



# SUPPLEMENT

TO THE

NEW SOUTH WALES

# GOVERNMENT GAZETTE,

OF TUESDAY, AUGUST 16, 1842.

Published by Authority.

WEDNESDAY, AUGUST 17, 1842.

ANNO SEXTO.

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 appropriate, for a limited time, from the General Revenue of New South Wales, certain sums in aid of the Sydney Police, and of the City Fund raised by the Corporation of Sydney.*

WHEREAS by an Act of the Governor and Preamble. Council of New South Wales, passed in the Sixth Year of the Reign of Her present Majesty Queen Victoria, intituled "An Act to declare the Town of Sydney to be a City, and to incorporate the Inhabitants thereof," it is, 6, Victoria, amongst other things, enacted, that No. 3.

the Inhabitants so incorporated shall, by means of a Council to be elected under the provisions of the said recited Act, be empowered to levy certain Rates for the establishment of a Police Force, to be maintained within the City of Sydney; and whereas the levying of a Rate sufficient for the entire maintenance of the said Police Force, might, in the first instance, be onerous on the Inhabitants of the said City; and it is therefore expedient that an aid towards the maintenance of the same should, for a limited time, be afforded out of the General Revenue of New South Wales: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice of Fees taken at the Legislative Council thereof, That Police Offices, during the continuance of this Act, all to be applied Fees taken at any Police Office, es-

tenance of the tablished, or to be established, in Sydney Police. the said City, under an Act of the said Governor and Council, passed in the Fourth Year of the Reign of His late Majesty King William the Fourth, intituled, "An Act for appointing the Fees to be taken in the several Courts 4 William IV., of Police and Petty Sessions, and by No. 5.

*the Clerks of Justices acting singly, in the Colony of New South Wales,"* shall be issued and applied towards the maintenance of the said Police Force: Provided however, that no Except at any Fees taken at any Water Police Office, established under the authority of the Act of the said Governor and Council, passed in the Fourth Year of the Reign of Her said present Majesty, intituled, "An Act 4 Victoria, for the further and better regulation No. 17.

*and government of Seamen within the Colony of New South Wales and its Dependencies, and for establishing a Water Police,"* shall be so applied, or otherwise than as in the said last recited Act is directed.

*(Appropriation from General Revenue in aid of Police.)*

11. And be it enacted, That out of the General Revenue of the said Colony, there shall be issued and applied, towards the maintenance of the said Police Force, during the continuance of this Act, exclusive of the Fees hereinbefore directed to be applied in aid of the same, any sum or sums of money, not exceeding Five thousand pounds in any one year, on condition that an equal amount shall have been levied by Rates on the Inhabitants of the said City, for the establishment of a Police Force, under the provisions of the said first recited Act: Provided always, that if occasion shall, in the opinion of the Governor with the advice of the Executive Council require, any sum not exceeding half the amount authorised to be applied in aid

of the said Police Force, in any one year, may be advanced from the said General Revenue, notwithstanding that an equal amount shall not have been previously levied by Rates on the said Inhabitants.

*(Management of the Police Force to be retained in the hands of the Executive Government.)*

III. And whereas it is expedient to retain in the hands of the Executive Government, the management of the said Police Force: Be it therefore enacted, that nothing in the said recited Acts, or any of them, or in this Act contained, shall be deemed or construed to alter, affect, or repeal the provisions of the Act of the said Governor and Council, passed in the Fourth Year of the Reign of His Majesty King William IV., said late Majesty King William the No. 7.

Fourth, intituled, "*An Act for regulating the Police in the Town and Port of Sydney, and for removing and preventing nuisances and obstructions therein*," so far as relates to the appointment, dismissal, and general regulation of the Police, as directed and provided in the said last recited Act.

*(Appropriation in aid of the "City Fund.")*

IV. And whereas by the said first recited Act, passed in the present year of Her Majesty's Reign, it is amongst other things enacted, that the Council of the said City shall have power, from time to time, to order a City Rate to be made within the said City, in order to raise a fund to be called the "City Fund," for the purpose of paying the expenses to be incurred in carrying into effect other provisions of the said recited Act; and whereas it is expedient that a sum in aid of the said "City Fund" should, under certain conditions, be applied for a limited time from the General Revenue of the said Colony: Be it therefore enacted, That during the continuance of this Act, there shall and may be issued and applied out of the General Revenue of the said Colony, any sum or sums of money not exceeding Five thousand pounds in any one year, in aid of the said "City Fund:" Provided that an equal sum shall previously have been raised by assessment on the Inhabitants of the said City during the same year, and paid over by the Treasurer of the said City to the credit of the said "City Fund."

