

ANNO UNDECIMO

VICTORIÆ REGINÆ.

*By His Excellency SIR CHARLES AUGUSTUS FITZ ROY,
Knight Companion of the Royal Hanoverian
Guelphic Order, 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 and consent of the Legislative
Council.*

No. I.

**An Act to continue for a limited time an Act, intituled "An
" Act to regulate for a limited time, the Exportation of
" Gunpowder and Warlike Stores from the Colony of New
" South Wales." [Assented to, 23rd June, 1847.]**

WHEREAS an Act of the Governor and Legislative Council of New South Wales was passed in the ninth year of the reign of Her present Majesty, intituled "*An Act to regulate, for a limited time, the Exportation of Gunpowder and Warlike Stores from the Colony of New South Wales.*" And whereas it is expedient to continue the same for the limited period hereinafter mentioned: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That the said recited Act shall be, and the same is hereby continued until the thirty-first day of December, in the year one thousand eight hundred and forty-nine.

Preamble,
9 Vict., No. 6,
continued until 31st
December, 1849.

CHARLES NICHOLSON,

Speaker,

Passed the Legislative Council, this second day of June, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

W. M. MACPHERSON,

CLERK OF THE COUNCIL.

CH^S. A. FITZ ROY,

GOVERNOR.

Govt. House, Sydney, 23rd June, 1847.

No. II.

No. II.

An Act to facilitate the recovery of possession of Tenements after due determination of the Tenancy. [Assented to, 24th July, 1847.]

Preamble.

When over holding tenant or occupier of premises refuses to give up possession, landlord may give notice of his intention to proceed to recover possession.

If tenant does not appear, or fails to shew cause why he does not give possession, the Justices may issue their warrant directing the constables to give the landlord possession.

The manner in which such summons shall be served.

WHEREAS it is expedient to provide for the more speedy and effectual recovery of the possession of premises unlawfully held over after the determination of the tenancy: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That from and after the passing of this Act, when and so soon as the term or interest of the tenant of any house, land, or other corporeal hereditaments held by him shall have ended, or shall have been duly determined by a legal notice to quit, or otherwise, and such tenant or (if such tenant do not actually occupy the premises, or only occupy a part thereof,) any person by whom the same, or any part thereof, shall be then actually occupied, shall neglect or refuse to quit and deliver up possession of the premises, or of such part thereof respectively, it shall be lawful for the landlord of the said premises, or his agent, to cause the person so neglecting or refusing to quit and deliver up possession, to be served (in the manner hereinafter mentioned) with a written notice, in the form set forth in the Schedule to this Act, signed by the said landlord or his agent, of his intention to proceed to recover possession under the authority and according to the mode prescribed in this Act; and if the tenant or occupier shall not thereupon appear at the time and place appointed, and shew to the satisfaction of the Justices hereinafter mentioned, reasonable cause why possession should not be given under the provisions of this Act, and shall still neglect or refuse to deliver up possession of the premises, or of such part thereof of which he is then in possession, to the said landlord or his agent, it shall be lawful for such landlord or agent to give to such Justices proof of the holding and of the end or other determination of the tenancy, with the time or manner thereof, and where the title of the landlord has accrued since the letting of the premises, the right by which he claims the possession, and upon proof of service of the notice, and of the neglect or refusal of the tenant or occupier, as the case may be, it shall be lawful for the Justices in Petty Sessions assembled, or any two of them, to issue a warrant, under their hands and seals, to the constables and peace officers of the city, town, district, or place, within which the said premises, or any part thereof, shall be situate, commanding them, within a period to be therein named, not more than thirty clear days from the date of such warrant, to enter (by force if needful) into the premises, and give possession of the same to such landlord or agent: Provided always, that entry upon any such warrant shall not be made on a Sunday, Good Friday, or Christmas Day, or at any time, except between the hours of nine in the morning and four in the afternoon: Provided also, that nothing herein contained shall be deemed to protect any person on whose application and to whom any such warrant shall be granted, from any action which may be brought against him by any such tenant or occupier, for or in respect of such entry and taking possession, where such person had not, at the time of granting the same, lawful right to the possession of the same premises: Provided also, that nothing herein contained shall affect any rights to which any person may be entitled, as outgoing tenant, by the custom of the country or otherwise.

II. And be it enacted, That such notice of application, intended to be made under this Act, may be served either personally or by leaving the same with some person, being in, and apparently residing at, the place of abode of the person so holding over as aforesaid; and that the person serving the same shall read over the same to the person served, or with whom the same shall be left as aforesaid, and explain the purport and intent thereof: Provided, that if the person so holding over cannot be found, and the place of abode of such person shall either not be known, or admission thereto cannot be obtained for serving such summons, the

posting

posting up of the said summons on some conspicuous part of the premises so held over shall be deemed to be good service upon such person.

III. And be it enacted, That in every case in which the person to whom any such warrant shall be granted had not, at the time of granting the same, lawful right to the possession of the premises, the obtaining of any such warrant as aforesaid shall be deemed a trespass by him against the tenant or occupier of the premises, although no entry shall be made by virtue of the warrant; and in case any such tenant or occupier will become bound with two sureties as hereinafter provided, to be approved of by the said Justices, in such sum as to them shall seem reasonable, regard being had to the value of the premises, and to the probable cost of an action, to sue the person to whom such warrant was granted, with effect and without delay, and to pay all the costs of the proceeding in such action in case a verdict shall pass for the defendant, or the plaintiff shall discontinue or not prosecute his action, or become nonsuit therein, execution of the warrant shall be delayed until judgment shall have been given in such action of trespass; and if, upon the trial of such action of trespass a verdict shall pass for the plaintiff, such verdict and judgment thereupon shall supersede the warrant so granted, and the plaintiff shall be entitled to double costs in the said action of trespass.

How execution of warrants of possession may be stayed.

IV. And be it enacted, That every such bond, as hereinbefore mentioned, shall be made to the said landlord or his agent, at the costs of such landlord or agent, and shall be approved of and signed by the said Justices; and if the bond so taken be forfeited, or if upon the trial of the action for securing the trial of which such bond was given, the Judge by whom it shall be tried shall not endorse upon the record in Court that the condition of the bond hath been fulfilled, the party to whom the bond shall have been so made may bring an action, and recover thereon: Provided always, that the Court, where such action as last aforesaid shall be brought, may, by a rule of Court, give such relief to the parties upon such bond, as may be agreeable to justice, and such rule shall have the nature and effect of a defeasance to such bond.

Proceedings on the bond in actions of trespass.

V. And be it enacted, That it shall not be lawful to bring any action or prosecution against the said Justices, by whom such warrant as aforesaid shall have been issued, or against any constable or peace officer, by whom such warrant may be executed, for issuing such warrant or executing the same respectively, by reason that the person on whose application the same shall be granted had not lawful right to the possession of the premises.

Protection of Justices, constables, &c.

VI. And be it enacted, That where the landlord at the time of applying for such warrant as aforesaid had lawful right to the possession of the premises, or of the part thereof so held over as aforesaid, neither the said landlord, nor his agent, nor any other person acting in his behalf, shall be deemed to be a trespasser by reason merely of any irregularity or informality in the mode of proceeding for obtaining possession under the authority of this Act; but the party aggrieved may, if he think fit, bring an action on the case for such irregularity, or informality in which the damage alleged to be sustained thereby shall be specially laid, and may recover full satisfaction for such special damage, with costs of suit: Provided, that if the special damage so laid be not proved, the defendant shall be entitled to a verdict, and that if proved, but assessed by the jury at any sum not exceeding five shillings, the plaintiff shall recover no more costs than damages, unless the Judge before whom the trial shall have been held shall certify upon the back of the record that in his opinion full costs ought to be allowed.

Where landlord has a lawful title, he shall not be deemed a trespasser by reason of irregularity, but be liable in an action on the case for special damage proceeding from irregularity.

VII. And be it enacted, That in construing this Act the word "premises" shall be taken to signify lands, houses, or other corporeal hereditaments; and that the word "person" shall be taken to comprehend a body politic, corporate, or collegiate, as well as an individual; and that every word importing the singular number shall, where necessary to give full effect to the enactments herein contained, be deemed to extend and be applied to several persons or things as well as one person or thing; and

Interpretation clause.

and

and that every word importing the masculine gender shall, where necessary, extend and be applied to a female as well as a male; and that the term "landlord" shall be understood as signifying the person entitled to the immediate reversion of the premises, or, if the property be held in joint-tenancy, coparcenary, or tenancy in common, shall be understood as signifying any one of the persons entitled to such reversion: and that the word "agent" shall be taken to signify any person usually employed by the landlord in the letting of the premises, or in the collection of the rents thereof, or specially authorized to act in the particular matter by writing under the hand of such landlord.

CHARLES NICHOLSON,

Speaker.

Passed the Legislative Council, this twenty-third day of June, one thousand eight hundred and forty-seven. } *In the name, and on behalf of Her Majesty, I assent to this Act.*

W.M. MACPHERSON

CLERK OF THE COUNCIL.

CH^s. A. FITZ ROY,

GOVERNOR.

Govt. House, Sydney, 24th July, 1847.

SCHEDULE REFERRED TO.

FORM No. 1.

Notice of Owner's intention to apply to Justices to recover possession.
I (owner, or agent to the owner, as the case may be,) do hereby give you notice that unless peaceable possession of the tenement, (shortly describing it,) situate which was held of me, or of the said (as the case may be) under a tenancy from year to year, or (as the case may be), which expired (or was determined) by notice to quit from the said or otherwise, (as the case may be) on the day of , and which tenement is now held over and detained from the said be given to (the owner or agent) on or before the expiration of seven clear days from the service of this notice, I shall on next, the day of at of the clock of the same day, at apply to Her Majesty's Justices of the Peace at (being the city, town, district, or place, in which the said tenement, or any part thereof, is situate,) in Petty Sessions assembled, to issue their warrant directing the constables of the said district to enter and take possession of the said tenement, and to eject any person therefrom.
(Signed) (owner or agent.)

Dated this
To Mr.

FORM No. 2.

Complaint before two Justices.
The complaint of (owner or agent, &c., as the case may be,) made before us two of Her Majesty's Justices of the Peace at in Petty Sessions assembled, who saith that the said did let to a tenement consisting of , for under the rent of , and that the said tenancy expired (or was determined by notice to quit, given by the said , or as the case may be,) on the day of and that on the day of the said did serve on (the tenant overholding) a notice in writing of his intention to apply to recover possession of the said tenement, (a duplicate of which notice is hereto annexed) by giving, &c., (describing the mode in which the service was effected), and that notwithstanding the said notice, the said refused (or neglected) to deliver up possession of the said tenement, and still detains the same.
(Signed)

Taken the day of before us. (Signed)

A duplicate of the notice of intention to apply is to be annexed to this complaint.

FORM No. 3.

(Warrant to Peace Officers to take and give possession.)

WHEREAS (set forth the complaint), we two of Her Majesty's Justices of the Peace, in Petty Sessions, assembled at , do authorize and command you, on any day within days from the date hereof, (except on Sunday, Christmas Day, and Good Friday, to be added if necessary,) between the hours of nine in the forenoon and four in the afternoon, to enter (by force, if needful,) and with or without the aid of the owner or agent, (as the case may be,) or any other person or persons whom you may think requisite to call to your assistance, into and upon the said tenement, and to eject thereout any person, and of the said tenement full and peaceable possession to deliver to the said (the owner or agent.)

Given under our Hands and Seals,
this day
of , 18 .

To
for the Town of

, and all other Constables and Peace Officers acting
or District of

No. III.

An Act for the Regulation of Steam Navigation, and for requiring Sea-going Vessels to carry Boats. [Assented to, 24th July, 1847.]

WHEREAS it is expedient to provide for the inspection and better regulation of sea-going steam boats, and other vessels carrying passengers, and for preventing the occurrence of accidents (as far as may be possible) in steam navigation, and for requiring sea-going vessels to carry boats: And whereas it is necessary that a Board of competent persons should be appointed to carry out the provisions requisite for such purposes: Be it enacted by His Excellency the Governor of New South Wales, by and with the advice and consent of the Legislative Council thereof, That it shall and may be lawful for the Governor of said Colony to nominate and appoint any number of persons, not exceeding five, of whom three shall be a quorum, with power to act, to constitute and be a Board for the inspection and regulation of sea-going steam and other vessels carrying passengers in and from the said Colony, and the said persons, or any of them, to remove and displace from time to time, and to appoint another or others in his or their stead, and that the said Board when so appointed shall have full power and authority to carry out the provisions of this Act.

Preamble.

Board to be appointed for inspection and regulation of sea-going steam and other vessels.

II. And be it enacted, That all steam vessels built in this Colony of iron, of one hundred tons burden, or upwards, the building of which shall be commenced after the passing of this Act, shall be divided by transverse water-tight partitions, so that the fore part of the vessel shall be separated from the engine room by one of such partitions, and so that the after part of such vessel shall be separated from the engine room by another of such partitions.

Iron steamers of 100 tons and upwards hereafter built in this Colony to have partitions separating the after part thereof from the engine room.

III. And be it enacted, That from and after the first day of January, one thousand eight hundred and forty-eight, no vessel, the tonnage of which shall be one hundred tons, or upwards, shall proceed to sea from any port whatsoever in this Colony, unless it shall be provided with boats, duly supplied with all requisites for their uses, and not being fewer in number, nor less in their dimensions, than the number and dimensions set opposite to the limits of dimension in the table annexed: Provided that the said limits of dimension be not considered applicable to vessels engaged in the whale fishery; and that no vessel carrying more than ten passengers shall proceed to sea on any voyage, unless, in addition to the boats hereinbefore required, it shall also be provided with a boat fitted up as a life boat, with all requisites for its use, together with two life buoys.

Vessels of 100 tons and upwards to be provided with boats, life-boat, and life-buoys.

IV. And be it enacted, That every steamer, the building of which in this Colony shall be commenced after the passing of this Act, and which shall proceed to sea with passengers, shall, in addition to the boats specified in the foregoing table, and in lieu of a boat fitted up as a life boat, be provided, either with such boats as are usually called paddle-box boats, or with such other boats as may be directed in lieu thereof, by the Board hereinbefore mentioned.

Steamers hereafter built in this Colony to be provided with paddle-box boats instead of life-boat.

V. And be it enacted, That no steam vessel of one hundred tons burden, or upwards, shall proceed to sea unless it shall be provided with a hose for the purpose of extinguishing fire, capable of being connected with the engines of the vessel.

Steamers to be provided with fire-hose.

VI. And be it enacted, That for the purposes of this Act, the tonnage of vessels shall be ascertained according to the rules of admeasurement prescribed by any Act of Parliament, for the time in force, regulating the admeasurement of the tonnage and burden of the merchant ships of the United Kingdom.

How tonnage of vessels to be ascertained for purposes of Act.

VII. And be it enacted, That if any such steam vessel as aforesaid proceed to sea without being provided with such hose as aforesaid, or being an iron steam vessel commenced to be built in this Colony, after the passing of this Act, without being so divided as aforesaid; or if any

Penalty for not having partitions, hose, boats, &c., or for wilfully injuring or neglecting to repair boats, &c.

steam

steam or other vessel, of one hundred tons burden, or upwards, proceed to sea without being so provided with boats as aforesaid, or if any of such boats be lost or rendered useless in the course of the voyage, through the wilful fault or negligence of the owner or master, or if in case of any such boats being accidentally lost or injured in the course of the voyage, the master or other person having charge of the vessel, wilfully neglect to replace or repair the same on the first convenient opportunity, then, and in every case where the owner shall appear to be in fault, he shall forfeit a sum not exceeding one hundred pounds, and in every case where the master or other person having charge of the vessel shall appear to be in fault, he shall forfeit a sum not exceeding fifty pounds.

Vessels not to be cleared out without being provided with partitions, hose, boats, &c.

VIII. And be it enacted, That it shall not be lawful for any officer of Customs to clear out any such steam vessel as aforesaid, for any voyage to any port within the said Colony, or to other parts beyond the seas, without being provided with such hose as aforesaid; or, being an iron steam vessel commenced to be built in this Colony after the passing of this Act, without being so divided as aforesaid, nor to clear out any steam or other vessel of one hundred tons burden or upwards, for any such voyage, unless the same be provided with such boats as hereinbefore are required.

Regulations for vessels passing each other, and penalty for their non-observance.

IX. And be it enacted, That every steam vessel when meeting or passing any other steam vessel, shall pass, as far as may be safe, on the port side of such other vessel; and every steam vessel navigating any river or narrow channel shall keep, as far as is practicable, to that side of the fair-way or mid-channel of such river or channel, which lies on the star-board side of such vessel, due regard being had to the tide and to the position of each vessel in such tide; and the master or other person having the charge of any such steam vessel, and neglecting to observe these regulations, or either of them, shall for each and every instance of neglect forfeit and pay a sum not exceeding fifty pounds.

Board may make, alter, or revoke regulations.

X. And be it enacted, That the Board hereinbefore mentioned may, from time to time, make regulations, requiring the exhibition of such lights by steam vessels, in such manner and under such circumstances as the said Board may think fit, and may, from time to time, make any other regulations revoking or altering any previous regulations: Provided that such regulations shall not be inconsistent with this Act, and before coming into force shall be subject to the approval of His Excellency the Governor.

Regulations to be published in *Government Gazette*.

XI. And be it enacted, That the said Board shall cause such regulations, as soon as conveniently may be after the same shall have been made, to be published in four successive *Government Gazettes*, and the same shall be deemed to be in force after the expiration of one month from the date of the first of such publications, until the same shall have been altered or revoked, and until the expiration of one month after such alteration or revocation shall have been twice published in like manner as aforesaid.

Steamers to carry lights under penalty.

XII. And be it enacted, That the master or other person having the charge of any steam vessel which shall be in any river or narrow channel in New South Wales, or the adjacent Islands, being within the said Colony, or upon the sea within twenty miles of any part of the coast of the said Colony, shall, whether under weigh or at anchor, between sun-set and sun-rise, exhibit such lights, within such places, in such manner, and under such circumstances as, by the said regulations hereinbefore authorised to be made by the said Board, shall be required; and in default thereof, shall forfeit and pay a sum not exceeding twenty pounds for every night in which such default shall be made; and the owner of any steam vessel in which such light shall not be exhibited as aforesaid, shall not be entitled to recover any recompense or damage whatsoever, which may be sustained by such vessel in consequence of any other vessel running foul thereof during the night.

Remedy for damage to persons or property, resulting from non-observance of regulations.

XIII. And be it enacted, That if any damage to any person or property shall be sustained, in consequence of the non-observance as respects any steam vessel, of the rules contained in the two enactments relative to the passing of steam vessels, and to the exhibiting of lights, hereinbefore

hereinbefore contained, the same shall, in all Courts of Justice, be deemed, in the absence of proof to the contrary, to have been occasioned by the wilful default of the master or other person having the charge of such steam vessel; and such master or other person shall be subject in all proceedings, whether civil or criminal, to the legal consequences of such wilful default.

XIV. And be it enacted, That on or before the thirtieth day of April and the thirty-first day of October, in every year, the owners of every steam vessel shall transmit to the said Board the two following declarations, in writing, that is to say:—First, a declaration of the sufficiency and good condition of the hull of such steamer, under the hand of a shipwright surveyor, to be approved by the said Board:—Second, a declaration of the sufficiency and good condition of the machinery of such steam vessel, under the hand of an engineer, to be approved in like manner by the said Board; such declarations bearing date of some day in the said months of April or October respectively: And the said Board shall register such declarations, and shall transmit to the owners of such steam vessels respectively certificates, under the hand of two or more of the said Board, of the registry of such declarations: Provided always, that if the owners of any such vessel shall certify to the said Board that such vessel has been, during the whole of such month of April or October respectively, and still is, in foreign parts, so that it is impossible to obtain the declarations hereinbefore required, bearing date as is hereinbefore prescribed, and shall at the same time transmit to the said Board the declarations hereinbefore required, bearing date of a day not being more than seven days before such vessel last sailed or departed from any port of the said Colony, then and in every such case the said Board shall register such declarations, and shall transmit to the owners of such last mentioned steam vessels respectively, certificates of the registry of such declarations: Provided nevertheless, that this enactment shall not extend or apply to any steam vessels so employed as mentioned, during the continuance of such employment, (that is to say) whilst employed in the Royal Mail Service, or the conveyance of the Royal Public Mails or Despatches, under contract with, and under the superintendence of the Lord High Admiral, or the Commissioners for executing the Office of Lord High Admiral.

Declarations to be transmitted to the Board for registry, in April or October, of the sufficiency of the hull and machinery of steamers.

Not to extend to steamers employed in Royal Mail Service, or under the superintendence of the Lord High Admiral, &c.

XV. And whereas it may happen, that by reason of a steam vessel or the machinery thereof, being under repair during either of the said months of April or October, it may be impracticable to make such declarations as are hereinbefore required in either of the said months: Be it enacted, That in such case it shall be lawful for the owners of such steam vessels, at any time to make a representation to that effect to the said Board, and to transmit therewith such declarations as are hereinbefore required, and it shall be thereupon lawful for the said Board, if they shall be satisfied of the truth of such representation, to register such declarations, notwithstanding they shall not bear date in either of the months of April or October; and the said Board shall transmit to the owners of such steam vessels certificates of the registry thereof, in manner hereinbefore provided; and such certificates shall have the like force and effect, and be used for all the same purposes, and in the same manner, as if the said certificates referred to declarations made in either of the said months of April or October.

Provision where declarations cannot be so transmitted in the months of April or October.

XVI. And be it enacted, That from and after the thirtieth day of June, one thousand eight hundred and forty-eight, it shall not be lawful for any steam vessel, except as is lastly hereinbefore excepted, to proceed to sea, unless the owner thereof shall have duly transmitted to the Board such declarations, and shall have received from the Board such certificates of the registry thereof as hereinbefore is mentioned; and that it shall not be lawful for any Officer of Her Majesty's Customs or Port Officer, to clear out any steam vessel carrying passengers for any voyage to any port within the said Colony, or to parts beyond the seas, unless upon the production of the certificate of the registry of the declarations, which shall most recently have been made in respect of such steam vessel, and unless

Steamers not to proceed to sea or be cleared until such declarations previously made and registered.

such declarations shall have been so made within six calendar months of the application for clearance.

Penalty for proceeding to sea without certificate of the registry of such declarations.

XVII. And be it enacted, That if any steam vessel proceed to sea, with passengers, the owner whereof has not duly transmitted to the said Board such declarations, and received from the said Board such certificates of the registry of such declarations as hereinbefore is mentioned, the owner of such steam vessel shall forfeit a sum not exceeding one hundred pounds.

Forging or altering declaration or certificate a misdemeanor.

XVIII. And be it enacted, That any person who shall knowingly or wilfully make or assist in making a false or fraudulent declaration or certificate, or who shall knowingly or wilfully forge, counterfeit, or fraudulently alter, or shall aid and assist in forging, counterfeiting or fraudulently altering, or who shall attempt to forge, counterfeit, or fraudulently alter, any declaration or certificate, provided for by this Act, or any words or figures in any such declaration or certificate, he shall be deemed to be guilty of a misdemeanor.

Board to be informed of any accident to vessel or passengers under penalty.

XIX. And be it enacted, That whenever any steam vessel shall have sustained or caused any serious accident, occasioning loss of life or property, or received any material damage affecting her sea-worthiness, either in her hull or her engine, by grounding, or by collision with any other vessel, or by any other means, the master or other person having the charge of such vessel shall, as soon as conveniently may be, transmit through the Post Office, by letter addressed to the said Board, and signed by such master, or other person, a report of such accident or damage, and the probable occasion thereof, stating therein the name of the vessel, the port to which she belongs, and the place where she is, in order that the Board may, if they think fit, investigate the matter; and should the owner or owners of any steam vessel, from her non-appearance or otherwise, have reason to apprehend that such steam vessel is wholly lost, he or they shall, as soon as conveniently may be, in like manner, send notice thereof to the Board; and every owner, master, or such other person as aforesaid, who shall neglect to send such notice as hereby is required, within a reasonable time after any such accident shall have happened, shall, for every such offence, forfeit and pay a sum not exceeding fifty pounds.

At request of Board, Governor may appoint an Inspector to inquire into the nature and cause of such accident.

XX. And be it enacted, That whenever any steam vessel shall have sustained or caused any serious accident occasioning loss of life or property, or received any material damage affecting her sea-worthiness, either in her hull or her engine, by grounding, or by collision with any other vessel, or by any other means, it shall be lawful for the Governor of the said Colony, at the request of the said Board, to appoint any proper person or persons as Inspector or Inspectors, to inquire into and to report upon such accident; and it shall be lawful for every person so authorized, at all reasonable times, upon producing his authority if required, to go on board and inspect any such steam vessel, and the machinery thereof, and every part thereof respectively, not detaining or delaying the vessel from proceeding on her voyage, and to make such inquiries as to the nature, circumstances, and causes of such accident, as he or they may think fit.

Powers and duties of Inspectors.

XXI. And be it enacted, That the said Inspectors, or any of them, shall be and they are hereby empowered, by summons under their or his hands or hand, to require the attendance of all such persons as they or he shall think fit to call before them or him, upon any question or matter connected with or relating to the execution of any of the powers and duties vested by this Act in the said Inspectors; and also to make inquiries and to require answers or returns thereto, in relation to any such matters, and for the purpose aforesaid to administer oaths and to examine all persons upon oath, and to require and enforce the production upon oath of all log-books, accounts, agreements, or other papers or writings in anywise relating to every such matter as aforesaid, or in lieu of requiring or administering an oath, that the said Inspector or Inspectors may, if he or they think fit, require every such person to make and subscribe a declaration of the truth of the matters respecting which he shall be or shall have been examined or interrogated: Provided always, that no such person shall be required, in obedience to any such summons, to travel more than ten miles

miles from his actual abode at the time of receiving such summons, unless tender shall be made to him of such reasonable expenses in respect of his attendance to give evidence, and his journeys to and from the place where he shall be required to attend for that purpose, as would be allowed to any witness attending on subpoena to give evidence before any Court; and in case of any dispute as to the amount of such expenses, the same shall be referred by the Inspectors to the said Board, who are hereby required to ascertain and certify the proper amount of such expenses, on a request made to them for that purpose under the hand or hands of the said Inspector or Inspectors.

XXII. And be it enacted, That if any person shall wilfully obstruct or impede such Inspector or Inspectors, or any of them, in the execution of their duty, whether on board any ship or vessel, or elsewhere, every person so offending, and all others aiding or assisting therein, shall and may be seized and detained by such Inspector or Inspectors, or any person or persons whom he or they may call to his or their assistance, until such offender or offenders can be conveniently taken before some Justice of the Peace having jurisdiction in the county or place wherein such offence shall be committed; and when convicted before such Justice as aforesaid (who is hereby authorized and required, upon complaint to him upon oath, to take cognizance thereof and to act summarily in the premises) shall, in the discretion of such Justice, forfeit any sum not exceeding five pounds, and in default of payment thereof, shall and may be imprisoned for any term not exceeding two calendar months, unless the amount of the penalty shall have been sooner discharged.

