

Act No. 66, 1902.

An Act to consolidate the enactments regulating
the trade or business of Pawnbrokers in New
South Wales. [4th September, 1902.]

PAWNBROKERS.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Pawnbrokers Act, 1902," and is divided into Parts, as follows:—

PART I.—PRELIMINARY—*ss.* 1-4.

PART II.—LICENSES—*ss.* 5-10.

PART III.—BUSINESS OF PAWNBROKING—*ss.* 11-30.

PART IV.—MISCELLANEOUS AND LEGAL PROCEDURE—*ss.* 31-46.

2. (1) The Act thirteenth Victoria, number thirty-seven, is hereby repealed.

(2) All licenses granted under the authority of the Act hereby repealed, and existing at the time of the passing of this Act, shall be deemed to have been granted hereunder.

3. In this Act, unless the context or subject-matter otherwise indicates or requires,—

"article" includes every species of chattels and goods whatsoever;

"justice" means justice of the peace;

"license" means a license granted under this Act to carry on the trade or business of a pawnbroker;

"pawnbroker" means a person who carries on business or seeks his livelihood in or by advancing upon interest, or for or in expectation of profit, gain, or reward, any sum of money upon security, whether collateral or otherwise, of any article taken by such person by way of pawn, pledge, or security.

4. Nothing in this Act shall be construed to apply to loans or advances made on any goods, chattels, live stock, wool, bonds, bills, title-deeds, or other security by merchants, bankers, commission agents, brokers, or licensed auctioneers in the ordinary and bona fide course of mercantile or banking transactions if the interest on any such loans or advances does not exceed the rate of ten per centum per annum.

Interpretation.
13 Vic. No. 37, *ss.*
2 and 36.

To whom Act not to apply.
Ibid. Rider.

Pawnbrokers.

PART II.

LICENSES.

Penalty on pawn-
broking without
license.

13 Vic. No. 37, s. 1.

Manner of obtaining
license.

Ibid., s. 3.

First Schedule.

Second Schedule.

Ibid., s. 4.

Ibid., s. 3.

Duration of license.

Ibid.

Record of license to
be kept.

Ibid., s. 5.

Separate license to
be taken out for
each shop, &c.

Ibid., s. 10.

Partner's license.

Ibid., s. 11.

5. Whosoever carries on the trade or business of a pawnbroker without having previously obtained a license, shall, for such offence, be liable to a penalty not exceeding twenty pounds.

6. (1) Any person wishing to obtain a license shall deliver to the clerk of petty sessions for the police district in which he intends to carry on the trade or business of a pawnbroker, an application in the form contained in the First Schedule hereto, together with a certificate in the form contained in the said Schedule, signed by five householders residing in such district.

(2) The justices assembled in the petty sessions for such district next after such notice has been so delivered, may, if satisfied as to the character of the person so applying, grant a license to such person under their hands in the form contained in the Second Schedule hereto.

(3) All matters of applications for licenses shall be heard and determined in open court, and shall be judicial inquiries.

(4) Every license shall be delivered to the person applying for it on payment of ten pounds to be paid over to the Treasurer.

7. Every license shall, subject to the provisions of this Act, be in force for one year from the date thereof.

8. (1) Every clerk of petty sessions shall keep an alphabetical record of all licenses granted by the court of petty sessions of which he is clerk.

(2) Every such clerk neglecting so to do shall be liable to a penalty not exceeding five pounds.

9. No pawnbroker holding a license shall by virtue of one license keep more than one house, shop, or other place for taking in goods or chattels to pawn, but for each and every house, shop, or other place which any person keeps for the purposes aforesaid a separate and distinct license shall be taken out and paid for.

10. Persons in partnership and carrying on the trade or business of a pawnbroker in one house, shop, or tenement only shall not be obliged to take out more than one license in any one year for carrying on such trade or business.

PART

Pawnbrokers.

PART III.

BUSINESS OF PAWNBROKING.

11. (1) Every person who holds a license shall have his name at length painted in legible characters at least two inches deep with the words "licensed pawnbroker" constantly and permanently remaining and plainly to be seen and read over the door of each shop or other place by him kept or made use of for carrying on the trade or business of a pawnbroker. Pawnbroker's name, &c., to be painted on his premises. 13 Vic. No. 37, s. 8.