*(Treasurer to pay the above at such times as the Governor, by warrant, shall order.)*

V. And be it enacted, That the Treasurer of the said Colony, shall issue and pay the said several sums, to such persons, for the purposes hereinbefore mentioned, upon such days, and in such proportions, as the Governor for the time being, by any Warrant or Order in writing, to be signed by him, shall from time to time order and direct; and that the payments so to be made, shall be charged upon, and payable out of the General Revenue of the said Colony.

*(And to receive credit in his accounts for payments made in pursuance thereof.)*

VI. And be it enacted, That the said Treasurer shall, in his accounts, from time to time, be allowed credit for any sum or sums of money paid by him in pursuance of such warrant or order, in writing, as aforesaid; and that the receipt or receipts of the respective persons to whom the same shall be so paid, shall be a full and valid discharge to the said Treasurer, in passing his said accounts, for

any such sum or sums as shall be therein mentioned; and that he shall and do receive credit for the same accordingly.

*(Commencement and duration of Act.)*

VII. And be it enacted, That this Act shall commence and take effect from and after the first day of January next, and thenceforward shall continue in force for five years, unless before the expiration of that period, any new Legislative Authority shall be duly established in the said Colony, based wholly or in part upon popular representation; in which case this Act shall cease and determine at the expiration of twelve months after the day on which the said Legislature, based wholly or in part on popular representation, shall have first met for the dispatch of business.

GEORGE GIPPS,

Passed the Legislative Council } Governor,  
this third day of August, }  
One thousand eight hundred }  
and forty-two. }

FRANCIS L. S. MEREWETHER,

Clerk of Councils,

ANNO SEXTO.

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 facilitate proceedings by and against the proprietors of a certain Joint Stock Company, lately carrying on business in Maitland, in the Colony of New South Wales, under the name, style, or firm, of the "HUNTER'S RIVER AUCTION COMPANY," and for other purposes therein mentioned.*

**WHEREAS** a certain Joint Stock Company which lately carried on business as Auctioneers in Maitland, in the Colony of New South Wales, under the name, style, or firm of the "HUNTER'S RIVER AUCTION COMPANY," have met with great difficulty in the prosecution of actions brought for the recovery of debts justly due to the said Company; and whereas it would facilitate the settlement of the affairs of the said Company, and be of public utility and advantage that all claims for and against the said Company existing before the passing of this Act should be sued for by and prosecuted against the said Company in the name of some one member thereof, whose name and description should be recorded for the information of the public; but as these purposes cannot be obtained without the aid and authority of the Legislature;

Be it 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, suits, or proceedings, whether at law or in equity, in bankruptcy or sequestration, or otherwise howsoever, to be commenced, instituted, or prosecuted by or on behalf of the said Company,

or any person or persons as trustee or trustees of the said Company, against any body or bodies politic or corporate, or against any person or persons, whether a member or members of the said Company or otherwise, in respect of any debt, claim, right, cause of action, interest, or liability whatsoever now subsisting, or to arise hereafter out of, or in respect of, or relating to any such debt, claim, right, cause of action, interest or liability, mediately or immediately, shall and may be commenced, instituted, or prosecuted, in the name of the Chairman of the Court of Directors, for the time being, of the said Company, as the nominal plaintiff, complainant, or petitioner, for and on behalf of the said Company; and that all actions, suits, or proceedings, at law or in equity, or otherwise as aforesaid, to be commenced, instituted, or prosecuted, against the said Company, by or on behalf of any body or bodies politic or corporate, or by or on behalf of any person or persons whether a member or members of the said Company or otherwise, shall and may be commenced, instituted, or prosecuted against the Chairman of the Court of Directors for the time being of the said Company, as the nominal Defendant for and on behalf of the said Company; or if there be no such Chairman of the Court of Directors for the time being of the said Company, then and in that case against any member or members of the said Company: Plaintiffs may vided nevertheless, that nothing join any one or herein contained shall prevent any plaintiff or plaintiffs from joining any member or members of such Company with the Chairman as plaintiff or plaintiffs of Directors for the time being of the said Company, as a defendant or defendants in equity, for the purpose of discovery, or in case of fraud; and provided further, that no A Members' claim or demand which any member share in capital of the said Company may have of copartnership not to be set off against any demand which copartnership may have against share, shall be capable of being set off either at law or in equity, against any demand which such Company may have against such member on account of any other matter or thing whatsoever; but all proceedings in respect of such matter or thing may be carried on as if no claim or demand existed in respect of such capital or joint stock, or of any dividends, interest, profits, or bonus payable or apportionable in respect thereof.