Penalty for obstructing Inspectors.

XXIII. And be it enacted, That every penalty or forfeiture imposed by this Act may be recovered by summary proceeding before two Justices, and upon the exhibiting of any information in writing before any Justice, such Justice shall issue a summons requiring the party complained against to appear before two Justices having jurisdiction, at a time and place to be named in such summons; and every such summons shall be served on the party offending, either in person or by leaving the same with some inmate at his usual place of abode, or on board any ship or vessel to which such person shall belong; and upon the appearance of the party complained against, or in his absence, after proof of the due service of such summons, it shall be lawful for any two Justices, having jurisdiction, to proceed to the hearing of the complaint, and upon proof of the offence, either by the confession of the party complained against, or upon the oath of one credible witness or more, it shall be lawful for such Justices to convict the offender, and upon such conviction to adjudge the offender to pay such penalty as may seem fit, and not greater than the penalty or forfeiture specified in this Act, as well as such costs attending the conviction as such Justices shall think fit.

Recovery of forfeitures or penalties.

XXIV. And be it enacted, That in case any offence shall be committed upon the high seas against this Act, or any penalty or forfeiture shall be incurred on the high seas for any breach of this Act, such offence shall, for the purposes of prosecution, be deemed and taken to have been committed, and such penalty or forfeiture to have been incurred, at the place on land in the said Colony into which the person committing such offence, or incurring such penalty or forfeiture, shall be taken, brought, or carried, or in which such person shall be found; and in case such place or land is situated within any city or town corporate, as well any Justice of the Peace for such city or town corporate as any Justice of the Peace within the territory of New South Wales, shall have jurisdiction to hear and determine all cases of offences against this Act so committed on the high seas, and to convict the offender or offenders in the penalties or forfeitures prescribed by this Act, any Act of Council to the contrary notwithstanding: Provided always, that where any offence shall be committed, or any penalty or forfeiture incurred in any place upon the water not being within any place in the said Colony, or where any doubt exists as to the same being within the said Colony, such offence shall for the purposes of this Act, be deemed and taken to be an offence committed on the high seas: Provided also, that it shall and may be lawful for any Justice

How offences on the high seas to be dealt with.

of

of the Peace whatsoever, on the exhibiting before him any information in writing, for any offence against this Act so committed, or taken to have been committed, on the high seas as aforesaid, to issue a summons; and such Justice of the Peace is hereby required to issue a summons for the appearance of the party against whom such information in writing shall have been exhibited; and such summons, directed to such party, being served as hereinbefore is ordered, shall be deemed to have been sufficiently served.

On non-payment of penalty, distress warrant may issue.

XXV. And be it enacted, That if, forthwith, upon any such adjudication as aforesaid, the amount of the penalty or forfeiture, and of such costs as aforesaid, be not paid, the amount of such penalty and costs shall be levied by distress; and such Justices, or either of them, or any other Justice, having jurisdiction as aforesaid, shall issue their or his warrant of distress accordingly.

Proceedings where no sufficient distress.

XXVI. And be it enacted, That it shall be lawful for any such Justice to order any offender, so convicted as aforesaid, to be detained and kept in safe custody, until return can be conveniently made to the warrant of distress to be issued for levying such penalty or forfeiture and costs, unless the offender give sufficient security, by way of recognizance or otherwise, to the satisfaction of the Justice, for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such security; but if, before issuing such warrant of distress, it shall appear to the Justice, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Justice whereon to levy such penalty or forfeiture and costs, he may, if he thinks fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued, and upon the return thereof, such insufficiency as aforesaid shall be made to appear to the Justice, then such Justice shall, by warrant, cause such offender to be committed to gaol, there to remain without bail, for any term not exceeding three months, unless such penalty or forfeiture and costs be sooner paid and satisfied.

Mode of levying by distress

XXVII. And be it enacted, That where in this Act any sum of money, whether in the nature of penalty or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Distress not unlawful for want of form.

XXVIII. And be it enacted, That no distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto; nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

Application of fines and penalties.

XXIX. And be it enacted, That all penalties and forfeitures recovered under this Act, shall be applied as follows:—one-half thereof shall be paid to the person who shall sue or proceed for the same, and the other half to Her Majesty's use, and shall be paid to the Treasurer of the said Colony, and shall be duly accounted for by him; and that all convictions before Justices, and all fines, forfeitures, or penalties imposed in consequence of such convictions, shall be returned to the Court of Quarter Sessions, under the provisions of an Act of the said Governor and Legislative Council, passed in the second year of Her Majesty's reign, intituled, "*An Act for the more effectual recovery of fines, and enforcement of forfeited recognizances imposed and entered by and before Justices of the Peace, in New South Wales.*"

How indictment preferred.

XXX. And be it enacted, That no indictment shall be preferred for any offence against this Act, unless under the direction of the said Board or the Collector of Customs; and no suit or proceeding shall be commenced
for

for the recovery of any penalty or forfeiture, for any such offence, unless in the name of Her Majesty's Attorney General for said Colony.

XXXI. And be it enacted, That no person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this Act, for any offence made cognizable before a Justice, unless the complaint respecting such offence shall have been made before such Justice within six months next after the commission of such offence.

Limiting time within which complaints may be made.

XXXII. And be it enacted, That it shall be lawful for any Justice to summon any person to appear before him as a witness in any matter in which such Justice shall have jurisdiction under the provisions of this Act, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear, at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined on oath, or to give evidence before such Justice, every such person shall forfeit a sum not exceeding five pounds for every such offence.

Powers of Justices and penalty on witnesses not appearing or refusing to give evidence.

XXXIII. And be it enacted, That no warrant of commitment consequent upon any summary conviction under this Act, shall be held void by reason of any defect in such warrant, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same; nor shall any conviction, order, or other proceeding in pursuance of this Act, be quashed or vacated for want of form, nor shall the same be removed by *certiorari* or otherwise, into any of the Superior Courts.

Commitment not voided for want of form nor proceeding removed by *certiorari*.

XXXIV. And be it enacted, That if any person shall think himself aggrieved by any determination or adjudication of any Justice, with respect to any penalty or forfeiture under the provisions of this Act, he may appeal to the nearest Court of General Quarter Sessions for the county or place in which the cause of appeal shall have arisen, but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication, nor unless ten days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith after such notice, enter into recognizances, with two sufficient sureties, before a Justice, conditioned duly to prosecute such appeal, and to abide the order of the Court thereon.

Appeal given within four months.

XXXV. And be it enacted, That at the Quarter Sessions for which such notice shall be given, the Court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following Sessions, and upon the hearing of such appeal the Court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him; and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

Powers of Quarter Sessions in Appeal.

XXXVI. And be it enacted, That nothing in this Act contained shall extend to any of Her Majesty's ships of war, nor to any vessel not being a Colonial or British registered vessel.

War and foreign vessels exempted.

XXXVII. And be it declared and enacted, That nothing in this Act contained shall be construed as repealing or altering any of the provisions of an Act passed by the Imperial Parliament in the fifth and sixth years of the reign of Her Majesty Queen Victoria, intituled, "*An Act for regulating the carriage of Passengers in Merchant Vessels.*"

Not to alter or repeal

5 and 6 Vic., Cap. 107.

XXXVIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in the present Session.

Act may be repealed or amended.

XXXIX.

Commencement of Act.

XXXIX. And be it enacted, That this Act shall commence and take effect from and after the first day of January next ensuing.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this first day of July, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^s. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 24th July, 1847.

TABLE REFERRED TO.

TONNAGE OF VESSEL.	Number of Boats	LONG BOAT, LAUNCH, OR PINNACE.		OTHER BOATS.					
		Length	Breadth.	Length.	Breadth.	Length.	Breadth.	Length.	Breadth.
		Feet.	Ft. In.	Feet.	Ft. In.	Feet.	Ft. In.	Feet.	Ft. In.
850 and upwards....	4	26	8 0	24	7 0	22	6 6	16	5 6
650 to 850	4	24	7 0	22	6 6	18	5 6	16	5 6
350 to 650	3	20	6 6	18	5 6	..	....	14	5 0
200 to 350 inclusive.	2	18	6 0	..	....	..	....	14	5 0
100 to 200	2	..	....	16	5 6	and a Punt or small Boat			

No. IV.

An Act to repeal an Act, intituled, "An Act to give a preferable lien on wool from season to season, and to make mortgages of sheep, cattle, and horses valid, without delivery to the mortgagee," and to substitute, for a limited time, other provisions in lieu thereof. [Assented to, 24th July, 1847.]

Preamble.

7 Vic., No. 3, repealed.

WHEREAS it is expedient that an Act passed in the seventh year of Her Majesty's reign, intituled, "*An Act to give a preferable lien on wool from season to season, and to make mortgages of sheep, cattle, and horses valid without delivery to the mortgagee,*" should be repealed, and that other provisions be made in lieu thereof: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That so soon as this Act shall take effect the said recited Act, and every matter and clause therein, shall be and hereby is repealed, except as to any matter or thing previously done, or commenced to be done, under the provisions thereof, which shall be as valid and effectual in law, as if this Act had not been passed.

Any person making a *bona fide* advance to any proprietor of sheep on condition of receiving in payment, or as security for such advance, the wool of the then next ensuing clip, and duly registering the agreement relative thereto, shall be entitled to the whole of the wool mentioned in such agreement, whether such advance be made before, at, or after the granting

II. And be it enacted, That in all cases where any person shall make any *bona fide* advance of money or goods, or give any valid promissory note, or bill, to any proprietor of sheep, on condition of receiving in payment, or as security only for such money, goods, promissory note, or bill, (as the case may be), the wool of the then next ensuing clip of such proprietor, and where the agreement relating to such purchase or security shall be made in the form, or to the effect in Schedule A, appended to this Act, and shall be duly registered within thirty days after the date of such agreement, by leaving in the office of the Registrar General of the said Colony, or of the Deputy Registrar of the Supreme Court at Port Phillip, a true copy thereof, duly verified on oath before the said Registrar General, or Deputy Registrar of the Supreme Court at

Port.

Port Phillip, or before any other public officer who may be duly authorised to administer an oath in that behalf, within the jurisdiction where the sheep shall be depastured, the person making such purchase or advance, shall be entitled to the whole of the wool mentioned in such agreement, whether such advance of money, or goods, or of such note or bill, be before, at, or after the granting of any such preferable lien, so long as the registered agreement relating thereto, shall purport on the face of it to have been made in payment, or as security for such advance; and the possession of such wool by the said proprietor, shall be to all intents and purposes in the law, the possession of the person or persons making such purchase or advance: Provided, that when at any time such advance be repaid with such interest and commission as may be specified in any such agreement, the possession and property of the said wool shall revert in such proprietor.

of such preferable
lien.

When advance repaid
property and posses-
sion of the wool to
revert in the propri-
etor of the sheep.

III. And be it enacted, That when any person shall make any such *bonâ fide* advance or purchase as aforesaid, the preferable lien of the lienee making the same, on the wool of the then next ensuing clip of such proprietor, shall not be in anywise extinguished, suspended, impaired, or otherwise prejudicially affected by any subsequent sale, mortgage, or other incumbrance whatsoever, of the sheep mentioned and described in the registered agreement, relating to any such preferable lien, nor by the subsequent insolvency of the lienor, but shall be as valid and effectual to all intents and purposes whatsoever, against any such subsequent purchaser, mortgagee, incumbrancer, or other claimant or possessor of the said sheep, or against the trustees or assignees of such insolvent lienor, as against the original proprietor thereof, who granted such preferable lien: Provided that if any such lienor, subsequent mortgagor, incumbrancer, trustee, or other claimant or possessor of such sheep, shall neglect or refuse to shear and deliver the wool of any sheep for which any such preferable lien shall have been granted as aforesaid, in pursuance of the agreement in that behalf contained in such preferable lien, it shall be lawful for the lienee, his executors, administrators, or assigns, to take possession of the sheep bearing such wool, for the purpose of washing and shearing the same: and all expenses attending such shearing, and the conveyance of the wool to the place of abode of such lienee, shall be incorporated with, and be deemed in law, part of the amount secured by such lien.

Agreement, in form
herein specified, for
any *bonâ fide* advance
on security of ensu-
ing clip of wool, re-
gistered as herein
mentioned, valid
against subsequent
purchaser, &c., of
sheep.

IV. And be it enacted, That all mortgages of sheep, cattle, and horses, which shall hereafter be made *bonâ fide*, and for valuable consideration, and where the names of the parties thereto, and the particulars thereof, shall be duly registered within thirty days after the date thereof, in the office of the Registrar General, or Deputy Registrar of the Supreme Court at Port Phillip, according to the jurisdiction wherein such mortgaged live stock shall be depastured, in the form mentioned in Schedule B, appended to this Act, shall be valid in the law, to all intents and purposes, whether the money secured by the said mortgage be payable presently or not, and notwithstanding the said mortgaged live stock shall not be delivered over to the mortgagee, but shall remain and continue in every respect as theretofore, in the possession, order, and disposition of the said mortgagor: and though the said mortgagor afterwards take the benefit of any law now, or hereafter to be in force in the said Colony, for the relief of bankrupt or insolvent debtors: Provided that no mortgage shall protect the same from the operation of any such law, unless such mortgage shall have been executed at least sixty days before the date of the order for sequestration, or unless the consideration thereof shall be an advance or loan made at the time of the execution of such mortgage.

Mortgage of live
stock *bonâ fide* made
for valuable consid-
eration, executed and
registered as herein
mentioned, valid al-
though the principal
sum not presently
payable, and although
stock remain in pos-
session of mortgagor.

V. And be it enacted, That the Registrar General, or Deputy Registrar of the said Court shall keep a separate and distinct registry, from year to year of all such agreements for such purchases of wool or advances thereon, and shall also keep a separate and distinct registry of the particulars of all such mortgages of sheep, cattle, and horses as aforesaid; and shall be entitled to demand for every such registry thereof, a fee of two shillings and sixpence, and one shilling for each affidavit sworn before them, or made in verification thereof; and all persons shall have

Separate and distinct
registry from year to
year to be kept of
agreements for pur-
chases of, or advan-
ces on wool, and of
mortgages of live
stock.

access to either of the said registries, and may search the same, during the usual hours of business, on paying for each search a fee of one shilling.

When and how preferable liens on wool may be cancelled.

VI. And be it enacted, That at the end of twelve calendar months, next after the expiration of the year, for which any such preferable lien upon wool, shall have been given as aforesaid, the Registrar General, or his Deputy, or the Deputy Registrar of the Supreme Court at Port Phillip, may remove from the records of their respective offices, all such preferable liens, and may destroy or cancel the same; or at any time, at the request of both parties to any such preferable liens, may enter satisfaction on the same.

To increase public confidence in liens on wool and mortgages of live stock, expedient to punish frauds.

VII. And whereas it is expedient, with a view to increase the public confidence in the validity of such preferable liens on wool and mortgages of live stock, to surround them with the penal provisions necessary for the punishment of frauds: Be it enacted, That any grantor of any such preferable lien on wool, or of any mortgage of sheep, cattle, or horses, and of their increase and progeny, under this Act, whether such grantor shall be principal or agent, who shall afterwards by the sale or delivery of the wool under any such lien, without the written consent of the licensee, to any purchaser, pawnee, or other person, or by selling, steaming, or boiling down, or causing to be sold, steamed, or boiled down, without such written consent as aforesaid, the sheep whereon the same shall be growing, with a view to defraud such licensee of such wool, or of the value thereof, or who shall, after the due execution and registry of any such mortgage, without the written consent of the mortgagee thereof, sell and dispose of, or steam, or boil down, or cause to be sold and disposed of, or to be steamed or boiled down, any sheep, cattle, or horses, or their increase or progeny, or who shall in any way, or by any means whatsoever, or howsoever, directly or indirectly, destroy, defeat, invalidate, or impair, or any other person or persons who shall wilfully and knowingly incite, aid, or abet any such grantor, directly or indirectly to defeat, destroy, invalidate, or impair the right of property of any licensee in the wool of any sheep mentioned and described in any such registered agreement as aforesaid, or the right of property of any such mortgagee as aforesaid, in any sheep, cattle, or horses, or their increase and progeny mentioned in any mortgage duly executed and registered as aforesaid, under the provisions of this Act, shall be severally held and deemed guilty of an indictable fraud and misdemeanor, and being thereof duly convicted, shall be severally liable, in the discretion of the Judge or Court before whom any such offender shall be so convicted, to fine or imprisonment, or to both fine and imprisonment, for any period not exceeding three years, with or without hard labor, at the discretion of such Court or Judge.

Penalties.

Rights of the Crown as to waste lands not affected.

VIII. And be it enacted, That nothing in this Act contained shall be construed to affect in any way the rights or prerogative of the Crown, as to any of the waste lands described in any such liens or mortgages, as the lands, or stations, where any such sheep, horses, or cattle may be depasturing.

Duration of Act.

IX. And be it enacted, That this Act shall continue in force until the thirty-first day of December, in the year one thousand eight hundred and fifty, and no longer.

CHARLES NICHOLSON,

Speaker.

Passed the Legislative Council, this second day of July, one thousand eight hundred and forty-seven. } *In the name, and on behalf of Her Majesty, I assent to this Act.*

W. M. MACPHERSON,
CLERK OF THE COUNCIL.

CH^s. A. FITZ ROY,
GOVERNOR.

Government House, Sydney, 24th July, 1847.

SCHEDULES REFERRED TO.

A.

In consideration of £ _____, *bond fide* value for which I admit to have received in (*money or goods, or promissory note or notes, bill or bills, or all or any of these, as the case may be,*) from A. B., of _____, I do hereby give the said A. B. a preferable lien (to the extent of the said advance) on the wool of the ensuing clip, to be shorn from my flocks of Sheep, consisting in number of _____, or thereabouts, and now depasturing at _____, in the said Colony, under the superintendence of _____ It is further agreed that the said sheep shall be shorn by me, or at my expense, and that the wool thereof shall be delivered by me at _____, to the order of the said A.B.

Dated _____ day of _____ A.D.
 Witness _____ (Signed) _____ C.D.

N.B.—If the money or goods, promissory note or notes, bill or bills advanced, be for the absolute purchase of the wool, instead of the words in brackets, "to the extent of the said advance," insert the words "for the absolute purchase and whole value thereof."

B.

Date of Deed.	Name of Mortgagor.	Name of Mortgagee.	Consideration.	Number and description of mortgaged Sheep, Cattle, or Horses, and the brand or other distinctive mark, and stations where the same are depasturing, as also the name of the principal superintendent or overseer.
	Name of Witness or Witnesses.			



An Act to make permanent the Act to exempt from duty Metallic Ores imported into New South Wales. [Assented to, 16th August, 1847.]

WHEREAS an Act of the Governor and Legislative Council of New South Wales was passed in the ninth year of the reign of Her Most Gracious Majesty Queen Victoria, intituled, "*An Act to exempt from duty, for a limited time, Metallic Ores imported into New South Wales:*" And whereas the said recited Act will expire on the eighth day of November now next ensuing, and it is expedient that the provisions of the same should be made permanent: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That the said recited Act shall be and the same is hereby made permanent, anything therein contained to the contrary notwithstanding.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this twenty-fourth day of June, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^S. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 16th August, 1847.

An Act to suspend for one year so much of an Act to declare the Town of Sydney to be a City, and to incorporate the inhabitants thereof, and so much of an Act to incorporate the Town of Melbourne, as relates to the estimating and levying a rate for the Police of the said City and Town respectively. [Assented to, 16th August, 1847.]

WHEREAS by certain Acts of the Governor and Legislative Council of New South Wales, passed in the sixth year of the Reign of Her present Majesty, intituled respectively, "*An Act to declare the Town of Sydney to be a City, and to incorporate the inhabitants thereof;*" and "*An Act to incorporate the inhabitants of the Town of Melbourne;*" it is amongst other things enacted, that in order to raise the amount necessary to provide for the payment of such a number of constables, and such other police establishments within the said city and town respectively, as may from time to time, in the opinion of the Councils of the said city and town be required, the said Councils are authorized and required, once at least in every year, to estimate, as correctly as may be, what amount will be sufficient for payment of the salaries, allowances, and rewards, to be paid to such constables and special constables, and of all other expenses attending police purposes, within the said city and town; and in order to raise the amount so estimated, the said Councils are by the said Acts, authorized and required half-yearly, to order a city rate and town rate respectively, to be made and collected; and for this purpose the said Councils shall have all and the like powers as are by the said recited Acts vested in them, for making and levying a city rate and town rate respectively, for other purposes; and it is thereby further enacted, that the said rates respectively, shall be called the "police rate," and the respective amounts when collected, shall be paid to the Treasurers of the said Corporations, who shall keep separate accounts thereof, under the name of "police fund," and from time to time pay out of the said police funds, for the support of the police, or for police purposes, such sums as they may be required or directed to pay, by warrants under the hands of the Mayors of

Suspension for one year of s. 70 of 6 Vic. Nos. 3 and 7.

of the said city and town respectively, countersigned by the Town Clerk: And whereas it is expedient to retain for the present the management of the said police force in the hands of the Executive Government, and to appropriate the amount necessary for the support thereof from the Revenue of the said Colony, receivable from taxes, rates, duties, and imposts, raised within the same: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That so much of the said recited Acts as relates to the estimating by the Councils of the said city and town respectively, of the amount necessary to provide for the payment of constables and other police establishments within the said city and town respectively, and to the powers thereby vested in the Councils of the said city and town respectively, for making and levying the said police rates, shall be suspended and inoperative for one whole year, from and after the first day of January, in the year of Our Lord one thousand eight hundred and forty-eight: Provided always, that nothing herein contained shall affect, or be construed to affect, any matter or thing heretofore done, or commenced to be done, in pursuance of the provisions of the said recited Acts, or either of them.

Commencement of Act.

II. And be it enacted, That this Act shall commence and take effect from and after the first day of January now next ensuing, and shall thenceforth continue in force for one whole year.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this twenty-
eighth day of July, one thousand eight
hundred and forty-seven. } In the name, and on the behalf
of Her Majesty, I assent to
this Act.

W.M. MACPHERSON,
CLERK OF THE COUNCIL.

CH^S. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 16th August, 1847.

No. VII.

An Act to define the Duties chargeable on Spirits. [Assented to, 16th August, 1847.]

Preamble.

9 Vict. No. 20.

Imposing certain duties on

Home distilled spirits,

Imported whiskey and rum;

Other imported spirits.

Excepting Colonial spirits in certain cases.

WHEREAS an Act was passed by the Governor and Legislative Council of New South Wales, in the ninth year of the reign of Her Most Gracious Majesty Queen Victoria, intituled, "*An Act to reduce, for a limited time, the Duties on Spirits imported into, or distilled in, the Colony of New South Wales:*" And whereas the said recited Act will expire on the first day of January next ensuing, and it is expedient to make further and other provision for the payment of Duties on Spirits in manner hereinafter contained: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That so soon as this Act shall commence and take effect, the following Rates and Duties on Spirits, and no other, shall be respectively imposed and levied; that is to say:—First, upon all Spirits made or distilled in the Colony or its Dependencies, a duty of three shillings and sixpence per gallon:—Second, upon all Rum and Whiskey imported into the said Colony or its dependencies, a duty of three shillings and sixpence per gallon and:—Third, upon all other Spirits whatsoever, imported into the said Colony or its Dependencies, a duty of six shillings per gallon: Provided always, that, until further provision shall be made in that behalf, nothing herein contained shall be deemed to make chargeable with Duty any Spirits made by any person from grapes the produce of his or her own vineyard in the said Colony or its Dependencies, who shall, under any law in force for the time being, be duly licensed to keep a still for such purpose; and provided also, that such person do not sell or dispose of any such Spirits, otherwise than as part of, and mixed with, the wine

wine made from such grapes, in a proportion not exceeding that hereinafter mentioned.

II. And be it enacted, That the aforesaid Rates and Duties respectively shall be computed and charged according to the gallon of Imperial Standard measure, and at the strength of proof as indicated by the instrument known as Sykes's Hydrometer; and so in proportion respectively for any greater or less quantity or strength. Rule of computation.

III. Provided always, and be it enacted, That all Spirits, Liqueurs, Cordials, or strong waters respectively, sweetened or mixed with any article, so that the degree of strength thereof cannot be ascertained in manner aforesaid; and all Wine, or other liquor whatsoever, which shall contain a greater proportion than twenty-five per centum of alcohol, of the specific gravity of eight hundred and twenty-five, at the temperature of sixty degrees, according to Fahrenheit's Thermometer, shall pay a Duty thereon, at the rate of six shillings per gallon, as if the same were of the strength of proof. Duty on liqueurs, and on wine, &c., containing above twenty-five per cent. of alcohol.

IV. And be it enacted, That no Spirits shall be deemed to be Rum or Whiskey within the meaning of this Act, so as to entitle the owner or importer thereof to the payment of the lower rate of Duty thereon hereby imposed, unless upon proof to the satisfaction of the Collector or other Chief Officer of Customs at the port of importation, that any such Spirits described as Rum, were wholly made or distilled from the produce of the sugar-cane; or described as Whiskey, were wholly made or distilled from wheat, malt, barley, oats, or rye, or any mixture thereof; and in failure of such proof, any such Spirits shall be chargeable with the full amount of Duty, at the rate of six shillings per gallon, according to the rule of computation hereinbefore laid down: Provided always, that any Spirits in the Bonded Warehouses at the time of the passing of this Act, if brought into home consumption when the same shall come into effect, shall be deemed to be of the description under which they have been entered at the Custom House, and shall be chargeable with Duty accordingly. What shall be deemed rum and whiskey.

V. And be it enacted, That this Act shall be deemed to apply to all Spirits, or other Liquors as aforesaid, entered for home consumption, upon which, previously to this Act taking effect, the Duty shall not have been paid. Spirits now in bond, to be charged according to description under which entered.

VI. And be it enacted, That this Act shall commence from and after the first day of January, one thousand eight hundred and forty-eight, and shall thenceforward continue in full force and effect. To what Spirits Act shall apply.

CHARLES NICHOLSON,

Speaker.

Passed the Legislative Council, this twenty-eighth day of July, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^s. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 16th August, 1847.

No. VIII.

An Act for giving further time to prepare and revise certain Lists of Persons entitled to vote at the Election of Members of the Legislative Council. [Assented to 16th August, 1847.]