(2) Any such person who fails or neglects to comply with the provisions of this section shall for every such offence be liable to a penalty not exceeding ten pounds.

12. (1) Any person holding a license shall, on demand at his licensed house or place wherein or whereat such license is exercised, produce it to any justice or to any constable authorised by any justice by writing under his hand to demand the production thereof. Production of license. Ibid. s. 12.

(2) Any such person who refuses or neglects to produce his license shall for every such refusal or neglect be liable to a penalty not exceeding ten pounds unless he gives some reasonable excuse to the satisfaction of the justice or justices hearing the case for the non-production thereof. Penalty.

13. (1) Every licensed pawnbroker taking in pawn any article whereon any money is to be lent shall, before advancing any money thereon, cause to be entered in a fair and legible manner in some book kept for that purpose—

- (a) a fair and reasonable description of such article;
- (b) the sum of money in the whole advanced thereon, with the rate of interest to be charged on the same by the week or month, as the case may be;
- (c) the true date at which such article is pawned;
- (d) the name of the party by or for whom such article is pawned, and his place of residence, according to the statement of the person pawning, into which last-mentioned circumstances the pawnbroker shall inquire of the person pawning before any money is lent or advanced to him;

and where a longer time for redemption than three months is agreed upon—

- (e) the time so agreed upon.

(2) Every such entry as aforesaid shall be numbered consecutively throughout the year, the first pledge received by any pawnbroker on or after the first day of January in each year being respectively numbered one, the second two, and so on progressively throughout the year. Numbering of entr. cs. Ibid. s. 18.

(3) Any such pawnbroker who fails to comply with the provisions of this section shall, for every such offence, be liable to a penalty not exceeding ten pounds. Penalty.

14.

Pawnbrokers.

Duplicate to be given.
13 Vic. No. 37, s. 18. **14.** (1) Every licensed pawnbroker, at the time of taking any article in pawn, shall give to the person pawning the same a duplicate of every such entry fairly and legibly written, or partly written and partly printed, with the signature of such pawnbroker thereto, containing every particular inserted in the original entry, and corresponding therewith in number.

Penalty. (2) Any licensed pawnbroker who fails or neglects to comply with the provisions of the next preceding subsection shall be liable to a penalty not exceeding ten pounds.

Acceptance of duplicate. (3) No pawnbroker shall receive or retain any pledge unless such duplicate is accepted at the time by the party pawning, and every such duplicate shall be delivered gratis, and shall be produced to the pawnbroker before he shall be obliged to redeliver the articles mentioned therein, or any of them.

Duplicates lost or stolen.
Ibid. s. 22. **15.** If—
 (a) any pawnbroker's duplicate is lost or mislaid by, or fraudulently taken or obtained from, the owner thereof ;
 (b) the articles mentioned therein remain unredeemed ; and
 (c) the person representing himself to be such owner produces and leaves with the pawnbroker who gave such duplicate a written declaration in the form prescribed by Part IV of the Oath's Act, 1900, duly taken and authenticated by some justice, and setting forth the circumstances of such loss or otherwise satisfactorily accounting for the non-production of such duplicate,

such pawnbroker shall, at the request of such person, deliver to him a copy of such duplicate.

Holders of duplicates to be deemed owners of goods pawned.
Ibid. s. 21. **16.** (1) Every person who at any time produces any such duplicate as aforesaid to the pawnbroker who gave the same, and requires delivery of the articles therein specified, claiming to be the owner or representing himself to be authorised by the owner thereof, shall be deemed to be such owner or to be so authorised, and shall be entitled to redeem such articles accordingly unless—

(a) such pawnbroker has notice from the real owner that such duplicate was lost by him or was fraudulently taken or obtained from him ; or

(b) such pawnbroker has been informed by some credible person that such articles were stolen.

(2) Whensoever any such pawnbroker refuses to deliver the articles to the party producing such duplicate he shall immediately give information of such refusal and of the particular grounds thereof to a justice or to some constable, together with a description of such party, or, if known to the pawnbroker, such party's name and place of residence.

17.

Pawnbrokers.

17. (1) Unless a longer time is expressly agreed upon, the period during which any article taken in pawn may be redeemed shall be three months, at the expiration of which period, or at the expiration of any such longer period as has been so agreed upon, every such article shall be deemed forfeited, and may be sold.

