



S U P P L E M E N T
TO THE
NEW SOUTH WALES
GOVERNMENT GAZETTE,
OF WEDNESDAY, SEPTEMBER 5, 1838.
Published by Authority.

SATURDAY, SEPTEMBER 8, 1838.

ANNO SECUNDO.
VICTORIÆ REGINÆ.
No. 5.

By His Excellency Sir George Gipps, Knight, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, with the advice of the Legislative Council.

"An Act to provide for Trial by Jury at the Courts of Quarter Sessions, to be held at Melbourne and Port Macquarie."

WHEREAS by a certain Act of Ordinance of the Governor and Legislative Council, passed in the third year of the Reign of His late Majesty, King William the Fourth, intituled, "An Act to consolidate and amend 3 Wm. IV. "the Laws for the Transportation No. 3. "and punishment of offenders in New South Wales, and for defining the respective powers and authorities of General Quarter Sessions, and of Petty Sessions; and for determining the Places at which the same shall be holden; and for better regulating the Summary Jurisdiction of Justices of the Peace; and for repealing certain Laws and Ordinances relating thereto;" it was among other things enacted, That Courts of General Quarter Sessions for the Colony of New South Wales, should be held at Sydney, Parramatta, Campbelltown, Windsor, Maitland, and Bathurst, and at such other places within the said Colony, and at such times, as the Governor for the time

being should by any Proclamation duly issued for such purpose appoint, and at no other place whatsoever; and whereas His Excellency the Governor hath, in pursuance of the said recited Act, issued his Proclamation, whereby the Towns of Melbourne and Port Macquarie respectively are appointed as places at which Courts of General Quarter Sessions shall be held; and whereas it is necessary to provide for the trial of crimes, offences, and misdemeanors cognizable in the said Courts of Quarter Sessions respectively by Juries, in like manner as by an act of the Governor and Council passed in the second year of the reign of His late Majesty, King William the Fourth, intituled, "An Act for regulating the constitution of Juries, and for the Trial of Issues in certain Cases in the Supreme Court of New South Wales;" as also by another Act passed in the fourth year of the Reign of His said late Majesty, intituled, "An Act to continue for a limited time an Act of the Governor and Council of New South Wales, intituled, 'An Act for regulating the constitution of Juries, and for the Trial of Issues in certain Cases in the Supreme Court of New South Wales;'" and as the same are respectively continued by an Act passed in the first year of Her present Majesty, Queen Victoria, intituled, "An Act further to continue for a limited time an Act intituled, 'An Act for regulating the constitution of Juries, and for the Trial of Issues in certain Cases in the Supreme Court of New South Wales,'" is directed with respect to the trial of issues joined on criminal informations in the Supreme Court; Be it

therefore enacted, That all crimes, offences, Trial by Jury and misdemeanors which shall of Twelve Inhabitants be prosecuted in the said Courts of Quarter Sessions, to be held at Melbourne and Port Macquarie respectively, shall under the like provisions as are by the said last recited Acts made respecting the trials of issues arraigned before the Supreme Court, be tried by a Jury of Twelve Inhabitants of the said Colony, who shall be subject to such and the like rules, regulations, and provisions, as to their qualifications, exemptions, and disqualifications as are in said last recited Acts, made and provided with respect to Juries, for the trial of issues joined on informations exhibited in the said Supreme Court: Provided, however, that nothing herein contained shall restrain, or in any manner interfere with the power and authority by law vested in the said Courts of Quarter Sessions, to take cognizance in a summary way, of crimes, misdemeanors, and other offences not punishable with death, which have been, or shall be committed by transported felons, or other offenders, whose sentences have not expired or been remitted.

(Persons residing within certain distances of said Towns liable to serve on Juries.)

II. And be it further enacted, That every man who shall reside within the distance of fifty miles from the respective Towns of Melbourne and Port Macquarie, and who shall be qualified as in the said last recited Acts is directed with respect to Juries, for the trial of Issues joined in the Supreme Court, shall be liable to serve on Juries for the trial of crimes, offences, and misdemeanors in the said Courts of Quarter Sessions respectively.