WHEREAS by an Act of the Governor and Legislative Council of New South Wales, passed in the sixth year of the Reign of Her present Majesty, and intituled, "*An Act to provide for the division of the Colony of New South Wales into Electoral Districts, and for the Election of Members to serve in the Legislative Council,*" lists of persons entitled to vote at the Election of Members of the said Council for the several Electoral Districts, are directed to be prepared, published, and revised, and Preamble. 6 Vict., No. 16.

and Electoral Rolls are required to be made out from such revised lists within certain days and times respectively specified in the said Act, in each and every year: And whereas in divers districts within the said Colony such lists have not in this present year been prepared and published, or have not been revised, and such Rolls have not been made out in due course, and it is expedient and necessary to remedy such omissions, and to give further time for making out, or for revising the said lists, or for making out such Electoral Rolls, as the case may require, within any of the said districts: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That in every Electoral District, or part of a district, in which a lists of persons entitled to vote at the Election of a Member or Members of Council for such District, has not been made out, published, and revised, in due course, or in due time, within the present year, the same shall be made, signed, and delivered, by the Collectors in the said Act named, and as by the said Act is required, before the tenth day of the month of October now next ensuing, and thereupon such copies shall be kept, printed, and delivered, and such publication of the same lists shall be made on every day during the week ending on the twentieth day of the said month of October, as in and by the said recited Act are and is required.

Where lists of persons entitled to vote not already made, published, &c., to be now made.

Claims of persons to have their names inserted on electoral lists, and objections to persons whose names are on such lists.

II. And be it enacted, That claims by persons to have their names inserted in such lists as aforesaid, and objections to persons whose names shall appear therein, shall and may be made in pursuance of the said Act, on or before the first day of the month of November; and thereupon the list of claimants and of persons objected to shall be made out and published, as by the said Act required, during the eight days next preceding the said first day of November now next ensuing, and in all other respects the provisions of the said Act in that behalf shall be observed and kept.

Courts of Petty Sessions for revision of lists to be held.

III. And be it enacted, That Courts of Petty Sessions for the revision of the lists prepared under the provisions hereof, and also of any other Electoral list prepared in pursuance of the said recited Act, but which have not been in due course revised, shall be held in accordance with the said recited Act in all respects, except in so far as relates to the time of holding thereof in each and every district for which every such list shall have been so prepared as aforesaid, on some day between the said first day of November now next ensuing, inclusive, and the fifteenth day of November aforesaid inclusive, and thereupon and in relation to every such Court, and to every such Electoral list, and list of claimants and objections, all such acts, matters, and things shall and may be done, as by the said recited Act is in that behalf required to be done, for the purpose of fully and finally settling the said Electoral lists and every and each of them.

Revised Electoral List to be delivered to the Returning Officer, and alphabetical list to be made.

IV. And be it enacted, That every such Electoral list revised as aforesaid, shall be delivered to the Returning Officer of the District to which the same shall pertain, as by the said recited Act is required, on or before the first day of December now next ensuing, and thereupon the said Returning Officer to whom any such list shall be so delivered, shall, with as little delay as possible, cause to be fairly transcribed or printed, a general alphabetical list of the Electors of the whole of his Electoral District, and such general list shall be the Electoral list or roll of Electors entitled to vote in each respective Electoral District, at all Elections that may take place of Members of the Legislative Council, after the said first day of December now next ensuing.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this thirtieth day of July, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^S. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 16th August, 1847.

No.

**An Act to amend an Act, intituled "An Act to amend and
"consolidate the Laws between Masters and Servants in
"New South Wales." [Assented to, 16th August, 1847.]**

WHEREAS an Act was passed in the ninth year of Her present Majesty, Preamble.
intituled "*An Act to amend and consolidate the laws between Mas-* 9 Vict., No. 27.
"*ters and Servants in New South Wales:*" And whereas doubts have

arisen as to the extent of summary jurisdiction created by the said recited Act, and it is advisable to remove the same: Be it therefore enacted, by His Excellency the Governor of New South Wales, by and with the advice and consent of the Legislative Council thereof, That it shall and may be lawful for any two or more Justices of the Peace to hear and determine, in a summary manner, all informations for penalties, and all complaints, differences, or disputes, of whatsoever nature or description, which shall happen or arise under the said recited Act, or under this Act, whether the same be between any servant and his master or employer, or the overseer or agent of such master or employer, or between any person or persons whomsoever; and the order or award of such Justices shall be final and conclusive in all such cases, unless where either party appeal to the Court of Quarter Sessions in the manner provided by the said recited Act.

Declaring and defining summary jurisdiction of Justices.

II. And be it enacted, That no suit, information, indictment, prosecution, or other proceeding whatsoever, shall be commenced or prosecuted in any manner howsoever, against any Justice or Justices of the Peace, or any other person, for any matter or thing already done by him or them, for want of any power or authority in such Justices to hear and determine the same in a summary way, under the said recited Act; and if any action, suit, information, indictment, prosecution, or proceeding whatsoever, shall have been commenced against any such Justice or Justices, or other person or persons, acting under and in obedience to any warrant, order, or conviction of any such Justice or Justices, in respect of anything already done, for want of summary jurisdiction therein, under the said recited Act, it shall be lawful for the defendant or defendants to apply to the Supreme Court, or any Judge thereof, to stay such proceedings; and such Court or Judge respectively is hereby required to stay such proceedings accordingly, and to make such order as to the costs of the application, as to the said Court or Judge shall seem fit.

Staying proceedings against persons who have acted without sufficient powers under recited Act.

III. And whereas it was recited by the said Act, among other things, that "servants in the United Kingdom, in British Colonies, in the British East India Possessions, and in Foreign Countries, occasionally contract, by indenture or other written agreement, with persons about to proceed to, or actually resident in, New South Wales:" And whereas doubts have arisen whether such contracts by indenture or other written agreement are subject to the summary jurisdiction of Justices of the Peace, and it is expedient to remove the said doubts: Be it therefore declared and enacted, That all such contracts by indenture or other written agreement shall be of the like force and effect within the said Colony of New South Wales as if they had actually been made and executed by the respective parties thereto within the same; and shall subject every such party for any breach thereof, upon summary conviction by or before any two or more Justices, to the like fines, penalties, and punishments as in and by the said recited Act are provided, for any wilful violation of the provisions of any indenture or other written agreement actually made or executed within the said Colony, or for any misdemeanor, miscarriage, misconduct, or ill-behaviour of any master or servant within the same: Provided that no such contract shall be binding on any person to serve for a longer period than five years.

Declaring that agreements made without the Colony subject the parties thereto to the same jurisdiction and penalties as if made within the Colony.

IV. And whereas by the said recited Act it was enacted among other things, that upon the discharge of any servant, or upon the termination of his service, he should receive from his master, and his master

Penalty for forging certificates of discharge.

should

should give to him, a certificate of his service and discharge, and no penalty was provided for the forging of any such certificate of discharge as aforesaid: Be it therefore enacted, That any servant, or other person, who shall forge or knowingly use any forged certificate, purporting to be a discharge of any person or persons, from any service as aforesaid, shall be deemed guilty of a misdemeanor, and on being summarily convicted thereof by or before any two or more Justices of the Peace, who shall hereby have power and authority to determine the same, shall be liable to imprisonment, with or without hard labor, for any period not exceeding three calendar months.

Justices to examine parties on oath or otherwise at their discretion.

V. And whereas doubts are entertained as to whether it is not imperative on Justices under the said recited Act to examine both complainant and defendant upon oath, and it is advisable to remove the same: Be it therefore enacted, That it shall and may be lawful for any Justice or Justices of the Peace, acting under the said recited Act, or under this Act, to exercise his or their discretion as to the examination of any complainant or complainants, or defendant or defendants, under the same.

The Evidence of a wife may be received for a husband.

VI. And whereas doubts are entertained as to whether it is lawful to examine a wife as witness for her husband under the said recited Act, and whereas it is advisable to remove the same: Be it therefore enacted, That it shall and may be lawful for any Justice acting under the said recited Act, or under this Act, to receive the evidence of a wife as a witness for her husband, either as complainant or defendant, under the same: Provided always, nevertheless, that it shall and may be lawful for such Justice to exercise his discretion as to the examination of any such witness.

Penalty on persons employing or harbouring servants already engaged by other persons under agreements entered into without the Colony.

VII. And whereas the said recited Act contains no provision for summary adjudication in cases where servants hired by indenture or other written agreement in the United Kingdom, in British Colonies, in the British East India possessions, or in Foreign Countries, for service in this Colony, are retained or employed, and it is advisable to provide for the same: Be it therefore enacted, That if any person shall wilfully or knowingly hire or employ any such servant whatsoever, already employed or retained by any other person, every person so offending shall, for every such offence, being summarily convicted thereof, by or before any two or more Justices of the Peace, forfeit and pay a sum not exceeding twenty pounds, one half thereof to be paid to the informer in such case.

Offenders may be imprisoned in Lock-up, or watch house in certain cases.

VIII. And be it enacted, That in cases where the nearest gaol may be at a distance greater than thirty miles, the nearest public lock-up or watch house may be used as a gaol under this and the said recited Act: Provided always, that nothing herein contained shall authorize the imprisonment, in such public lock-up or watch houses, of any person under this or the said recited Act, for a longer period than one week.

Justices to act summarily in Courts of Petty Sessions only.

IX. And be it declared and enacted, That in every case in which a summary jurisdiction is vested in any Justices under this or the said recited Act, the same shall be exercised only by such Justices in some Court of Petty Sessions, duly appointed and publicly notified in the New South Wales *Government Gazette*.

Empowering Justices to seize and sell goods and effects of offenders on non-payment of penalties.

X. And whereas doubts are entertained as to the mode of enforcing the payment of fines and penalties in certain cases under the said recited Act, and it is advisable to remove the same: Be it therefore enacted, That if any fine or penalty awarded under the said Act, or under this Act, shall not be paid within twenty-one days after the conviction or award ordering it was made, the same may be enforced by the convicting Justices by warrant of distress and sale of the goods and chattels of the person or persons convicted, or against whom such award shall be given.

Limitation of complaints.

XI. And whereas the said recited Act specifies no period of limitation for complaints for non-payment of wages, and it is advisable to define the same: Be it therefore enacted, That no conviction, order, or award shall be made or had under the said recited Act or this Act, unless complaint be made within six months from the time when the offence, breach of agreement, or cause of complaint arose.

Limitation of actions.

XII. And whereas no period has been specified under the said recited

recited Act, for limitations of actions against persons acting under the same : Be it therefore enacted, That no action at law shall lie against any Justice or Justices of the Peace, for any matter or thing which may be done, or commanded to be done by him or them, in pursuance of the provisions of the said recited Act, or this Act, unless there be direct proof of corruption or malice, and unless such action be commenced within three calendar months after the cause of action or complaint shall have arisen ; and if any Justice or Justices shall be sued for any matter or thing done in pursuance of this or the said recited Act, he or they may plead the general issue, and give this Act, and the special matter, in evidence.

XIII. And be it enacted, That in all cases under the said recited Act, or under this Act, all proceedings by summons or warrant without a formal information in writing shall be good, valid, and effectual to all intents and purposes as if formal information in writing had been exhibited : Provided always, that in every such summons or warrant the general nature of the charge shall be succinctly stated, and the original complaint shall be made on oath.

Proceedings by summons or warrant without information in writing, valid.

XIV. Provided always, and be it enacted, That nothing in this or under the said recited Act, shall be deemed to authorize the imprisonment of any female under the same.

Females not to be imprisoned.

XV. Provided always, and be it enacted, That nothing in this or the said recited Act contained, shall be deemed or construed to apply to any native of any savage or uncivilized tribe, inhabiting any Island or Country in the Pacific Ocean, or elsewhere, anything therein or herein to the contrary notwithstanding.

Not to extend to natives of savage or uncivilized tribes inhabiting any island in the Pacific Ocean.

XVI. And be it enacted, That if any person shall feel himself aggrieved by any conviction, order, or award made by any Justices of the Peace, under and by virtue of this Act, or the said recited Act, it shall be lawful for such person to appeal from such conviction, order, or award, to the nearest Court of Quarter Sessions, in the same manner, and upon the same terms that any person may now appeal against any conviction under the said recited Act.

Appeal given.

XVII. And be it enacted, That this Act shall commence and take effect from and after the first day of August next, and that the said recited Act, and this Act, shall be and continue in force until the thirty-first day of December, in the year of our Lord one thousand eight hundred and fifty.

Commencement and duration of Act.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this thirtieth day of July, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPIERSON,
CLERK OF THE COUNCIL.

CH^S. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 16th August, 1847.

An Act to amend an Act for facilitating proceedings by and against a certain Banking Company, called the "Union Bank of Australia," and for other purposes therein mentioned. [Assented to 16th August, 1847.]

WHEREAS an Act was passed in the third year of the reign of Her present Majesty Queen Victoria, intituled, "*An Act for facilitating proceedings by and against a certain Banking Company called the "Union Bank of Australia," and for other purposes therein mentioned :*"

Preamble.

³ Vict.

And whereas it is expedient to amend the said recited Act : Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice

Inspectors authorized to receive all moneys on behalf of the Company.

advice and consent of the Legislative Council thereof, That the Inspector for the time being of the said Banking Company shall be, and is hereby fully authorized to receive and retain on behalf of the said Company all money belonging, or debts due to the said Company, whensoever, howsoever, and in whosever's name the same may be secured; and that the receipt in writing of such Inspector for any money received by him, shall exonerate the person or persons paying the same to him from all liability in respect of the same, or the application thereof.

Bonds, &c., how to be sued upon.

II. And be it enacted, That all bonds, mortgages, warrants of attorney, and other securities, whether assignable in law or not, and all contracts and agreements, whether parol or under seal, which have heretofore been, or shall or may at any time hereafter be taken in the name of any person as Inspector of the said Banking Company, or in the name of such Inspector, and any other person or persons for or on account of the said Company, shall and may be put in suit and enforced, sued and prosecuted upon at Law or in Equity, in the name of the Inspector for the time being of the said Company in whose name the same may have been, or shall be taken, or entered into, or in the name of any person who shall or may succeed or be appointed to that office, and be the Inspector 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 Inspector 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, payee of the sum or sums of money therein respectively mentioned or secured, and the death, resignation, removal, or other act of any Inspector 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 in the name of any person who may be or become the Inspector for the time being of the said Banking Company, and it shall not be necessary to enter any suggestion or file any Supplemental Bill, or in any other way to notice such change on the face of the proceedings in any such suit or action.

Actions brought in name of Inspector.

III. And be it enacted, That the bringing any action, suit, or other proceeding in the name of such Inspector as such Inspector shall be primâ facie evidence, that a Memorial of the name of such Inspector, conformable to the provisions of the said recited Act, has been recorded as by the said Act is required.

Actions and other legal proceedings not to abate or be prejudiced by the death, resignation, or removal of the nominal plaintiff or defendant.

IV. And be it enacted, That neither the death, resignation, nor removal of any such Inspector for the time being, shall abate or prejudice any such action, suit, indictment, information, prosecution, or proceeding, but the same may be continued by or against the said Company in the name of the next or other succeeding Inspector for the time being of the said Company, or in the name of any Director of the said Company: Provided always, that no second suit, action, or other proceeding shall be at any time commenced by or against any such Inspector or Director for the same cause of action, where the merits shall have been tried and decided in the first suit or action.

All hereditaments to vest in Inspector for the time being and his successor in office.

V. And be it enacted, That all terms of years, lands, tenements, and hereditaments which are now, or which at any time or times hereafter shall be vested in the Inspector of the said Bank, or in the said Inspector, and any other person or persons whomsoever for or on behalf of the said Company, shall be and are hereby vested in the person who is now the Inspector, and his successors in office, in the nature of a body corporate, for and on behalf of the said Company; and all terms of years, lands, tenements, and hereditaments, in which any right, title or interest, shall, after this Act shall come into operation, be acquired or taken by or on behalf of the said Company, shall and may be conveyed to and vested in the Inspector for the time being and his successors in office, in the nature of a body corporate, for and on behalf of the said Company.

Company not incorporated by this Act.

VI. Provided always and be it enacted, That nothing herein contained

contained, shall extend, or be deemed, taken, or construed to extend to incorporate the members or proprietors of the said Company, or to relieve or discharge them, or any of them, from any responsibilities, duties, contracts or obligations whatsoever, to which by law they, or any of them, now are, or at any time hereafter, shall be subject or liable, 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 in terms effected by the provisions of this Act, and the true intent and meaning of the same.

VII. And be it enacted, That all contracts, agreements, conveyances, leases, releases, mortgages, assignments, surrenders, covenants, receipts, and other documents, made, or to be made, given, or granted by, to, or on behalf of the said Company, shall and may be made and executed and enforced by or to or against the Inspector for the time being of the said Bank, and the same shall be binding upon the said Company and the capital stock thereof.

Company may make contracts and conveyances in the name of the Inspector.

VIII. And be it enacted, That this Act, and the powers and provisions herein contained, shall at all times extend to all persons now members of the said Company, or who shall hereafter become so.

Act to extend to all future proprietors.

IX. 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 or bodies politic or corporate, or of any other person or persons excepting such bodies politic or corporate, and other person or persons as are mentioned in this Act, or of those claiming from or under him, her, or them.

Act not to affect the right of Her Majesty.

X. And be it enacted, That a copy of the deed of copartnership and settlement of the said Company, certified and attested under the hand and seal of some Notary Public to be a true transcript of the original deed of copartnership and settlement of the said Company, shall be received as legal evidence of the contents of such deed of copartnership and settlement in all Courts of Law, Equity, Admiralty, Vice-Admiralty, Bankruptcy, or Insolvency, and in all Courts of inferior jurisdiction in the Colony of New South Wales, without any further proof thereof.

Notarial copy of deed of copartnership to be received as legal evidence in any court of law or equity.

XI. And whereas by the fourth section of the said Act it is enacted, That the Inspector for the time being shall within fifteen days from the first day of July in each year cause a true list of all the then existing members of the said Company, with their respective places of abode, (as far as the same may be known to him) and descriptions, to be recorded in the Supreme Court of New South Wales: And whereas it is expedient to repeal the said fourth section of the said recited Act: Be it therefore enacted, That the fourth section of the said Act shall be and the same is hereby repealed.

Repeals 4th. Section of 3 Victoria.

XII. And be it enacted; That this Act shall come into operation so soon as, and not until the same shall have received the Royal approbation, and the notification of such approbation shall have been made by order of His Excellency the Governor in the New South Wales *Government Gazette*.

Act when to take effect.

XIII. 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 by all other Judges, Justices, and others within the Colony of New South Wales, and its Dependencies, without being specially pleaded.

Act to be deemed a public Act.

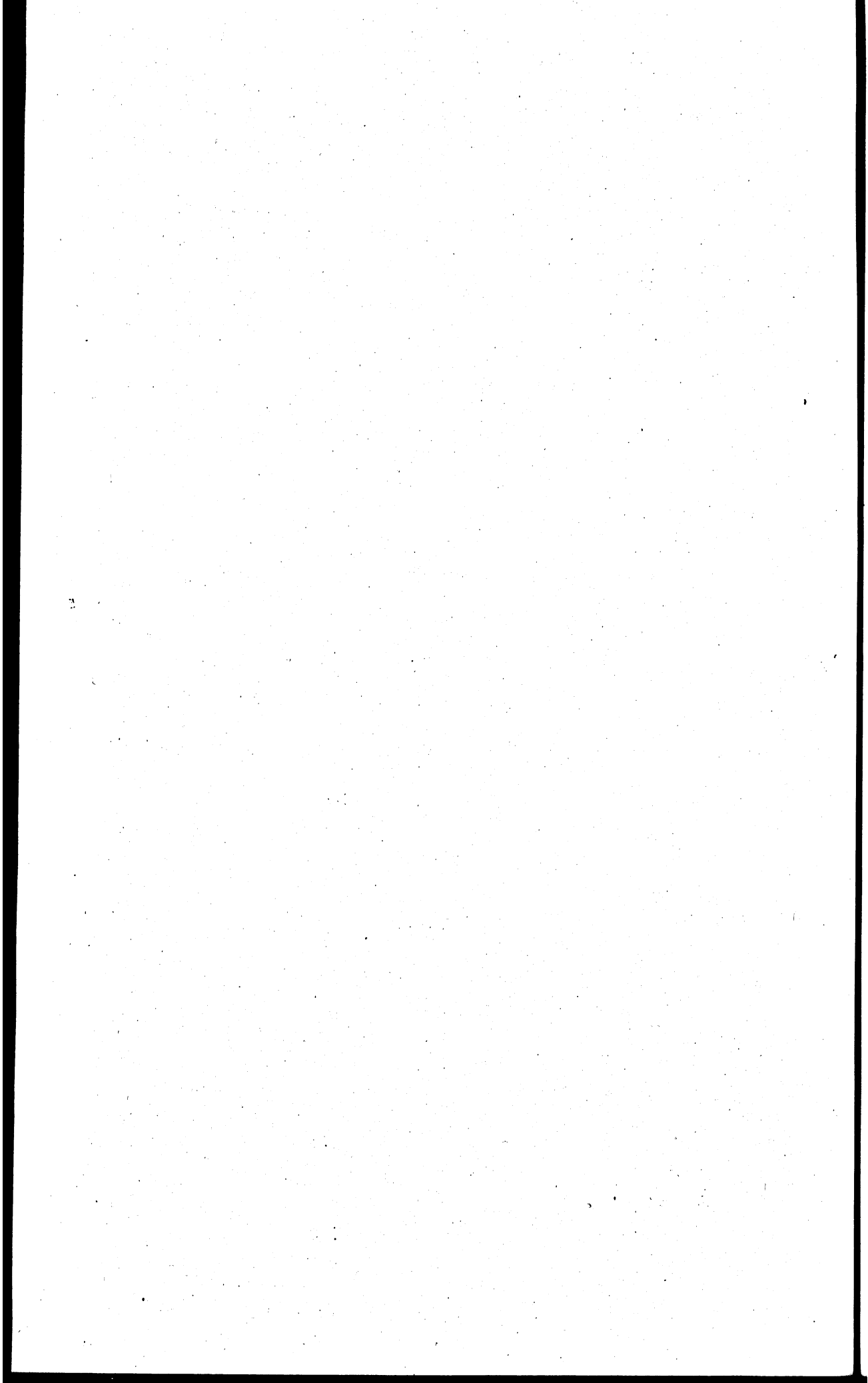
CHARLES NICHOLSON,

Speaker.

Passed the Legislative Council this twenty-ninth day of June, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

W. M. MACPHERSON,
CLERK OF THE COUNCIL.

CH^s. A. FITZ ROY,
GOVERNOR.



No. X.

An Act for the regulation of Benefit Building Societies. [Assented to, 24th August, 1847.]

WHEREAS it is expedient to provide for the establishment of Building Societies in New South Wales, amongst the industrious classes, for the purpose of raising by small periodical subscriptions, a fund to assist the members thereof in obtaining a small freehold or leasehold property, and it is expedient to afford encouragement and protection to such societies and the property obtained therewith: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That it shall and may be lawful for any number of persons in New South Wales, to form themselves into and establish societies for the purpose of raising by the monthly or other subscriptions of the several members of such societies, in shares not exceeding the value of two hundred pounds for each share, such subscriptions not to exceed thirty shillings per month for each share, a stock or fund for the purpose of enabling each member thereof to receive out of the funds of such society the amount or value of his or her share or shares therein, to erect or purchase one or more dwelling-house or dwelling-houses, or other real or leasehold estate, to be secured by way of mortgage to such society, until the amount or value of his or her share shall have been fully repaid to such society, with the interest thereon, and all fines or other payments incurred in respect thereof; and to and for the several members of each society from time to time to assemble together, and to make, ordain, and constitute such proper and wholesome rules and regulations for the government and guidance of the same, as to the major part of the members of such society so assembled together shall seem meet, so as such rules shall not be repugnant to the express provisions of this Act, or to the laws in force in the said Colony, and to impose and inflict such reasonable fines, penalties, and forfeitures, upon the several members of any such society, who shall offend against any such rules, as the members may think fit, to be respectively paid to such uses for the benefit of such society, as such society by such rules shall direct; and also from time to time to alter and amend, annul, or repeal such rules, and to make new rules in lieu thereof, under such restrictions as are in this Act contained: Provided that no member shall receive, or be entitled to receive from the funds of such society, any interest or dividend by way of annual or other periodical profit, upon any shares in such society, until the amount or value of his or her shares shall have been realized, except on the withdrawal of such member according to the rules of such society then in force.

Preamble.

Societies may be formed, and funds raised for purposes of this Act, in shares not exceeding £200 each.

Members may assemble together and make Rules; and may impose fines, penalties, and forfeitures.

Rules may be altered.

Proviso as to dividends.

II. And be it enacted, That it shall and may be lawful to and for any such society to have and receive from any member or members thereof, any sum or sums of money, by way of bonus on any share or shares, for the privilege of receiving the same in advance prior to the same being realized, and also any interest for the share or shares so received, or any part thereof.

Society may receive sums of money by way of bonus.

III. And be it enacted, That it shall and may be lawful to and for any such society, in and by the rules thereof, to describe the form or forms of conveyance, mortgage, transfer, agreement, bond, or other instrument which may be necessary for carrying the purposes of the said society into execution, and which shall be specified and set forth in a Schedule to be annexed to the rules of such society, duly certified and deposited as hereinafter provided.

Forms of conveyance &c, may be specified in schedule to Rules.

IV. And be it enacted, That all the provisions of a certain Act of Council, made and passed in the seventh year of the reign of Her present Majesty Queen Victoria, intituled, "*An Act to regulate Friendly Societies in the Colony of New South Wales*," so far as the same or any part thereof may be applicable to the purpose of any benefit building society, and

Provisions of 7 Vict., No. 10, to extend to Societies formed under this Act, in so far as applicable.

and to the framing, certifying, enrolling, and altering the rules thereof, shall extend and apply to such building society and the rules thereof, in such and the same manner as if the provisions of the said Act had been herein expressly re-enacted.

Receipts may be endorsed on mortgages, &c.
Re-conveyances unnecessary.

V. And be it enacted, That it shall be lawful for the trustees named in any mortgage made on behalf of such societies, or the survivor or survivors of them, or for the trustees for the time being, to endorse upon any mortgage or further charge given by any member of such society to the trustees thereof, for moneys advanced by such society to any member thereof, a receipt for all moneys intended to be secured by such mortgage or further charge, which shall be sufficient to vacate the same, and vest the estate of and in the property comprised in such security in the person or persons for the time being entitled to the equity of redemption, without it being necessary for the trustees of any such society to give any re-conveyance of the property so mortgaged, the form of which receipt shall be specified in a Schedule to be annexed to the rules of such society duly certified and deposited as aforesaid.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this third day of August, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^s. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 24th August, 1847.

