



PORT PHILLIP  
GOVERNMENT GAZETTE,

Published by Authority.

WEDNESDAY, FEBRUARY 12, 1845.

THE following additional Rules of Practice and proceeding for the conduct of business in the Courts of Request of the colony, have been settled by me, with the assistance of Roger Therry, Esq., Commissioner of the Courts of Requests of the County of Cumberland, pursuant to the Act of Council, 6th Victoria, No. 15.

In witness whereof I have hereto set my hand, at Government House, Sydney, this seventeenth day of January, 1845.  
GEORGE GIPPS,  
Governor.

*Appropriation of Fees.*

41. That the following scale shall be adopted for regulating the appropriation of the fees taken by the officers of the Court of Requests, for their several and respective services, pursuant to Act of Council, 6th Victoria, No. 15, section 39, viz.:

That the fees receivable for process in the several Courts shall be distributed in the following proportions to the several officers of the Court for their several and respective services; one-third of the amount shall be paid to the Commissioner, and the remaining two-thirds shall be appropriated to the Registrar, Clerks, Bailiffs, and other officers of the Court, in the proportions in which they have hitherto severally and respectively remunerated by salaries for their services.

*Particulars filed in action to be explicit.*

42. That all particulars filed in any action shall be explicit, and shall specify items, dates, and amounts, with reasonable certainty, and if money has been paid on account, such particulars shall specify it, and state the balance for which the plaintiff seeks to recover.

*Defendant failing to file plea, &c., judgment to go by default.*

43. That if any defendant shall fail to file his plea, defence, or set-off, within the time limited by these rules, the plaintiff shall be entitled to a judgment by default, and the facts stated in his demand or plaint, filed as aforesaid, shall be taken to be admitted by the said defendant, and it shall only be necessary for the said plaintiff in any such action to prove the amount of damage sustained by him against such defendant: Provided always, that the said Commissioner, upon good cause being shown by the said defendant for not

filing his said plea, defence, or set-off, within the time aforesaid, may allow such defendant, either upon terms or otherwise, or with or without payment of costs, to come in and defend such action.

*Plaintiff confined to cause set forth in plaint.*

44. That at the trial of the cause, the plaintiff shall be confined in his proof to the cause of action set forth in his demand or plaint, and to the items contained in his particulars.

*Appearance of Defendant to constitute a waiver of irregular service of summons.*

45. That if a defendant in any cause appear at the trial thereof, either in person or by his counsel or attorney, such appearance shall be deemed a waiver of any irregularity in the service of the summons issued in such cause: but if in consequence of such irregular service, any such defendant shall not have had sufficient time to prepare his defence, the Commissioner may postpone the hearing of the cause to a future day, either with or without the costs of the defendant's appearance, to obtain such further trial.

*Plaint may be amended in certain cases.*

46. That the Commissioner may, at any time, allow any amendment to be made in any demand, plaint, particulars, plea, set-off, or other proceeding, either in form or substance, if the party against whom such amendment is sought to be made, has not been misled, or prejudiced by the defect intended to be amended, or upon payment of the reasonable costs of the opposite party occasioned by such defect, and the amendment thereof.

*If Defendant appear and Plaintiff do not, nonsuit may be entered.*

47. That if a defendant in any case above £10, shall appear in person, or by his clerk servant, or by his attorney, at the hearing of the case, and the plaintiff shall fail to appear, either in person, or by his clerk or servant, or by his attorney, to conduct the said case, as required by the 45th section of the said Act of Council, a nonsuit may be entered for the defendant.

*17th Rule of Practice repealed.*

48. That the 17th Rule of Practice and proceeding is hereby repealed, and henceforward the following rule shall be substituted in lieu thereof:—

"In all actions tried in the several Courts of Requests, in which there shall be a verdict in favour of plaintiff the amount of costs arising from fees of office, recoverable from the defendant, shall be the same amount as that paid by plaintiff or attorney, in filing the plaint, unless it shall appear to the Commissioner, at the hearing of the case, that a less amount ought to be awarded."