Period for sale of pledged.
13 Vic. No. 37, s. 16.

(2) Any agreement for the forfeiture of any article before the expiration of six months shall be wholly void.

18. Any pawnbroker who, under any circumstances or upon any pretence, sells or otherwise disposes of, or causes or knowingly suffers to be sold or disposed of, any article so pawned before the expiration of the said term of three months, or of such longer period as was agreed upon, shall, for every such offence, be liable to a penalty not exceeding twenty pounds over and above any damages for which he is liable to the owner or party injured.

Selling before expiration of period.
Ibid.

19. (1) All articles forfeited on which in the whole any sum above five shillings has been lent, shall be sold by public auction, and not otherwise.

Mode of sale.
Ibid. s. 17.

(2) A notice of every such sale, containing a catalogue of all such articles and the time when the same were respectively taken in pawn, shall be twice inserted in some public newspaper, published in New South Wales, four days at the least before the proposed day of sale.

(3) Any pawnbroker who offends against the provisions of this section shall forfeit to the owner of any articles sold contrary to the said provisions a sum not exceeding twenty pounds.

20. No purchase or pretended purchase by any pawnbroker or person on his behalf of any article pawned with him shall in any case be valid against the owner in any case.

Pawnbroker not to purchase.
Ibid. s. 17.

21. (1) If any article pawned is sold for more than the full amount of the principal money and interest thereon which was due at the time of such sale, then the surplus, deducting the necessary charges of such sale, shall, if claimed within twelve months next after such sale, be paid upon demand to the person by or for whom such article was pawned, or his agent or assigns, or in case of death, to his executor or administrator.

Application of proceeds of sale.
Ibid. s. 23.

(2) Any pawnbroker who offends against the provisions of this section shall, for every such offence, be liable to a penalty not exceeding ten pounds.

Penalty.
Ibid. s. 24.

22. (1) Every pawnbroker shall from time to time enter in a book to be kept by him for that purpose a true and just account of the sale of every article which was pawned and which is sold or otherwise disposed of by him, specifying the date when such article was pledged and the true number of the entry then made thereof, and the name of the person who pledged the same and the day when and the amount for which every such article was sold.

Entry to be made of all articles sold.
Ibid. s. 23.

(2)

Pawnbrokers.

Penalty.
13 Vic. No. 37, s. 24.

(2) Any pawnbroker who offends against the provisions of this section shall for every such offence be liable to a penalty not exceeding ten pounds.

Pawnbroker may inspect entries;
Ibid.

23. (1) Every person by or for whom any article was pawned shall, if such article is sold or otherwise disposed of, be permitted to inspect the entry of such sale.

Penalty for refusing inspection.

(2) If such person produces the duplicate relating to the articles respecting which such inspection is required, and the pawnbroker or person employed by him refuses to permit such person to inspect any such entry or does not produce the book containing such entry, such pawnbroker or person employed by him shall for every such offence be liable to a penalty not exceeding ten pounds.

Pledges not to be taken from children or drunken persons.
Ibid. s. 25.

24. If any licensed pawnbroker or any agent or servant employed by any such pawnbroker at any time purchases, receives, or takes in pawn any article from any person apparently under the age of fourteen years or apparently intoxicated with liquor such pawnbroker shall, for every such offence, be liable to a penalty not exceeding ten pounds.

Pawnbroker not to advance, &c., anything but money.
Ibid.

25. If any licensed pawnbroker, or any agent or servant employed by any such pawnbroker, in any case where the value of the pledge or the amount agreed to be lent thereon does not exceed ten pounds,—

(a) advances upon any articles pawned or offered in pawn anything but money; or

(b) gives, sells, or exchanges in respect of any such article any goods or property in lieu of or in return for money, such pawnbroker shall for every such offence be liable to a penalty not exceeding ten pounds.

Hours for taking pledges.
Ibid. s. 27.

26. (1) No licensed pawnbroker shall receive, or take in, or permit, or suffer to be received or taken in, any goods or chattels by way of pawn, pledge, or in exchange, before eight of the clock in the forenoon, or after the closing time fixed by the Early Closing Act, 1899, or any Act amending the same.

Penalty.

(2) Any such pawnbroker who offends against the provisions of this section shall for every such offence be liable to a penalty not exceeding ten pounds.