(Preparation of Jury Lists.)

III. And, be it further enacted; That the Justices in their respective Petty Sessions which shall be, holden at the said Towns of Melbourne and Port Macquarie, shall within the first week of the month of October in the present year, and in the first week of the month of January, in every succeeding year, prepare or cause to be prepared, Lists of all men within their respective Townships or Districts liable to serve on the said juries, setting forth their christian and surnames, residences, titles, additions, and qualifications according to the form annexed to this Act; and the said Justices, or any two or more of them, shall respectively subscribe the said Lists, with a declaration that each such list contains, to the best of their knowledge and belief, the names of all persons liable to serve on Juries in, the District for which it is made, and qualified according to the provisions of the said recited Acts.

(Lists to be affixed to Court Houses and Churches.)

IV. And be it further enacted, That the Police Magistrates for the said Towns of Melbourne and Port Macquarie respectively, shall cause copies of the said Lists, which shall be made out as aforesaid, to be, within three days after the same shall be prepared, affixed to the principal doors of the Court-houses, and also

to the principal door of every public place of Religious Worship within the said Towns, with a Notice, signed with their names respectively, that the Justices of the Peace for the said Towns and Districts will hear, at the then next Petty Sessions directed to be held for that purpose, as hereinafter mentioned, all objections to the said Lists: Provided always, That the said Police Magistrates respectively shall keep the original Lists, or copies of the same, to which the Inhabitants of the said Towns or Districts respectively shall have access, at any reasonable time within fourteen days after the date of such Notice, without fee, in order that due notice may be given of names improperly omitted or inserted.

(Special Petty Sessions to be held for correcting the Lists.)

V. And be it further enacted, That Special Petty Sessions shall be held in the third week in the month of October, in this present year, and in the third week of the month of January, in every succeeding year, in each of the said Towns, at which the said Justices respectively shall attend, and produce the Lists so prepared and verified as aforesaid: And thereupon the said Justices, so assembled, shall examine such Lists *seriatim*, and shall strike out of such Lists the names of all persons not liable to serve, or disqualified from serving as Jurors; and also of such as are disabled by lunacy or inability of mind, deafness, blindness, or other permanent infirmity; and shall insert all names improperly omitted, and correct all errors and mistakes in such Lists, and finally settle the same: And the said Lists, when so settled, shall be final, and shall continue in force until the Jury List for the year next ensuing shall be made out and transmitted to the Sheriff, as hereinafter directed.

(Justices who have prepared Lists to vote at such Sessions.)

VI. And be it further enacted, That it shall and may be lawful for the said Justices who shall have prepared and submitted such Lists as aforesaid, to assist and vote at such Petty Sessions aforesaid, upon all questions which may be put respecting the character, qualification, disqualification, or exemption of every person named in any such List, or of any person whose name may be proposed to be added thereto: Provided always, That if any question should arise respecting the striking out or adding of a name, the same shall be decided by ballot.

(Certificate to be subjoined to Lists.)

VII. And be it further enacted, That after the said Lists shall have been finally settled and approved in Petty Sessions, in manner as aforesaid directed, a Certificate shall be subjoined to each such List, and subscribed by such Justices as may be there present, stating that the same has been carefully examined and corrected, according to the best of the knowledge and belief of the major part of them, and that all persons then named in such Lists are qualified to serve on Juries, according to the provisions of this Act.

(Magistrates in the District to be summoned to Petty Sessions.)