*Attorney, on filing Bill of Costs, to give notice of time for Taxing.*

49. In all cases of bills of costs filed by an attorney, for proceedings taken in the several courts, he shall, at the time of filing the same, give notice to the plaintiff or defendant, as the case may be, that he will within three days proceed to tax the same before the Registrar of the court; and should such plaintiff or defendant, or his attorney, neglect to attend at such taxation, he shall be deprived of the benefit of any reduction he might otherwise claim; provided, however, that upon reasonable cause shown, it shall be lawful for the Commissioner to direct a fresh taxation of such costs, either generally or in respect of particular items.

*Registrar or Chief Clerk to tax Costs.*

50. That all Bills of Costs for taxation be taxed by the Registrar of the Court, or in his absence the Chief Clerk thereof.

*Table of Costs Established.*

51. That the 37th Rule as regards Attorneys costs, is hereby repealed, and that the following scale of fees for the conduct of business in the several courts be established, and that the proper officer do tax and allow all bills of costs according to such scale, and that the fees of office hereunto annexed be charged on filing notices of new trial and on taxation.

FOR THE PLAINTIFF.	
	s. d.
Letter before action, if sent .....	2 0
Instructions to sue .....	3 4
Writ of summons .....	3 4
Drawing and copying plaint and particulars .....	7 6
Attending searching if summons served, and if plea or defence filed, and to bespeak copy thereof .....	3 4
Each subpoena, exclusive of service .....	1 0
Copy and service on each witness in Sydney .....	2 0
Attending court on trial, from one to three guineas .....	3 4
Obtaining an appointment to tax costs by the Registrar .....	3 4
Copy and service of such appointment, if an attorney appears for the defendant, or if the Defendant shall reside in Sydney .....	3 0
Affidavit of increase when necessary .....	5 0
Drawing Bill of Costs and copy .....	2 0
Copy for defendant or his Attorney .....	1 0
Attending taxing costs .....	3 4
Precept for Execution .....	5 0
FOR THE DEFENDANT.	
Instructions for plea or defence .....	3 4
Attending searching if plaint filed, and to bespeak copy .....	3 4
Drawing Plea, set off or defence and copy .....	7 6
Every subpoena, exclusive of service .....	1 0
Copy and service on each witness in Sydney .....	2 0
Attending Court on trial—same as for Plaintiff .....	3 4
Obtaining an appointment to tax .....	3 4
Copy and service of such appointment, when an Attorney appears, or the Plaintiff resides in Sydney .....	3 0
Affidavit of increase when necessary .....	5 0
Attending taxing costs .....	3 4
Precept for execution .....	5 0

MISCELLANEOUS.

For attending on Commissioner on a special summons .....	6 8
Drawing special affidavit or other necessary documents exceeding three folios, per folio 72 words .....	0 8
Fair copy of ditto, per ditto .....	0 4
Drawing summons or order or any other necessary documents, not exceeding three folios .....	3 0
Making fair copy thereof .....	1 0

*(Assessors' Fund.)*

52. That on the trial of all cases in which the attendance of Assessors is required, a fee of two shillings and sixpence, as a fee of office, to be entitled the "Assessors' Fund," shall be paid to the Registrar of each Court by the party prevailing in the suit, to be charged as costs in the case against the opposite party; which fee shall be paid at the hearing of the case, or before the party so prevailing is entitled to an execution on the judgment obtained by him.

53. That the following additional fees of office be paid by the suitors in the Court.

	s. d.
Filing notice of new trial .....	3 0
Ditto affidavit and swearing .....	2 0
Taxing attorney's bill of costs .....	3 0

*In the Insolvent Estate of W. F. E. Liardet, of the Beach.*

NOTICE is hereby given, that a plan of distribution of available assets in the above estate lies at the office of the Chief Commissioner of Insolvent Estates, at the Supreme Court-house, Melbourne, for the inspection of the creditors thereof; and that any creditor or other person interested therein, objecting to the confirmation of the same, must lodge a caveat, stating the grounds of such objection, at the said office of the said Chief Commissioner, within fourteen days from the date hereof.