Days on which business not to be carried on.
Ibid. s. 28.

27. (1) No pawnbroker shall in any way exercise or carry on his trade or business as such pawnbroker on any Sunday, Christmas Day, or Good Friday.

Penalty.

(2) Any pawnbroker who offends against the provisions of this section shall for every such offence be liable to a penalty not exceeding ten pounds.

Persons offering article not giving good account of themselves, &c., may be apprehended and article seized.
Ibid. s. 31.

28. If any person who offers to any licensed pawnbroker, his servant, or agent, by way of pawn, pledge, exchange, or sale, any article—

(a) is not able or refuses to give to such pawnbroker, servant, or agent a satisfactory account of himself, or of the means by which he became possessed of such article; or

(b)

Pawnbrokers.

(b) wilfully gives any false information to such pawnbroker, servant, or agent as to whether such article is his property or not, or as to his name or place of abode, or as to the name or place of abode of the owner of the article ;

or if there is any other reason to suspect that such article is stolen or otherwise illegally or clandestinely obtained then any such pawnbroker, servant, or agent to whom such article is offered may seize and detain such person and such article so offered, and may deliver such person and such article so offered immediately into the custody of a constable; and such constable shall as soon as may be convey such person and article before some justice near to the place where such person is apprehended.

29. If any person not entitled nor having any colour of title by law to redeem any article in pledge or pawn attempts or endeavours to redeem the same, any pawnbroker with whom such article is in pledge, or the servant or agent of such pawnbroker, may seize and detain such person and deliver him immediately into the custody of a constable; and such constable shall as soon as may be convey such person before some justice near to the place where such person is apprehended.

30. (1) If such justice, upon examination and inquiry, has cause to suspect that the article so offered was stolen or illegally or clandestinely obtained, or that the person who so attempted or endeavoured to redeem any article had no pretence or colour of right to redeem the same, such justice may commit the person so apprehended as aforesaid into custody for such reasonable time as is necessary for obtaining proper information on the subject in order that he may be further examined.

(2) If, upon either of the said examinations, it appears to the satisfaction of such justice that the article so offered was stolen or illegally or clandestinely obtained, or that the person who so attempted or endeavoured to redeem any article had no pretence or colour of right so to do, the said justice shall commit the person so apprehended as aforesaid to any gaol, there to be dealt with according to law, where the nature of the offence authorises such commitment by any other law, and where the nature of the offence does not authorise such commitment by any other law, then such commitment shall be for any period not exceeding three months.

PART IV.

MISCELLANEOUS AND LEGAL PROCEDURE.

31. In any proceeding before any justice or justices against any person alleged to be a licensed pawnbroker and liable as such to any such proceeding the production of the alphabetical record hereinbefore mentioned shall be evidence both of the personal identity of the person therein named and that the said person is a licensed pawnbroker under this Act :

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Pawnbrokers.

Provided always that any other proof as to the fact of any person holding any such license may be admitted before any such justice or justices as they in their discretion see fit.

Pawnbroker to be deemed unlicensed until contrary shown.
13 Vic. No. 37, s. 7.

32. In all proceedings under this Act against any person carrying on the trade or business of a pawnbroker without a license, such person shall, for all purposes connected with such proceedings, be deemed to be unlicensed unless he produces the license authorising him to carry on such trade or business to the justice or justices hearing the case, or produces other proof which is satisfactory to them of his being a licensed pawnbroker within the meaning of this Act.

Unlicensed persons keeping up signs, &c., liable to a penalty.
Ibid., s. 9.

33. Whosoever, not holding a license, keeps up any sign, writing, painting, or other mark on or near to his house, shop, or premises which implies or gives reasonable cause to believe that such shop, house, or premises is or are the house, shop, or premises of a licensed pawnbroker shall for every such offence be liable to a penalty not exceeding ten pounds.

Lending license.
Ibid., s. 13.

34. (1) Whosoever having obtained a license lends it to any other person for the purpose of carrying on business as a pawnbroker under colour of such license shall for every such offence be liable to a penalty not exceeding twenty-five pounds.

Penalty.

(2) Where any person is convicted of an offence against the provisions of this section the justice or justices convicting such person may declare his license void, and such license shall thereupon become void.

(3) Thereafter no license shall be granted to any such person for two years from the date of such conviction.

Forged licenses.
Ibid., s. 14.