No. XI.

An Act for the establishment, and regulation by Trustees, of a General Cemetery, near to the City of Sydney, to be called "The Necropolis." [Assented to, 24th August, 1847.]

Preamble.

WHEREAS the Cemeteries, or Burial Grounds, within the City of Sydney and the suburbs thereof, are of limited extent, and insufficient for the increased and increasing population thereof, and it is intended by Her Majesty the Queen to grant certain land in the neighbourhood of the City of Sydney, for the purposes of a General Cemetery for burying the dead of all denominations of religious faith, to be called "The Necropolis;" and it is expedient that the same should be vested in Trustees with perpetual succession, who shall have power to regulate the use thereof, and to do and cause to be done all such acts, matters, and things as may be requisite or proper for the preservation of such Cemetery, and all buildings and erections thereon, and of ornamenting the grounds thereof in a suitable manner: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That after the passing of this Act, Trustees, not fewer than three in number, to be appointed by the Governor for the time being of the said Colony, and their successors to be appointed as hereinafter is provided, shall have power to hold for ever all such lands as by Her Most Gracious Majesty the Queen may be conveyed to them by Deed of Grant from the Crown, for such General Cemetery as aforesaid, upon such Trusts as in the said Deed of Grant shall be declared; and that thereupon the land so granted, together with all erections thereon, and the rights, easements, and appurtenances to the same belonging, shall be and become, remain, and continue vested in the said Trustees and their successors in the said Trust for ever, upon the trusts in the said Deed of Grant to be declared, and subject to the provisions of this Act.

Trustees to be appointed by the Governor.

Trustees may hold land granted for Cemetery.

II. Whereas by a certain Act of the Governor and Council of New South Wales, passed in the sixth year of the reign of His late Majesty King George the Fourth, intituled, "*An Act for better regulating*" and

“and preserving parish and other registers of births, baptisms, marriages, and burials in New South Wales and its Dependencies, including Van Diemen’s Land,” it is amongst other things enacted, that no burial shall take place in any Burial Ground within the limits of any Town, otherwise than in any Burial Ground which may be set apart for such purpose, and which Burial Ground must be distant one mile at the least from any town or township, and it is expedient to except any land set apart for the purposes of this Act, from the operation of the said Act, as respects the distance from the City of Sydney: Be it enacted, That nothing in the said Act contained shall be deemed to prevent the use of any land conveyed to the said Trustees for the purposes of this Act, notwithstanding that the said land, or any part thereof, may be within the distance of one mile from the boundaries of the said City.

Sect. 10 of 6 Geo. IV., No. 21, prohibiting Burial Grounds within one mile of a town, to be inoperative as to land set apart for a Burial Ground for Sydney.

III. And be it enacted, That the Governor for the time being of the Colony shall have power from time to time to remove from the said Trust any Trustee of the said Cemetery, as and when he shall think proper; and also upon the death, resignation, or removal of any Trustee appointed under this Act, to appoint another in his place and stead.

The Governor to have power of removing any Trustee, and of appointing to vacancies.

IV. And be it enacted, That the Trustees of the said Cemetery shall have power to lay out the said land so to be granted as aforesaid, in such manner as may be most convenient for the burial of the dead, and to embellish the same with such walks, avenues, roads, trees, and shrubs, as may to them seem fitting and proper; and to enclose the same with proper and sufficient walls, rails, fences, palisades, gates, and entrances; and to preserve, maintain, and keep in a cleanly and orderly state and condition, and cause to be so maintained and kept, the whole of the said Cemetery, and its walls and fences, and all monuments, tomb-stones, enclosures, buildings, erections, walls, shrubberies, therein and belonging thereto; and shall lay out and expend all monies to be received by them under this Act, in and about the matters aforesaid, and in ornamenting the said Cemetery with trees, shrubs, and plants, and in the erection of such buildings and improvements in and to the said Cemetery from time to time, as they, the said Trustees, shall think proper.

Trustees to have power to lay out the grounds in the most convenient manner for burial; and to make walks, avenues, &c.

V. And be it enacted, That the Trustees of the said Cemetery shall have power and authority to make such rules and regulations, and to do and perform, and cause to be done and performed, all such acts, matters, and things, as may be necessary or proper for any of the purposes aforesaid, and also for determining and directing the order and position of all graves and vaults to be made in the said Cemetery, and for protecting the buildings, monuments, shrubberies, plantations, and enclosures therein and thereof from destruction or damage: and shall have power to prosecute all persons who shall or may at any time do or cause to be done any damage to any such buildings, monuments, tombstones, shrubberies, plantations, or enclosures: Provided nevertheless, that the said Trustees shall not by any rule or regulation, or any act, matter, or thing, at any time interfere, directly or indirectly, with the performance of any religious ceremonies in the burial of the dead, according to the usage of the communion to which the deceased may have belonged, or with the original distribution of the said land made or intended to be made by the grant thereof to and amongst separate and distinct religious denominations or communions: Provided further, that no rite or ceremony shall be performed in any portion of such Cemetery set apart for any particular denomination except according to the usage of such denomination, and by a duly recognized Minister of the same.

Trustees to have power to make rules and regulations, and to do and perform all acts necessary for the purposes of the Cemetery.

Proviso: That Trustees shall not, by rule or otherwise, interfere with any religious ceremony;

or with the original distribution of the land among the different religious denominations.

VI. Provided always and be it enacted, That it shall and may be lawful for the Ministers of any denomination for which any portion of such Cemetery shall be specially set apart, to have free access and admission to such portion of the said Cemetery at all times as they respectively shall think fit, and freely to exercise their spiritual functions therein without any hinderance or disturbance of the Trustees of the said Cemetery, or any person whatsoever.

Spiritual functions of any religious denomination may be exercised without hinderance by Trustees.

Trustees to permit vaults to be dug, and monuments or tomb-stones to be erected, on payment of charges.

VII. And be it enacted, That it shall and may be lawful for the Trustees of the said Cemetery to permit any vault to be dug and made in the said Cemetery, and any monument or tomb-stone to be erected or placed in such parts of the said Cemetery as they may think proper, upon payment to them by the person or persons desiring to dig and make such vault, or to erect and place such monument or tomb-stone, of such charges as shall from time to time be established and varied by the said Trustees, with the concurrence and approval of His Excellency the Governor, and published in the New South Wales *Government Gazette*; and that any person or persons so digging and making such vault, or erecting and placing such monument in such Cemetery, by and with such permission aforesaid, and upon payment of the charges aforesaid, shall be entitled to have, maintain, and keep up such vault, monument, or tomb-stone, according to the terms of such permission, to and for the sole and separate use of such person or persons, and his and their heirs and near relations for ever: Provided always, that a plan of every monument proposed to be erected and placed, shall be exhibited to the said Trustees before such permission as aforesaid is given; and that the said Trustees shall be at liberty to withhold such permission, and prevent the erection of any monument which shall appear to them inappropriate or unbecoming, and shall determine and fix the position of any unobjectionable monument which may be proposed to be erected according to the description, size, and character thereof, having reference to their general plans for ornamenting the said Cemetery in an appropriate manner: Provided always, that nothing herein contained shall be deemed to prevent the said Trustees from allowing the burial of the body of any poor person in such Cemetery free of any charge whatsoever.

Proviso: That plans of monuments be exhibited to Trustees before permission given for their erection.

Proviso: Trustees may allow poor persons to be buried free of charge.

Trustees may take down and remove monuments, &c., which are contrary to rules and conditions.

VIII. And be it enacted, That it shall be lawful for the said Trustees to take down and remove any monuments, cenotaphs, tablets, or other erection which shall have been erected or built contrary to the terms and conditions upon which permission to erect or construct the same was granted, or in case such terms and conditions, as well as the regulations of the said Cemetery, shall not have been complied with.

Injuring monuments, &c., a misdemeanor; offender may be convicted before any two Justices of the Peace.

IX. And be it enacted, That if any person or persons shall wantonly or wilfully do, or cause to be done, any damage to any monument, vault, tomb-stone, building, erection, railing, shrubbery, tree, or plant, in the said Cemetery, he shall be guilty of a misdemeanor, and being convicted thereof, before any two or more Justices of the Peace of the City of Sydney. (who are hereby authorized to hear and determine in a summary way any complaint thereof, made by the said Trustees, or by any officer or servant employed by them in the said Cemetery.) or by any person or persons to whom the burial place may belong, shall be liable for every such offence to a penalty not exceeding twenty pounds, or to be committed by such Justices, at their discretion, to any gaol or house of correction, in the said City, there to remain for a reasonable time not exceeding three months; and any person or persons who shall do, or cause to be done, any injury to any such monument, vault, tomb-stone, building, erection, railing, shrubbery, tree, or plant, whether the same shall have been done wilfully or wantonly, or otherwise howsoever, shall be liable to pay a reasonable sum of money by way of damages and compensation therefor, which said sum of money shall be recoverable in the Supreme Court of the Colony, or in the Court of Requests in the City of Sydney, according to the amount of damage sustained, either at the suit of the said Trustees, or by the person or persons entitled to any vault or monument, or other such erection so injured, under the provisions of this Act.

Permission to be given to any denomination to erect a Mortuary Church or Chapel at their own expense.

X. And be it enacted, That the said Trustees shall and may allow any body of Christians, at their own expense, to erect and build within such part of said Cemetery as shall be specially set apart for that denomination, a suitable Mortuary Church or Chapel, for the performance of the rites and ceremonies in the burial of the dead, according to the usages of such denomination: Provided that the plans, specifications, elevations, and models, with such lodges, and other buildings and conveniences thereto shall

Proviso: That plan, &c., be submitted to, and approved of by the Trustees.

shall be first submitted for the approval of the said Trustees, and shall be approved by them.

XI. And be it enacted, That before any corpse shall be permitted to be interred in any vault, brick grave, or in any place of burial, the exclusive right of burial or interment wherein shall have been sold or granted by the said Trustees as a family or private burial place, it shall be lawful for the said Trustees, or any officer employed by them, to require, and they or he shall be entitled to have produced to them or him satisfactory evidence that the person for the time being entitled as owner to the exclusive right of burial or interment in such vault, brick grave, or other burial place, has consented, or would not object to such interment taking place therein.

Before burial is allowed, Trustees must be satisfied that the owner of the grave has consented thereto.

XII. And be it enacted, That in all cases in which Justices of the Peace have jurisdiction under the foregoing, or other provisions of this law, it shall be lawful for any Justice of the Peace before whom complaint on oath shall be made, to summon before any two Justices the party complained against, and on proof of the service of such summons, it shall be lawful, and they are hereby empowered to hear and determine, in a summary way, the matter of such complaint, and on proof of the offence, to convict the offender, and to adjudge him to pay a penalty, or commit him to prison, although no information in writing shall have been exhibited before such Justices; and all such proceedings by summons, without information in writing, shall be as good, valid, and effectual, to all intents and purposes, as if an information in writing had been exhibited: Provided that in every such summons the general nature of the complaint shall be succinctly stated.

Mode of providing against offenders.

XIII. And be it enacted, That it shall be lawful for any Trustee, or any officer or servant of said Trustees, and all such persons as he shall call to his assistance, to seize and detain any person who shall commit, or be in the act of committing, an offence against this Act, and whose name and place of abode shall be unknown to such Trustee, officer, or servant, and to convey him or her before some Justice of the Peace, without any other warrant or authority than this Act; and in case such offender refuses to satisfy the said Justice as to his name and residence, such Justice is hereby empowered and required either to proceed immediately to the hearing and determining the complaint, in the same manner as if heard by summons before two or more Justices, or to order such offender to be detained in custody until brought before two or more Justices to be dealt with in the ordinary course.

Offenders may be arrested and detained.

XIV. And be it enacted, That no proceeding in pursuance of this Act, shall be quashed for want of form, or be removed by *certiorari* or by any other writ or process whatsoever into the Supreme Court, or other superior Court.

No proceeding to be quashed for want of form. Certiorari taken away.

XV. And be it enacted, That it shall not be lawful for the said Trustees to act, unless at a meeting to be convened according to a rule to be adopted by them for such purpose; and every such meeting shall be presided over by the senior Trustee present, such seniority being determined by the order in which the respective names of such Trustees shall stand in their Commission or Commissions of appointment; and all questions, matters, and things which shall be discussed or considered at any such meeting shall be decided and determined by the majority in number of the Trustees then present: Provided that the said Trustees shall not be competent to proceed to business, unless there be, at least, three of them present; and that a book be opened and kept, in which shall be entered a Minute of the proceedings of the Trustees at every such meeting, which Minute shall be read and confirmed at the next subsequent meeting, and shall be signed by the Chairman who shall have presided at the time such proceedings were held.

Not lawful for Trustees to act but at meetings to be convened in accordance with rules to be established.

Regulations as to proceedings at such meetings.

XVI. And be it enacted, That a book shall be opened and kept by the said Trustees, in which shall be entered a full and particular account, in writing, of all sums of money which shall be received and expended by the said Trustees; and an abstract of such account, made up from the first day

Trustees to keep accounts.

Accounts to be verified
by declaration.

day of January to the thirty-first day of December, both inclusive, in the year next preceding, shall be transmitted to the Colonial Secretary for the said Colony for the time being, in the month of January in each and every year, and shall be by him forthwith inserted and published in the *New South Wales Government Gazette*; and every such account shall be verified by a declaration to be made and subscribed by such Trustees, in the form or to the effect required by a certain Act of the said Governor and Council, passed in the ninth year of the Reign of Her Majesty Queen Victoria, intituled, "*An Act for the more effectual abolition of oaths and affirmations taken and made in various departments of the Government of New South Wales, and to substitute declarations in lieu thereof, and for the suppression of voluntary and extra-judicial oaths and affidavits*;" and any Justice of the Peace is hereby empowered and required to administer such declaration; and if any Trustee or Trustees shall wilfully make a false statement in any such declaration, to any material matter in such account, he or they shall be deemed guilty of a misdemeanor.

CHARLES NICHOLSON,

Speaker.

Passed the Legislative Council this fifth day of August, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^S. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 24th August, 1847.

No. XII.

An Act to continue for a limited time, the Act to amend the Acts now in force respecting the distillation of Spirits, and more effectually to prevent Illicit Distillation. [Assented to, 24th August, 1847.]

Preamble.

9 Vict., No. 26,

continued for five
years.

WHEREAS an Act of the Governor and Legislative Council of New South Wales was passed in the ninth year of the reign of Her present Majesty, intituled, "*An Act to amend the Acts now in force respecting the distillation of Spirits, and more effectually to prevent illicit distillation*," which said Act will expire on the thirty-first day of December now next ensuing: And whereas it is expedient to continue the same for the limited period hereinafter mentioned: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That the said recited Act shall be, and the same is, hereby continued for the period of five years from and after the said thirty-first day of December now next ensuing.

CHARLES NICHOLSON,

Speaker.

Passed the Legislative Council, this fifth day of August, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^S. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 24th August, 1847.

No. XIII.

An Act to amend the Law respecting defamatory words and Libel.
[Assented to, 24th August, 1847.]

FOR the better protection of private character, and for the more effectually securing the liberty of the press, and for better preventing abuses in exercising the said liberty: Be it enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That the right of action for oral slander shall extend to all defamatory words for which an action might now be maintained, if the same were reduced into writing; and that all the rules now in force relating to actions for written slander, shall, so far as they are applicable, and are not altered by this Act, be deemed applicable to all actions for such defamatory words.

Preamble.

Right of action for written slander extended to oral slander.

II. Provided always and be it enacted, That on the trial of any action for defamatory words, not imputing an indictable offence, it shall be competent to the jury, under the plea of not guilty, to consider whether the words set forth in the declaration were spoken on an occasion when the plaintiff's character was likely to be injured thereby, and if the jury shall be of opinion that the said words were spoken on an occasion when the plaintiff's character was not likely to be injured thereby, to find a verdict for defendant.

Proviso where plaintiff's character not likely to be injured thereby.

III. And be it enacted, That in any action for defamation, it shall be lawful for the defendant, (after notice in writing of his intention so to do, duly given to the plaintiff, at the time of filing or delivering the plea in such action,) to give in evidence, in mitigation of damages, that he made or offered an apology to the plaintiff, for such defamation, before the commencement of the action, or as soon afterwards as he had an opportunity of doing so, in case the action shall have been commenced before there was an opportunity of making or offering such apology.

Offer of an apology admissible in evidence in mitigation of damages.

IV. And be it enacted, That in any action for defamation, whether oral or otherwise, the truth of the matters charged shall not amount to a defence to such action, unless it was for the public benefit that the said matters charged should be published; and that where the truth of such matters charged shall be relied upon, as a defence to such action, it shall be necessary for the defendant, in his plea of justification, to allege that it was for the public benefit that the said matters charged should be published; and the particular fact or facts by reason whereof it was for the public benefit that the said matters charged should be published; and that unless the said allegation shall be made out to the satisfaction of the jury, as well as the truth of the said matters charged, the plaintiff shall be entitled to recover a verdict, with such damages as the jury shall think proper.

Truth of matters charged no defence, unless for the public benefit that such matters should be published.

V. And be it enacted, That no action, indictment, or information shall be maintainable against any newspaper or other publication, for a faithful and accurate report of any judicial proceedings the same not being of a preliminary nature: Provided always, that it shall not be lawful for any newspaper or other periodical publication to publish any matter of an obscene or blasphemous nature, nor any judicial proceedings which may not be concluded, and which the presiding Judge may pronounce it improper to publish at their then stage.

Actions not maintainable against periodical publications unless in certain cases.

Proviso as to obscenity or blasphemy, and judicial proceedings.

VI. And be it enacted, That in an action for a libel contained in any public newspaper, or other periodical publication, it shall be competent to the defendant to plead that such libel was inserted in such newspaper, or other periodical publication, without actual malice, and without gross negligence, and that before the commencement of the action, or at the earliest opportunity afterwards, he inserted, in such newspaper, or other periodical publication, a full apology for the said libel; or if the newspaper or periodical publication, in which the said libel appeared, should be ordinarily published at intervals exceeding one week, had offered to publish the said apology in any newspaper or periodical publication, to be selected by the plaintiff in such action; and that every such defendant shall,

In an action against a newspaper for libel, the defendant may plead that it was inserted without malice, and without neglect, and may pay money into Court as amends.

shall, upon filing such plea, be at liberty to pay into Court a sum of money, by way of amends for the injury sustained by the publication of such libel; and such payment into Court shall be of the same effect, and be available in the same manner, and to the same extent, and be subject to the same rules and regulations as to payment of costs, and the form of pleading, except so far as regards the pleading of the additional facts hereinbefore required to be pleaded by such defendant, as if actions for libel had not been excepted from the personal actions in which it is lawful to pay money into Court, under an Act of the Governor and Legislative Council of New South Wales, passed in the fifth year of the reign of Her Majesty Queen Victoria, intituled, "*An Act for the further amendment of the Law, and the better advancement of Justice*;" and that to such plea to such action, it shall be competent to the plaintiff to reply generally, denying the whole of such plea.

5 Vict., No. 9.

Publishing or threatening to publish a libel, &c., with intent to extort money, punishable by imprisonment and hard labor.

VII. And be it enacted, That if any person shall publish, or threaten to publish, any libel upon any other person, or shall, directly, or indirectly, threaten to print or publish, or shall, directly or indirectly, propose to abstain from printing or publishing, or shall, directly or indirectly, offer to prevent the printing, or publishing of any matter or thing touching any other person, with intent to extort any money, or security for money, or any valuable thing from such or any other person, or with intent to induce any person to confer or procure for any person any appointment or office of profit or trust, every such offender, on being convicted thereof, shall be liable to be imprisoned, with or without hard labor, in the common gaol or house of correction for any term not exceeding three years: Provided always, that nothing herein contained, shall in any manner alter or affect any law now in force, in respect to the sending or delivery of threatening letters or writings.

Punishment of false defamatory libel.

VIII. And be it enacted, That if any person shall maliciously publish any defamatory libel, knowing the same to be false, every such person, being convicted thereof, shall be liable to be imprisoned in the common gaol or house of correction for any term not exceeding two years, and to pay such fine as the Court shall award.

And of malicious defamatory libel.

IX. And be it enacted, That if any person shall maliciously publish any defamatory libel, every such person, being convicted thereof, shall be liable to fine or imprisonment, or both, as the Court may award, such imprisonment not to exceed the term of one year.

Proceedings upon the trial of an indictment or information for a defamatory libel.

X. And be it enacted, That on the trial of any indictment or information for a defamatory libel, the defendant having pleaded such plea as hereinafter mentioned, the truth of the matters charged may be inquired into, but shall not amount to a defence, unless it was for the public benefit that the said matters charged should be published; and that to entitle the defendant to give evidence of the truth of such matters charged, as a defence to such indictment or information, it shall be necessary for the defendant, in pleading to the said indictment or information, to allege the truth of the said matters charged in the manner now required in pleading a justification to an action for defamation; and further to allege, that it was for the public benefit that the said matters charged should be published, and the particular fact or facts by reason whereof it was for the public benefit that the said matters charged should be published, to which plea the prosecutor shall be at liberty to reply generally, denying the whole thereof; and that if after such plea the defendant shall be convicted on such indictment or information, it shall be competent to the Court, in pronouncing sentence, to consider whether the guilt of the defendant is aggravated or mitigated by the said plea, and by the evidence given to prove or to disprove the same: Provided always, that the truth of the matters charged in the alleged libel, complained of by such indictment or information, shall in no case be inquired into without such plea of justification: Provided also, that in addition to such plea, it shall be competent to the defendant to plead a plea of not guilty: Provided likewise, that nothing in this Act contained shall take away or prejudice any defence under the plea of not guilty, which

Double plea.

Plea of not guilty in civil and criminal proceedings.

which it is now competent to the defendant to make under such plea to any action, or indictment, or information, for defamatory words or libel.

XI. And be it enacted, That wheresoever, upon the trial of any indictment or information for the publication of a libel, under the plea of not guilty, evidence shall have been given, which shall establish a presumptive case of publication against the defendant, by the act of any other person by his authority, it shall be competent to such defendant to prove that such publication was made without his authority, consent, or knowledge, and that the said publication did not arise from want of due care or caution on his part.

Evidence to rebut prima facie case of publication by an agent.

XII. And be it enacted, That in case of any indictment or information, by a private prosecutor, for the publication of any defamatory libel, if judgment shall be given for the defendant, he shall be entitled to recover from the prosecutor the costs sustained by the said defendant by reason of such indictment, or information; and that upon a special plea of justification to such indictment, or information, if the issue be found for the prosecutor, he shall be entitled to recover from the defendant the costs sustained by the prosecutor, by reason of such plea, such costs so to be recovered by the defendant, or prosecutor respectively, to be taxed by the proper officer of the Court, before which the said indictment, or information, is tried.

On prosecution for private libel defendant entitled to costs on acquittal.

XIII. And be it enacted, That whenever any person shall be convicted, either in a civil or criminal proceeding, of printing or publishing a defamatory article, the plaintiff or prosecutor, in whose favor judgment shall have been given, shall be at liberty, under his writ of execution, to levy the costs, damages, penalty, and expenses named therein, out of the whole of the types, presses, or printing materials whatsoever, belonging to the person whose types, presses, or printing materials, or any part thereof, may have been used in printing such defamatory article, as well as out of the property of the defendant on the record.

Plaintiff having obtained judgment may levy costs, &c., out of types, &c., used in printing defamatory article, as well as out of the property of the defendant on the record.

XIV. And be it enacted, That from and after the passing of this Act, no law which is now, or may hereafter be in force in the said Colony, for the relief of insolvent debtors, or for the abolition of imprisonment for debt, shall extend, or be construed to extend, to affect, or discharge from his liability, any person who shall be indebted for any penalty, damages, or costs, adjudged against him in any proceeding, either civil or criminal, for the printing or publishing of any blasphemous, seditious, or defamatory words or libel.

Persons liable for penalties for printing any blasphemous, seditious, or defamatory libel not relieved from such liability by any Act for relief of insolvent debtors, or for abolition of imprisonment for debt.

XV. And be it enacted, That no defendant in any proceeding, civil or criminal, shall be able to avail himself of any of the benefits or advantages of this Act, unless at the time of the publication of the article complained of, if it be a printed article, all the provisions made by law, for regulating the printing and publication of newspapers, and papers of a like nature, or of the trade of printing generally, applicable to such a work as that in which such article may be printed, shall have been complied with; but such defendant shall nevertheless be bound by the other parts of this Act, and any specified non-compliances with the law shall be a good answer to any pleading under this Act.

Benefits of this Act not to extend to any defendant who shall not have complied with all the requirements of the laws for regulating the printing and publication of newspapers, &c.

XVI. And be it enacted, That wherever throughout this Act, in describing the plaintiff, or defendant, or the party affected, or intended to be affected, by the offence, words are used importing the singular number or the masculine gender only, yet they shall be understood to include several persons as well as one person, and females as well as males, unless when the nature of the provision, or the context of the Act, shall exclude such construction.

Interpretation of Act.

CHARLES NICHOLSON,

Speaker.