Dated this sixth day of February, 1845.

A. CUNINGHAME, } Trustees.  
GEORGE JAMES, }

*In the Insolvent Estate of Joseph Anderson of Melbourne, Builder.*

NOTICE is hereby given, that a second plan of distribution of available assets in the above estate lies at the office of the Chief Commissioner of Insolvent Estates, at the Supreme Court-house, Melbourne, for the inspection of the creditors thereof; and that any creditor or other person interested therein, objecting to the confirmation of the same, must lodge a caveat, stating the grounds of such objection, at the said office of the said Chief Commissioner, within fourteen days from the date hereof.

Dated this sixth day of February, 1845.

A. CUNINGHAME, } Trustees.  
ROBERT WHITEHEAD, }

*In the Insolvent Estate of Charles Symonds Barrett.*

NOTICE is hereby given, that a second plan of distribution of available assets in the above estate lies at the office of the Chief Commissioner of Insolvent Estates, at the Supreme Court-house, Melbourne, for the inspection of the creditors thereof; and that any creditor or other person interested therein, objecting to the confirmation of the same, must lodge a caveat, stating the grounds of such objection, at the said office of the said Chief Commissioner, within fourteen days from the date hereof.

Dated this seventh day of February, 1845.

W. LOCKE, } Trustee.

WE the undersigned, the president and members of the Port Phillip Medical Board, appointed by his honor the Superintendent, under the Act 2nd Victoria cap. 22, intituled "An Act to define the qualifications of Medical Witnesses at Coroner's Inquests and Inquiries held before Justices of the Peace, in the colony of New South Wales," do hereby certify that the undermentioned gentlemen have submitted the necessary testimonials of qualification, viz:—

- Bailey, James; Goulburn
- Campbell, William Henry; Melbourne
- Cheyne, Alexander, M. D.
- Cussen, Patrick, M. D., Melbourne
- Clutterbuck, James Bennett; Melbourne
- Dickson, James
- Drummond, James; Merri Creek
- Flemming, William; Melbourne
- Greeves, Augustus F. A.; Melbourne
- Griffin, John Sealy; Melbourne
- Howitt, Godfrey, M. D.; Melbourne
- Hobson, Edmund C.; Melbourne
- Lang, Thomas
- O'Mullane, Arthur, M. D.; Melbourne
- Pyke, William; Weiraby
- Sproat, John, M. D.; Melbourne
- Shaw, Foster; Geelong
- Thomas, David John; Melbourne
- Wilmot, William Byam, M. D.; Melbourne
- Wilkie, David Elliot, M. D.; Melbourne
- Watson, John Edward; Mount Rouse

And we do hereby further declare, that the several gentlemen whose names are above mentioned, are entitled to be deemed "Legally Qualified Medical Practitioners" in terms of and accordance with the provisions of the aforesaid Act.

P. CUSSEN, M. D., President  
 GODFREY HOWITT, M. D.  
 WILLIAM BYAM WILMOT, M. D.  
 E. C. HOBSON, M. D.  
 Melbourne Medical Board, January 1845.  
*Colonial Secretary's Office,  
 Sydney, 16th January, 1845.*

*In the Supreme Court of New  
 South Wales for the Dis-  
 trict of Port Phillip.*

**ECCLIESIASTICAL JURISDICTION.**

In the Goods of Edmund Hefferann, a Shepherd, late in the employ of Mr. William Lock of the Devils River.

PURSUANT to rule of this Honorable Court, parties having claims on the Estate of the above named Intestate, are requested to prove them before James Denham Pinnock, Esq., Registrar of the said Court, on or before Wednesday the fifteenth day of February instant; or in default thereof, they will be excluded from all benefit arising from the said Estate.