(Prosecutions and other criminal proceedings to be in the name of the Chairman of the Court of Directors.)

II. And be it enacted, That all criminal informations and prosecutions to be brought, instituted, or carried on, by or on behalf of the said Company, for fraud upon or against the said Company, or for embezzlement or robbery, or for counterfeiting or stealing the bills, notes, bonds, monies, securities, goods, chattels, effects, or other property of, or belonging to the said Company, or for any felony, misdemeanor, or other offence, committed against or with intent to injure or defraud the said Company, shall and lawfully may be brought, instituted, or carried on in the name of the Chairman of the Court of Directors for the time being of the said Company; and in all indictments, informations,

and other proceedings as aforesaid, it shall and may be lawful and sufficient to describe the property of the said Company as the property of the Chairman of the Court of Directors for the time being of the said Company; and that any offence committed with intent to injure or defraud the said Company, shall and lawfully may in any prosecution for or on account of the same, be stated to have been committed with intent to injure or defraud the Chairman of the Court of Directors for the time being of the said Company; and any offender or offenders may thereupon be lawfully convicted of any such offence; and in any other allegations or indictments, informations or other proceedings, for or on behalf of the said Company, it shall and may be lawful and sufficient, from and after the passing of this Act, from time to time to state the name of the Chairman of the Court of Directors for the time being of the said Company, as the nominal Plaintiff, Complainant, or Petitioner; and the death, resignation, or removal, or other Act of such Chairman, or change in the Members of the said Company, by transfer of shares or otherwise, shall not abate any such action, suit, or prosecution, or other proceeding, but the same may be continued, prosecuted, and carried on in the name of any person who may be or become Chairman of the Court of Directors for the time being of the said Company.

(Memorial of the name of the Chairman of the Court of Directors to be recorded in the Supreme Court of New South Wales.)

III. And be it enacted, That a Memorial of the name of the Chairman of the Court of Directors for the time being of the said Company, in the form or to the effect of the form set forth in the Schedule to this Act annexed, signed by the said Chairman, and by a majority of the said Court of Directors, shall be recorded upon oath in the Supreme Court of New South Wales, within thirty days after the passing of this Act; and when and so often as any Chairman of the Court of Directors of the said Company shall be newly elected, or a Chairman shall be substituted for the Chairman of the Court of Directors for the time being of the said Company, a Memorial of the name of such newly elected or substituted Chairman of the said Court of Directors, in the same form or to the same effect as the hereinbefore mentioned Memorial, signed by such newly-elected or substituted Chairman, and by a majority of the said Court of Directors, shall in like manner be recorded upon oath in the said Supreme Court, within thirty days after such election or substitution.

(No Action to be brought in the name of the Chairman of the Court of Directors until Memorial recorded.)

IV. Provided always and be it enacted, That until such Memorial as hereinbefore first mentioned be recorded in manner hereinbefore directed, no action, suit, or other proceeding shall be brought by the said Company in the name of the Chairman of the Court of Directors thereof as aforesaid, under the authority of this Act.

(Evidence of Chairman, Members, and Officers to be admissible.)

V. And be it enacted, That in all actions, suits, petitions, or other proceedings, whether civil or

criminal, in which the said Chairman of the Court of Directors for the time being of the said Company, or any member of the said Company shall be on behalf of such Company, and under and by virtue of this Act, plaintiff, complainant, petitioner, or defendant, it shall and may be lawful for such Chairman or Member, or for any Officer engaged in the executive duties of the said Company, to give evidence in such action, suit, petition, or other proceeding, notwithstanding the name of such Chairman or Member shall be used as plaintiff, complainant, petitioner, or defendant, and notwithstanding that such Chairman, Member, or Officer as aforesaid, shall or may be interested in the result of such action, suit, petition, or other proceeding as a Shareholder or Co-partner in the said Company.