VIII. And be it further enacted, That the said Police Magistrates, for the Towns of Melbourne and Port Macquarie respectively, shall cause all the Magistrates of their respective Districts to be specially summoned to attend the said Special Petty Sessions; and the Justices there assembled shall sit, *de die in diem*, until the Jury Lists shall be settled, as hereinbefore directed; and if any Magistrate, after having been so summoned, shall neglect or fail to attend at any such Special Petty Sessions, or, if attending, shall refuse or fail to vote accordingly upon any question that shall be put, every such Magistrate so refusing or failing to vote, or so neglecting or failing to attend, unless he can show reasonable cause, shall forfeit and pay, for every such offence, the sum of Twenty Pounds, to be sued for in the name of the Attorney-General, and to be appropriated in the same manner as all fines and forfeitures levied under this Act; and the Clerks of the said Petty Sessions respectively shall note the names of all such Magistrates as shall attend the said Special Sessions, and as shall be absent from the same, from day to day, and at the close of the said Sessions shall transmit a certified list thereof to the Attorney-General.

(Lists to be transmitted to the Sheriff to be entered in Jurors' Book.)

IX. And be it further enacted, That as soon as the said Lists shall be settled as aforesaid, the same shall be immediately transmitted by the said Justices to the Sheriff; and the Sheriff, upon receiving such Lists, shall, within ten days after the receipt thereof, cause to be transcribed fairly, in a book to be kept in his office, or the office of his deputy, for such purpose, and to be styled "The Jurors' Book" for the said Districts respectively, the names of all such persons contained in such Lists respectively, with the additions of their respective residences, titles, and qualifications, in alphabetical order, beginning under each letter of the alphabet with the surname of each person; and such Jurors' Book shall thereupon be, and continue in force until the Jury Lists for the year ensuing shall be transcribed by the Sheriff into the Jurors' Book.

(Copies of Jurors' Book to be delivered to the Clerk of the Peace.)

X. And be it further enacted, That true and faithful copies of such respective Jurors' Books shall be made by the said Sheriff as soon as conveniently may be, and shall be delivered upon oath by the said Sheriff to the Clerk of the Peace for the said Courts of Quarter Sessions, in order that the same may be referred to in the said Courts at the trial of any criminal case.

(Chairman to issue precept for summoning Jurors.)

XI. And be it further enacted, That it shall be lawful for the Chairman of the General Quarter Sessions for the said Districts respectively, and he is hereby required, full fourteen

days before the time appointed for holding such Courts respectively, to issue a Precept, under his hand and seal, to the Sheriff of New South Wales, or his Deputy, requiring him to summon so many Jurors to attend the said Courts respectively, at such time and place as shall be therein mentioned and appointed; and such Precept shall not require more than twenty-four nor less than eighteen persons, duly qualified to serve as Jurors, to attend the said Courts respectively at any one Session thereof.

(Sheriff or his Deputy to summon Jurors.)

XII. And be it further enacted, That the said Sheriff, or his Deputy, shall, upon receiving any such Precept as aforesaid, summon so many persons, duly qualified to serve as Jurors, to attend the said Courts of General Quarter Sessions respectively, at such time and place as shall be specified in such Precept, and as hereinafter provided; that is to say, all persons duly qualified by law to serve as Jurors, who shall reside within the distance of fifty miles from the said Towns respectively, shall be summoned to attend the said Courts of General Quarter Sessions, to be holden at Melbourne and Port Macquarie respectively, according to the order in which their names shall be transcribed and placed in the Jurors' Book for the said Districts respectively; and every such summons shall be in writing, and signed by the said Sheriff, or his Deputy, to the following effect:—

Form of Summons.)

"Mr. A. B. (naming the Juror.)

"You are hereby required to appear as a Juror, at the Court of General Quarter Sessions, to be held at _____ on the _____ day of _____ next,

and there to attend, from day to day, until you shall be discharged by the said Court.

(Signed) "C. D., Sheriff or Deputy Sheriff." And the said summons shall be served personally upon, or left at the places of abode of the said Jurors respectively, full six days before their attendance shall be required as aforesaid.

(Penalty on Jurors for not attending.)

