



# S U P P L E M E N T

TO THE

NEW SOUTH WALES

## GOVERNMENT GAZETTE,

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ANNO QUARTO  
VICTORIÆ REGINÆ.

No. 23.

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 ensure the fulfilment of engagements, and to provide for the adjustment of disputes between Masters and Servants in New South Wales and its Dependencies."*

**W**HEREAS an Act was passed by the Governor and Legislative Council of New South Wales, in the Ninth year of the Reign of His late Majesty King George the Fourth, intitled "*An*

*9 Geo. IV. Act for the better Regulation of Servants, Labourers, and Work People;*"

and whereas, from the increased Population, and extended occupation of the Lands of the said Colony and its Dependencies, it has become expedient to repeal the said Act, and to substitute

Repealed. other provisions in lieu thereof: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, that the said recited Act shall be, and the same is hereby repealed, except as to any matter or thing already done, or commenced to be done, under and by virtue of the same.

*(Penalty on Artificers, Manufacturers, Journey-men, Workmen, Shepherds, Labourers, or other Servants refusing to serve the term of their engagements, or returning or leaving work uncompleted, or absenting themselves from, or refusing to work.*

It is And be it enacted, That if any Artificer, Manufacturer, Journeyman, Workman, Shepherd, Labourer, or other male Servant, who shall

have been engaged or hired, either as a Manual or House Servant on any Estate, Farm, Stock-Station, Lands, or Premises whatsoever, in the Colony of New South Wales, whether within the located parts thereof, or otherwise, or in the Dependencies thereunto belonging, by any Master or Mistress, Employer or Employers, or by any Agent or Agents, for and on behalf of any such Master or Mistress, Employer or Employers, for any time or period whatsoever, or who shall have been engaged or hired in the said Colony of New South Wales, or the Dependencies thereunto belonging, by any such Master or Mistress, Employer or Employers, or by his, her, or their Agent or Agents, for the execution, performance, and completion of any work, Job, or business, taken in task, by the piece, or in gross, and where the amount to be paid shall not exceed the sum of Thirty Pounds, shall, without reasonable or sufficient excuse, during any part of the time for which he shall have been so hired and engaged, or at any time before the work, job, or business which he had been so hired or engaged to execute, perform, and complete, shall be fully and perfectly executed, performed, and completed, according to the agreement entered into in that respect, absent himself from the service of the person or persons, to and for whom he shall be so engaged or hired as aforesaid, during the customary time of serving or working at the trade, occupation or employment, for which he shall have been so hired or engaged, or shall refuse or neglect to work in a diligent manner at the trade, calling, or employment for which he shall have been so engaged or hired, or shall return his work, or desert or quit the same before it shall have been completely finished, without the consent of the person or persons by, or for whom he shall have been so engaged or hired, it shall be lawful for any Justice of the Peace, upon complaint on oath of one or more

credible person or persons, to cause any person who shall have been complained of as so offending, to be brought before any two or more Justices of the Peace, of whom such Justice may be one, and the said Justices shall hear and determine the matter of such complaint, and if no such reasonable or sufficient cause be shewn to the contrary, such Justices shall adjudge every person convicted of offending as aforesaid, to forfeit all, or such part of the wages or pay, which at the time of such conviction shall be due or owing to him from and by the party complaining, as to such Justices shall appear just and reasonable; and also a sum not exceeding twice the amount of any damage which the said party shall have incurred, according to the estimation of such Justices, through the neglect, absence, or failure of the person so complained of as aforesaid, and in default of payment thereof, to commit such person to the Common Goal, there to remain without bail or mainprize for any time not exceeding Three Calendar Months, unless the same be sooner paid: Provided always, that whenever any such forfeiture shall be imposed, the same shall be in the first instance applied to indemnify such Master or Mistress, Employer or Employers, for any loss or damage which, according to the estimation of such Justices, he, she, or they shall have incurred as aforesaid; and the overplus, if any, shall be paid to Her Majesty, Her Heirs and Successors, and applied to the Public Uses of the said Colony, and in support of the Government thereof.

*(In cases of difference between Master and Servant, where the sum demanded shall not exceed £30, any two or more Justices may summon the parties concerned, and direct the payment of such sum as shall appear to them to be reasonable and just, and in case of non-payment thereof may direct the same to be recovered by distress and sale of the Master's Goods and Effects; or for want of sufficient distress, may commit the Master to Goal.)*

III. And whereas differences often arise between Masters or Employers, and Person employed or engaged by or for them, to perform certain services in agricultural or other work or labour, as to the wages or remuneration to be paid or allowed to such party or parties for the performance of such work or labour, and it is expedient that such differences should be settled with as little delay and expense as possible: Be it enacted, That it shall and may be lawful for any Justice of the Peace within the District, or nearest to the District where such work or labour was so performed, (and where the wages or sum demanded as the remuneration for such work or labour, shall not exceed the sum of Thirty Pounds) on application on oath, of the party or parties interested therein, to cause a summons or summonses to be issued, requiring the attendance of the other or others of the parties so concerned, before any two or more Justices of the Peace of the said District, of whom the said Justice may be one, at the next convenient day for holding the Petty Sessions therein, and in case the said parties shall attend, pursuant to such summons (or in case of the absence of any such party, upon proof on oath of the due service of the said summons upon the party so neglecting or refusing to attend in obedience thereto) it shall be lawful for the said Justices, or any other two or more Justices of the Peace of the said District, to hear and de-

termine the matter of such difference or complaint between the said parties, and to order and direct such sum or sums of money, as to them shall appear just and proper, to be paid by such Master or Employer to the party or parties engaged in such work and labour as aforesaid, within fourteen days after such order shall be so made; and in case such sum or sums of money, so ordered to be paid as aforesaid, shall not be paid within the said period so directed for the payment thereof, then it shall and may be lawful for such Justices, or any other two Justices of the Peace of the said District, by Warrant under their Hands and Seals, to direct such sum or sums of money, together with the costs and expenses arising from such proceedings, to be levied by distress and sale of the Goods and Effects of such Master or Employer, and paid over to the party or parties entitled to receive the same; and in default of sufficient distress, to commit the Master or Employer to the Common Goal for any time not exceeding Three Calendar Months, unless the Distress be sooner satisfied.

*(Persons hiring themselves and obtaining money in advance of wages, and afterwards absconding or refusing to perform the work they had engaged to perform, or to proceed to the places where they were engaged to be employed, may be committed to Goal for any time not exceeding Three Calendar Months, or to the House of Correction, there to be kept to hard labour for Three Calendar Months.)*