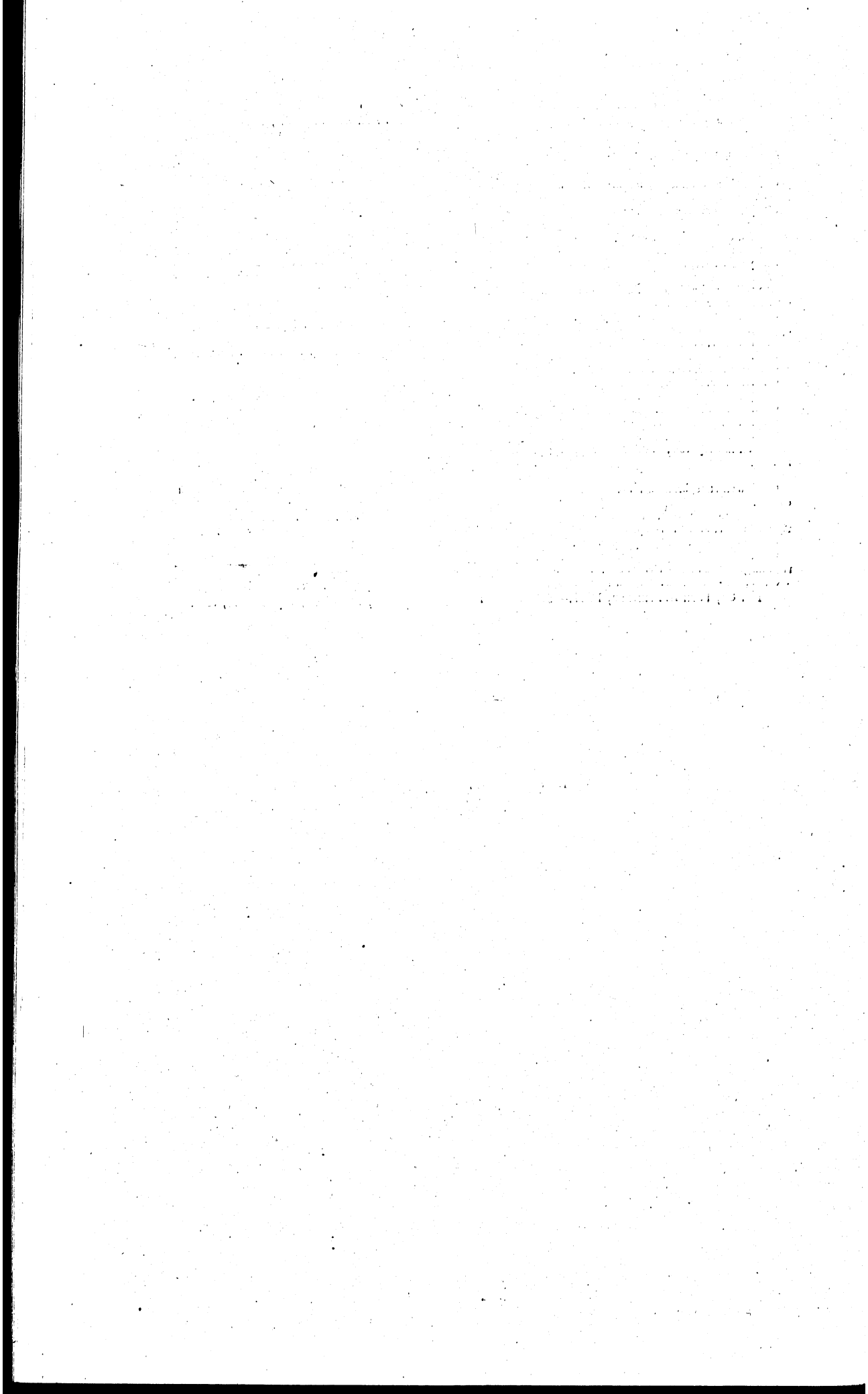
Passed the Legislative Council, this sixth day of August, one thousand eight hundred and forty-seven.

In the name, and on the behalf of Her Majesty, I assent to this Act.

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^S. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 24th August, 1847.



No. XIV.

An Act to provide for the payment of Dues towards the maintenance of Light Houses at Gabo Island and Cape Otway, respectively.

[Assented to, 31st August, 1847.]

WHEREAS Light Houses are in course of erection on Gabo Island Preamble. and at Cape Otway, respectively, in the Colony of New South Wales, and it is expedient to provide for the payment of dues towards the maintenance of the said Light Houses, when completed and in operation: Imposing certain charges on shipping for support of lights. Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That when and so soon as either of the said Light Houses shall have come into actual operation, notice thereof shall be given in the *New South Wales Government Gazette*, and from and after the expiration of one calendar month from the date of the publication of such notice, the master or commander of every ship or vessel (except as hereinafter is excepted) arriving at or departing from any Port in New South Wales, shall pay into the hands of the Collector or other Chief Officer of Customs appointed for such port, the sum of one penny for every ton of the registered measurement of such ship or vessel, for each of the said Light Houses so notified as aforesaid as having come into operation, which such ship or vessel shall have passed, or may pass, or which shall be in the direct or usual course of such ship or vessel in her passage to or from such Port, whether such ship or vessel shall sight such Light House or not, and whether such ship or vessel shall pass through Bass's Straits, or go to the southward of Van Diemen's Land: Reduction of charges on vessels in coasting trade. Provided always, that all ships and vessels employed in the Colonial or Coasting trade, or trade with any of the Australian Colonies, except as hereinafter is excepted, shall be charged with one-third only of the rate aforesaid.

II. Provided always, and be it enacted, That all ships and vessels employed in the coasting trade between this Colony and Van Diemen's Land, and all ships and vessels engaged in the fisheries, shall be wholly exempt from the rates or dues hereby imposed. Exempting vessels trading with Van Diemen's Land, or engaged in the fisheries.

III. And be it declared and enacted, That nothing in this Act contained, shall be deemed to alter or repeal the Light House dues payable under a certain Act of the Governor and Legislative Council of New South Wales, passed in the third year of the reign of His late Majesty King William the Fourth, intituled, "*An Act for the better preservation of the Ports, Harbours, Havens, Roadsteads, Channels, Navigable Creeks, and Rivers in New South Wales, and the better regulation of Shipping in the same,*" or under a certain other Act of the said Governor and Council, passed in the seventh year of Her present Majesty's reign, intituled, "*An Act to provide for the maintenance of Light Houses at Port Macquarie, Newcastle, and Port Phillip, in the Colony of New South Wales.*" Not to affect Light House dues payable under 3 Wil. IV., No. 6, and 7 Vict., No. 9.

CHARLES NICHOLSON,

Speaker.

Passed the Legislative Council, this eighteenth day of August, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

W. M. MACPHERSON,
CLERK OF THE COUNCIL.

CH^S. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 31st August, 1847.

No. XV.

No. XV.

An Act to amend the laws for the payment of Pilotage on Shipping, and to secure the payment of Harbour and other dues on Shipping. [Assented to, 31st August, 1847.]

reamble.

8 Vict., No. 16.

7 Vict., No. 12.

Vessels entitled to exemption from pilotage, or reduction thereof, to have a white flag flying at main-mast head.

No vessel to be cleared at the Custom House until all wharfage and light-house rates and clearance fees shall have been paid.

WHEREAS by an Act, passed by the Governor and Council of New South Wales, in the eighth year of the reign of Her present Majesty, intituled, "*An Act to make further provision for payment of Wharfage rates, and to amend the laws for the regulation of Shipping in certain cases,*" it was, amongst other things, enacted, that the master or commander of every ship or vessel, entitled to any reduction or exemption of pilotage under that Act, or a certain other Act, in the said Act recited, shall, on arriving within one league of the entrance of any port which he shall intend to enter, cause a white flag to be hoisted at the main-mast head, and keep the same flying until he shall have entered such port; and that the master or commander of any such ship or vessel, who shall neglect to have such flag flying as aforesaid, and whose ship or vessel shall be boarded by a licensed Pilot in consequence of such neglect, shall be subject to the payment of Pilotage Rates in respect of such ship or vessel, in the same manner as if a Pilot had been required and employed by him, any law or regulation to the contrary notwithstanding: And whereas the payment of such pilotage by masters and commanders who neglect to have such flag flying as aforesaid, is sometimes evaded by keeping their ships or vessels under sail, so as to prevent any Pilot, who may have put to sea for the purpose, from boarding such ship or vessel: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That when and so often as a licensed Pilot shall put to sea, or shall proceed towards any such ship or vessel as aforesaid, the master or commander whereof shall neglect to have such flag flying, as by the said recited Act is required, for the purpose of boarding such vessel in consequence of such neglect, the said master or commander shall be subject to the payment of Pilotage Rates in respect of such ship or vessel, in the same manner as if a Pilot had boarded the said ship or vessel in consequence of such neglect as aforesaid.

II. And whereas certain rates, dues, and penalties are, by various Acts of the Governor and Legislative Council of New South Wales, relating to the harbours of the said Colony and the shipping thereat, and by the Harbour Regulations framed thereunder by the said Governor and the Executive Council, imposed upon vessels entering and departing from the ports and harbours of the said Colony, or upon the masters thereof, but the payment of such rates, dues, and penalties is inadequately secured: Be it therefore enacted, That from and after the passing of this Act, no vessel shall be cleared at any Custom House within the said Colony until all wharfage and light-house rates and clearance fees, payable in respect of such vessel, have been paid into the hands of the Collector or other Principal Officer of Customs, at the port from which it is intended to clear out such vessel, and until the Harbour Master, or other Officer acting as such thereat, shall have granted a certificate, which he is hereby required to grant accordingly, (which certificate shall be produced to and left at such Custom House) certifying that, to the best of his knowledge and information, all pilotage and water rates, and all harbour dues payable in respect of such vessel, have been duly paid, and that no penalties have been incurred by the master of such vessel, under the provisions of any of the Harbour Acts, or Harbour Regulations, for the time-being in force in the said Colony, and applicable to the said port, or else that the same have been fully paid, or have been secured to be paid, in the event of the same being adjudged by due course of law, to be payable by such master.

III. And be it enacted, That no British ship or vessel which is now exempt by law from the payment of Pilotage, shall, after the first day of October next, be entitled to claim such exemption unless upon the arrival of such ship or vessel within one league of the entrance of any port or harbour within this Colony, the master or person in charge of such

such ship or vessel shall, in addition to a white flag at the main-mast head, hoist on some other conspicuous part of the rigging of the same, a signal indicating the port or place from which such ship or vessel shall have arrived, according to the numeral pendants used for such purpose, by the Pilots of the port or place at which such ship or vessel shall arrive.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council this eighteenth day of August, one thousand eight hundred and forty-seven.

In the name, and on the behalf of Her Majesty, I assent to this Act.

W. M. MACPHERSON,
CLERK OF THE COUNCIL.

CH^S. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 31st August, 1847.

No. XVI.

An Act to regulate the licensing of Auctioneers, and the collection of Duties on Property sold by them. [Assented to, 31st August, 1847.]

WHEREAS by a certain Act of the Governor and Council of New South Wales, passed in the ninth year of the reign of His late Majesty King George the Fourth, intituled, "*An Act to regulate the licensing of Auctioneers, and the collection of Duties on Property sold by Auction,*" certain duties were imposed on all licenses thereby required to be taken out by persons who should exercise the trade or business of an auctioneer, and on the purchase-money of things sold by auction: And whereas it is expedient to repeal the said Act, and to make other provision for the better regulation of sales by auctioneers: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That from and after the thirty-first day of December, One thousand eight hundred and forty-seven, the said recited Act shall be and the same is hereby repealed.

II. And be it enacted, That from and after the first day of January, One thousand eight hundred and forty-eight, no person whatever, who at any time or times thereafter, shall exercise the trade or business of an auctioneer, or seller by commission, at any sale of any estate, goods or effects whatever, by outcry, knocking down of hammer, candle, lot, parcel, or any other mode of sale by auction, or whereby the highest bidder is deemed to be the purchaser, or who shall act in the capacity of an auctioneer or seller by commission as aforesaid, shall deal in, sell, or put up to sale or re-sale, any estate, goods, or effects whatsoever, by public sale, or by way of auction as aforesaid, without previously having taken out a license in manner and form hereinafter directed, in which shall be set forth the true name, and real place of abode of the person taking out the same; and every such license shall either be a General License, which shall be in the form in the Schedule marked A, for all parts whatever of the Colony, including the City of Sydney and Town of Melbourne, and for which the sum of fifteen pounds shall be paid by the person taking out the same; or a District License in the form in the Schedule marked B, which shall be in force for the police district only for which the same shall be taken out, and for which the sum of two pounds shall be paid: Provided always, that no person shall be allowed under the provisions of this Act to act as auctioneer in the police districts of Sydney and Melbourne respectively, who shall not have taken out a general license as aforesaid; and that all such licenses respectively shall be in force until the first day of January next after the time the same shall have been taken out, unless sooner forfeited; and that no greater sum be payable upon such licenses respectively, than for the proportionate period of the year the same may have to run, calculating for the whole of the year at the respective rates hereinbefore mentioned.

repealed.

No person after 1st January, 1848, shall act as an auctioneer, without taking out a General License, or a District License.

III.

Manner of applying
for license.

III. And whereas it is expedient, that the character of every person applying for a license under this Act should be carefully ascertained: Be it enacted, That every person who shall be desirous of obtaining an auctioneer's license shall, on or before the first Tuesday in the month of November in every year, deliver to the Clerk, or the person officiating as Clerk of the Petty Sessions for the city, town, place, or police district within which such person shall reside, a notice in writing of his intention to apply for the same, which notice shall be in the form, or to the effect of the form, in the schedule to this Act annexed, marked C., and shall contain the names, residences, and additions of two or more sufficient sureties.

Clerks of Petty Sessions to cause lists of applicants to be posted up.

IV. And be it enacted, That the Clerk of every such Petty Sessions as aforesaid, or the person officiating as such, shall cause a list of the names of all such applicants, together with their places of abode respectively, and the names of their proposed sureties, together with their respective places of abode, to be posted up, on or before the third Tuesday in the said month of November, in some conspicuous place inside and also outside every Police Office at which such Petty Sessions shall be held; and the same to be kept so posted up until after the day of the annual licensing meeting hereafter mentioned.

Clerks of Petty Sessions to cause previous notice of licensing meeting to be given.

V. And be it enacted, That the Clerk of Petty Sessions, acting for such licensing district, shall cause a notice of each annual licensing meeting to be inserted at least one calendar month before the holding thereof, in the *New South Wales Government Gazette*, and the *Port Phillip Government Gazette* respectively, and also to be affixed to the door of the Court House, in which the same is appointed to be holden; but no omission or irregularity in any such notice shall affect the authority vested in any annual licensing meeting held conformably in other respects to the provisions of this Act.

Annual licensing meeting.

VI. And be it enacted, That a general meeting, to be called the annual meeting for the licensing of auctioneers, of the Justices, for or usually residing in each police district of the Colony, in which Petty Sessions shall be held, shall be holden in their respective Court Houses, or usual places of meeting, on the fourth Tuesday in the month of November, in every year, for the special purpose of taking into consideration applications for such licenses as aforesaid; and any two Justices shall be sufficient to constitute such meeting: Provided always, that whenever there shall not be two Justices resident in any district where such meeting shall be held, then any one Justice so resident shall be sufficient to constitute such meeting.

Power to adjourn licensing meetings.

VII. And be it enacted, That it shall be lawful for the Justice or Justices attending such meeting to adjourn the consideration of all or any of the applications before them, from the day of such annual licensing meeting, to such other day or days as the said Justice or Justices shall, from time to time, agree upon: Provided always, that such adjournments do not, in the whole, exceed one calendar month from the day appointed for the said annual licensing meeting.

In certain cases, one Justice invested with powers of an annual licensing meeting.

VIII. And be it enacted, That whenever at any annual licensing meeting to be holden in any police district as aforesaid, or any adjournment thereof, two Justices usually residing in such district shall not be present by one of the clock of that day, at the Court House, or other place appointed for the meeting, it shall be lawful for any one Justice resident in such district, being present, to adjourn or further adjourn the said meeting for one week, (any limitation hereinbefore prescribed to the contrary notwithstanding); and to give notice of such adjournment to all other Justices resident in such district; and if at such adjourned meetings there shall not be present by one of the clock of the day fixed for the adjournment, two Justices usually resident in such district, it shall be lawful for such Justice to do all such acts as an annual licensing meeting is by this Act empowered to do.

Annual licensing meetings to be held in open Court.

IX. And be it enacted, That every such annual licensing meeting, and every adjournment thereof, shall be held in open Court, and every consideration

consideration of any application thereat, shall be deemed and taken to be a judicial proceeding, and that it shall be the duty of the Justice or Justices attending such meeting to refuse a license to any applicant of bad or doubtful character.

X. And be it enacted, That it shall be lawful for the Justice or Justices assembled at, and forming such annual licensing meetings, to grant to such persons as shall be approved by such Justice or Justices, or the majority of them, certificates authorizing such licenses as aforesaid, in the form in the Schedule hereunto annexed, marked D : Provided always, that before the Justice or Justices shall deliver to any applicant for a license, any certificate to authorize the issue thereof, every applicant shall enter into a bond in the form, or to the effect of the form in the Schedule hereunto annexed, marked E, to Her Majesty, Her Heirs and Successors, with two or more sufficient sureties, to the satisfaction of such Justice or Justices, in manner following, (that is to say,) himself in the sum of five hundred pounds, and his sureties in the sum of two hundred and fifty pounds each, that he shall and will deliver every account of the sales by him made, and also make payment of all and every sum and sums of money arising or becoming due, for the duty payable for or in respect of all such sales, in the manner hereinafter directed, and otherwise duly conform to all the enactments, conditions, and provisions of this Act on his behalf to be observed.

Certificates to be granted.

Sureties to be given by persons applying for license.

XI. And be it enacted, That the Justice or Justices by whom any such certificates as aforesaid shall be granted by virtue of this Act, shall within fourteen days after the granting thereof, transmit to the Colonial Treasurer for the time being, or to such other person or persons as may be appointed by the said Governor for the purpose of issuing licenses under this Act, a list, signed by the Justice or Justices granting the same, specifying the names and residences of all the persons to whom any such certificates shall have been so granted, and of their respective sureties.

List of certificates to be sent to the Colonial Treasurer.

XII. And be it enacted, That every such certificate as aforesaid, shall be null and void, unless the same, and the sum required to be paid for such license, be lodged in the office of the Colonial Treasurer, or of such other person or persons aforesaid, as may be appointed by the said Governor in that behalf, on or before the thirty-first day of December next ensuing each annual licensing meeting; and the said Colonial Treasurer, or other person as aforesaid, shall, and he is hereby authorized and required forthwith, after the receipt of every such certificate, to issue and register in his office, a general or district license as aforesaid, upon payment being made to the said Colonial Treasurer, or other person as aforesaid, of the sums hereinbefore respectively mentioned.

Certificates to be void unless lodged, and money paid thereon, as herein provided.

XIII. Provided however, and be it enacted, That notwithstanding default in lodging any such certificate, or in payment of the sum required as aforesaid, whereby such certificate shall become void, it shall, nevertheless, be lawful for the Governor of the Colony, upon representation to him made of the circumstances occasioning such default, to direct the issue of the license for which such certificate shall have been granted, on payment of not more than five pounds, in addition to the sum payable as hereinbefore mentioned: Provided always, that such payment be made within one calendar month of the time hereinbefore limited for payment of the money for such license as aforesaid.

Governor may authorise a license for a defaulter, upon any additional payment.

XIV. And be it enacted, That whenever it shall appear to a majority of the entire number of Justices residing within any city, town, or police district, in Petty Sessions assembled, or any three of them, if such majority shall be more than three, that any injustice or material injury of a public nature, will be occasioned by delay in the granting of any license under this Act, until the next annual meeting for the licensing of auctioneers, it shall be lawful for such Justices, if they shall, in their discretion, think fit, to grant at any period of the year, the certificate required under this Act, signed by all the Justices as aforesaid, authorizing the issue of a license, and upon the recognizances required by this Act being duly entered into, the Colonial Treasurer or other person authorized as aforesaid, shall issue the license applied for, to continue in force until the first day of January next ensuing, unless sooner forfeited.

Majority of resident Justices may specially recommend licenses at any time.

XV.

Colonial Treasurer to
publish lists of licensed
auctioneers.

XV. And be it enacted, That the Colonial Treasurer of the said Colony, or such other person or persons as may be appointed for the purpose of issuing licenses under this Act as aforesaid, shall cause a list of the names of all persons duly licensed under the authority of this Act, together with their places of abode respectively, and the names of their sureties, and specifying also the description of license granted, and in the case of District Licenses, the Police Districts for which licenses have been granted to them, to be published in the *Government Gazette*, or the *Port Phillip Gazette* respectively, within one month after such person or persons shall be so duly licensed as aforesaid.

A duty of half percent.
on the proceeds of all
sales by auction.

XVI. And be it enacted, That from and after the commencement of this Act there shall be raised, levied, collected, and paid, in such manner as hereinafter is mentioned, to Her Majesty, Her Heirs, and Successors, for the purposes of the General Revenue of the said Colony, for and upon all manner of sales by way of auction as aforesaid, within the said Colony, the rate and duty of ten shillings for each and every one hundred pounds, of the purchase money arising by sale by auction of all property of every description, whether real or personal, and the said rate and duty shall be paid by every such auctioneer or seller by commission, out of the moneys arising at each and every such sale by auction as aforesaid; and the said rate and duty shall be chargeable in proportion to the rate aforesaid, for any lesser or greater sum than one hundred pounds of the purchase money arising, or to arise, by sales by auction.

Sales effected by licen-
sed auctioneers by
private bargain or
contract to be liable
to the payment of
duty.

XVII. Provided always and be it enacted, That all sales effected by any licensed auctioneer, or by any agent, or other person acting for or under the authority of such auctioneer, during the time his license shall be in force, shall be deemed to be sales by auction within the meaning of this Act, so as to render the same liable to the payment of duty thereon, and to all other the provisions of this Act applicable to sales by auction, and notwithstanding that any such sales may be effected by private bargain or contract.

The aforesaid duties
shall be a charge upon
the auctioneer, imme-
diately after the closing
of every sale.

XVIII. And be it enacted, That the said rate and duty by this Act imposed, shall be and is hereby declared to be a charge upon every auctioneer, or seller by commission, immediately from and after the knocking down of the hammer, or other closing of every sale by auction, or by private bargain or contract as aforesaid; and that the said rate and duty so charged shall be paid by every such auctioneer, or seller by commission, in manner and at the times hereinafter mentioned.

Accounts of all sales
to be rendered within
fourteen days.

XIX. And be it enacted, That each and every auctioneer as aforesaid, shall, and he is hereby required, within thirty days after the expiration of every calendar month, to deliver or cause to be delivered to the said Colonial Treasurer, for the time being, or at his office, or to such other officer as shall from time to time be appointed as aforesaid to receive the same, an exact and particular account in writing of the total amount of each and every sale, whether by auction or private bargain or contract as aforesaid, and of the several articles, lots, or parcels, with the price at which every such article, lot, or parcel shall have been sold at all such sales respectively, which shall have been had and holden or effected by such auctioneer, or by his agent or other person acting for or under his authority as aforesaid, during the said month, together with the time or times when, and the place or places where, such sale or sales shall have been had and holden or effected; and every such auctioneer shall, at the same time, make payment to the said Colonial Treasurer, or other officer appointed as aforesaid, of all such sum and sums of money as shall be due and payable to Her Majesty, in pursuance of, and according to the true intent and meaning of this Act; which sum or sums of money such auctioneer is hereby authorized and empowered to retain out of the proceeds arising by such sale or deposit made at such sale, or otherwise to recover the same by action of law, against the person or persons by whom such auctioneer shall have been employed, or on whose account such goods shall have been so sold; and every such auctioneer, or person acting as an auctioneer at any such sale or sales, shall make oath to the truth of each and

Auctioneers authorized
to retain the above
duties from the pro-
ceeds of sale.

To make oath to the
truth of his account.

and every such account, before the said Colonial Treasurer, or other officer appointed as aforesaid, or before any Justice of the Peace, who are hereby respectively authorized to administer the same; and in case any such auctioneer shall neglect to deliver in his account at the time and in the manner aforesaid, or to make payment of the rates and duties as herein directed, or if it shall appear that the account delivered in by such auctioneer is not a true and just account, or that the said auctioneer has acted contrary to the true intent and meaning of this Act, it shall and may be lawful for the said Treasurer or other officer appointed as aforesaid, to cause the bond or bonds of such auctioneer and his sureties, to be put in suit, and in case of a judgment being thereupon had against the defendant, such license shall thenceforth become void to all intents and purposes; and such auctioneer shall be, and he is hereby declared to be, for ever after disqualified for holding any license as an auctioneer, unless it should appear to the satisfaction of the Court or Judge before whom the trial of such bond shall have been had, that no fraud or wilful delay, contrary to the true meaning of this Act, was intended by such auctioneer, and a certificate to such effect shall be granted by such Court or Judge respectively.

In case of judgment being had against an auctioneer, his license shall become void.

Exception.

XX. And whereas it may sometimes happen that sales of estates or goods, whether effected by auction, or private bargain, or contract as aforesaid, may be rendered null and void, by reason that the person or persons for whose benefit the same shall be sold, had no title to, or no right to dispose of, the same: Be it therefore enacted, That if any such sale, of any estate, goods, or effects, shall be rendered void by reason that the person for whose benefit the same was or shall be sold, had no title to the same, or no right to dispose thereof, then, and in every such case, it shall and may be lawful for the auctioneer who shall have paid the duty for the estate, goods, or effects, so sold, or for the person or persons for whose benefit the same was so sold, to apply to the said Colonial Treasurer for the time being, or other officer appointed as aforesaid, to refund the duty so paid; and provided such application be made within one year from the date of the sale by auction, then the said Colonial Treasurer, or officer so appointed as aforesaid, shall, and is hereby required to hear and investigate all such applications, and examine the witnesses upon oath, who shall or may be produced on the part of the party or parties making such application, which oath the said Colonial Treasurer, or other officer appointed as aforesaid, is hereby empowered to administer, and thereupon to report the case to the said Governor or acting Governor, who upon being satisfied as to the justness of the application, may order the amount of duty which shall have been so paid as aforesaid, to be refunded and paid to such auctioneer, or such other person on whose behalf the same shall have been originally paid to such Colonial Treasurer, or other officer appointed as aforesaid, anything in this Act to the contrary notwithstanding.

If sales by auction are rendered null and void, the duty paid thereon shall be refunded.

XXI. Provided also, and be it enacted, That nothing in this Act contained shall be construed to alter, change, determine, or make void any other condition, contract, covenant, or agreement whatever, between any buyer or seller by auction, or any other person touching the payment of any of the rates or duties hereby respectively imposed, so as the same do not extend to the lessening or abatement of the full sum appointed by this Act to be raised, levied, collected, and paid, as is hereinbefore mentioned and directed, anything contained in this Act, or in such contract, covenant, or agreement to the contrary notwithstanding.

This Act not to alter any contract between buyer and seller by auction.

XXII. And provided further, and be it enacted, That nothing in this Act shall extend, or be construed to extend, to charge with the said duties any property sold by auction, by order of the Governor of the Colony, or of the Superintendent of Port Phillip, for the time being respectively, or any estate, goods, or chattels sold at auction, by or under the authority of the Sheriff or Under Sheriff of the said Colony, or of the Commissioner of any Court of Requests, or Court of Petty Sessions for the recovery of small debts, for the benefit of creditors, in execution of any judgment had or obtained,

As to sales made for the benefit of creditors, under decrees in Equity of the Supreme Court, of animals impounded, and under distress for rent.

obtained, or to be had or obtained, nor to any sale or sales by way of auction, of estates or chattels made by or under any rule, order, or decree of the Supreme Court of the said Colony, in pursuance of its equitable jurisdiction; nor to the sale by auction of any animal impounded in terms of law, or of any goods distrained for rent, or arrears of rent, anything in this Act contained to the contrary notwithstanding.

Mode of rendering the amounts of sales made under the authority of the Sheriff.