XIII. And be it further enacted, That if any person being duly summoned as a Juror to attend either of the said Courts of Quarter Sessions respectively, shall make default, and fail to attend the same, shall, on proof upon oath of being duly summoned, forfeit a sum not exceeding Ten Pounds, at the discretion of the Justices sitting in the said Courts, to be recovered, levied, and appropriated, in such and the like manner as other fines and forfeitures, imposed and incurred at Courts of General Quarter Sessions, are, or shall be, recovered, levied, and appropriated, unless some just cause for such defaulter's absence shall be made to appear, by oath or affidavit, to such Court as aforesaid.

(The like form to be observed as in the Supreme Court.)

XIV. And be it further enacted, That all such and the like forms, rules, regulations, and provisions, shall be adopted, observed, and followed, in drawing the names of Jurors for the

trial of Issues in the said Courts of Quarter Sessions respectively, and in praying and allowing a Tales to make up a full Jury; and such and the like rates of compensation shall be allowed and paid to Jurors attending the said Courts respectively, as are made and provided in like cases with respect to the trial of actions at Law in the Supreme Court, by the said recited Act, passed in the Second Year of the Reign of His late Majesty King William the Fourth.

(Fines or Penalties for neglect of duty; or influencing Jurors.)

XV. And be it further enacted, That any Sheriff or Deputy Sheriff, Justice of the Peace, or Clerk of the Peace, or any other Minister or Officer, who shall refuse, neglect, or fail, to do and perform all and every the acts, matters, and things, hereby required to be, by him or them respectively done and performed, and if any person shall be guilty of the offence of corrupting, influencing, or attempting to influence any such Juror, or any such Juror shall consent thereto, every such person so offending shall incur, and become liable to such and the like fines, forfeitures, and penalties, to be recovered, levied, enforced, and applied, in such and the like form and manner, as in and by the said recited Acts are provided and directed in like cases, with respect to the trial of actions at Law in the Supreme Court.

"GEORGE GIPPS."

Passed the Legislative Council
this fifteenth day of August,
One thousand eight hundred
and thirty-eight.

WM. MACPHERSON,
Clerk of Councils.

ANNO SECUNDO

VICTORIÆ REGINÆ.

No. 6.

By His Excellency Sir George Gipps, Knight, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, with the Advice of the Legislative Council.

"An Act to enable the Governor of New South Wales to order the issuing of Licenses to retail Fermented and Spirituous Liquors, for the present year, in certain cases."

WHEREAS by an Act of the Governor and Council of New South Wales, passed in the third year of the Reign of His late Majesty King William the Fourth, intituled 3 Wm. IV., "An Act for Licensing Public-houses, No. 8. "and for regulating the retail of Fermented and Spirituous Liquors, in New South Wales," it was among other things enacted, That any person desirous of obtaining a License for keeping a Public-house, or of obtaining the renewal of a License before granted, should, on or before the first Tuesday of the month of June in every year, deliver a notice in writing to the Clerk of the Bench for the district in which such house may be situated, of his or her intention to apply for such license, together with a certificate signed by three or more respectable housekeepers, and that such applicants as were approved of by

the Justices assembled at the General Annual Licensing Meeting, should, after entering into the required recognizances, obtain certificates for the authorising the granting of Licenses, such certificates, together with the sum to be paid for such License, to be lodged in the office of the Collector of Internal Revenue, or in such other office as might be appointed by the Governor for that purpose, within fourteen days after the date of such certificate, or otherwise to be null and void; And whereas several applicants for Licenses who have obtained certificates in due form of law, have not lodged the same, in the present year, in the proper office, within the said fourteen days, and it is expedient to vest in His Excellency the Governor, power and authority to order the issuing of such Licenses to so many of said applicants as have not wilfully and negligently delayed to lodge in the proper office, the said certificates, together with the sum of money required to be paid for Licenses:

Be it enacted, by His Excellency the Governor of New South Wales, with the issue of the advice and consent of the Legislative Council thereof, That it shall be lawful for His Excellency the Governor to direct Licenses for the certificates year from the first day of July, one of duty with- thousand eight hundred and thirty- in one month eight, to the thirtieth day of June, after their one thousand eight hundred and thirty- date. nine, to be issued to so many of such persons as have obtained certificates in due form of law, from the Justices assembled in their respective districts, at "The Annual General Licensing Meeting."