IV. And whereas many persons fraudulently hire or engage themselves to persons in possession of Lands, Stations, or Stock in distant parts of the Colony, and obtain from the person or persons to or for whom they have so hired or engaged themselves, or from their Agents, different sums of money, as an advance of the wages or salary at which they have so engaged or hired themselves, under the pretence that they require such money, either to enable them to pay the expense of their travelling to the place or Station at which they have so hired or engaged to work, or serve their Employers, or for some other purpose, and after having so obtained such sums of money, have, under various pretexts, either neglected or refused to go to the place or places at which they were so hired or engaged to serve such Employers, or have obtained advances of wages or money beyond the sums actually earned, and refuse or neglect to perform or complete the work or labour for which they have agreed: Be it enacted, That if any Artificer, Manufacturer, Journeyman, Workman, Shepherd, Groom, Labourer, or other male Servant, who shall have entered into any Agreement, either written or parol, with any Master or Mistress, Employer or Employers, or with the Agent or Agents of any such Master or Mistress, Employer or Employers, to serve such Master or Mistress, Employer or Employers, for any time or period whatsoever, at, and for any wages or salary whatsoever, or who shall have hired or engaged himself to any such Master or Mistress, Employer or Employers, to do, perform, finish, or complete any work, job, or employment whatsoever, taken in task, by the piece, or in gross, shall, under pretence of requiring the same to enable him to pay the expense of his journey to the place or places at which and where he has so engaged to serve such Master or Mistress, Employer or Employers,

or under any other pretence whatsoever, obtain or procure from such Master or Mistress, Employer or Employers, or his, her, or their Agent or Agents, any sum or sums of money, as an advance on account of the wages at which they have so engaged to serve, or in part of the amount for which they have agreed to perform and finish any such work, job, or employment as aforesaid, shall, after obtaining the same, neglect or refuse, under any pretext whatsoever, forthwith to go to the place or places at which they have been so hired or employed to work or to serve such Master or Mistress, Employer or Employers, during the time for which they have agreed, or shall refuse to perform or complete any work, job, or employment whatsoever, which they had engaged to perform or complete as aforesaid, it shall be lawful for any two or more Justices of the Peace to cause every person who shall be complained of as so offending to be brought before them, or before any other Justices of the Peace, and the said Justices shall hear and determine the matter of such complaint upon oath, and if no reasonable and sufficient cause be shown to the contrary, such Justices shall commit every person so offending as aforesaid, to the Common Gaol or to some House of Correction for the District, there to remain for any term not exceeding three calendar months, and at the discretion of such Justice or Justices, to be kept to hard labour for the whole or any part of the said term.

*(How Agreements entered into by Servants may be proved.)*

V. And be it enacted, That in prosecuting any offence under this Act, it shall not be necessary, for the purpose of proving the execution of any Indenture or Agreement, to call any subscribing or attesting witness or witnesses thereto, or to account for the absence, or to prove the handwriting of any such subscribing or attesting witness or witnesses; but that every such Indenture or Agreement may be proved, in like manner as if there were no subscribing or attesting witness thereto.

*(Persons employing Servants previously retained, to be fined not more than £20 nor less than £5.)*

VI. And be it enacted, That if any person shall knowingly receive, employ, or entertain any such Artificer, Manufacturer, Journeyman, Workman, Shepherd, Labourer, or other Servant, whether male or female, already employed, engaged, or retained by any other person or persons, during the time for which he or she shall be so employed or retained, without leave of such other person or persons as last aforesaid, every such offender, being thereof lawfully convicted before any two or more Justices of the Peace, shall, for every such Offence, forfeit and pay any sum not less than five pounds nor more than twenty pounds.

*(Servants spoiling, destroying or losing any property entrusted to them, to pay double the value of such property, and be committed to Gaol for any time not exceeding three months.)*

VII. And be it enacted, That if any such Artificer, Manufacturer, Journeyman, Workman, Shepherd, Labourer, or other Servant, whether male or female, shall wilfully or negligently spoil or destroy any goods, wares, work, or materials for work, committed to his or her care or charge, or wherewith he or she shall be entrusted by his or her Master or Mistress, or Employer, or shall negligently injure or lose any property entrusted

to his or her care, every such Offender, and his or her Accomplice or Accomplices, being thereof lawfully convicted before any two or more Justices of the Peace, shall forfeit and pay double the value of such goods, wares, work, or materials for work, so spoiled or destroyed, or other property lost or injured as aforesaid, to the owner or owners thereof respectively; and, if a male, shall be committed to Gaol by such Justices for any period not exceeding three months.

*(Justices to hear and determine disputes between Masters and Servants in cases not hereinbefore specially provided for.)*

VIII. And be it enacted, That it shall be lawful for any two or more Justices of the Peace in any case not hereinbefore specially provided for, to hear and determine any complaint, difference, or dispute which shall happen and arise between any such Artificer, Manufacturer, Journeyman, Workman, Shepherd, Labourer, or other Servant, whether male or female, and his or her Master, Mistress, or Employer, and to make such order and award against either party in every such case, as to such Justices shall seem meet; and every such order or award to enforce by cancelling the indenture or agreement between the parties, or by imposing on either party any fine or penalty proportionable to the offence, but not exceeding the sum of thirty pounds, and, in default of payment, by execution against the goods, effects, or other property of the party or parties, against whom such order or award shall be made, or in default of sufficient distress, by Arrest and Imprisonment of such party, if a male, for any time not exceeding three calendar months.

*(Expenses of prosecutions to be paid by the parties thereto)*

IX. And whereas, it is just and expedient that the expenses attendant on the adjudication of cases under this Act, should be borne and paid by the parties interested therein, and not by the public: Be it therefore enacted, That it shall be lawful for the Justices present at the adjudication of any such case as aforesaid, to assess the expenses attendant on the same, and the amount so assessed shall be paid by the party complaining, if he shall not prosecute the case, or by the party against whom any such order or award as aforesaid shall be made: Provided, however, that if the said party so failing to prosecute, or against whom any such order or award shall be made, be unable to pay the amount so assessed, the same shall be paid by the other party to such case; and in default of any such payment, the amount so assessed shall be levied by warrant, under the hand and seal of any one or more Justice or Justices of the Peace, by distress and sale of so much of the goods and effects of the party so failing to pay, as may be necessary to satisfy the same: Provided, further, that in case sufficient distress shall not be found, it shall be lawful for the said Justice or Justices or for any other Justice of the Peace to commit the party so unable to pay, if a male, to any of Her Majesty's Gaols, for any term not exceeding three calendar months.

*(Women not to be committed to Gaol.)*

X. Provided always and be it enacted, That nothing in this Act contained, shall be deemed or taken to authorise the committal of any Female Servant to any Gaol or House of Correction, for any offence committed under the same.

*(Appropriation of Fines.)*

XI. And be it enacted, That all fines or pecuniary penalties not hereinbefore specially appropriated, shall be paid to Her Majesty, Her Heirs and Successors, and applied to the public uses of the said Colony and in support of the Government thereof.

*(Warrants or Orders to be drawn in the form set forth in the Schedule annexed)*

XII. And be it enacted, That the Justices before whom any person or persons shall be convicted of any offence against this Act, shall cause all such convictions, and the Warrants or Orders for Commitments thereupon, to be respectively drawn up in the form or to the effect set forth in the Schedules to this Act annexed.

*(Persons convicted may appeal to the next Court of Quarter Sessions.)*

XIII. And be it enacted, That if any person convicted of any offence or offences punishable under this Act, before any two or more Justices of the Peace, shall think himself or herself aggrieved by the Judgment of such Justices, such person shall have liberty to appeal from any such Conviction to the next Court of Quarter Sessions of the Peace which shall be held for the District or place wherein, or nearest to which, such offence shall have been committed; and that the execution of every judgment so appealed from, shall be suspended, in case the person so convicted shall, with two sufficient sureties, immediately, before such Justice, enter into a Bond to Her Majesty, Her Heirs and Successors, in the penal sum of double the amount of the penalty so incurred or forfeited, or in case such conviction should contain a judgment of imprisonment, such Appellant shall immediately enter into a recognizance before such Justices, himself or herself in the penalty of twenty pounds, with two sufficient sureties in the penalty of ten pounds each; which bond or recognizance respectively, such Justices are hereby authorised and required to take; and such bond or recognizance shall be conditioned to prosecute such appeal with effect, and to be forthcoming to abide the judgment and determination of the said Court of Quarter Sessions, and to pay such costs as the said Court shall award on such occasion; and the Justices in the said Court of Quarter Sessions are hereby authorised and required to hear and determine the matter of the said Appeal, and to award such costs as to them shall appear just and reasonable, to be paid by either party, and such decision shall be final between the said parties to all intents and purposes; and if, upon hearing the said Appeal, the judgment of the Justices before whom the Appellant shall have been convicted shall be affirmed, such Appellant shall forthwith pay the forfeiture and penalty, if any, mentioned in such Conviction, and the Costs awarded to be paid by such Appellant; and in default of payment thereof, or in case such Conviction shall contain a judgment of imprisonment, such Appellant shall immediately be committed by the said Court to the Common Gaol, or House of Correction, according to such Conviction, and for the space of time therein mentioned, without Bail or Main-prize, and also until the payment of such Costs as shall be awarded by the said Court to be paid by such Appellant.