XXIII. And for the better and more effectual prevention of frauds which may be practised by auctioneers selling estates, goods, or chattels, under the authority of the Sheriff of the said Colony, the Commissioner of any Court of Requests, or Court of Petty Sessions for the recovery of Small Debts, or under the order or decree of the said Supreme Court: Be it enacted, That every auctioneer who shall sell any estate, goods, or chattels, that have been or shall be seized by the Sheriff, or by his authority, and by him taken for the benefit of creditors in execution of any judgment had and obtained, or to be had and obtained, whether such sale be effected by auction, or private bargain, or contract as aforesaid, shall specify and enumerate in the catalogue, as well as in the monthly accounts by him to be delivered under the provisions of this Act, the exact sum to be levied under such execution, as also the particular estates and effects to be sold, together with the time and place when and where such effects were sold, and the exact amount bid or offered at all such sales respectively, and the Sheriff or his Under Sheriff, the Master in Equity of the Supreme Court, and the Registrars of the Courts of Requests and Small Debts Courts, shall, and are hereby required to subscribe and sign every such catalogue, and to certify at the foot thereof that all and every the estate, goods, and effects sold at such sale, and in such catalogue respectively specified and enumerated, were really and truly the property of the person against whom such judgment was had and obtained, and that the same, and every part thereof, were actually seized in execution of the same judgment; which catalogue, so signed and certified as aforesaid, shall be produced by every such auctioneer, to the Colonial Treasurer, or other officer appointed as aforesaid, before such auctioneer shall be permitted to pass his accounts, or have the same allowed; and if the said Sheriff or Under Sheriff respectively, the Master in Equity of the Supreme Court, or the Registrars of the Courts of Requests, or Small Debts Courts, shall insert, or suffer or permit to be inserted, in any such catalogue so to be subscribed, signed, and certified as aforesaid, any sum or sums as bidden, or offered for any estate, goods, chattels, or effects whatsoever, other than such as were really and truly the property of the above debtor or debtors, or if the Sheriff or Under Sheriff, the Master in Equity of the Supreme Court, or the Registrars of the Courts of Requests, or Small Debts Courts, shall omit or neglect to certify on such catalogue the true sum to be levied, or shall certify thereon any false sum, then, and in every such case, the party offending shall, for every such offence, forfeit and pay a penalty or sum of not less than five pounds, nor more than twenty pounds.

Penalty, £5 to £20.

Auctions after sun-set or before sun-rise prohibited.

XXIV. And whereas many frauds are committed, and stolen articles disposed of, by means of auctions carried on at night: Be it enacted, That from and after the commencement of this Act, no person whatever, who, at any time or times thereafter, shall exercise the trade or business of an auctioneer, or seller by commission, at any sale of any estate, goods, or effects whatsoever, by outcry, knocking down of hammer, candle, lot, parcel, or any other mode of sale by auction, or whereby the highest bidder is deemed to be the purchaser, or who shall act in the capacity of any such auctioneer, or seller by commission as aforesaid, shall deal in, sell, or put up to sale, or re-sale, any estate, goods, or effects whatsoever, by public sale, or by way of auction as aforesaid, after sun-set or before sun-rise of any day throughout the year; and every such auctioneer, or seller by commission, or person acting in such capacity, who shall in anywise offend against this enactment, shall for every such offence, forfeit and pay a penalty or sum of not less than two pounds, nor more than fifty pounds; and every such penalty or sum shall and may be recovered in manner hereinafter provided.

Penalty.

XXV. And be it enacted, That if any person shall vend, or offer to vend, or sell by way of auction as aforesaid, without having obtained in manner and form hereinbefore directed, a license in manner aforesaid, such person shall forfeit and pay for every such offence, the sum of two hundred pounds.

Penalty for selling by auction without license.

XXVI. And be it enacted, That all fines, penalties, and forfeitures, imposed by this Act, which shall exceed the sum of twenty pounds, shall be recovered by action of debt, bill, or information, in the Supreme Court of the said Colony; and that all fines, penalties, and forfeitures, imposed by this Act, which shall not exceed the sum of twenty pounds, shall be recovered before any two or more Justices of the Peace, in a summary manner; and every such fine, penalty, and forfeiture, respectively, shall if not paid within six days after judgment or conviction, be levied by distress and sale of the offender's goods and chattels, and for want of sufficient distress, by imprisonment of such offender for any time not exceeding six calendar months, or until such fine be paid; and the money arising by all such fines, penalties, and forfeitures respectively, when recovered, shall be paid, the one moiety thereof to Her Majesty, Her Heirs and Successors, for the public uses of the said Colony, and in support of the Government thereof, as may be appointed by any Act of the said Governor and Legislative Council, and the other moiety to, and for the use of, such persons as shall inform or sue for the same: Provided always, that nothing herein contained shall be deemed or construed to prevent Her Majesty, Her Heirs and Successors, from pardoning the offender, and from remitting the whole or any part of any such fine, penalty, or forfeiture, as to Her or Them shall seem meet.

Any sum above £20 to be recovered by action at law, and any sum not exceeding £20 before two or more Justices.

All fines, penalties, and forfeitures, to be paid, half to the Colonial Treasurer, and half to the person informing or suing for the same.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this twentieth day of August, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

W.M. MACPHERSON,
• CLERK OF THE COUNCIL.

CH^s. A. FITZROY,
GOVERNOR.

Govt. House, Sydney, 31st August, 1847.

SCHEDULES REFERRED TO.

A.

FORM OF AN AUCTIONEER'S GENERAL LICENSE.

WHEREAS A. B., of _____ hath deposited in this office a certificate from the Justices of the Peace assembled in Petty Sessions at _____, on the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, [or a single Justice, as the case may be] authorizing the issue to the said A. B., [under and by virtue of the Act of the Governor and Council, passed in the eleventh year of the reign of Her present Majesty, intitled, "An Act to regulate the Licensing of Auctioneers, and the collection of Duties on Property sold by them,"] of the License in the said Act called an Auctioneer's General License, for all parts of the Colony of New South Wales, including the Police Districts of the City of Sydney and Town of Melbourne, and stating that the said Justices or Justice have taken from the said A. B., and two sureties, the recognizance required by the said Act: And whereas the said A. B. hath paid into my office the sum of fifteen pounds sterling, or the sum proportionate to the period of the year for which the License shall have to run, as the duty on such License: Now, I, the Colonial Treasurer of the said Colony, [or other person appointed by the said Governor for the purpose of issuing Licenses under the said Act, as the case may be] in virtue of the powers vested in me by the said Act, do hereby license the said A. B. to act as an Auctioneer for all parts of the Colony of New South Wales, including the Police Districts of the City of Sydney and Town of Melbourne; and this License shall continue in force until the first day of January next, provided it be not forfeited in the meantime, according to the provisions of the said Act.

Given under my hand and seal, at Sydney, this _____ day of _____, one thousand eight hundred and _____
A. B. (L.S.)
Colonial Treasurer,
(or other person, as the case may be.)

Registered
C. D.

B:

B.

FORM OF AN AUCTIONEER'S DISTRICT LICENSE.

WHEREAS A. B., of _____ hath deposited in this office a certificate from the Justices of the Peace assembled in Petty Sessions at _____, on the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, [or a single Justice, as the case may be] authorizing the issue to the said A. B., [under and by virtue of the Act of the Governor and Council, passed in the eleventh year of the reign of Her present Majesty, intituled, "An Act to regulate the Licensing of Auctioneers, and the collection of Duties on Property sold by them,"] of the License in the said Act called an Auctioneer's District License, for the Police District of _____ only, and stating that the said Justices or Justice have taken from the said A. B., and two sureties, the recognizance required by the said Act: And whereas the said A. B. hath paid into my office the sum of two pounds sterling, or the sum proportionate to the period of the year for which the License shall have to run, as the duty on such License: Now, I, the Colonial Treasurer of the said Colony, [or other person appointed by the said Governor for the purpose of issuing Licenses under the said Act, as the case may be] in virtue of the powers vested in me by the said Act, do hereby license the said A. B., to act as an Auctioneer for the Police District of _____ and not elsewhere; and this License shall continue in force until the first day of January next, provided it be not forfeited in the meantime, according to the provisions of the said Act.

Given under my hand and seal, at Sydney, this _____ day of _____, one thousand eight hundred and _____.

A. B. (L. S.)
Colonial Treasurer,
(or other person, as the case may be.)

Registered
C. D.

C.

FORM OF NOTICE OF APPLICATION FOR AN AUCTIONEER'S LICENSE.

To the Worshipful the Justices of the Peace, acting in and for the District of _____ in the Colony of New South Wales.
I, A. B., now residing at _____, (in the Parish, Town, or District of _____), do hereby give notice, that it is my intention to apply to the next Annual Meeting for the Licensing of Auctioneers to be holden for this District, for an Auctioneer's General License, [or District License, as the case may be.] I further give notice, that I propose C. D., of _____ and E. F., of _____ as my sureties to enter with me into the required bond.
Given under my hand, this _____ day of _____ 18 _____.

E. F.

D.

FORM OF CERTIFICATE BY JUSTICES TO AUTHORIZE THE GRANTING OF A LICENSE.

At the Annual Meeting for the Licensing of Auctioneers, (or an adjournment of the Annual Licensing Meeting, or Special Meeting, as the case may be,) of Her Majesty's Justices of the Peace, acting in and for the District of _____, holden at _____ on the _____ day of _____ in the year of Our Lord one thousand eight hundred and _____, pursuant to the Act of the Governor and Council, passed in the eleventh year of the Reign of Her present Majesty Queen Victoria, intituled "An Act to regulate the Licensing of Auctioneers, and the collection of Duties on Property sold by them," for the purpose of considering applications made to us for licenses, pursuant to the said Act, we, being the majority of the Justices assembled at the said Sessions, (or I being the only Justice present after such adjournment of the said Sessions and notice as required by the said Act, or we, being the majority of the entire number of the Justices resident in the said District, as the case may be,) do, in virtue of the power vested in us, (or me,) hereby authorize the Colonial Treasurer, or other proper officer, to issue to A. B., of _____, an Auctioneer's General License, (or District License, as the case may be) for the year ending on the thirty-first day of December, 18 _____; and we do hereby certify, that the said A. B. is a fit and proper person to be licensed as aforesaid, and also that we have taken from the said A. B., and his sureties C. D. of _____, and E. F. of _____, a bond to Her Majesty, Her Heirs and Successors, himself in the sum of five hundred pounds, and his sureties in the sum of two hundred and fifty pounds each, according to the form prescribed in the said Act of the Governor and Council.

Given under our hands, (or hand) the _____ day of _____ at the place aforesaid.
G. H., J.P. (L.S.)
I. K., J.P. (L.S.)

E.

FORM OF BOND.

Know all men by these presents, That we
of _____, in the Colony of New South Wales,
and _____
are severally held and firmly bound unto Our Sovereign Lady the QUEEN, in the several sums hereinafter
respectively mentioned and expressed, that is to say, the said _____ in
the sum of five hundred pounds, of good and lawful money of Great Britain; and the said _____
in the sum of two hundred and fifty pounds each, of like,
lawful money, to be paid to Our Sovereign Lady the QUEEN, and Her Successors; for which payments
well and truly to be made, we bind ourselves, jointly, and each and every of us by himself, severally and
respectively, our, and each, and every of our heirs, executors, and administrators, firmly by these Presents,
Sealed with our respective seals, and dated this _____ day of _____ in the year of
Our Lord one thousand eight hundred and _____

Whereas the above bounden _____ has applied for an Auctioneer's General License,
(or District License, as the case may be,) and the said _____ and _____ have agreed to become
his sureties during the time the said License, when issued, shall remain in force, for his duly delivering over
all and every account of sums of money received by him as duties on sales, for and on account of Her said
every and all sum and sums of money received by him as duties on sales, for and on account of Her said
Majesty, in the manner, and at the times and place or places mentioned and required in and by a certain
Act of the Governor and Council, passed in the eleventh year of the reign of Her Majesty Queen
Victoria, intituled, "An Act to regulate the Licensing of Auctioneers, and the collection of Duties
"on Property sold by them;" and also for his duly and faithfully performing and keeping all and
every other order, rule, and regulation, mentioned in, and required by the said Act. Now therefore,
the condition of this obligation is such, that if the said _____ do and shall duly and faithfully
deliver all and every account of sales made by him, and well and truly account for and pay over every
and all sum and sums of money received by him as duties as aforesaid, in the manner, and at the times
and at the place or places specified in, and required by the said Act, and also do, and shall well and faithfully
perform and keep all and every such order, rule, and regulation, mentioned and required in and by the
said Act, then this obligation to be void, otherwise to be and remain in full force and virtue.

Signed, sealed, and delivered in the presence of

No. XVII.

**An Act to explain and amend the Acts relating to the Corporation
of the Town of Melbourne. [Assented to, 31st August, 1847.]**

WHEREAS an Act was passed by the Governor and Legislative Preamble.
Council of New South Wales, in the sixth year of the reign of
Her present Majesty Queen Victoria, intituled "An Act to incorporate the 6 Vict., No. 7.
"inhabitants of the Town of Melbourne:" And whereas the said recited
Act was amended by an Act passed in the eighth year of the reign of Her
present Majesty, intituled "An Act to amend an Act passed in the sixth 8 Vict., No. 12.
"year of the reign of Her present Majesty, intituled 'An Act to incor-
"porate the inhabitants of the Town of Melbourne:" And whereas a
certain other Act was passed by the Governor and Legislative Council of
New South Wales, in the third year of the reign of Her present Majesty,
intituled "An Act to authorize the establishment of Markets in certain 3 Vict., No. 19.
"towns in the Colony of New South Wales, and for the appointment of
"Commissioners to manage the same:" And whereas a certain other Act
was passed in the second year of the reign of Her present Majesty Queen
Victoria, intituled "An Act for regulating the Police in the towns of 2 Vict., No. 2.
"Parramatta, Windsor, Maitland, Bathurst, and other towns respectively,
"and for removing and preventing nuisances, and for the better alignment of
"streets therein:" And whereas it is expedient to explain and further
amend the said recited Acts: Be it therefore enacted by His Excellency
the Governor of New South Wales, with the advice and consent of the
Legislative Council thereof, That every councillor elected to be an alder-
man, shall continue to be a member of the Council of the said town, until
the first day of November next following the day on which he shall have
ceased to be an alderman, anything in the said secondly recited Act to the
contrary notwithstanding: Provided always, that nothing herein contained
shall be taken to repeal or alter the provision in the said Act secondly
recited contained, as to any councillor elected to be an alderman, thereby
vacating his seat as an elected councillor.

Councillors elected to
be aldermen to con-
tinue members of the
Council until the 1st
day of November next
after the day on which
their term of service as
aldermen shall expire.

II. And be it enacted, That from and after the passing of this Act, Mode of election of
all elections of councillors or assessors shall be conducted in manner councillors and assess-
following, that is to say, the alderman of the ward for which such election sors.
is to be held, or other person duly appointed, shall preside at a meeting
of the burgesses of the ward, to be holden at noon, on the day of election,
in some public place within the ward, of which at least three days' notice
shall

shall be given, by advertisement in one or more of the newspapers published within the said town; and if there be at such meeting no more candidates nominated than the number of councillors or assessors, as the case may be, then to be elected, the alderman, or other presiding officer, shall declare such candidate or candidates to be duly elected; and in the event of there being more candidates than the number to be elected, the alderman, or other presiding officer, shall call for a show of hands separately, in favor of each candidate, and shall, after such show of hands, declare therefrom on whom the election has fallen, and shall make his return accordingly, unless a poll be demanded by one of the candidates, or by not less than six burgesses of such ward on his behalf, and on such demand being made for a poll, the polling shall take place on the day next but one following, in manner directed by the said first recited Act.

Mode of election of auditors.

III. And be it enacted, That all elections of auditors for the town shall be in the form and manner hereinbefore provided for the election of councillors or assessors, excepting that the mayor, or other person duly appointed, shall preside at a meeting of the burgesses of the town, held for the purpose of the nomination of candidates, and that in the event of the election being contested, notice thereof shall on the same day be given to the aldermen of the several wards, who shall hold their respective courts for the election of such auditors on the day next but one following.

Removes doubts as to the validity of certain elections.

IV. And whereas in pursuance of the provisions of a certain bye-law made and passed by the Council of the said town on or about the sixteenth day of September, in the year of our Lord one thousand eight hundred and forty-three, intituled "*A bye-law for regulating the proceedings at future elections of Councillors, Auditors, or Assessors,*" sundry elections to the respective offices of councillor, auditor, and assessor have from time to time been held and determined without the taking of a poll thereat, and doubts have arisen as to the validity of such elections: Be it declared and enacted, that all elections heretofore held and determined in pursuance of the provisions of the said bye-law, shall be taken to have been and be as valid and effectual as if the same had been duly held and decided according to the provisions of the Act hereinbefore firstly recited; and no act or proceeding of any party so elected shall be held to have been or be invalid or ineffectual on account of any such informal election, nor shall the said Corporation be taken to have been or be dissolved thereby, nor in any other manner or way damaged or incapacitated as a body corporate.

Occupier made primarily liable for rates.

V. And for the more easy and effectual recovery of rates ordered by the Council of the said town: Be it enacted, That so much of the said Act secondly recited as provides, that in any case in which such clear annual value shall be under twenty pounds, such assessments or rates shall be paid by the owner or owners, or proprietor or proprietors thereof, and not by the tenant or tenants, shall be, and the same is hereby repealed, and in lieu thereof, that except as herein provided, the occupier of any house or other property, or person in possession at the time when such rates shall be demanded, or (in case of a change in such possession in the meantime) the person occupying the premises when the warrant of distress shall be executed, shall be deemed to be, and be the person primarily liable to the payment of rates under the said recited Acts, in respect of any house or other property assessed; and in case the premises shall be vacant for a period less than six months, and there shall not be sufficient distress found therein, then the proprietor or landlord shall be liable: Provided that in all cases where any tenant shall be called on to pay any rate, where the annual value of the tenement assessed or rated shall be under twenty pounds, and shall accordingly pay the same, or where the tenant of premises assessed or rated to the annual value of twenty pounds or upwards, shall be called upon to pay, and shall accordingly pay a greater amount of rate than shall have become due during his term of occupancy, then, and in every such case, it shall be lawful for the said tenant to deduct the amount of rate so paid from any rent which he may then owe to his landlord, or from the accruing of any future rent, or to recover the same after demand, by any action

Proviso.

action for money paid to such landlord's use, in any Court of competent jurisdiction.

VI. And be it enacted, That so much of the said secondly recited Act as provides, that nothing therein contained shall be construed to authorize the Council of the said town by any bye-law to impose any license upon any person selling, or offering to sell, any fish, fruit, water, fuel, vegetables, milk, or victuals of any description in any street, ward, or place within the limits of the said town; or upon the actual maker, or the children, apprentices, agents, or servants of, and residing with the maker of any goods, selling or offering to sell the same in any such ward, street, or place as aforesaid, or to prevent the sale, without such license or fee, of any goods whatever in any market or fair legally established in the said Colony, or in any house or shop occupied by the person so selling, or offering to sell the same, shall be and the same is hereby repealed.

Repeals proviso to 25th section of 8 Vic., No. 12.

VII. And be it enacted, That if any person who shall have become liable under the said first recited Act, to any fine or penalty by reason of non-acceptance, resignation, or vacation by absence, of any corporate office, shall neglect to pay such fine or penalty into the hands of the Treasurer of the said town or Corporation, within such time, not exceeding three calendar months, as shall be fixed by the said Council, then, and in every such case, it shall be lawful for the said Treasurer, and he is hereby required, under a penalty of fifty pounds in case he neglect or refuse to do so, to make immediate application to the Mayor, or some Justice of the Peace, having jurisdiction within the said town, to have such fine or penalty levied under the warrant of such Mayor or Justice, (who is hereby required, on the application of such Treasurer, to issue the same,) by distress and sale of the goods and chattels of the person so liable to such fine or penalty as aforesaid, together with the reasonable costs and expenses of such distress and sale: Provided, that it shall be lawful for the said Council, at their discretion, to fix the amount of any such penalty at any sum not exceeding fifty pounds, in the case of alderman, councillor, auditor, or assessor, and in the case of mayor, at any sum not exceeding one hundred pounds, anything in the said first recited Act to the contrary notwithstanding.

Proceedings to enforce payment of penalties for non-acceptance or vacation of corporate offices.

VIII. And whereas it is expedient to define the powers of the Council of the said town, with regard to the making of bye-laws: Be it declared and enacted, That it shall be competent for the Council of the said town to fix by any bye-law, such penalty or penalties, whether fixed or variable, as to them shall seem meet, for the enforcement of the provisions thereof: Provided always, that no fine appointed by any such bye-law shall exceed ten pounds, and that no bye-law heretofore made by the Council of the said town shall be invalid or inoperative on account of any variable fine or penalty prescribed thereby, but shall, in regard to such variable fine or penalty, be taken to have been and be as valid and operative as if such bye-law had been made and passed after the passing of this Act.

Defines authority of Council to make bye-laws.

IX. And be it enacted, That all penalties, fines, and forfeitures inflicted, or imposed within the said town, under the provisions of this or the said recited Acts, or by or under any rule, order, or bye-law made in pursuance thereof, shall, (except only such moiety thereof, if any, as is therein specially directed to be given to the informer,) be paid over to the Treasurer of the said town, for the local improvement and benefit thereof: Provided always, that it shall be lawful for the Governor of the Colony for the time being to pardon any offender, and to remit the whole or any part of any such fine or forfeiture as the justice of each particular case may seem to require.

Appropriates penalties, reserving Royal prerogative of pardon.

X. And be it enacted, That whenever it shall become necessary to give evidence as to the existence of any of the bye-laws of the said Council in any Court of law or equity, or before any Justice of the Peace in Sessions or otherwise, the same may and shall be proved by the production of a copy of such bye-law, sealed with the common seal of the said Corporation, such copy having appended thereto a declaration made before the Mayor for the time being, and signed by the party who held the office

Attested copies of bye-laws may be given in evidence.

of

of Town Clerk at the time when such bye-law came into force, testifying as to the correctness of the copy so tendered in evidence, and that the original bye-law was duly made by the said Council, and that all the other requirements of the ninety-first section of the said first recited Act were complied with in reference thereto.

Cattle market established :

XI. And whereas it is expedient that a cattle market should be established within the said town : Be it enacted, That from and after the passing of this Act, the portion of land situate within the said town, and known as the cattle market reserve or grant, shall be the only place within the said town, (except as hereinafter provided), where any market for the sale of any horse, mare, gelding, foal, ass, mule, or any neat cattle, or any sheep, lamb, pig, or goat, shall be held or kept ; and if any person shall sell, or expose for sale, (except as hereinafter provided), any horse, mare, gelding, ass, mule, or any neat cattle, or any sheep, lamb, pig, or goat, in any place or places within the said town, other than the said cattle market reserve or grant, every such person shall, upon conviction of such offence, before any one or more of the Justices of the Peace for the said town, forfeit and pay for every such animal so sold, or exposed for sale, any sum not exceeding five shillings : Provided that nothing herein contained shall be taken to prevent any person from selling, or exposing for sale, by private contract, any horse, mare, gelding, ass, or mule, in any private stable or yard within the said town.

Penalty for selling elsewhere.

Powers of Council with respect to cattle market.

XII. And be it enacted, That the Council of the said town shall possess and enjoy, with respect to the said cattle market, all the powers of legislation by bye-law, and all the authorities, duties, and immunities which they now possess, with respect to the other markets established within the said town, in virtue of the said Act hereinbefore thirdly recited, and in virtue of the Act passed in the sixth year of the reign of Her present Majesty, intituled “ *An Act to remove doubts in respect to the exercise of certain powers by the Councils of the City of Sydney and Town of Melbourne, and to declare the competency of witnesses, and the jurisdiction of Magistrates in certain cases within the same.*”

Rates of toll or dues.

XIII. And be it enacted, That tolls or market dues not exceeding the following tolls or market dues shall be demanded, paid, and taken at the said cattle market for all stock sold or exposed for sale therein, that is to say, for every horse, mare, gelding, foal, ass, or mule, the sum of one shilling ; for every head of neat cattle, the sum of sixpence ; and for every sheep, lamb, pig, or goat, the sum of one penny : Provided that the said Council shall have the power, from time to time, to lower the said tolls or market dues.

Authorizes a loan of £6 000, by Savings' Bank of New South Wales to the Corporation.

XIV. And whereas it is expedient to authorize the loan to the said Council of certain sums of money by the Savings' Bank of New South Wales : Be it therefore enacted, That it shall be lawful for the Council of the said town to borrow, in aid of the town fund, by way of mortgage, of the Vice President and Trustees of the Savings' Bank of New South Wales, any sum or sums of money, not exceeding the sum of six thousand pounds in the whole, as in their discretion they shall think fit, and it shall and may be lawful for the said Vice President and Trustees of the Savings' Bank of New South Wales to lend the same in their discretion : Provided that the sum or sums so lent shall be secured as a first charge or charges upon the entire revenues of the said Corporation, from whatsoever source arising, and that the interest payable thereon shall be at a rate not exceeding six pounds for every one hundred pounds per annum, and shall be paid half-yearly, in Sydney, from the time of such loan made ; and the said principal sum shall be covenanted to be repaid, together with all interest and charges accruing thereon, and shall be, and be made recoverable within a period not exceeding six years from the date of such loan.

Savings' Bank not to see to application of loan.

XV. And be it enacted, That it shall not be necessary for the said Savings' Bank to see to the application of the said loan ; and the corporate seal of the said Corporation, when affixed to the instrument of mortgage, such mortgage being signed by the Mayor, and countersigned by the Town Clerk for the time being, shall be conclusive and binding upon the said

said Corporation as to the powers, terms, time, or times of repayment, covenants, provisoes, and agreements of and to be contained in the said instrument of mortgage, and any instruments auxiliary thereto, and for all intents and purposes whatsoever.

XVI. Whereas by sundry sections of the said first recited Act, special modes of procedure are provided for the recovery of certain fines, penalties, and forfeitures, and doubts having arisen whether such provisions are not interfered with, or altered by the one hundredth section of the said Act: Be it enacted, That nothing in the one hundredth section of the said first recited Act contained shall be taken to interfere with, or alter the special modes of procedure for the recovery of certain fines, penalties, and forfeitures therein, by previous clauses provided; nor shall anything in such one hundredth clause contained be interpreted or taken to render a demand for any such fine, penalty, or forfeiture necessary, previous to the issue of summons for the recovery of the same.

Removes doubts as to mode of recovery of penalties.

XVII. And be it enacted, That in case any person, whose name may have been omitted at the revision of the Burgess Roll, shall apply for a Mandamus for the insertion of his name in such Roll, then it shall be lawful for the Judge by whom the case is decided to make such order with regard to the costs of the appellant and respondent, or either or both of them, as to him the said Judge, on inquiry into the case, may seem meet; and it shall also be lawful for the said Judge to order the costs as aforesaid to be paid by the Alderman, and one or both of the Assessors, or by both Assessors only.

