* to serve in His Majesty's Naval Service, pursuant to the Act passed in the Third Year of King George the Fourth, intituled [*here state the Title of this Act*]. Given under my Hand and Seal [*or*, our Hands and Seals] at in the County of the Day of in the Year of the Reign of His present Majesty King and in the Year of our Lord One thousand eight hundred and

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