"GEORGE GIPPS."

Passed the Legislative Council
this seventeenth day of Au-
gust, One thousand eight
hundred and thirty-eight.

WM. MACPHERSON,
Clerk of Councils.

ANNO SECUNDO

VICTORIÆ REGINÆ.

No. 7.

By His Excellency Sir George Gipps, Knight, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, with the Advice of the Legislative Council.

"An Act to regulate the Temporal Affairs of the Religious Societies denominated Wesleyan Methodists, Independents, and Baptists."

WHEREAS, by an Act of the Governor of New South Wales, with the advice of the Legislative Council thereof, passed in the seventh year of the Reign of His late Majesty King William the Fourth, intituled, 7 Wm. IV., "An Act to promote the Building of No. 3. "Churches and Chapels, and to provide for the maintenance of Ministers of Religion, in New South Wales," it is amongst other things provided, That before any sum of money shall be issued from the Colonial Treasury towards the building of any Church or Chapel and Minister's dwelling, Trustees, not less than three nor more than five in number, shall be nominated by the persons contributing towards the building of the same, for the approval of the Governor and

Executive Council; and the real estate in the site of such Church, Chapel, or Minister's Dwelling, and of any Lands or Hereditaments thereunto belonging, shall be conveyed to the said Trustees, when approved, and to the heirs of the survivor of such Trustees, upon Trust, for the erection, maintenance, and repair of the said Church or Chapel, or Minister's Dwelling, and for the provision, out of the revenues belonging to, or arising from, the use of the said Church or Chapel, in such manner as shall be lawfully appointed, of all things necessary for the celebration of Diving Worship therein; And whereas, with regard to Chapels and Ministers' Dwellings of the Religious Societies denominated Wesleyan Methodists, Independents, and Baptists, it is expedient to make further provision for creating a succession of properly qualified Trustees, according to the usages and Regulations of the said Societies, respectively, and for defining the manner in which the trusts thereby created shall be fulfilled: Be it therefore enacted, by His Excellency the Governor, with the advice of the Legislative Council, That so soon as any Chapel, or Chapel and Minister's Dwelling, belonging to the aforesaid Societies, respectively, shall be erected, it shall and may be lawful for the Trustees, or the survivor of them, or the heirs of such survivor, who shall be appointed in pursuance of the Act hereinbefore recited, and he and they are hereby authorised and required, at the request, in writing, of any three or more of the Subscribers to the undertaking, or of any three or more of the Members of the Society or denomination for whom the said Chapel was erected, to convey the said trust, premises, with any lands or hereditaments thereunto belonging, to any number of Trustees, to be nominated and elected according to the usages of such Society, as aforesaid, not being less than three, and to their heirs, to hold the real estate of and in the same hereditaments to the use of such Society, upon the trusts stated and set forth in a model deed of such Society, to be enrolled in the Supreme Court of New South Wales within two years after the passing of this Act, after the same shall have been proved to the satisfaction of His Excellency the Governor and the Executive Council, to be a Deed recognised and established by the usages of the Religious Society to which it professes to belong: Provided always, that if the original Trustees, or the survivor of them, or the heirs of such survivor shall leave the Colony of New South Wales, or shall become either naturally or legally incapacitated to act, or shall neglect or refuse to make such conveyance for six calendar months after such requisition as aforesaid, then, in any of such cases, the fee simple of the trust estate shall pass from the said original Trustees or the survivor of them, or the heirs of such survivor, to the Registrar for the time-being, of the Supreme Court of New South Wales, who is hereby authorised and required forthwith to make a proper conveyance of the said trust estate to the new Trustees, in manner above set forth.

(Registrar of Supreme Court to enrol model Deed of Conveyance and Trust, whenever presented.)