*(No certiorari.)*

XIV. And be it enacted, That no conviction

under this Act, nor any adjudication made on appeal therefrom, shall be quashed for want of form, or removed by writ of certiorari, or otherwise, into the Supreme Court of the said Colony; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and that there be a good and valid conviction to sustain the same.

*(Limitation of Convictions.)*

XV. And be it enacted, That no conviction shall be had under this Act, unless the complaint be made within twelve months from the time the offence shall have been committed.

"GEORGE GIPPS,"

Passed the Legislative Council }  
the Twentieth day of Oc- } Governor.  
tober, One thousand eight }  
hundred and forty. }

WM. MACPHERSON, Clerk of Councils.

SCHEDULES TO WHICH THIS ACT REFERS.

*Form of Conviction and Commitment.*

To WIT. } Be it remembered, that on the \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_ year of the Reign of Her Majesty Queen Victoria, and in the year of Our Lord One thousand eight hundred and \_\_\_\_\_, A. B. was convicted before us (*naming the Justices*) two (*or more*) of Her Majesty's Justices of the Peace, duly authorised in that behalf, of having, (*state the Offence*) contrary to an Act of the Governor and Council, passed in the Fourth year of the Reign of Her Majesty Queen Victoria, intituled, "*An Act to ensure the fulfilment of Engagements, and to provide for the adjustment of disputes between Masters and Servants in New South Wales and its Dependencies*," and we, the said Justices, do hereby order and adjudge the said A. B. for the said Offence to be committed to, and confined in, the (*place where to be confined*.) for the space of \_\_\_\_\_ or to be committed to the House of Correction at \_\_\_\_\_ there to be kept to hard labour for the space of \_\_\_\_\_ Given under our hands, the day and year above written.

*Form of Conviction in a Pecuniary Penalty.*

To WIT. } Be it remembered, that on the \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_ year of the Reign of Her Majesty Queen Victoria, and in the year of Our Lord, One thousand eight hundred and \_\_\_\_\_, A. B. was convicted before us (*naming the Justices*) two (*or more*) of Her Majesty's Justices of the Peace, duly authorised in that behalf, of having (*state the Offence*) contrary to an Act of the Governor and Council, passed in the Fourth year of the Reign of Her Majesty Queen Victoria, intituled, "*An Act to ensure the fulfilment of Engagements, and to provide for the adjustment of disputes between Masters and Servants in New South Wales and its Dependencies*," and we, the said Justices, do hereby adjudge and determine the said A. B. for the said offence to forfeit and pay the sum of \_\_\_\_\_ to be distributed as the said Act directs.

Given under our hands, the day and year above written.

\_\_\_\_\_, J. P.  
\_\_\_\_\_, J. P.

ANNO QUARTO  
VICTORIÆ REGINÆ.

No. 24.

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 revive and Continue for a limited time, an Act passed in the Second year of the Reign of Her present Majesty, for the Relief of Debtors in execution for Debts which they are unable to pay, and to make certain amendments therein.*

WHEREAS, an Act of the Governor and Legislative Council of New South Wales, Preamble. was passed in the Second year of the Reign of Her present Majesty Queen Victoria, intituled, "An Act to revive and continue for a limited time, an Act passed in the Second year of the Reign of His late Majesty King William 2 Wm. IV., "the Relief of Debtors, in execution and continued "for Debts which they are unable to until 1st Octo- "pay," which said Act was to be tober, 1842. and continue in force until the First day of October, One thousand eight hundred and forty; and it is expedient that the same should be altered and amended, and, except in as far as so altered and amended, should be revived and continued for a limited time: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, that the said recited Act shall, by virtue of this Act, be adjudged, deemed, and taken to have been in full force and effect, from and after the said First day of October, until the passing of the present Act, and from thenceforth, as hereby amended, shall be and continue in the like force until the First day of October, One thousand eight and forty-two.

*(Form of Schedule.)*

II. Provided always, and be it enacted, That after the passing of this Act, the Schedule of every Prisoner need not to be deposed to by any affidavit, but the Insolvent shall be examined on oath, as to the contents thereof *viva voce* at the hearing; and such Schedule shall be either in the form prescribed by the said recited Act, or in such other form as the Judges shall from time to time prescribe; and it shall be lawful for the Judge presiding at such hearing, or at any adjournment thereof, to allow, or direct, any amendment or amendments to be made of and in any such Schedule as the justice of the case may require, or to remand the Insolvent for the purpose of making any such amendment.

*(Service on Creditor may occasionally be dispensed with.)*

III. And be it enacted, That it shall be lawful for the Judge before whom the Rule for bringing up the Insolvent shall be returnable, to dispense with service of the Schedule, and of such Rule upon the detaining Creditor, in any case, (if such shall appear to be proper) on such terms as to such Judge shall seem meet; and also, that in

No. 72. November 7, 1840.

any case such amount in value shall or may be allowed by such Judge to be retained by the Insolvent of his or her apparel, bedding, and necessaries, less than Twenty pounds, as to such Judge shall under the circumstances seem proper.

*(When and in what manner the Insolvent's property to vest in Creditor.)*

IV. And be it enacted, That from the time of the filing of the Schedule of any Prisoner under the said recited Act (so by this Act revived and continued as aforesaid) all and singular the estate and effects, real and personal, whether in possession, reversion, remainder, or expectancy; and also all the rights, monies, debts, and credits, of such Prisoner shall (subject to the control of the Court, and to the award or determination of the presiding Judge, at any such hearing as aforesaid) be, and continue to be, vested in the detaining Creditor, or Creditors, or (if such Court or Judge shall at any time so order) in such Assignee, or Assignees, as shall be named by such Court, or Judge, for the benefit of such Creditor, or Creditors, and after the first hearing of the case shall or lawfully may at any time, and from time to time, be sold or otherwise disposed of, as the Court or such Judge shall direct, or (in the absence of any such direction) as such Creditor, or Assignee, may think best; and whenever any purchaser shall (for better security) so require, it shall be lawful for any Judge to direct the Insolvent at any time to concur in any such sale, or disposition, and the non-compliance with any such direction shall or may be dealt with and punished as for a contempt of the Court.

*(Punishment for fraud or other misconduct.)*

V. And be it enacted, That in every case where, under the seventh section of the said recited Act, the Insolvent is punishable for or in respect of any act done or committed after the commencement of his or her imprisonment in execution, such Insolvent shall be equally liable to punishment, although such act was done or committed prior to such imprisonment; and in every case where it shall be made to appear that the Insolvent hath culpably squandered his means, or put his Creditor to any unjustifiable and unnecessary expense, it shall be lawful for the Judge to order and direct the said Insolvent to be committed to the common Gaol for such period or periods, not exceeding one year in the whole, as to such Judge shall seem proper.