Dated at the Registry Office, Supreme Court, Melbourne, this first day of February, 1845.

J. D. PINNOCK,  
 Curator of Intestate Estates.

*In the Supreme Court of New  
 South Wales for the Dis-  
 trict of Port Phillip.*

**ECCLIESIASTICAL JURISDICTION.**

In the Goods of James Hall Gaul, late a Custom-house Agent in Melbourne.

PURSUANT to rule of this Honorable Court, parties having claims on the Estate of the above named Intestate, are requested to prove them before James Denham Pinnock, Esquire, Registrar of said Court, on or before Tuesday the fourteenth day of February instant; or in default thereof, they will be peremptorily excluded from all benefit arising from the said Estate.

Dated at the Registry Office, Supreme Court, Melbourne, this first day of February, 1845.

J. D. PINNOCK,  
 Curator of Intestate Estates.

**ANNUAL CONTRACTS.**

*Commissariat Office, Melbourne,  
 31st January, 1845.*

NOTICE is hereby given that Tenders in duplicate will be received at this office until Friday the 21st day of February, at noon, for furnishing the supplies undermentioned, in such quantities as may be required in the Districts of Melbourne and Geelong, during twelve calendar months commencing the 1st April next, under the conditions named in the Deputy Commissary General's annual advertisement, dated 16th Inst., copies of which can be obtained at this office.

**PROVISIONS.**

1. Military ration being:—  
 1 lb. of fresh meat  
 1 lb. of wheaten bread  
 1-7th of an imperial quart of rum.
2. Rations for exiles being:—  
 For men, 24 oz. wheaten bread, 16 oz. fresh meat, 8 oz. vegetables, ½ oz. of salt, ¼ oz. tea, 1½ oz. sugar, ¼ oz. soap.  
 For women, 16 oz. wheat bread, 12 oz. fresh meat, 6 oz. vegetables, ½ oz. salt, ¼ oz. tea, 1½ oz. sugar, ½ oz. soap.  
 Children under 10 years to be allowed two thirds of female adults.

**FORAGE.**

3. The ration of forage being:—  
 8 lbs. maize or barley, or 10 lbs. oats  
 4 lbs. bran, 12 lbs. oaten hay and 4 lbs. wheaten straw.

**FUEL AND LIGHT.**

4. Firewood at per 100 lbs.  
 Mould candles 7 at per lb.  
 Dip candles 4 at per lb.
5. For general purposes  
 As per Sydney advertisement.

Parties tendering may do so by either of the following modes.

1. The whole of the supplies of every description in each District, (or for Melbourne and Geelong collectively) may be included in one tender.
2. Or the various articles comprising the several rations referred to may be tendered separately or singly, by weight and measure. The Deputy Commissary General reserving to himself the power of accepting tenders for supplying by any of these modes which he may find most expedient.

Printed forms of tenders may be obtained from and all other information will be given by the undersigned.

J. A. ERSKINE,  
 Dep. Assist. Com. General.

**Court of Requests.**

FOR THE COUNTY OF BOURKE.

NOTICE is hereby given, that the Court of Requests for this county, will be holden in Melbourne, at the Court-house, King-street, on Monday, the third, and the following days of March, 1845, at the hour of nine o'clock in the forenoon.

Plaints must be delivered at the office of the Registrar, on or before Friday, the 14th day of February instant.

Defences or set-off must be filed on or before Friday, 28th day of February instant.

No plaint, defence, or set-off, shall be received or filed without having the name and residence of plaintiff and defendant written thereupon.

In defended cases, the plea of defence and notice of set-off, must be in accordance with the forms prescribed by the late Rules of Court.

(By order of the Commissioner.)  
 J. S. GRIFFIN,  
 Registrar.