II. And be it enacted, That the Registrar of the Supreme Court of New South Wales shall be hereby authorised and required to receive and enrol in the said Court, a model Deed of convey-

ance and trust for each Society, to which this Act refers, after the same shall have been proved to the satisfaction of the Governor and the Executive Council, as aforesaid, whensoever the same shall be presented by the Chairman or Senior Minister of the New South Wales District, on behalf of the Wesleyan Methodists, by the Minister or a majority of the Members of the Independent Church, Pitt-street, Sydney, on behalf of the Independents, and by the Minister or a majority of Members of the Baptist Church, Bathurst-street, Sydney, on behalf of the Baptists: Provided always, that it shall be lawful for any one or more of the original Trustees to act as new Trustees, when duly nominated and elected for that purpose.

"GEORGE GIPPS."

Passed the Legislative Council,
this seventeenth day of August,
One thousand eight hundred
and thirty-eight.

WM. MACPHERSON,
Clerk of Councils.

ANNO SECUNDO

VICTORIÆ REGINÆ.

By His Excellency Sir George Gipps, Knight, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, with the Advice of the Legislative Council.

"An Act to amend an Act, intituled 'An Act to enable the Proprietors of a certain Company carried on in the Town of Sydney, in the Colony of New South Wales, under the Name, Style, and Firm of The Union Assurance Company of Sydney, to sue and be sued, in the name of the Chairman of the said Company for the time-being, and for other purposes therein mentioned.'"

WHEREAS, by an Act of the Governor of New South Wales, with the advice of the Legislative Council, passed in the seventh year of His late Majesty, intituled "An Act to enable the Proprietors of a certain Company, carried on in the Town of Sydney, in the Colony of New South Wales, under the Name, Style, and Firm of The Union Assurance Company of Sydney, to sue and be sued in the name of the Chairman of the said Company for the time-being, and for other purposes therein mentioned," it was recited, That several persons had formed themselves into a Company or Society, established at Sydney, under the Name, Style, or Firm of The Union Assurance Company of Sydney, for certain purposes therein mentioned; and that it would be convenient and just that persons having demands against the said Company should be entitled to sue some member thereof in place and stead of the whole; And it was among other things enacted, That all actions, suits, or proceedings to be commenced, instituted, or prosecuted, at Law or in Equity, against the said Company, should be commenced, instituted, or prosecuted against the Chairman for the time-being of the said Company, as the nominal defendant for and on behalf of the said Company; And it was also enacted, That execution upon any decree or judgment in any action, suit, petition, or other proceed-

ings obtained against the Chairman for the time-being, might be issued against and levied upon the goods and chattels, lands and tenements of any member or members, whomsoever of the said Company for the time-being, in like manner, and not otherwise than as if such decree or judgment had been obtained against such member or members personally; and whereas it is deemed expedient and necessary that the names, residences, and descriptions of all the members of the said Company should be recorded for public information; Be it enacted, by His Excellency the Governor, with the advice of the Legislative Council, That the Secretary or other principal Officer for the time-being of such Company shall, within fifteen days from the first day of January in each year, cause a true list of the names of all the then existing members of such Company, with their respective places of abode, and description, to be recorded on oath in the Office of the Registrar of the Supreme Court; and that the same shall be open for inspection at all reasonable times by any person requiring the same, on payment of a fee of one shilling; and if any such Secretary or princi-

pal officer of the said Company, shall fail to cause such list to be recorded in manner as aforesaid, he shall be liable to a penalty of one hundred pounds, to be recovered by action of debt in the said Supreme Court, by any person or persons suing for the same.

(Persons whose names are so recorded to be considered members of the Company until new list made out, or notice given in the Government Gazette.)

II. And be it enacted, That every person whose name shall be so recorded, shall be considered a member of the said Company, and be liable to be sued as such until a new list of the members' names shall be recorded as aforesaid, or until he shall have given notice of his retirement, in the New South Wales Government Gazette.

"GEORGE GIPPS."

*Passed the Legislative Council, this
seventeenth day of August, One
thousand eight hundred and
thirty-eight.*

WM. MACPHERSON,
Clerk of Council.