*(Provision as to subsequent arrests in execution.)*

VI. And be it enacted, that in all cases where a Debtor discharged under this or the said recited Act, shall be again taken in execution in respect of any sum or demand due at the time of such discharge, it shall be unnecessary for him to file any fresh Schedule, except in respect of property (if any) subsequently acquired by him; but a rule or order may be obtained under the said Act, upon a Certificate (to be recited therein) of such former discharge, which need be served upon the detaining Creditor's Attorney only, and may be made returnable at any time two days after service: Provided that, in all other respects, the proceedings under such rule or order shall be

the same as, if this present Section had no existence.

"GEORGE GIPPS,"

*Passed the Legislative Council, this twentieth day of October One thousand eight hundred and forty.* Governor.

WM. MACPHERSON, Clerk of Councils.

ANNO QUARTO  
VICTORIÆ REGINÆ.

No. 25.

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 for better regulating Courts of Requests in New South Wales."*

**W**HEREAS, an Act or Ordinance of the Governor and Legislative Council of the Colony of New South

3 Wm. IV., Wales, was passed in the Third Year of the Reign of His late Majesty King William the Fourth, intituled, "An Act for better regulating Courts of Requests in New South Wales," and whereas by an Act of Parliament passed in the Second and Third year of the Reign of Her present Majesty,

2 & 3 Vic., intituled, "An Act to amend an Act of the Ninth year of King George the Fourth, to provide for the Administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes relating thereto; and to continue the same until the Thirty-first day of December, One thousand eight hundred and forty, and thenceforward to the end of the then next Session of Parliament;" it is among other things enacted, that it shall and may be lawful for the Local Legislatures of the said respective Colonies, by any Laws or Ordinances to be by them, or either of them from time to time for that purpose made, in the manner prescribed by the said Act of Parliament, passed in the Ninth year of King George IV., of King George the Fourth, and

ch. 82. subject to the conditions and Provisions therein contained, to make such provision as to them may seem meet for the better administration of Justice and for defining the Constitution of the Courts of Law and Equity, and of Juries, within the said Colonies respectively; or within any present or future Dependency thereof respectively: And whereas it is expedient that Courts of Requests should be holden at, and in, other places in addition to the Towns specified in said first recited Act, and that such places should be appointed from time to time as the increase in population may require, by the Governor of New

Governor, with the advice of the Executive Council thereof: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, That the said Governor shall and may with the advice of the said Executive Council, determine and appoint from time to time, by Pro-

clamation to be published in the New South Wales Government Gazette, such and so many Towns or places in the said Colony at which Courts of Requests shall be holden, in addition to the Towns specified in the said first recited Act, as to the said Governor shall seem proper.

*(And appoint a Commissioner or Commissioners for such Courts.)*

II. And whereas it is expedient to remove doubts which have been entertained as to the power of the said Governor to nominate and appoint a Commissioner or Commissioners before whom the Courts of Requests in the said Colony may respectively be holden: Be it therefore enacted, That it shall and may be lawful for the Governor for the time being of the said Colony, to nominate and appoint such and so many fit and proper person, or persons, to act as Commissioner or Commissioners of the several Courts of Requests in the said Colony, as to him may appear necessary, subject to the approval of Her Majesty, Her Heirs and Successors.

"GEORGE GIPPS,"

*Passed the Legislative Council, this twentieth day of October, One thousand eight hundred and forty.* Governor.

WM. MACPHERSON, Clerk of Councils.

ANNO QUARTO  
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 enable the Proprietors of a certain Joint Stock Company carried on in the Town of Melbourne, in the Colony of New South Wales, under the name, style, and firm of "The Melbourne Fire and Marine Assurance Company," to sue and be sued in the name of the Chairman of the said Joint Stock Company for the time being, and for other purposes therein mentioned.*

**W**HEREAS several Persons have formed themselves into a Joint Stock Company or Society, at Melbourne, in the district of Port Phillip, in the Colony of New South Wales, under the Style and Firm of "The Melbourne Fire and Marine Assurance Company," for the purpose of effecting Insurance against Fire, Maritime Assurances, and all other risks upon Ships, Vessels, and Goods on board, in harbour and at sea; and also to effect Insurances on Houses, Warehouses, and other Buildings, Goods, Wares, Merchandise, Stock, Effects, and all other kinds of Property, within the Colonies of New South Wales, Van Diemen's Land, and all other the Australian Colonies, from damage or destruction by Fire; and also to discount Bills of Exchange and Promissory Notes payable within the Colony of New South Wales, and to make Advances and to grant Loans on bond or upon any securities other than mortgages of real estate, except as collateral security for money due to the said Joint Stock Company; And whereas the said Company is now being carried on at Melbourne, and is under the care, management, and super-

intendence of Twelve Directors, and a Secretary, one of such Directors being Chairman, and another Deputy Chairman of the said Company; and whereas difficulties may arise in recovering Debts due to the said Company, and in maintaining Actions, or in proceeding for Damages done to their Property, and in prosecuting persons who may Counterfeit, Forge, Steal, or Embezzle the Bills, Notes, Bonds, Mortgages, Securities, Monies, Goods, Chattels or Effects of the said Company; and whereas 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 whereas the said purposes cannot be effected without the aid and authority of the Legislature: Be it

Actions at Law, &c, to be carried on in the name of the Chairman.

therefore enacted, by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, that from and after the passing of this Act, all Actions and Suits, and all proceedings at Law, or in Equity, to be commenced, instituted, and prosecuted, or carried on, by or on behalf of the said Company, or wherein the said Company is or shall be in any way concerned, against any Body or Bodies, Politic or Corporate, or against any person or persons whomsoever, whether a Member or Members of the said Company or otherwise, shall, and lawfully may be commenced, instituted, and prosecuted or carried on, in the name of the person who shall be Chairman of the said Company, at the time any such Action, Suit, or Proceeding, shall be commenced or instituted, as the nominal Plaintiff, Complainant, or Petitioner, for or on behalf of the said Company; and that all Actions, Suits, or Proceedings, at Law or in Equity as aforesaid, to be commenced, instituted and prosecuted, or carried on, against the said Company, shall and lawfully may be commenced, instituted, and prosecuted against the Chairman for the time-being of the said Company, as the nominal Defendant, for or on behalf of the said Company; and that all Indictments, Informations, and Criminal Prosecutions to be brought, instituted, or carried on, by or on behalf of the said Company, for Embezzlement, Robbery, Stealing, Counterfeiting, or Forging the Bills, Notes, Bonds, Mortgages, Securities, Monies, Goods, Chattels, or Effects of the said Company, or for any Fraud, Felony, Crime, Misdemeanor, or other Offence committed against or with intent to injure or defraud the said Company, shall and may be lawfully so brought, instituted, and prosecuted or carried on in the name of such Chairman for the time-being of the said Company; and in all Indictments and Informations, it shall and may be lawful to state the property of the said Company to be the property of such Chairman; and any Forgery, Fraud, Crime, Misdemeanor, or other Offence, committed with intent to injure or defraud the said Company, shall and lawfully may in any Prosecution or Indictment for the same, be stated, or laid, to have been committed against, or with intent to injure or defraud, such Chairman; and any

Offender or Offenders may thereupon be lawfully convicted of any such Forgery, Fraud, Crime, Misdemeanor, or other Offence and the Death, Resignation, Removal, or other act of such Chairman, shall not abate or prejudice, any such Action, Suit, Indictment, Information, Prosecution, or other Proceedings commenced against, or by, or on behalf of the said Company, but the same may be continued where it left off, and be prosecuted or carried on, in the name of any other person who may be or become Chairman for the time-being of the said Company.