As to costs of application for mandamus.

XVIII. And be it enacted, That so much of an Act passed in the second year of the reign of Her present Majesty, intituled "*An Act for regulating the Police in the towns of Parramatta, Windsor, Maitland, Bathurst, and other towns respectively, and for removing and preventing nuisances and obstructions, and for the better alignment of streets therein,*" as enacts that any person who shall run, roll, drive, draw, place, or cause, or permit, or suffer to be run, rolled, driven, drawn, or placed upon any of the said footways of any street or public place within any of the said towns, any wagon, cart, dray, sledge, or other carriage, or any wheel, wheelbarrow, handbarrow, or truck, or any hogshead, cask, or barrel, or shall wilfully lead, drive, or ride, any horse, ass, mule, or other beast, upon any of the footways aforesaid, then and in every such case, every person so offending, upon conviction before any Justice of the Peace, or upon the view of any such Justice, shall forfeit and pay a sum not exceeding forty shillings nor less than five shillings, shall be and the same is hereby repealed, in so far as regards the crossings made and established in pursuance of the provisions hereinafter contained.

Repeals portion of 15th section of 2 Victoria, No. 2.

XIX. And whereas it is necessary to provide proper crossing places for the transit of wheeled carriages, horses, and other beasts across the footways of the said town: Be it enacted, That it shall be lawful for the said Council to fix by bye-law the width, form, materials, and construction of crossing places across the footways of the said town, and in like manner to vary the same from time to time; and thereafter upon the application of the owner or owners, or of the majority in number and value of the owners of any premises communicating with such crossing place, the Council shall construct such crossing place, or cause or permit the same to be constructed, and the cost thereof shall be paid in rateable proportions by the owners or occupiers of all such premises, to be levied and recovered in like manner as the town rate, but to be irrespective of, and in addition to, any town rate which may be then due, or may thereafter become payable in respect of such premises.

Power to Council to form crossing places on application of owners of adjoining properties.

XX. And be it further enacted, That if it shall appear necessary to the said Council, to make or repair any crossing place across any such footway, and the owners or occupiers of the adjoining premises, communicating therewith have not applied for the making or repairing of the same, it shall be lawful for the said Council to give notice by advertisement, published in one or more of the Melbourne newspapers, to the occupiers of the premises, of their intention to make or repair the same, and unless the

The like without such application.

the

the said parties shall, within thirty days from the publication of such notice, shew cause to the satisfaction of the Council, why such crossing place should not be made or repaired, it shall be lawful for the said Council, by a vote of two-thirds at least of the members in attendance at any meeting duly convened, to make or repair the same, and recover the cost thereof in manner hereinbefore directed.

CHARLES NICHOLSON,
Speaker.

*Passed the Legislative Council, this twenty-
fourth day of August, one thousand eight
hundred and forty-seven.* } *In the name, and on the behalf
of Her Majesty, I assent to
this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^S. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 31st August, 1847.



**An Act to authorize, for a limited time, an assessment upon Stock
pastured beyond the settled Districts of New South Wales.
[Assented to, 17th September, 1847.]**

WHEREAS it is necessary to make provision for the protection and good government of all persons residing beyond the settled Districts of the Colony of New South Wales, and by reason thereof it is expedient that an assessment should be raised and levied upon all stock pastured beyond the said settled Districts: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That in each and every year, there shall be levied and paid upon and in respect of the stock of every person pasturing or keeping the same, upon any lands situate beyond the settled Districts of the said Colony, as the same now are, or hereafter may be, defined, the assessment following, that is to say:—for every sheep, the sum of one halfpenny, for every head of cattle, the sum of one penny halfpenny, and for every horse, the sum of three-pence; which assessments respectively, shall be paid by the person assessed, before the first day of April in each year, at the Office of the Colonial Treasurer in Sydney, or Sub-Treasurer at Melbourne, or to such other officer or officers, or at such other place or places, as shall be appointed in that behalf, by the Governor for the time-being.

II. And be it enacted, That every person pasturing or keeping stock as aforesaid, shall make, or cause to be made, to the Commissioner of the district wherein the said stock is pastured, a Return, on the first day of January, or within fourteen days thereafter, in each and every year, according to the form contained in the Schedule hereunto annexed, marked A, of all sheep, cattle, and horses kept and pastured by him, as aforesaid; and if any such person shall fail or neglect to make, or cause to be made, such Return at the time so appointed, or shall omit to deposit the same with the said Commissioner, in manner hereby required, he shall, on conviction before any two or more Justices of the Peace, forfeit and pay for every such offence, a sum not less than forty shillings, nor exceeding fifty pounds.

III. And be it enacted, That after the first day of March in each year, it shall and may be lawful for the Commissioner and his assistants in each and every district, (but subject to such directions as the Governor may think proper to give in any case) to seize and drive to the nearest or most convenient pound all cattle and horses pasturing as aforesaid, whereof a Return shall not by that time have been made by the person keeping or pasturing the same, in conformity with the provisions in that behalf hereinbefore contained, and the said cattle and horses to sell and dispose of at such pound, according to the ordinary course of sales of cattle and horses impounded for trespasses, unless, in the meantime, the owner thereof shall have claimed the same, and shall pay, by way of penalty, to the said Commissioner or poundkeeper, the sum of two shillings and sixpence for every head of such cattle and horses, together with the expenses chargeable thereon for poundage and food, which penalty and expenses the owner of such cattle and horses shall be liable to pay: Provided always, that upon such claim being made by a person who shall satisfy the said Commissioner or poundkeeper that he is the lawful owner of any such cattle and horses so impounded, and upon such payment as last aforesaid, the said cattle and horses shall be restored to such owner: And provided further that all moneys realized by any such sale as hereby authorized, and all payments made as aforesaid, shall be forthwith transmitted by or through the said Commissioner to the Colonial Treasurer at Sydney, or the Sub-Treasurer at Melbourne,

Melbourne, or to such other officer as may in that behalf be appointed by the Governor, and the surplus realized by any such sale as aforesaid over and above the amount of such penalty as last aforesaid, and the expenses aforesaid, shall be paid to the owner of any such cattle and horses so sold, upon a certificate from the said Commissioner of his being such owner.

Returns to be verified
by declaration.

IV. And be it enacted, That the person making such Return as aforesaid, shall verify the same by a declaration in the form or to the effect prescribed in the said Schedule, (which declaration any Justice of the Peace is hereby empowered to administer) that the several matters and things contained in such Return are true, to the best of his knowledge and belief; and if any person shall wilfully make therein any false statement as to any material particular, he shall be deemed guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the Court, to fine and imprisonment, or either.

Commissioner to make
annual return to Colo-
nial Treasurer,

according to which as-
sessment to be charged.

V. And be it enacted, That the several Commissioners shall, at the beginning of each and every year, make an assessment on the stock pastured within their respective districts, and shall on or before the first day of February then next ensuing, make a Return thereof to the said Colonial Treasurer or Sub-Treasurer, or other person appointed as aforesaid, in the form, and containing the several particulars, set forth in the Schedule to this Act annexed, marked with the letter B, according to which Return the assessment, hereinbefore mentioned, shall, upon notice as hereinafter provided, be due and payable as aforesaid, by the persons therein assessed, except in so far as the same may be affected by any order made on appeal, under the provisions hereinafter contained.

Commissioner to give
notice to parties of
amount of assessment.

VI. And be it enacted, That the said several Commissioners shall, not less than one calendar month previous to the time hereinbefore appointed for the payment of the said assessment, cause a notice in writing, in the form contained in the Schedule hereunto annexed marked C, to be served upon each person assessed, or to be left at the residence of such person (if within the district), or with the superintendent or person having the charge of his stock (if the owner thereof shall not reside within the district,) apprising him of the amount of the assessment with which he is liable, and requiring him to pay the said amount at the office of the said Colonial Treasurer, or of the said Sub-Treasurer, or other place appointed as aforesaid, before the first day of April next ensuing.

Persons aggrieved to
appeal to Petty Ses-
sions.

VII. And be it enacted, That any person assessed as aforesaid, who shall consider himself aggrieved by such assessment, may appeal to the nearest Court of Petty Sessions: Provided that within ten days after the service of the said notice of assessment, the person assessed, or some one on his behalf, shall give to the said Commissioner a notice, in writing, of his intention to make such appeal, upon some day to be therein mentioned, not later than fourteen days after the date of such last mentioned notice; and the Justices sitting in Petty Sessions shall hear and determine the matter of the said appeal in a summary way, and shall make such order therein as to them shall seem meet, according to the true intent and meaning of this Act; and in case of the dismissal of the appeal, or the affirmance of the said assessment, wholly or in part, or in case the party assessed, or some person on his behalf shall not appear to prosecute the appeal, the Court shall order and adjudge the person so assessed to pay, within ten days, the amount of such assessment, or of such part thereof as they shall have determined to be payable, into the office of the said Colonial Treasurer or Sub-Treasurer, (or other place appointed as aforesaid) and also such costs and expenses as may be awarded to the said Commissioner by the said Court; and if such assessment, costs, and expenses be not paid within such time, the said Court shall and may issue a warrant to levy the amount thereof by a distress and sale of a sufficient part of the stock, in respect of which such assessment shall have been made as aforesaid, and the surplus if any, after payment of such assessment, costs, and expenses, shall be paid to the owner of such stock.

VIII.

VIII. And be it enacted, That in case any person liable to pay any such assessment as aforesaid, or in case any person so adjudged to be liable to payment of the said assessment, or any part thereof, upon appeal or notice of appeal as aforesaid, shall refuse or neglect to pay the same upon the day appointed by such notice, or within the time appointed in cases of appeal as aforesaid, as the case may be, it shall and may be lawful for the said Colonial Treasurer, or Sub-Treasurer at Melbourne, or other person appointed by the Governor in that behalf, and he is hereby required forthwith after the expiration of one month from the day or time so appointed, to issue a warrant, under his hand, to the Commissioner in whose district any person so refusing or neglecting to pay as aforesaid shall reside, directing the said Commissioner and his assistants to levy the amount which such person is so liable to pay as aforesaid, together with an additional sum, equal to one-fifth part of that for which he is so liable, by way of penalty for such refusal or neglect, by a distress of a sufficient part of the stock, in respect of which the assessment shall have been made as aforesaid; and such Commissioner and his assistants, to whom such warrant shall be so directed, are hereby authorized, under and by virtue thereof, to distrain, take, and drive to the nearest or most convenient pound, such and so many of the stock of the party in said warrant mentioned, as shall be sufficient (when sold) to pay the amount of such assessment and penalty, and the costs and expenses of making such distress, and the payment of the maintenance of such stock, till sold; and the said stock (or a sufficient part thereof) to sell and dispose of at such pound, according to the ordinary course of sales of stock impounded for trespasses, (unless previously thereto the said assessment, penalty, costs, and expenses shall be paid); and the proceeds thereof shall be applied to the payment of the assessment, penalty, costs, and expenses aforesaid, and the surplus (if any) shall be paid to the owner or superintendent of the said stock: Provided, however, that when such warrant shall be so issued as aforesaid, in case the amount of the assessment and penalty therein mentioned, shall be tendered to the person charged with the execution of such warrant, then and in such case the said person shall and he is hereby authorized to accept and receive the said amount, and to give a receipt for the money so received, and to refrain from making and executing the said distress.

In cases of refusal or neglect to pay assessment, &c., Colonial Treasurer to issue warrant to levy amount.

IX. And be it enacted, That all penalties, fines, and forfeitures, incurred or imposed under this Act, shall and may be sued for and recovered in a summary way, before any one or more Justice or Justices of the Peace, under and according to the provisions of an Act made and passed by the Governor of New South Wales, with the advice of the Legislative Council thereof, in the fifth year of the reign of His late Majesty King William the Fourth, intituled, "*An Act to regulate summary proceedings before Justices of the Peace.*"

Proviso.

Made of recovering penalties.

5 Wil., IV., No. 22.

X. And for the protection of persons acting in execution of this Act: Be it enacted, That all actions for anything done under this Act, shall be commenced within six calendar months after the fact was committed, and not otherwise; and notice in writing of such action, and the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action, and in every such action, the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court, after such action brought, by or on behalf of the defendant, together with costs incurred up to that time; and if a verdict shall pass for the defendant, or the plaintiff become nonsuited, or discontinue such action after issue joined, or if upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases.

All actions for things done under this Act to be brought within six months.

Plaintiff shall not recover if tender of amends made before action brought, or if sufficient sum of money paid into Court after action brought.

XI.

Appropriation of sums payable under this Act.

XI. And be it enacted, That all sums of money payable under and by virtue of this Act, shall be paid to Her Majesty, Her Heirs and Successors, for the maintenance of a Police force and other local purposes beyond the said settled districts, and shall be applied thereto, in such manner as may from time to time be directed by any Acts to be passed by the Governor and Legislative Council of the said Colony.

No certiorari.

XII. And be it enacted, That no order, judgment, or other proceeding made, touching and concerning any of the matters aforesaid, or touching and concerning the conviction of any offender against this Act, shall be quashed or vacated for want of form only, or be removed or removable by *certiorari*, or by any writ or process whatsoever, into Her Majesty's Supreme Court of New South Wales.

All informations to be brought by Commissioners.

XIII. And be it enacted, That all prosecutions, suits, actions; informations, or complaints, to be brought under or by virtue of this Act, or upon or by reason of the breach of any of the provisions thereof, shall and may be so brought by any Commissioner for and on behalf of Her Majesty Her Heirs and Successors; but nevertheless such Commissioner shall and may be admitted to give evidence in or upon any such prosecution, suit, action, information, or complaint; and that upon any proceeding before Justices of the Peace under this Act, it shall not be necessary to have a formal information, but it shall be sufficient that the cause of complaint or proceeding, shall be stated with reasonable distinctness, by affidavit or deposition.

All prosecutions, &c., for breaches of this Act to be brought within twelve months.

XIV. And be it enacted, That no prosecution, suit, or complaint, shall be brought under or by virtue of this Act, by reason of the breach of any of the provisions thereof, after the lapse of twelve calendar months from the occurrence of the matter or thing to which such prosecution, suit, or complaint may relate: Provided nevertheless, that nothing herein contained shall be deemed to extend to any information or prosecution for the wilfully making and subscribing any false declaration.

Interpretation clause.

XV. And be it enacted, That in the construction of this Act the term "Commissioner" shall be deemed and taken to mean a Commissioner of Crown Lands appointed by the Governor for the time being; and the term "District" shall be deemed and taken to mean the limits within which a Commissioner of Crown Lands has been, or may hereafter be appointed to act; and the term "stock" shall be deemed and taken to mean and include sheep, cattle, and horses; and the word "sheep" when specifically used in this Act, shall be deemed and taken to mean and to include rams, ewes, wethers, and lambs; and the word "cattle" when specifically used in this Act, shall mean and include bulls, cows, oxen, heifers, steers, and calves; and the word "horses" when specifically used in this Act, shall mean and include horses, mares, geldings, colts, and fillies; and unless there be something in the subject or context repugnant to such construction, every word importing the singular number or the masculine gender only shall be understood to include, and shall be applied to several persons, matters, or things, as well as one person, matter, or thing, and females as well as males respectively.

Commencement of Act.

XVI. And be it enacted, That this Act shall commence from and after the thirty-first day of December now next ensuing, and shall thenceforth continue in full force and effect, for a period of five years, and no longer.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this twenty-fifth day of August, one thousand eight hundred and forty-seven. } In the name, and on the behalf of Her Majesty, I assent to this Act.

W. M. MACPHERSON,
CLERK OF THE COUNCIL.

CH^S. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 17th September, 1847.

SCHEDULES REFERRED TO.

A.

First Day of January, 18 .

RETURN of Live Stock, kept and pastured by Mr. in
 the District of , beyond the settled Districts of the Colony,
 rendered in conformity with the Provisions of the Act of the Governor and Council,
 Victoria, No. .

STATION.	Person Superintending.	Estimated Extent of Run.	Stock on Station belonging to, or in charge of, Mr.		
			Horses, and how branded.	Cattle, and how branded.	Sheep, and how marked.

I, A. B., do solemnly declare that, to the best of my knowledge and belief, the foregoing is a true and faithful account of all sheep, horses, and cattle, of every kind kept or pastured by me, or under my charge, on the several stations above mentioned, within the District of ; and I make this declaration by virtue of the Act of the Governor and Council of New South Wales, Victoria, No. .

A, B.

Proprietor or Superintendent
 (as the case may be.)

Declared before me, at
 this day of , 18 }
 J. P.

B.

B.

First Day of

18

YEARLY RETURN of LIVE STOCK in the District of
 with a Statement of the Amount of Assessment chargeable thereon in accordance
 with the Provisions of the Act of the Governor and Council, Victoria, No.

Stations or Runs.	PERSONS ASSESSED.		Persons Superintending.	Estimated Extent of each Run.	STOCK AT EACH STATION.			Amount of Assessment.	TOTAL.
	Lessees.	Licensed Occupants.			Horses, Three-pence per Head.	Cattle, Three halfpence per Head.	Sheep, One half-penny per Head.		

Signature of
 Commissioner.

C.

District of

No. |

Commissioner of Crown Lands Office,
 , 18 .

The Amount with which you are assessed for the year from first January to thirty-first December, 18 ,
 under the provisions of the Act of the Governor and Council Victoria, No. , on the undermentioned
 Stock pastured by you in this District, is as follows, viz :—

.... Horses	at 3d. per head	£	s.	d.
.... Head of Cattle.. .. .	at 1½d. per head			
.... Sheep	at ½d. per head			
		£		

which said sum of pounds, shillings, and pence, you
 are hereby required to pay at the Office of the Honorable the Colonial Treasurer, in Sydney (or at
 , as the case may be) before the first day of April
 next.

Or if you consider yourself as having any just cause for appealing against the said assessment, you
 will please to observe that notice of such appeal must be lodged with me within ten days from the date of the
 delivery of this notice, in the manner prescribed by the said Act. As witness my hand at
 this day of 18 .

Commissioner of Crown Lands.

To _____)
 _____)

**An Act for facilitating the winding up of Joint Stock Companies,
unable to meet their pecuniary engagements. [Assented to,
17th September, 1847.]**

WHEREAS it is expedient to extend the remedies of creditors against ^{Proviso.} the property of incorporated and joint stock companies, when unable to meet their pecuniary engagements, and to facilitate the winding up of their concerns: Be it enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That if any incorporated or joint stock company, now or hereafter subsisting or carrying on any trade or business within the Colony of New South Wales, shall commit any act which by this Act is to be deemed an act of insolvency on the part of such company or body, the estate of such company or body shall and may be placed under sequestration by the name or style of the said company or body, upon the petition of any creditor or creditors of such company or body, (whether a member or members thereof or not,) to such amount as is by the law of the said Colony requisite to constitute a sufficient petitioning creditor's debt, in the same manner, in all respects, as if the same were the estate of an individual or ordinary partnership; and the Supreme Court, and the several Judges thereof, as well as the Resident Judge at Port Phillip, and all persons acting under any such order or adjudication for the sequestration of such estate, shall and may proceed thereon in like manner as against other insolvent estates, subject always to the provisions hereinafter made: Provided always, that the insolvency of any such company or body in its corporate or associated capacity, (as the case may be) shall not be construed to be an act of insolvency of any member of such company or body in his individual capacity.

If any Joint Stock Company commit an act of insolvency the Estate of the Company may be placed under sequestration upon petition of any creditor.

II. And be it enacted, That the order for the sequestration of the estate of any such company or body, and the adjudication thereof, and all other orders and directions of the said Court and Judges, and of the Chief and other Commissioners of Insolvent Estates, shall be served on the person who was, at the date of the original order of sequestration, a chief clerk or secretary of such company or body, or, (if there be no such person,) on any person who was at such date a director thereof, personally, or by leaving the same at the head office for the time being of such company or body.

Proviso.

Sequestration and other orders to be served on the secretary or a director of such Company.

III. And be it enacted, That if any such company or body shall, by virtue of a resolution to be duly passed in that behalf, at a Board of Directors of such company or body, duly summoned for that purpose, file, or caused to be filed, in the office of the Chief Commissioner of Insolvent Estates, at Sydney, or Melbourne, in the said Colony, as the case may be, a declaration in writing, in the form specified in Schedule A, No. 1, hereunto annexed, that the said company or body is unable to meet its engagements, and also a minute of such resolution in the form specified in the Schedule A, No. 2, such declaration and minute of resolution being respectively under the Common Seal of such company or body, and if such company or body have no Common Seal, then signed by the Chairman of the Board of the Directors who was present at the passing of such resolution, and in either case, such declaration and minute of resolution being respectively attested by the Attorney or Solicitor of the said company or body for the time being, every such company or body shall be deemed thereby to have committed an act of insolvency, at the time of filing such declaration, and thereupon the President or Chairman of the said company or body, or the person or persons in whom the estate and effects of the said company or body shall then be vested as Trustees, or otherwise on behalf of the said company or body, shall be at liberty to cause the said estate and effects to be surrendered as insolvent into the hands of the Official Assignee, in the same manner as any individual or

Declaration of inability to meet engagements by board of directors to be an act of insolvency.

private

private firm now may or shall hereafter be empowered so to surrender his or their estate, as insolvent, under or by virtue of the present or any future Insolvent Law of the Colony, and such proceedings shall be thereupon had as in the case of a surrender by such individual or private firm, except as otherwise provided in and by this Act.

Company not paying, securing, or compounding, for a judgment debt, upon which plaintiff might sue out execution within fourteen days after notice, deemed an act of insolvency.

IV. And be it enacted, That if any plaintiff shall recover judgment in any action personal, for the recovery of any debt or money demand, in any Court of Record within the said Colony, against any such company or body, or against any person duly authorized to be sued as the nominal defendant on behalf of such company or body, and shall be in a situation to sue out execution upon such judgment, and there be nothing due from such plaintiff by way of set-off, or which may be legally set-off against such judgment, and such company or body shall not, within fourteen days after notice in writing served upon the said company or body, by service of the same on a chief clerk or secretary or registrar of the said company or body, or (if there be no officer of such denomination,) on any director of the said company or body, personally or by the same having been left at the head office for the time being of such company or body, requiring immediate payment of such judgment debt, pay, secure, or compound for the same to the satisfaction of such plaintiff, such company or body shall be deemed to have committed an act of insolvency on the fifteenth day after service of such notice: Provided always, that if such execution shall be in the mean time suspended or restrained by any rule, order, or proceeding of any Court of justice having jurisdiction in that behalf, no further proceeding shall be had on such notice; but that it shall be lawful nevertheless for such plaintiff, when he shall again be in a situation to sue out execution on such judgment, to proceed again by notice in manner before directed.

Company disobeying order of any Court of Equity, &c., for payment of money after service of order for payment on a peremptory day fixed, deemed an act of insolvency.

V. And be it enacted, That if any decree or order shall be pronounced in any cause depending in any Court of Equity, or any order shall be made in any matter of insolvency or lunacy against any such company or body, or against any person duly authorized to be sued as the nominal defendant, on behalf of such company or body, ordering any sum of money to be paid by such company or body, and such company or body shall disobey such decree or order, the same having been served upon such company or body by service of the same on a chief clerk, or secretary, or registrar of the said company or body, or (if there be no officer of such denomination,) on any director of the said company or body, personally, or by the same having been left at the head office for the time being of such company or body, the person entitled to receive such sum, under such decree or order, or interested in enforcing the payment thereof, pursuant thereto, may apply to the Court by which the same shall have been pronounced, to fix a peremptory day for the payment of such money, which shall accordingly be fixed by an order for that purpose; and if such company or body, being served in manner aforesaid with such last mentioned order, fourteen days before the day therein appointed for payment of such money, shall neglect to pay the same, such company or body shall be deemed to have committed an act of insolvency on the fifteenth day after the service of such order.

Assignees of estate of Company may maintain action to recover a debt; and any person may claim against Company any debt due on the balance of accounts.

VI. And be it enacted, That it shall be lawful for the assignees of the estate and effects of any such company or body to maintain any action, suit, or other proceeding against any person or persons, (whether a member or members of such company or body or not,) to recover any debt or demand on behalf of the said company or body against such person or persons, and for any person or persons to prove or claim against the estate of such company or body, such debt or demand as may be due to him or them (whether a member or members of such company or body or not,) on the balance of accounts between him or them, and the said company or body.

Member's share not to be set off against a demand which the Assignee of an insolvent

VII. Provided always, and be it enacted, That no claim or demand, which any member of any such company or body may have in respect of his share of the capital or joint stock thereof, or of any dividends,

dends, interest, profits, or bonus, payable or apportionable in respect of such share, shall be capable of being set off, either at Law or in Equity, against any demand which the assignees of the estate and effects of such company or body 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

VIII. And be it enacted, That no action, suit, or other proceeding by any creditor or creditors of any such company or body shall, so far as concerns or may be necessary for the recourse of such creditor or creditors against the person, property, or effects of any member or members thereof for the time being, or any former member or members thereof, be deemed to prejudice, or in any manner affect the right of such creditor or creditors to petition for and procure the sequestration of the estate of such company or body, or his or their right to prove or claim against the estate of such company or body, any debt or demand remaining unsatisfied; and that no such sequestration, or proof or proceeding thereunder, shall be deemed to prejudice or in any manner affect the right of any creditor or creditors of such company or body to institute or maintain any action, suit, or other proceeding, so far as concerns or may be necessary for the recourse of such creditor or creditors against the person, property, or effects of any member or members thereof for the time being, or any former member or members thereof: Provided always, that nothing herein contained shall prevent remedy against copartners: Provided also, that no execution in respect of any debt or demand proveable against the estate of any such company or body, adjudged insolvent, shall be issued against the person, property, or effects of any member or members for the time being of such company or body, or any former member or members thereof, until after such debt or demand shall have been proved against such estate; nor shall any such execution be issued after the appointment of a receiver in manner hereinafter mentioned, without leave of the Supreme Court at Sydney, or Resident Judge at Port Phillip.

Company may have against such member.

Action by a creditor of a Company, so far as concerns his recourse against the person or property of an individual member thereof, not to prejudice or affect his right to petition for the sequestration of the estate of such Company.

Remedy against copartners reserved.

No execution to issue against a member until claim against Company proved; nor after appointment of receiver, without leave of the Court.

IX. And be it enacted, That proof of any debt against the estate of any such company or body as aforesaid, adjudged insolvent shall be, and be deemed to be, equivalent to a judgment, decree, or order of record, in any action, suit, or other proceeding, against any such company or body.

Proof of debt against Company, equivalent to a judgment, decree, or order of record.