*(Company may make contracts and Conveyances in the name of the Chairman.)*

VI. And be it enacted, That all contracts, agreements, conveyances, leases, releases, assignments, surrenders, covenants, receipts, and other documents, made or to be made, given, or granted, by or to, or on behalf of the said Company, relating to any such now subsisting debt, claim, right, cause of action, interest, or liability, as aforesaid, shall and may be made and executed, and enforced by or to or against the Chairman of the Court of Directors for the time being of the said Company; and the same shall be binding upon the said Company, and the capital stock thereof, and pass all the estate and interest of the said Company.

*(Execution may issue against any Member of the Company.)*

VII. And be it enacted, That execution upon any decree or judgment in any action, suit, petition, or other proceeding obtained against the Chairman of the Court of Directors for the time being, or other Member of the said Company, as aforesaid, whether as plaintiff or defendant, may be issued against and levied, and satisfied upon and out of the goods, chattels, lands, and tenements, of any Member or Members whomsoever of the said Company for the time being, as if such decree or judgment had been obtained against such Member or Members personally.

*(List of Members to be recorded on oath in the Office of Registrar of Supreme Court.)*

VIII. And be it enacted, That for the purpose of giving better effect to the provision last hereinbefore contained, the Chairman of the Court of Directors for the time being of the said Company shall, within thirty days from the passing of this Act, and thereafter in the month of January in each year, so long as this Act shall remain in force, cause a true list of the names of all the then existing Members of the said Company, with their respective places of abode, and descriptions to be recorded on oath in the Office of the Registrar of the said Supreme Court; and 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 such Chairman 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.

*(Every person included in such list to be considered a Member until new list recorded, or until he shall have given notice in the Government Gazette of his retirement.)*

IX. 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 as such until a new list of the Members' names shall be recorded as aforesaid, or until he shall have given notice in the *New South Wales Government Gazette*, of his retirement from the said Company. Provided always, that every Chairman of the Court of Directors for the time being of the said Company, in whose name any action, suit, petition, or other proceeding, shall be commenced, prosecuted, carried on, or defended, and every Member or Members of the said Company, against whose goods, chattels, lands or tenements, execution shall be so issued as aforesaid, shall always be reimbursed and paid out of the funds of the Company, all such damages, costs, and expenses, as by the event of any such proceedings such said Chairman or Member or Members shall or may be put unto in respect thereof; and all such remedies shall be allowed as between the several Members of the said Company, for the time being, as if this Act had not been passed: Provided nevertheless, that the body of such Chairman shall not, by reason of his being Defendant in any such action, suit, or proceeding, be liable to be arrested, seized, or taken in execution.

*(Bankruptcy of Individual Members not to affect the Company)*

X. And be it enacted, That the Bankruptcy, Insolvency, or stopping payment of any Officer, Director, Chairman, or other Member of the said Company, in his individual capacity, shall not be construed to be the bankruptcy, insolvency, or stopping payment of the said Company; and that the property and effects of the said Company, and the persons, property, and effects of the individual Members thereof, shall, notwithstanding such bankruptcy, insolvency, or stopping payment, be liable to execution in the same manner as if such bankruptcy, insolvency, or stopping payment had not taken place.

*(Act to continue in force notwithstanding change of Members.)*

XI. And be it enacted, That the provisions of this Act shall extend to the said Company at all times during the continuance of the same, notwithstanding any change in the Members thereof, by transfer of shares, or otherwise howsoever.

*(Company not incorporated by this Act.)*

XII. Provided always, and be it enacted, That nothing herein contained shall extend, or be deemed, taken, or construed to incorporate the Members 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 shall be, subject or liable to, either between the said Company and others, or between the individual Members of 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.