*(Memorial of the name of the Chairman to be recorded in the Supreme Court of New South Wales, and renewed when any new Chairman shall be elected.)*

II. And be it enacted, That a Memorial containing the name of the Chairman for the time-being of the said Company, in the form or to the effect set forth in the Schedule to this Act annexed, and signed by the said Chairman, and by a majority of the Directors of the said Company, shall within sixty days after the passing of this Act, be recorded in the Supreme Court of New South Wales, upon Oath of one of the Directors, for the time-being of the said Company, administered before any Commissioner of the said Court; and when and as often as any person shall be newly elected Chairman of the said Company, a Memorial of the name of such newly elected Chairman, in the same form, or to the same effect as the abovementioned Memorial, signed by such newly elected Chairman, and by a majority of such persons as shall be the Directors of the said Company at the time of the Election of such newly elected Chairman shall, in like manner, be recorded upon oath in the Supreme Court of New South Wales, within sixty days next after the election of such Chairman.

*(No Action to be brought until Memorial be recorded.)*

III. Provided always and be it enacted, That until such Memorial as hereinbefore first mentioned be recorded, in the manner herein directed, no Action, Suit, or other Proceedings shall be brought by the said Company, in the name of the Chairman as aforesaid, under the authority of this Act.

*(Only one Action to be brought against the Chairman upon the same cause when the merits have been tried.)*

IV. And be it enacted, That no person or persons, or body or bodies, politic or corporate, having, or claiming to have, any demand upon or against the said Company, shall, for the same cause, bring more than one Action or Suit, in case the merits shall have been tried in such Action or Suit in respect of such demand; and the proceedings in any Action or Suit, by or against the said Chairman, for the time being, of the said Company, may be pleaded in bar of any other Action or Actions, Suit or Suits for the same demand, by or against the said Chairman, for the time being, of the said Company.

*(The Chairman, or any other Officer of the Com-*



pany, to give evidence, notwithstanding such Chairman, &c. shall be interested.)

V. Provided always, and be it enacted, That in all Actions, Suits, Petitions, Informations, Indictments, Prosecutions, or Proceedings, in which the said Chairman, for the time being, shall be, on behalf of the said Company, and under and by virtue of this Act, Plaintiff, Complainant, Petitioner, Prosecutor, or Defendant, it shall and may be lawful for such Chairman, or the Deputy Chairman for the time being, or the Secretary, or any other Officer engaged in the executive duties of the said Company, to give evidence in such Action, Suit, Petition, Information, Indictment, Prosecution, or other Proceedings, notwithstanding the name of such Chairman shall be made use of as such Plaintiff, Complainant, Petitioner, Prosecutor, or Defendant therein, and notwithstanding that such Chairman, Deputy Chairman, Secretary, or other Officer aforesaid, shall or may be interested in the result of such Action, as a Shareholder or Co-partner in the said Company.

*(Execution upon any Judgment may be issued against any Member of the said Company.)*

VI. Provided always, and be it enacted, That execution upon any Decree or Judgment, in any such Action, Suit, Petition, Information, Indictment, Prosecution, or other Proceeding obtained against the Chairman, for the time being, of the said Company, whether he be Plaintiff or Defendant therein, may 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.

*(Such Member to be indemnified out of the Funds of the said Company.)*

VII. Provided always, and be it enacted, That every such Chairman, for the time being, in whose name any such Action, Suit, Petition, Information, Indictment, Prosecution, or other proceedings, shall be commenced, prosecuted, carried on, or defended, and every such Member or Members, against whose Goods and Chattels, Lands and Tenements, Execution upon any Judgment or Decree obtained, or issued in any such Action, Suit, Petition, Information, Indictment, Prosecution, or other Proceedings shall be issued or levied as aforesaid, shall in every case be justly indemnified, reimbursed, and paid out of the Funds of the said Company, or in failure thereof, by contribution from the Members of the said Company, all such loss, dues, damages, expenses, costs, and charges whatsoever, without any deduction, which any such Chairman for the time being, or Member or Members shall or may have incurred, or become chargeable with, by reason of such Execution; and all such remedies, for the recovery of the same, shall be allowed between the several members of the said Company as if this Act had not been passed: Provided further, That the body, or goods, chattels, lands, or tenements of such

Chairman, shall not, by reason of his being Defendant, in any such Action, Suit, or other Proceeding, be liable to be arrested, seized, detained, or taken in execution.

*(Provisions of this Act to extend to the said Company, notwithstanding any change in the Members thereof.)*

VIII. And be it enacted, That the provisions in this Act contained, shall be construed and taken to extend to the said Company, at all times during the continuance of the same, whether the said Company be now, or hereafter, constituted of all, or any of the persons who were the original Members thereof; or of all, or any of those persons, together with any other person or persons; or shall be constituted altogether of persons who were not the original Members thereof.

*(Company not incorporated by this Act.)*

IX. Provided always and be it enacted, That nothing in this Act contained shall be construed or taken to extend to incorporate the Members or Proprietors of the said Company, or to relieve or discharge them, or any of them, from any Responsibility, Duties, Contracts, or Obligations whatsoever, which by Law they now are, or at any time hereafter during the existence of the said Company shall or may be subject or liable to, either between the said Company and others, or between the individuals who constituted the said Company, or any of them and others, or among themselves, or in any other manner whatsoever, except so far as the same is affected by the provisions of this Act, and the true intent and meaning of the same.

*(Bonds, &c., taken in the name of the Chairman may be put in suit, either in the name of the Chairman in whose name originally taken, or in the name of the Chairman for the time being.)*

X. And be it enacted, That all Bonds, Mortgages, Warrants of Attorney, and other Securities, not being assignable in Law, which have been, or which shall or may be, at any time hereafter taken in the name of any person as Chairman for the time being of the said Company, for, or on account of the said Company, shall and may be put in Suit, and be Sued and prosecuted upon at Law, or in Equity, in the name of the Chairman in whose name the same have been taken, or in the name of any person who shall or may succeed to that Office, and be Chairman of the said Company at the time such Proceeding or Proceedings shall be instituted or commenced, notwithstanding the name of such succeeding Chairman be not inserted in such Bond, Mortgage, Warrant of Attorney, or other such Security, as an Obligee, Mortgagee, Assignee, or Payee, of the Sum or Sums of Money therein mentioned; and the Death, Resignation, or Removal, or other Act of any such Chairman, for the time being of the said Company, in whose name any such Bond, Mortgage, Warrant of Attorney, or other Security, as aforesaid, shall be so put in Suit, shall not abate any Action, Suit, or other proceedings had thereon, but the same may be continued



where it left off, and be Prosecuted and carried on in the name of any person who may succeed to that Office, or be, or become, the Chairman for the time being of the said Company; and the Legal Estate in all Lands and Tenements belonging, or Mortgaged to, the said Company, and all legal Rights and Capacities in respect of the said Company, shall be and become vested in such succeeding Chairman as aforesaid, to all intents and purposes whatsoever, immediately upon the recording of the Memorial of the name of such Chairman in the said Supreme Court of New South Wales, in manner aforesaid, and so on *toties quoties* whensoever any New Appointment or Election of a Chairman for the time being of the said Company shall take place, and such New Memorial hereof shall be recorded as aforesaid. *(Plaintiff not to be non-suited for want of Proof of record of Memorial.)*

XI. And be it enacted, That in any Action or Suit to be brought by any Chairman for the time being of the said Company, under and by virtue of this Act, the Plaintiff therein shall not be Non-suit, nor shall a verdict be given against the Plaintiff for want of Proof of the Record of such Memorial or Memorials as hereinbefore mentioned, but in case the Defendant in any such Action or Suit shall make it appear on such Trial, that no such Memorial or Memorials has or have been recorded as aforesaid, then a Non-suit shall be entered in such Action.