Melbourne, }  
 February 10, 1845. }

**A**BSTRACT of the Balance Sheet of the **SAVINGS' BANK** of Port Phillip at 31st December, 1844, certified by the Trustees, to the best of their belief, as correct, at their Annual General Meeting held on Friday the 31st day of January, 1845, and approved by his Honor the Superintendent, as President of the Bank, according to the terms of the Act of the Governor and Council 3rd Victoria, No. XII, sec. 13.

Amount at the credit of the 399 Depositors, including interest on the deposits to this date at the rate of 4 3/8 per cent. per annum, as ordered by the Trustees .....	8509 1 3		Amount lent on Mortgages .....	2400 0 0	
Amount at the credit of 12 Inestate Estates, including interest as above .....	1226 12 7	9735 13 10	Interest thereon to this date at 10 per cent. per annum .....	104 4 0	2404 4 0
Ditto of 1 Estate in trust .....	688 2 2		Amount outstanding on Bills .....		600 18 11
<b>Gross profits of the Bank .....</b>			Amount invested in Land and Immigration Debentures .....	4300 0 0	4367 7 0
			Interest thereon to this date at 4 1/2 per cent. per annum .....	67 7 0	
			Amount of Cash in the Bank of Australasia at the credit of the Vice President and Trustees .....		2675 0 3
			Office Furniture .....		27 19 6
<b>CHARGES FOR THE YEAR 1844.</b>					
Salary of the Accountant .....	100 0 0				
Messenger's Wages .....	15 0 0				
Office rent .....	17 1 8				
Stationery and books .....	4 16 2				
Printing and advertising .....	6 3 3				
All other charges .....	7 6 5				
	2150 7 6				
Credit by proceeds of Rules and Regulations sold ..	4 10 0	145 17 6			
		462 4 8			
Amount of Net Profits .....		214 0 3			
Whereof the sum of £214 0s. 3d. has been appropriated to the allowance of interest to the Depositors, as stated above .....		248 4 5			
Balance of Net Profits carried to credit of Rest Fund ..		91 11 5			
Amount previously at the credit of Rest Fund .....		339 15 10			
		£10075 9 8			£10075 9 8

A. C. THOMSON,  
W. B. WILLIOTT,  
J. GRAHAM,  
A. McLACHLAN,  
GODFREY HOWITT,  
P. B. GROGHGAN,  
Approved, C. J. LA TROBE, President.

JAMES SIMPSON, V.P.  
EDWARD EYRE WILLIAMS,  
H. CONDELL,  
JAMES SAITH, Accountant.

Colonial Secretary's Office,  
Sydney, 31st January, 1845.

**H**IS Excellency the Governor has been pleased to appoint the undermentioned gentlemen to be magistrates of the territory and its dependencies, viz:—

**ALEXANDER JOHNSON**, of Kerrenbollock, Mount Emu Creek,  
**RODRICK M'KENZIE**, of Flowerdale, Goulburn River, and  
**ALFRED TADDEY THOMSON**, of Yallappourra, Fiery Creek, Esquires, all of the District of Port Phillip.

By his Excellency's Command,  
**E. DEAS THOMSON.**

Colonial Secretary's Office,  
Sydney, 30th January, 1845.

**R**OGER THERRY, Esquire, of Gray's Inn, London, Barrister at Law, has been appointed a Judge of the Supreme Court of New South Wales, in the place of William Jeffcott, Esquire, resigned, and has this day been sworn in before his Excellency the Governor accordingly.

By his Excellency's Command,  
**E. DEAS THOMSON.**

Colonial Secretary's Office,  
Sydney, 30th January, 1845.

**H**IS Excellency the Governor has been pleased to appoint  
His Honor **ROGER THERRY**, Esquire, one of the Judges of the Supreme Court of New South Wales, to be the Resident Judge, in and for the District of Port Phillip, in the room of William Jeffcott, Esquire, resigned.