35. Whosoever forges, counterfeits, or alters, or causes to be forged, counterfeited, or altered, any license, or produces or shows any such forged, counterfeited, or altered license to any person entitled to demand the production thereof, shall be guilty of a misdemeanour, and shall be liable to such punishment by fine or imprisonment for any term not exceeding two years, with or without hard labour, or by both fine and imprisonment as aforesaid, as the Court thinks fit.

Forging, &c., duplicates.
Ibid., s. 20.

36. Whosoever—

(a) forges or alters, or causes to be forged or altered, or knowingly assists in forging or altering any such pawnbroker's duplicate, or utters, sells, disposes of, or puts off such duplicate so forged or altered, knowing the same to be so forged or altered, with intent to defraud any person whatsoever; or

(b) steals or unlawfully takes any such pawnbroker's duplicate with a fraudulent intent, to deprive the owner of the same, or of any article specified therein,

Stealing, &c., duplicates.

Penalty.

shall be guilty of a misdemeanour, and shall be liable to such punishment by fine or imprisonment for any term not exceeding two years, with or without hard labour, or by both fine and imprisonment as aforesaid, as the court thinks fit.

37.

Pawnbrokers.

37. (1) If in the course of any proceedings whatsoever before any justice, whether under this Act or otherwise, it appears to him to be material or proper to require the production before him of any book, note, voucher, entry, memorandum, license, or other paper required by this Act to be kept by, or which ought to be in the custody of, any pawnbroker, such justice may summon such pawnbroker to attend before him and produce the same, and such pawnbroker is hereby required to produce every such book, duplicate, note, voucher, entry, memorandum, license, or other paper before such justice accordingly.

Any justice may compel a pawnbroker to produce books, vouchers, &c.
13 Vic. No. 37, s. 26.

(2) Any pawnbroker who does not attend upon such summons or does not produce to such justice any book, duplicate, or entry so required, or produces the same in an altered state, and does not show a reasonable excuse in that behalf to such justice, shall for every such offence be liable to a penalty not exceeding ten pounds.

38. (1) If any article is stolen or unlawfully obtained from any person, or being lawfully obtained is unlawfully deposited, pawned, pledged, sold, or exchanged, any justice may, on complaint being made to him that such article is in possession of any licensed pawnbroker, issue a summons or warrant for the appearance of such licensed pawnbroker before any two justices, and for the production of the article.

Stolen articles.
Ibid. s. 29.

(2) Such two justices may order such article to be delivered up to the owner thereof, either without any payment or upon payment of such sum and at such time as the said justices think fit.

(3) No such order shall bar any such licensed pawnbroker from recovering possession of such article by suit or action at law from the person into whose possession it comes by virtue of the order of the said justices, if such action is commenced within three months next after such order is made.

(4) Any licensed pawnbroker who, being so ordered, refuses or neglects to deliver up the article, or who disposes of or makes away with the same after notice that it was stolen or unlawfully obtained as aforesaid, shall forfeit to the owner of such article the full value thereof, to be determined by the said justices.

39. (1) Any two justices may order any article unlawfully pawned, pledged, or exchanged which is brought before them, and the ownership of which is established to the satisfaction of such justices, to be delivered up to the owner by the person with whom they were so unlawfully pawned, pledged, or exchanged either without compensation or with such compensation to the party in question as the said justices deem fit.

Justices may order delivery of goods pawned on payment of compensation or otherwise.
Ibid. s. 30.

(2) This section shall be read as if it had been enacted before the passing of the Act nineteen Victoria number twenty-four, which Act is now consolidated in the Police Offences Act, 1901.

Pawnbrokers.