*(That within sixty days from the first day of January in each year, a list of the names of the then existing Members, shall be recorded in the Office of the Registrar of the Supreme Court.)*

XII. And be it enacted, That the Chairman of the said Company shall, within sixty 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, to be administered before any Commissioner of the Supreme Court of New South Wales, in the Office of the Registrar of the said Court, and such list 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 Chairman of the said Company shall fail to cause such list to be recorded, in manner 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 who shall sue for the same.

*(Such persons so recorded to be considered Members.)*

XIII. 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 or she shall have given notice in the New South Wales Government Gazette, of his or her retirement from the said Company.

*(Nothing in this Act contained to affect any right, &c., of Her Majesty or of any bodies politic or corporate.)*

XIV. Provided always, and be it enacted, That No. 72. November 7, 1840.

nothing in this Act contained shall be construed or taken to affect or apply to any Right, Title, Privilege, Immunity, or Interest of Her Majesty, Her Heirs and Successors, or any Body or Bodies Politic or Corporate, or of any other Person or Persons, except such as are mentioned therein, or of those claiming by or under her or them.

*(This Act to take effect when it shall have received the Royal approbation.)*

XV. And be it enacted, That this Act shall not commence or take effect until the same shall have received the Royal Approbation, and the notification of such Approbation shall have been made in the New South Wales Government Gazette, by order of His Excellency the Governor for the time being of the said Colony.

*(Then this Act to be deemed a Public Act.)*

XVI. And be it enacted, That when and as soon as this Act shall have received the Royal Approbation, and the notification thereof shall have been made as aforesaid, the same shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by the Judges of the Supreme Court of New South Wales, and by all other Judges, Justices, and others within the Colony of New South Wales and its Dependencies, without being specially pleaded.

"GEORGE GIPPS,"

Governor.

*Passed the Legislative Council,  
this twentieth day of October,  
one thousand eight hundred  
and forty.*

WM. MACPHERSON,

Clerk of Councils.

SCHEDULE REFERRED TO.

Memorial of the Name of the Chairman of the "Melbourne Fire and Marine Assurance Company," to be recorded in the Supreme Court of New South Wales, pursuant to an Act of the Governor and Council passed in the fourth year of the Reign of Her Majesty, Queen Victoria, intituled, "An Act to enable the Proprietors of a certain Joint Stock Company carried on in the Town of Melbourne, in the Colony of New South Wales, under the Name, Style, and Firm of "The Melbourne Fire and Marine Assurance Company," to Sue and be Sued in the name of the Chairman of the said Joint Stock Company for the time being, and for other purposes therein mentioned."

A. B. Chairman.

C. D.	} Directors.	N. O.
E. F.		P. Q.
G. H.		R. S.
J. K.		T. U.
L. M.		W. W.

X. Y. Z., of Melbourne, Gentleman,  
*of the above-named Joint  
Stock Company, maketh Oath and saith, that he  
was present and did see the foregoing Memorial  
signed by the Chairman and Directors respec-  
tively, whose names appear thereto.*

Sworn before me this

day of 184

G. H.

Commissioner of the Supreme Court.

ANNO QUARTO  
VICTORIÆ REGINÆ.

No. 27.

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 for enabling Persons prosecuted for Felony, to make their Defence by Counsel or Attorney."

WHEREAS, it is expedient to adopt an Preamble. Act of the Imperial Parliament, passed in the Sixth and Seventh Year of the Reign of His late Majesty, King William the Fourth, which recites that it is just and reasonable that Persons accused of Offences against the Law, should be enabled to make their full Answer and Defence to all that is alleged against them: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, That all Persons tried for Felonies shall be admitted after the close of the case for the prosecution, to make full Answer and Defence thereto, by Counsel learned in the Law, or by Attorney, in Courts where Attornies practise as Counsel.

All Persons tried for Felony may make their Defence by Counsel or Attorney.

reasonable that Persons accused of Offences against the Law, should be enabled to make their full Answer and Defence to all that is alleged against them: Be it therefore

enacted, by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, That all Persons tried for Felonies shall be admitted after the close of the case for the prosecution, to make full Answer and Defence thereto, by Counsel learned in the Law, or by Attorney, in Courts where Attornies practise as Counsel.

(In Cases of Summary Conviction.)

II. And be it enacted, That in all Cases of Summary Conviction, Persons accused shall be admitted to make their full Answer and Defence, and to have all Witnesses examined and cross-examined by Counsel or Attornev.

(Copies of Depositions to be allowed to Prisoners.)

III. And be it enacted, That all Persons who after the passing of this Act shall be held to bail, or committed to prison, for any Offence against the Law, shall be entitled to require, and have on demand, (from the Person who shall have the lawful custody thereof, and who is hereby required to deliver the same) copies of the examinations of the Witnesses respectively, upon whose depositions they have been so held to bail, or committed to prison, on payment to such Person or his Deputy of a reasonable sum for the same, to be fixed from time to time by the Judges of the Supreme Court, not exceeding Four-pence for each folio of ninety words: Provided always, if such demand shall not be made before the day appointed for the commencement of the Criminal Court or Sessions, at which the trial of the Person on whose behalf such demand shall be made is to take place, such Person shall not be entitled to have any copy of such examination of Witnesses, unless the Judge, or other Person to preside at such trial, shall be of opinion that such copy may be made and delivered without delay or inconvenience to such trial; but it shall nevertheless be competent for such Judge, or other Person so to preside at such trial, if he shall think fit, to postpone such trial on account of such copy of the examination of Witnesses not having been previously had by the party charged.

(Prisoners entitled to inspect Depositions on Trial.)

IV. And be it enacted, That all Persons under trial, shall be entitled, at the time of their trial, to inspect, without fee or reward, all Depositions (or copies thereof) which have been taken against them, and returned into the Court before which such trial shall be had.

"GEORGE GIPPS,"

Governor.

Passed the Legislative Council, this twenty-third day of October, one thousand eight hundred and forty.

WM. MACPHERSON,

Clerk of Councils.

ANNO QUARTO  
VICTORIÆ REGINÆ.

No. 28.

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 the Trial by Jury in Civil and Criminal Cases in the Circuit and other Courts to be holden within the Colony of New South Wales, and its Dependencies.