By his Excellency's Command,  
**E. DEAS THOMSON.**

**PUBLIC MONIES.**

**W**ITH a view to prevent the recurrence of the inconvenience which has, in some cases been found to result from Public Monies having been placed in the Banks by persons in the service of Government to their private accounts; his Excellency the Governor directs it to be notified that, for the future, no Public Monies shall, on any pretence whatever, be paid to the private account of Officers at the Banks; but that, if transmitted through the Banks at all, they must be carried to a public account, wholly distinct from any private account.

By his Excellency's command,  
**E. DEAS THOMSON.**

**Deep Creek Pound.**

**N**OTICE is hereby given, that at a Court of Petty Sessions held at the Police Office, Melbourne, for the County of Bourke, on Saturday, the first day of February instant, Mr. William Wright was appointed Poundkeeper at the above place, in the room of Mr. C. J. Hemmingsley, dismissed.

By order of the Justices in Petty Sessions,  
**W. R. BELCHER**,  
Clerk of Petty Sessions.  
Melbourne Police Office,  
3rd February, 1845.

**I**MPOUNDED at Melbourne, on February 9th, 1845.—

One bay gelding, black points, switch tail, saddle and collar marked, stands about 15 hands high, off side under the mane JH.  
If not claimed and expenses paid on or before 5th day of March, to be sold at the pound yard according to the act of council.

4s.] **G. CARBOROUGH**,  
Poundkeeper.

**I**MPOUNDED at the South Yarra Pound on the 4th February, and if not claimed on or before the 28th February will be sold at the Pound Yards.

A low set light chestnut old mare, white streak down face, hind and off fore feet white, swollen about fetlocks, long switch tail, saddle marked, like a small F near side neck, O off shoulder.

Damages claimed 20s.

4s. 3d. **W. M. ATKINSON**,  
Poundkeeper.

**I**MPOUNDED at Kalkallo February 3rd, 1845:—

A brown bullock, star on forehead, W and an illegible brand under it on near ribs, a brand on off side like N, lame near hind leg  
A dark brindle bullock, cock horns, white on face, I near shoulder.

If not claimed to be sold on the 26th February, 1845.

Impounded on the 5th February, 1845.  
A white bullock, snail horn on near side, off horn broken, GF off rump, Cm off ribs, yellow spot near side of neck, tip of ears yellow.

A ginger bullock, M on off shoulder, M off rump, C with illegible brand under on off ribs  
A blue sided bullock, short tail, R2 off rump and ribs

A brindle bullock, tip off horns, hobbled, J within square off ribs, illegible brand near rump.  
If not claimed to be sold on the 28th February, 1845, according to act of council

**THOMAS JOHNSON**,  
Poundkeeper.

7s. 3d.]

**I**MPOUNDED at Pentridge, 4th February, 1845—

A dark brown sided bullock, cocked horns, DK on joined rump and hip.  
JR con-  
M

If not released he will be sold, at the pound yard, 1st March, at noon, in accordance with Act of Council.

**G. P. ANDERSON**,  
Poundkeeper.  
4s. 3d.]

In the Supreme Court of New South Wales for the District of Port Phillip.

**Cooper v. Cropper & Co.**

On FRIDAY, the 14th day of February, 1845, at the Royal Hotel, Melbourne, at the hour o twelve o'clock, the Deputy Sheriff will cause to be sold by public auction,

**A**LL the part, share, proportion, right and interest of John Cropper, one of the above named defendants, of, in, and to, about 2240 sheep, 44 horses, 18 working bullocks, and 20 b les of wool, (more or less) now being on a station called "Laceyby," on the Ovens River, in the district of Port Phillip, under an agreement made between one Thomas Chapman of the one part, and the said John Cropper of the other part, a copy of which agreement will be produced at the time of sale, and which may be seen meanwhile at the office of the Deputy Sheriff of Port Phillip; unless this execution be previously satisfied.

**JOHN BULLIVANT**,  
Sheriff's Bailiff.  
Deputy Sheriff's Office, Melbourne,  
5th February, 1845.