- Penalties.
18 Vic. No. 37, s. 32. **40.** Any pawnbroker who offends against the provisions of this Act where no penalty in that behalf is by this Act specifically provided shall be liable to a penalty not exceeding twenty pounds.
- Proceedings without written information.
Ibid. **41.** On the hearing of the matter of any complaint under this Act the justice or justices may proceed although no information was exhibited or taken before such justice or justices, and all such proceedings by summons without information shall be as valid and effectual as if an information in writing had been exhibited.
- Form of information and conviction.
Ibid. s. 33. **42.** (1) Any justice or justices before whom any information is laid in writing against any person, or before whom any person is convicted of an offence against the provisions of this Act may cause the information and the conviction to be drawn up according to the forms respectively given in the Third Schedule hereto, or any other forms to the same effect as the case requires.
(2) Nothing in this section contained shall invalidate any information or conviction laid or drawn in any other form which is specially suited to the case or is provided by law.
- Third Schedule. **43.** The informer or party prosecuting under this Act shall, over and above his share of any fine, forfeiture, or penalty imposed by this Act, be entitled to his costs and charges, to be ascertained and assessed by the justice or justices before whom the case is heard.
- Costs and charges of informer, &c.
Ibid. s. 35. **44.** No action at law shall lie against any justice, constable, or other peace officer for or on account of any matter or thing whatsoever done or commanded by him in the execution of his duty or office under this Act against any person offending or suspected to be offending against the provisions of this Act, unless there is direct proof of corruption or malice.
- No action against Justice or constable unless malice be proved.
Ibid. s. 37. **45.** No such action as mentioned in the next preceding section shall be commenced but within three months next after the cause of action or complaint arose.
- Limitation of action.
Ibid. **46.** If any person is sued for any matter or thing done by him in the execution of this Act he may plead the general issue and give the special matter in evidence.
- General issue.
Ibid.

SCHEDULES.

FIRST SCHEDULE.

Form of application for a pawnbroker's license.

To the Worshipful the Justices of the Peace acting in and for the State of New South Wales.

I A.B. (*state the trade or occupation*) now residing at _____ in the parish, city, town, or district of _____ do hereby give notice that it is my intention to apply to the Court of Petty Sessions, to be holden for this district on the _____ day of _____ next, for

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Pawnbrokers.

a license to carry on the trade or business of a pawnbroker in the house and appurtenances thereunto belonging, situated at _____ (here describe the house proposed to be licensed, specifying the situation of it, the person of whom rented, the present occupier, and whether now licensed) and which I intend to keep as a pawnbroker's shop.

Given under my hand at _____ this _____ day of _____ one thousand nine hundred and _____

Form of householders' certificate to be appended to the above.

We, the undersigned householders, residing within the city, town, or district of _____ do hereby certify that the above A.B. is a person of good fame and reputation, and fit and proper to be licensed to carry on the trade or business of a pawnbroker.

Witness our hands this _____ day of _____ one thousand nine hundred and _____
One _____
Two _____
Three _____
Four _____
Five _____

SECOND SCHEDULE.

Section 6 (2)

New South Wales police district)
of _____ to wit. }

WHEREAS A.B. of the police district of _____ has applied to us the justices assembled in petty sessions in and for such district holden at _____ this _____ day of _____

in the year of our Lord one thousand nine hundred and _____ for a license to carry on the business of a pawnbroker in the house and premises now occupied by him, situate in _____ street, in the _____ of _____ in the police district of _____

Now we the said justices so assembled as aforesaid having inquired into the character of the said A.B., and being satisfied that he is a fit person to have such license granted to him do hereby authorise and empower him to carry on the trade or business of a pawnbroker, in the said house and premises, and not elsewhere, and this license shall continue in force for the space of twelve months from the date hereof, and no longer.

Granted by the Court of Petty Sessions at _____ aforesaid
the _____ day of _____ one thousand
nine hundred and _____

(Signed) C.D. Chairman.

Registered
A.B.
Clerk of Petty Sessions.

THIRD

Newcastle Paving and Public Vehicles Regulation.

Section 42.

THIRD SCHEDULE.

Form of Information.

New South Wales }
to wit. }

BE it remembered that _____ of _____ day of _____ in the State of New South Wales cometh on the _____ in the year of our Lord _____ before me (or us) J.P. one (or more) of His Majesty's justices of the peace assigned to keep the peace in and for the State of New South Wales, and giveth me (or us) to understand and be informed that _____ hath been guilty of (*here describe the offence*).

Form of Conviction.

BE it remembered that on the _____ day of _____ in the year of our Lord _____ is brought before me (or us) J.P. one (or more) of His Majesty's justices assigned to keep the peace in and for the State of New South Wales, and is charged before me (or us) with having (*here describe the offence*) and it appearing to me (or us) that the said _____ is guilty of the said offence I (or we) do therefore adjudge the said (*insert the adjudication*).

Given under my (or our) hand (or hands) the day and year first above written.