WHEREAS, by an Act passed by the Governor and Legislative Council of New Preamble. South Wales, in the present Sessions 4 Vic No 22 of the said Council, intituled, "An Act to provide for the more Effectual Administration of Justice in New South Wales, and its Dependencies," it is amongst other things enacted, That it shall be lawful for the Governor of the said Colony, by Proclamation or Proclamations, under his hand issued and published from time to time, by and with the advice of the Executive Council of the said Colony, to direct Circuit Courts to be holden in, or at such Towns and Places within the said Colony, as he shall, by the advice aforesaid, think fit to appoint, and to fix from time to time, and vary or alter, as occasion may require, the times for holding the said Courts respectively: And whereas it is necessary to provide for the Trial of Issues of fact in Civil Actions, and also of Crimes, Offences, and Misdemeanors respectively, in such Circuit Courts, and in the Islands of New Zealand in like manner as by an Act of the said 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 for the Trial of Issues, in certain cases in the Supreme Court of New South Wales;" and also of another Act passed in the Fourth Year of the Reign of His said late Majesty, intituled, "An Act to continue, for a limited time, a An Act of the Governor and Council of New South Wales;" intituled, "An Act for regulating the Constitution of Juries for the Trial of Issues in certain cases in the Supreme Court of New South Wales, and to make further provision for Trial by Jury, in Criminal Cases in the said Colony;" and as the same are respectively continued by an Act passed in the Third Year of the Reign of Her present Majesty,

2 Wm. IV. "An Act for regulating the Constitution of Juries for the Trial of Issues, in certain cases in the Supreme Court of New South Wales;" and also of another Act passed in the Fourth Year of the Reign of His said late Majesty, intituled, "An Act to continue, for a limited time, a An Act of the Governor and Council of New South Wales;" intituled, "An Act for regulating the Constitution of Juries for the Trial of Issues in certain cases in the Supreme Court of New South Wales, and to make further provision for Trial by Jury, in Criminal Cases in the said Colony;" and as the same are respectively continued by an Act passed in the Third Year of the Reign of Her present Majesty,

4 Wm. IV. "An Act to continue, for a limited time, a An Act of the Governor and Council of New South Wales;" intituled, "An Act for regulating the Constitution of Juries for the Trial of Issues in certain cases in the Supreme Court of New South Wales, and to make further provision for Trial by Jury, in Criminal Cases in the said Colony;" and as the same are respectively continued by an Act passed in the Third Year of the Reign of Her present Majesty,

3 Vic. No. 25. 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 in Civil or Criminal Cases in the Supreme Court:

All Issues in Civil and Criminal Cases to be tried at Circuit Courts by a Jury of Twelve inhabitants.

Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, That all Issues of Fact in Civil Actions, and all Crimes, Offences, and Misdemeanors, which shall be tried or prosecuted in any Circuit Court, appointed by any such Proclamation or Proclamations as aforesaid, of the said Governor, to be holden in, or at any Towns or Places within the said Colony, shall be tried by a Jury of Twelve Inhabitants of the respective Towns or Places where such Circuit Courts shall be so respectively holden, pursuant to such Proclamation or Proclamations, which said Jury shall

Subject to the same qualifications, &c., as other Juries. be subject to such and the like rules, regulations, and provisions, as to their qualifications, exemptions, and disqualifications, as are in the said recited Acts made and provided with respect to Juries for the trial of Issues of fact joined in Civil Actions, and on informations exhibited in the Supreme Court of the said Colony.

(The Judges to issue writs of venire facias for such Circuit Courts.)

II. And be it enacted, That whenever the said Governor shall, under the provisions of the said first recited Act, direct that a Circuit Court shall be holden in or at any Town or Place within the said Colony, it shall be lawful for the Judges of the Supreme Court to issue a writ or writs of general venire facias for the trial of all crimes and misdemeanors, and of all issues of fact, in any action or other proceeding commenced in the Supreme Court of the said Colony, and which by the said Court shall be directed to be tried in, or at any such Town or Place, in like manner as such writs are directed to be issued in cases to be tried in the Supreme Court; and the said Judges shall by such writ or writs respectively, direct the Sheriff of the said Colony to summon so many Jurors to attend the said respective Circuit Courts, so to be holden in, or at such Towns or Places respectively, and at such times and places as the said Judges shall direct and appoint: Provided, however, that the names of not more than forty-eight, nor less than thirty-six persons, duly qualified to serve on juries as aforesaid, shall be included in any such venire facias, and that every such venire facias shall be issued to the Sheriff fourteen clear days before the attendance of such Jurors shall be required: and that the said Jurors shall be severally summoned by the Sheriff, or his Deputy, or proper Officer, six clear days before their attendance shall be required; and every such summons shall be in writing signed by the Sheriff or his Deputy, and shall be to the following effect:—

(Form of Sheriff's Summons.)

Mr. A. B. (naming the Juror.) you are

hereby required to appear as a Juror at the Circuit Court to be holden 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 left at the respective places of abode of the Jurors.

(Jurors making default to be fined.)

III. And be it enacted, that if any person duly summoned as a Juror as aforesaid shall make default, and fail to attend the said Circuit Court for which he shall be so summoned, (upon proof on oath of such person being duly summoned as aforesaid), every such person shall forfeit and pay a fine or sum not exceeding ten pounds, at the discretion of the Judge of the said Court, to be levied and appropriated in like manner as fines imposed by the Supreme Court, and such fines shall form a fund for the payment of the Jurors, as by the said recited Act of the Second year of the Reign of King William the Fourth is provided, and shall be accounted for in like manner as other fines and forfeitures imposed by the said Court.

(Jury to be chosen by Ballot.)

IV. And be it enacted, That upon trial of all Cases, Civil or Criminal, in such Circuit Courts respectively, the Juries for the trial of each respective Case shall be chosen and selected by ballot, from the list of Jurors so summoned as aforesaid, in like manner as directed and appointed as to trials by Juries in the Supreme Court; and in case of a deficiency of the Juries so summoned to attend at such Circuit Courts respectively, the necessary number of persons to compose such respective Juries shall and may be supplied and made up by a Tales in the same manner as is directed in and by the said last recited Act, respecting Juries in the Supreme Court, and a like allowance shall be paid to Juries attending at the said Circuit Courts respectively, as by the said last recited Act is directed to be paid to Jurors attending the Supreme Court.

(In places where there are no Juries.)

V. And be it enacted, That in case the Governor of the said Colony shall by his Proclamation or Proclamations as aforesaid, direct a Circuit Court or Circuit Courts to be holden in any Town or place, wherever provision shall not have been theretofore made for the preparing and settling of the Jury Lists for such Town or place, it shall be lawful for the said Governor to direct the Police Magistrate and Bench of Magistrates of the District wherein such Town or place shall be situate, to cause Jury Lists for such Town or place to be prepared; and such Police Magistrate and Bench of Magistrates shall in pursuance of such direction, and they are hereby authorised and required, within three months after the issue of any such Proclamation or Proclamations, in the year in which the same shall have been so issued, and in the first week in the month of January in every succeeding year, to prepare, or cause to be prepared Lists of all Jurors within such Town or place respectively, or District, or within thirty miles of such Town or place where such Circuit Courts are respectively appointed to be holden as aforesaid, liable to serve on Juries, setting forth their Christian and Surnames, residence, 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 such Lists, with a declaration that such Lists contain to the best of their knowledge and belief the names of all persons liable to serve on Juries in the Town, place, or District for which it is made, and qualified according to the provisions of the said recited Acts.

*(Lists to be published.)*

VI. And be it enacted, that the said Police and other Magistrates as aforesaid, shall cause Copies of the said Lists which shall be so 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 doors of every public place of Religious worship within the said Town, place, or District, with a Notice signed with their names, respectively, that the Justices of the Peace for the said Town, place, or District, will hear at the next Petty Sessions directed to be holden for that purpose as hereinafter mentioned, all objections to the said Lists: Provided always, that the Police Magistrates of such Districts respectively, shall keep the Original Lists, or Copies of the same, to which the Inhabitants of the said Towns, places, 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 in the third week in January for examining Lists.)*

VII. And be it enacted, That Special Petty Sessions shall be holden within fourteen days after the preparation of the said Lists, and in the third week in the month of January in every succeeding year, in each of the said Towns, places, or Districts, 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 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 the said Lists when so settled shall be final, and continue in force until the Jury List for the next ensuing year shall be made out and transmitted to the Sheriff as hereafter directed,

*(Justices to vote on all questions of character qualification, &c.)*

VIII. And be it 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 as 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 shall arise respecting the striking out, or adding of a name, the same shall be decided by ballot.