*(Securities and contracts to be put in suit by the Chairman of the Court of Directors for the time being.)*

XIII. And be it enacted, That all bonds, mortgages, warrants of attorney, and other securities, not being assignable in law, and all contracts and agreements, whether parol or under seal, which have been, or shall or may at any time hereafter, be taken in the name of the Chairman of the Court of Directors for the time being of the said Company, for or on account of the said Company, in any way relating to, or arising out of, such now subsisting debt, claim, right, cause, of action, interest or liability, as aforesaid, shall and may be put in suit, and enforced, sued and prosecuted upon, at law or in equity, in the name of the Chairman of the Court of Directors for the time being of the said Company, in whose name the same may have been taken or entered into, or in the name of any person who shall or may succeed to that office, and be the Chairman of the Court of Directors for the time being of the said Company, at the time such proceeding or proceedings shall be instituted, carried on, or continued, notwithstanding the name of any such succeeding Chairman be not inserted in any such bond, mortgage, warrant of attorney, or other such security, or in any such contract or agreement, as an obligee, mortgagee, assignee, or payee, of the sum or sums of money therein respectively mentioned or secured; and the death, resignation, removal, or other act of any Chairman of the Court of Directors for the time being of the said Company, in whose name any such bond, mortgage, warrant of attorney, or other such security as aforesaid, or any such contract or agreement shall be so put in suit, shall not abate any action, suit, or other proceeding had thereon, but the same may be continued and carried on where it left off, in the name of any person who may be or become the Chairman of the Court of Directors for the time being of the said Company; and the legal estate in all lands, tenements, and all property, real and personal, belonging or mortgaged to the said Company, for all legal rights and capacities in respect of the said Company, shall and may become vested in the succeeding Chairman of the Court of Directors for the time being, immediately upon the recording of the Memorial hereinbefore required, of the name of such succeeding Chairman of the Court of Directors for the time being of the said Company, in the said Supreme Court; and so on, *toties quoties*, whensoever any new appointment, election, or substitution of a Chairman of the Court of Directors for the time being of the said Company shall take place, and such Memorial thereof shall be recorded as aforesaid.

*(Plaintiff not to be nonsuited for want of proof of record of the Memorial.)*

XIV. And be it enacted, That in any action to be brought by any Chairman of the Court of Directors for the time being of the said Company, by virtue of this Act, the Plaintiff therein shall not be nonsuited, nor shall a verdict be given against the Plaintiff for want of proof of the record of such Memorial or Memorials, as herein before mentioned, nor shall the existence of such Memorial be taken to be in issue, unless specially desired by any Defendant; but in case the Defendant, in any such action, shall specially deny on the record that any such Memorial has been duly recorded as

aforesaid, and shall make it appear, on such trial, that no such Memorial has been so recorded, then a nonsuit shall be entered in such action.

*(Saving the rights of Her Majesty and others.)*

XV. Provided always, and be it enacted, That nothing in this Act contained shall be deemed to affect or apply to any right, title, or interest, of Her Majesty, Her Heirs or Successors, or of any body, politic or corporate, or of any person or persons, excepting such as are mentioned therein, or of those claiming by or under him, her, or them.

*(Commencement and duration of Act.)*

XVI. And be it enacted, That this Act shall commence and take effect from and after the passing thereof, and shall continue in force for two years thereafter, and not longer, save and except as to any action, suit, prosecution, or other proceeding, at law or in equity, actually commenced or instituted, which, notwithstanding this Act shall have expired, may be carried on in all respects whatsoever, as if the same had continued in force.

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

XVII. And be it enacted, That this Act 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 of the several Circuit Courts throughout the Colony, 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 third day of August,  
one thousand eight hundred  
and forty-two.

FRANCIS L. S. MEREWETHER,

Clerk of Councils.

#### SCHEDULE REFERRED TO.

Memorial of the name of the Chairman of the Court of Directors of "THE HUNTER'S RIVER AUCTION COMPANY," to be recorded in the Supreme Court of New South Wales, pursuant to an Act of the Governor and Council, passed in the sixth year of the Reign of Her Majesty Queen Victoria, intituled, "*An Act to facilitate proceedings by and against the Proprietors of a certain Joint Stock Company, lately carrying on business in Maitland, in the Colony of New South Wales, under the name, style, or firm, of 'THE HUNTER'S RIVER AUCTION COMPANY,' and for other purposes therein mentioned.*"

A. B., Chairman of the Court of Directors.

- C. D.	Directors.	{ I. K.
E. F.		{ L. M.
G. H.		{ N. O.

P. Q. of Esquire, Proprietor of the above-named Company, maketh oath and saith, that he was present, and did see the foregoing Memorial signed by the above-named Chairman and Directors respectively, whose names appear thereto.

Sworn this                      day of                      , 184 .

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Government Printer, and Published by him at  
the Government Printing Office, Bent-street.—  
August 17, 1842.