*(Certificate of Justices as to the Settlement of Lists.)*

IX. And be it enacted, That after the said Lists

shall have been finally settled and approved in Petty Sessions in manner as hereinbefore directed, a certificate shall be subjoined and subscribed by such Justices as may be there present, stating that the same have 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.

*(Lists to be transmitted to the Sheriff.)*

X. And be it 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 for such purpose, and to be styled the Jurors' Book for the said Towns, places, or 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.

*(Special Jury may be summoned.)*

XI. And be it enacted, That in every case wherein a Jury shall have been granted for the trial of any issue or issues, the Judges of the Supreme Court, in any Circuit Court appointed to be holden in pursuance of the provisions of the said recited Act of this Session, if either of the parties, plaintiff or defendant, shall make application to the Court, stating his desire to have such issue or issues tried by a Special Jury, the Judges of the said Court shall forthwith issue directions for summoning a Special Jury constituted as is hereinafter more particularly described, for the trial of such issue or issues between the said plaintiff and defendant.

*(Qualifications of Special Jurors.)*

XII. And be it enacted, That every man described in the said respective Jurors' Book for the Town, place, or District in which such Circuit Courts respectively shall be appointed to be holden as aforesaid, as an Esquire or person of higher degree, or as a Justice of the Peace, or as a Merchant, (such Merchant not keeping a general retail shop,) or as a Bank Director, shall be qualified to serve on Special Juries for the trial of issues in the said Circuit Courts respectively.

*(Sheriff to make out Special Jury Book in alphabetical order.)*

XIII. And be it enacted, That the Sheriff shall, within ten days after he shall have received the Lists of Jurors for the said several Towns, places, or Districts aforesaid from the Magistrates as aforesaid, extract from the said Lists the names of all persons who shall be qualified and liable to serve on Special Juries, for such Towns, places, or Districts respectively, and shall cause a List of the names so extracted, to be fairly and truly made out in alphabetical order, together with their respective places of abode and additions, which said List shall be called the "Special Jurors' List" of the respective Town, place, or District, from the Jury List of which it shall have been so extracted, and shall be subjoined to the Jurors' Book of such

Town, place, or District, respectively; and the said Sheriff shall prefix to every name in such List its proper number, beginning the numbers from the first name and continuing them in a regular arithmetical series down to the last name, and shall cause the said several numbers to be written upon distinct pieces of parchment or card, being all as nearly alike in appearance as may be, and of an equal size; and after all the said numbers shall have been so written shall put the same together in a separate drawer or box, and shall there safely keep the same to be used as may be required.

*(Special Juries to be struck as is now by law directed.)*

XIV. And be it enacted, That whenever the said Supreme Court shall have awarded a Jury for the trial of any issue to be tried in any Circuit Court, appointed to be holden as aforesaid, and either plaintiff or defendant shall require a Special Jury for the trial of such issue, the Special Jury to be selected and chosen for the Trial of such issue, shall be struck, elected, chosen, drawn, and summoned, in like manner as Special Juries are struck, elected, chosen, drawn and summoned, for the trial of issues in the Supreme Court of the said Colony.

*(Special Jury may try any number of cases.)*

XV. And be it enacted, That the same Special Jury may try any number of Cases in which a Special Jury shall have been awarded for the trial of any issue or issues in the same Circuit Court, wherein such Special Jury shall be summoned to attend as Special Jurors, upon the parties, plaintiff and defendant, consenting thereto in writing, any thing in this Act to the contrary notwithstanding.

*(Expenses of Special Juries how defrayed.)*

XVI. And be it enacted, that wherever the said Supreme Court shall have awarded a Special Jury for the trial of any issue or issues in such Circuit Courts respectively, the expenses occasioned thereby, and the allowance to be made to such Special Jurors, shall be borne and paid in like manner as the expenses and allowances of Special Juries in the Supreme Court.

*(Juries at Circuit Courts subject to such rules and liabilities as they are now by law.)*

XVII. And be it enacted, That all persons who shall be summoned to attend the said Circuit Courts respectively, as Jurors under the provisions of this Act, shall be subject and liable to such and the like rules, forms, course and manner of impannelling and proceeding in all respects on the trial of any issue, and shall be entitled to receive such and the like respective rates of allowance for attendance upon the said Circuit Courts respectively, as are prescribed by the said recited Act of the Second Year of His late Majesty, and in default of such attendance shall be subject and liable to such and the like forfeitures, to be recovered in like manner as in and by the said recited Act is directed and provided.

*(Provision for Trial by Jury in the Courts at Port Phillip and New Zealand respectively.)*

XVIII. And whereas, by the said first recited Act, passed in the present Sessions of the Legislative Council of the said Colony, provision is made for the appointment of resident Judges at the No. 72. November 7, 1840.

Dependencies of Port Phillip and New Zealand respectively, who are thereby invested with, and authorised to exercise within the said Dependencies respectively, all such and the like powers as are vested in, and exercised within the said Colony of New South Wales, by the Judges of the Supreme Court thereof, resident in Sydney: And whereas it is necessary to make provision for the trial, at the said Dependencies, of Civil and Criminal issues by Juries, in like manner as is directed by the said recited Act, passed in the Second Year of the Reign of His late Majesty King William the Fourth, with respect to the trial of Civil Issues in the said Supreme Court, and as directed by an Act, passed in the Fifth 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 to make further provision for Trial by Jury,'" with respect to Criminal Issues, tried in the said Court, as the said Acts are continued by the said recited Act, passed in the present Sessions of the said Council: Be it therefore enacted, That all crimes and misdemeanors, and all Civil Issues of fact which shall be tried or prosecuted in any Court of competent jurisdiction within either of the said Dependencies, whether in the Supreme Court, or in any Court of Quarter Sessions, shall be tried by a Jury of Twelve Inhabitants of the said Dependencies respectively, who shall be subject to such and the like rules, regulations, and provisions, as to their qualifications, exemptions, and disqualifications, as in this Act are made and provided, with respect to Juries, for the trial of such Issues respectively in the said Circuit Courts: Provided that nothing herein contained shall be construed to alter the Law with respect to the trial of Civil Issues before two Assessors: And provided also, that nothing herein contained shall restrain, or in any manner interfere with the power and authority by Law vested in any Court of General 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.

*(Duties of Justices, Deputy Sheriffs, and other Officers in respect to Juries.)*

XIX. And be it enacted, That the several duties required by the said recited Acts to be performed by the Justices, Sheriff, and other Officers, shall be required to be performed by the Justices, Sheriff, or Deputy Sheriff, and other Officers in each of the said Dependencies, and subject to the same rules, provisions, penalties, and regulations in every respect.

"GEORGE GIPPS,"

Governor.

Passed the Legislative Council,  
this twenty-third day of October,  
one thousand eight hundred and forty.

WM. MACPHERSON,

Clerk of Councils.

FORM OF RETURN, OR LIST, REFERRED TO.

The List of all Men within the District or Town of \_\_\_\_\_ liable to serve on Juries.

District or Place; in Towns add the name of the Street.	Christian and Surnames, at full length.	Title, Quality, Calling, or Business.	Nature of Qualifications.
Maitland, Macquarie-street. }	Adams, John	Esquire.	{ Freehold, one hundred pounds per Annum.
Bathurst, George-street. }	Bowles, James	Grocer.	{ Four hundred pounds of personal Estate.

A. B.

Superintendent of Police, or

Magistrate for