X. And be it enacted, That the law and practice in insolvency now in force in the said Colony shall extend, so far as the same may be applicable, to this Act, and to orders and adjudications of sequestration issued or made by virtue of this Act, and to all proceedings under such orders and adjudications, save and except as may be otherwise directed by this Act.

Law and practice in insolvency to extend to this Act, and to orders and adjudications of sequestration issued by virtue thereof, except as otherwise directed by this Act.

XI. And be it enacted, That it shall be lawful for the said Supreme Court, or any Judge thereof, or the Resident Judge at Port Phillip, at any time after the advertisement of the sequestration of the estate of any such company or body, as by law is required, to order that the persons who were at the date of such sequestration directors of such company or body, or such of them as such Court or Judge in its or his discretion shall think fit, or if there be no directors, then such members of the company as such Court or Judge in its or his discretion shall think fit, shall prepare such balance sheet and accounts, and in such form as such Court or Judge shall direct, and shall subscribe such balance sheet and accounts, and file the same in the office of the Chief Commissioner of Insolvent Estates at Sydney, or Melbourne, as the case may require, and deliver a copy thereof to the Official Assignee ten days at least before the second meeting under such sequestration; and such balance sheet and accounts, before such second meeting, may be amended from time to time as occasion shall require, and such Court or Judge shall direct; and such persons shall make oath of the truth of such balance sheet and accounts whenever they shall be duly required so to do; and

Court or Judge may order the directors of a company adjudged insolvent to prepare and file a balance sheet and accounts, and to make oath of the truth thereof; and order allowance out of the estate for the preparation thereof.

such

such Court or Judge may, from time to time, make such allowance out of the estate of such company or body for the preparation of such balance sheet and accounts, and to such person or persons as such Court or Judge shall think fit.

Persons ordered to prepare such balance sheet and accounts, to be under the like penalty as an insolvent for not conforming to the requisition for the discovery of and in relation to the effects of such insolvent.

XII. And be it enacted, That every such person ordered as aforesaid to prepare such balance sheet and accounts, shall be under the like obligation to submit to be examined before any Chief or other Commissioner of Insolvent Estates from time to time upon oath, and to make a full and true discovery of the estate and effects of such company or body, and shall incur such danger or penalty for not coming before such Chief or other Commissioner, or for refusing to be sworn and examined, or for not fully answering to the satisfaction of the said Chief or other Commissioner, or for refusing to sign or subscribe his examination, or for not delivering up all such part of the estate of such company or body, and all books, papers, and writings relating thereunto, as shall be in his possession, custody, or power, or for removing, concealing, or embezzling any part of such estate to the value of ten pounds or upwards, or any books of account, papers, or writings relating thereto, with intent to defraud the creditors of such company or body, as is now by the law in force concerning insolvents provided as to an insolvent for not conforming to the like requisitions for the discovery of, and in relation to, the estate and effects of such insolvent.

The Court, or any Judge thereof, may summon any person whether a member of the Company or not, to give evidence as to the trading and any act of insolvency of a Company; or any person suspected to have property of the Company in his possession, or to be indebted to the Company, &c.; and compel him to produce books, &c.

XIII. And be it enacted, That it shall be lawful for the said Supreme Court, or any Judge thereof, or the Resident Judge at Port Phillip, after any petition for the sequestration of the estate of any such company or body shall have been made, and before adjudication, to summon before such Court or Judge, or any Chief or other Commissioner of Insolvent Estates, any person (whether a member of such company or body or not) whom such Court or Judge shall believe capable of giving any information concerning the commercial dealings or trading of, or any act or acts of insolvency within the meaning of this Act committed by such company or body, and also to require such person so summoned to produce any books, papers, deeds, writings, and other documents in the custody, possession, or power of such person, which may appear to such Court or Judge to be necessary to establish such dealings, trading, or act or acts of insolvency; and it shall be lawful for such Court or Judge, or such Chief or other Commissioner, to examine every such person on oath, by word of mouth, or interrogatories in writing, concerning the dealings or trade of, or any act or acts of insolvency within the meaning of this Act committed by such company or body; and it shall also be lawful for such Court or Judge, after adjudication, to summon before it, or before any such Chief or other Commissioner, any person (whether a member of such company or body or not) known or suspected to have any of the estate of such company or body in his possession, or who is supposed to be indebted to such estate, or any person (whether a member of such company or body or not) whom such Court believes capable of giving information concerning any person or persons who was or were a member or members of such company or body at or before the date of the order of sequestration, or concerning the trade, dealings, or estate of such company or body, or concerning any act or acts of insolvency, within the meaning of this Act, committed by such company or body, or any information material to the full disclosure of the dealings of such company or body; and it shall be lawful for such Court, or Judge, or any such Chief or other Commissioner, to examine, in manner aforesaid, every such person so summoned, concerning the person of any such member, or concerning the trade, dealings, or estate of such company or body, and also to require every such person so summoned to produce any books, papers, deeds, writings, or other documents in his custody, possession, or power, which may appear to such Court necessary to the verification of the deposition of such person, or to the full disclosure of any of the matters which such Court, or Judge, or Chief or other Commissioner, is authorized to

to inquire into; and every such person so summoned shall incur such danger or penalty for not coming before the Court, or Judge, or Chief or other Commissioner of Insolvent Estates, or for refusing to be sworn and examined, or for not fully answering to the satisfaction of such Court, or Judge, or Chief or other Commissioner, or for refusing to sign or subscribe his examination, or for refusing to produce, or for not producing any such book, paper, deed, writing, or document, as is now provided against persons summoned to be examined under any order or adjudication for the sequestration of the estate of any private individual or firm.

XIV. And be it enacted, That where any person who at or before the date of an order for the sequestration of the estate of any such company or body was a member of such company or body, shall be summoned to attend before the Supreme Court, or any Judge thereof, or the Resident Judge at Port Phillip, or before any Chief or other Commissioner of Insolvent Estates, every such person shall have such costs and charges only (if any) as such Court, Judge, or Commissioner, in its or his discretion shall think fit.

Costs, where person summoned to attend before the Court, or a Judge thereof, or before the Commissioner.

XV. And be it enacted, That if any person whatsoever, not being a person so ordered as aforesaid to prepare such balance sheet and accounts, shall wilfully conceal any real or personal Estate of any such company or body, and shall not within thirty days after the public notification of the order for the sequestration of the estate of such company or body, discover such estate to the Chief or other Commissioner authorized to act in the prosecution of the order of sequestration, or to the assignees, every such person shall forfeit the sum of one hundred pounds, and double the value of the estate so concealed; and any person, other than a person having been a member of such company or body, who shall, after the second meeting under such sequestration, voluntarily discover to such Court, or to the assignees, any part of the estate of such company or body, not before come to the knowledge of the assignees, shall be allowed five pound per centum thereupon, and such further reward as the major part in value of the creditors present at any meeting called for that purpose shall think fit to be paid out of the estate recovered on such discovery.

Penalty on concealing any part of the estate of an insolvent Company, and reward for disclosing any part thereof.

XVI. And it is hereby declared and enacted, That if any person shall disobey any rule or order of the Supreme Court, or any Judge thereof, or Resident Judge at Port Phillip, duly made by such Court or Judge, for enforcing any of the purposes and provisions of this Act, or of any other Act relating to bankruptcy or insolvency, now or hereafter to be in force, or made or entered into by consent of such person for carrying into effect any of such purposes or provisions, it shall and may be lawful for such Court or Judge, by warrant under hand and seal, to commit the person so offending to the common gaol of any county, city, or place where he shall be found, or where he shall usually reside, there to remain without bail or mainprize until such person shall have fulfilled the duty required by such rule or order, or until such Court or Judge shall make order to the contrary.

Punishment for disobeying any Rule or Order of the Court, or any Judge thereof.

XVII. And be it enacted, That it shall be lawful for the Chief or other Commissioner, authorized to act in the prosecution of any such sequestration, to direct the assignees of the estate and effects of any such company or body, to apply to the Supreme Court at Sydney or Melbourne, as the case may require, by petition, in a summary way, to the Chief and other Judges at Sydney, or to the Resident Judge at Port Phillip, praying that all such orders and directions may be given as shall be necessary for the final winding up and settling the affairs of such company or body, and to compel a just contribution from all the members thereof towards the full payment of all its debts and liabilities, and of the costs of winding up and finally settling the said affairs; and that upon the hearing of such petition, it shall be lawful for the said Supreme Court at Sydney, or the Resident Judge at Melbourne, as the case may be, to refer it to the Chief Commissioner of Insolvent Estates at either of such places respectively, as the case may be, to take all such accounts, and

Chief Commissioner to direct the assignees of the estate of an insolvent Company to apply to the Court by Petition, praying that all such orders may be given as may be necessary for the final winding up the affairs of such Company, and to compel a contribution from all the members thereof towards the full payment of all its liabilities, and of the costs of settling its affairs.

Proceeding thereupon.

and make all such enquiries as shall be required for the purpose of ascertaining what sum of money in the whole, and what sums of money as proportionate parts of the whole, or what sum or sums of money from time to time on account, will, (having regard to the deed of settlement of such company, and the calls, contributions, debts, or demands, actually paid by the several and respective members thereof, and also having regard to any proceedings in the Insolvent Court,) be necessary and proper to be raised by calls or contributions from the respective members of such company or body, for the payment and satisfaction of all the debts and liabilities thereof, and also of all the costs of winding up and settling the affairs of the said company or body; and that the said Supreme Court at Sydney, or the Resident Judge at Melbourne, as the case may be, upon confirmation of the said Chief Commissioner's Report, made upon any such reference, or upon making such reference or otherwise, may order the payment of the several and respective sums of money which by such Report are found necessary and proper to be paid, and may appoint a receiver to collect and receive such sums of money, and to pay the same into some Bank in the name and to the account of the said Chief Commissioner of Insolvent Estates, to the credit of such company or body, and may, upon the petition of such assignees, order such sums of money to be paid in or towards satisfaction of the debts which by the proceedings in insolvency shall have been found to be due to the creditors of such company or body, and all persons having claims and demands thereon, and also in satisfaction of costs, or may order such receiver to pay such sums of money in satisfaction of such debts, claims, and demands, and costs in the first instance.

The Court may make order in individual claims of members in respect of the transactions of the Company.

XVIII. And be it enacted, That if it shall appear that any individual members of any company or body, whose estate shall have been placed under sequestration, have claims against each other, in respect of the affairs or transactions of such company or body, it shall be lawful for the said Supreme Court at Sydney, or the Resident Judge at Melbourne, as the case may require, upon the petition of any member of such company or body, alleging that he hath any such claims against any other member of the said company or body, to make all such orders as shall be just for the purpose of finally settling and determining such claims, and may order the payment of such sum of money (if any) as shall appear to be due in respect of any such claim.

The Judges of the Supreme Court to make rules and orders as to the form and mode of proceeding for settling and enforcing contribution to be made by members of Company, &c., and such rules and orders to be laid before the Legislative Council for approval.

XIX. And whereas the law is defective in the means of making the members of joint stock companies contributaries for paying their debts in full, and in the means of giving relief where execution may have been had in respect of a debt due from any such company against one or a very few members thereof, and also in the means of adjusting the rights of the members of any such company amongst themselves, and finally winding up the affairs thereof: Be it enacted, That it shall be lawful for the Judges of the Supreme Court of the Colony, or the Resident Judge at Port Phillip, (as the case may be,) from time to time, and as often as circumstances shall require, to make and prescribe such rules and orders, touching and concerning the form and mode of proceeding to be had and taken in the Supreme Court at Sydney or Melbourne as aforesaid, or by the Chief or other Commissioner of Insolvent Estates at either of such places, (as the case may be,) for settling and enforcing the contribution to be paid by any member or members for the time being of any such company, or any former member or members thereof, or any real or personal representative or other person liable in that behalf, and the practice to be observed by such Court or Commissioner in or relating to such proceeding, or any matters incident thereto, and the form and mode of proceeding to be had and taken before any Commissioner or officer of such Court, primarily or by reference from such Court, in any matter for or relating to contribution, as shall from time to time seem necessary and proper for the advancement of justice in such cases, and for adjusting and determining the rights and equities of the parties concerned, and for suing for and getting in the assets, and for ascertaining and discharging the liabilities

of

of such companies, and requiring the creditors thereof to claim their debts, and finally winding up the affairs thereof with as little delay, expense, and uncertainty as possible: Provided always, that such rules and orders shall be laid before the Legislative Council of the Colony, within one month from the making thereof, if the Legislative Council be then sitting, or if the Council be not then sitting, within one month from the commencement of the then next Session thereof; and every rule and order so made shall be binding and obligatory, and be of like force and effect as if the provisions contained therein had been expressly enacted by the Governor and Legislative Council of the Colony.

XX. Provided always, and be it declared and enacted, That nothing herein contained shall be construed or taken to alter, amend, or repeal any provision of any Charter of Incorporation created by Letters Patent under the Great Seal of Great Britain, or by any Act of Parliament. Not to affect Charters of Incorporation.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this twenty-seventh day of August, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^s. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 17th September, 1847.

SCHEDULE REFERRED TO.

SCHEDULE A. No. 1.

Declaration of Insolvency by incorporated or associated Commercial or Trading Company.

By virtue of a Resolution duly passed in that behalf, on the _____ day of _____ at a Board of Directors of [*here state the Name or Style of the Company,*] duly summoned for that purpose, it is hereby declared, That the said Company [*or Society, &c., as the case may be,*] is unable to meet its engagements.

Dated this _____ day of _____ in the Year _____
(*Common Seal of the Company, or, if the Company have no Common Seal, the Signature of the Chairman of the Board of Directors who was present at the passing of the Resolution.*)

Witness G. H., Attorney [*or Solicitor*]
of the Court of _____ and Attorney [*or Solicitor*]
of the said Company, and attesting Witness to the Execution
thereof, as such Attorney [*or Solicitor*].

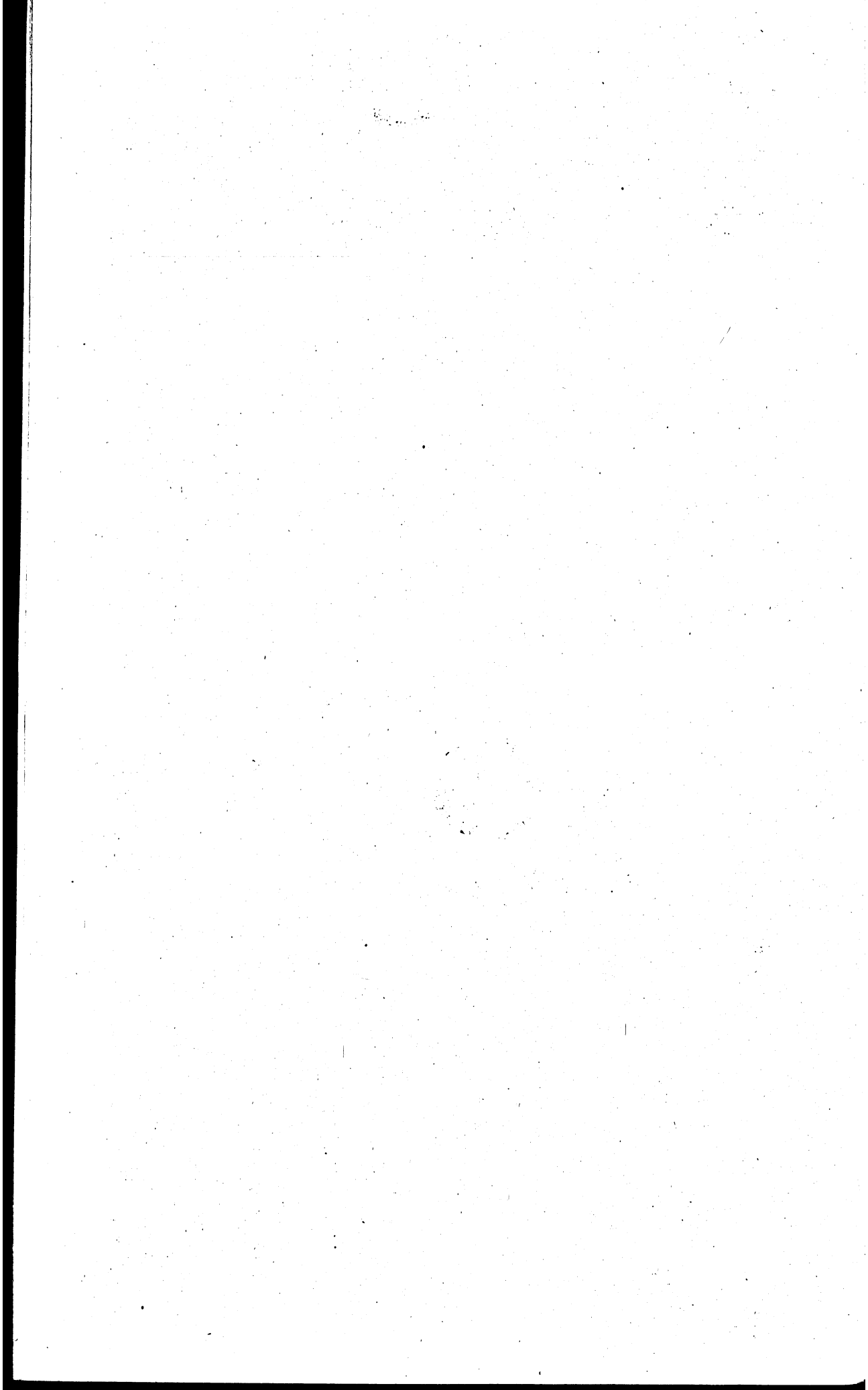
A. No. 2.

Minute of Resolution of a Board of Directors of incorporated or associated Commercial or Trading Company, authorising a declaration of Insolvency.

A Resolution was duly passed on the _____ day of _____ at a Board of Directors of [*here state the Name and Style of the Company,*] duly summoned for that purpose, That the said Company was then unable to meet its engagements, and that a Declaration of Insolvency should be forthwith filed in the Office of the Chief Commissioner of Insolvent Estates at _____ in the Form directed by the Act in that case made and provided.

(*Common Seal of the Company, or, if the Company have no Common Seal, the Signature of the Chairman of the Board of Directors who was present at the passing of the Resolution*)

Witness G. H., Attorney [*or Solicitor*]
of the Court of _____ and Attorney [*or Solicitor*]
of the said Company, and attesting Witness to the Execution
thereof as such Attorney [*or Solicitor*].



No. XX.

An Act to consolidate and amend the Laws relative to Jurors and Juries in New South Wales. [Assented to, 5th September, 1847.]

WHEREAS the laws relative to the formation and return of juries ^{Preamble.}
for the trial of civil and criminal issues, in the Colony of New South Wales, are numerous and for the most part temporary, and it is expedient to consolidate and amend the same: Be it therefore enacted by His Excellency the Governor of New South Wales, by and with the advice and consent of the Legislative Council thereof, That every man, except as hereinafter excepted, above the age of twenty-one years, residing within the Colony of New South Wales, who shall have, within the said Colony, in his own name, or in trust for him, a clear yearly income arising out of lands, houses, or other real estate, or a clear yearly income arising partly from real and partly from personal estate, of at least thirty pounds by the year, or a clear real or personal estate of the value of at least three hundred pounds, shall be qualified and shall be liable to serve on juries for the trial of all issues, civil and criminal, and for the assessment of damages in all actions at law in this Colony. ^{Qualification of jurors.}

II. Provided always and be it enacted, That all Judges of the Supreme Court, Commissioners of the Courts of Requests, Chairman of the Courts of General and Quarter Sessions of the Peace, and all ministerial officers of the said Courts respectively; all Members of the Executive and Legislative Councils for the said Colony, and the respective ministerial officers thereof; all persons holding offices under the departments of the Customs and Colonial Distilleries, and of the Colonial Secretary, the Surveyor General, the Treasury, Audit Office, and Post Office respectively; the persons respectively holding the office of Mayor, Town Clerk, and Principal Surveyor, of the City of Sydney, and of the Town of Melbourne; all Clergymen in Holy Orders, Priests of the Roman Catholic faith, and other Ministers of Religion having established congregations; all Barristers, Attorneys, Solicitors, and Proctors, duly admitted to practise and actually practising; all Coroners and Gaolers; all Physicians, Surgeons, Apothecaries, and Druggists in actual practice; all Military and Naval Officers on full pay; all Licensed Pilots and Masters of vessels actually employed in trading; all Sheriff's officers, Stipendiary Magistrates, Constables, and Peace officers; all household officers, and servants of the Governor of the Colony; all schoolmasters and parish clerks; or such other persons, either holding office, or being in the public service, as the Governor of the Colony may think it expedient to exempt, and shall accordingly exempt, from service on juries (and of which exemption notice shall be given to the Sheriff) either generally or for a limited period; all Managing Directors, Managers, Cashiers, and Tellers of any Banking Establishment; all persons above the age of sixty years, who shall claim exemption at any Court of Petty Sessions held for correcting the jury lists as hereinafter provided; and all persons incapacitated from discharging the duty of jurymen by disease or infirmity, shall be, and are hereby absolutely freed and exempted from being returned, and from serving upon any juries whatsoever, and shall not be inserted in the lists to be prepared by virtue of this Act. ^{Exemptions from serving on juries.}

III. Provided also, and be it declared and enacted, That no man not being a natural born subject of the Queen, and no man who hath been, or shall be, attainted of any treason or felony, or convicted of any crime that is infamous, (unless he shall have obtained a pardon thereof, or shall be within the benefit and protection of some Act of Parliament giving the force and effect of a pardon under the Great Seal for such crime), and no man who has been twice convicted, in any part of the British dominions, of any treason, felony, or infamous crime, is or shall be qualified to serve on any jury under this Act. ^{Disqualifications for serving on juries.}

IV. And be it enacted, That the police district of Sydney shall be the jurors' district for Sydney, in respect of all Courts to be holden within that ^{Jurors' districts created.}

that city, by or before the Supreme Court or any Judge thereof; and that the said police district of Sydney aforesaid shall be the jurors' district for the said city, in respect of all Courts of Quarter Sessions held therein; and that all other parts of the county of Cumberland, without the said police district of Sydney, shall be the jurors' district for the town of Parramatta; and that the jurors' district for every other town or place within the said Colony, at which any Court for the trial by jury of civil and criminal issues, and the assessment of damages, or any Court of General or Quarter Sessions of the Peace, has been or shall hereafter be appointed to be holden, shall comprise a circuit of thirty miles around every such town or place, and be called the "jurors' district" for such town or place: Provided always, that wherever and whenever, from the relative distances of the places for holding any two of such last mentioned Courts, the said circuit of thirty miles around each of them would in the direction between them be partially identical, then the respective jurors' districts for such Courts respectively shall, in such direction as aforesaid, be limited and bounded by a straight line between the points of intersection of such circuits.

Clerk of Petty Sessions, in the first week in August, in every year, to require chief constable to make out, by the middle of September, a true list of men in the district liable to serve as jurors.

V. And be it enacted, That the Clerk, or senior Clerk, of Petty Sessions, if there be more than one, of the police district in which shall be situated any town or place where any such Court for the trial by jury of civil and criminal issues and assessment of damages, or of General or Quarter Sessions of the Peace, has been or shall hereafter be appointed to be holden, shall within the first week in August in every year, issue a notice in writing to the Chief Constable of the said police district, in the form in Schedule A hereto annexed, requiring him to make out, before the fifteenth day of September then next ensuing, a true list of all men within the jurors' district of such town or place liable to serve on juries according to this Act, and shall, at the same time, furnish him with the form of Return set forth in the Schedule hereto annexed marked B.

Lists to be prepared by chief constables.

VI. And be it enacted, That the Chief Constables in every such police district as aforesaid shall forthwith, after the receipt of the said notices, prepare and make out, in alphabetical order, a true list of every man residing within their respective jurors' districts, and being within the distances hereinbefore specified respectively, who shall be qualified and liable to serve on juries as aforesaid, with the true christian and surname correctly and legibly written at full length, and with the true residence, degree, calling, or business, and nature of the qualification of every such man, in the proper columns of the said form of return; and the Chief Constables of other police districts, within which portions of any such jurors' districts as aforesaid may happen to be, are hereby required to assist such first mentioned Chief Constables in preparing and making out such lists as aforesaid, by communicating to them respectively the residences, names, additions, and nature of qualifications of all persons within such last mentioned police districts, as shall be liable and qualified to serve on juries at any such town or place as aforesaid.

Lists to be published by chief constables.

VII. And be it enacted, That the Chief Constable of each police district, within which any such town or place as aforesaid shall be situate, having made out, according to this Act, a list of every man qualified and liable to serve on juries as aforesaid, shall, within the first week of the month of September, fix a true copy of such list upon the principal doors of the Court Houses in his jurors' district, having first subjoined to every such copy a notice subscribed with his name, and stating that all objections to the list will be heard by the Justices of the Peace on the first Tuesday in the month of October then next; and shall likewise keep the original list, or a true copy thereof, to be inspected by the inhabitants of the said jurors' district, at any reasonable time within the month of September, without fee, to the end that due notice may be given of any names improperly inserted or omitted in the said list.

2 Wil. IV., No. 3, s. 7.

Lists to be corrected by Justices.

VIII. And be it enacted, That the said Clerks of Petty Sessions shall respectively, before the twentieth day of September in every year, cause all the Justices resident within the jurors' districts respectively, to be summoned to attend a special Petty Sessions at the usual places of meeting of the

the Petty Sessions, for the police districts in which such towns or places as aforesaid shall be situate, on the first Tuesday in the month of October then next, for the purpose of correcting and allowing the jury list for such jurors' districts; and the said Justices shall hold a special Petty Sessions accordingly; and the said Justices, or any two of them, shall sit *de die in diem* until the said lists shall be corrected and allowed as hereinafter provided; and the Chief Constable of every such district shall then and there produce the list of men qualified and liable to serve on juries as aforesaid, by him prepared and made out as hereinbefore directed; and thereupon the Justices attending such Sessions shall examine the said list, and shall strike out therefrom the names of all persons not liable to serve, or disqualified from serving upon such juries, and also the names of those who are disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body; and also the names of all men of bad fame or of immoral character and repute; and it shall be lawful for such Justices to insert in such list all names improperly omitted, and to correct all errors and inaccuracies therein; and if the said Justices shall be divided in opinion upon any question as to the striking out or adding of any name, the decision thereof shall be determined by ballot; and when every such list shall be duly corrected, at such Sessions, it shall be allowed by the Justices present, or two of them, who shall sign the original list and two fair copies thereof, with their allowance thereof; and the Clerk of the Bench at each such Court of Petty Sessions shall receive every list so allowed, and forthwith transmit one of such duplicate fair copies to the Sheriff of the Colony, and shall keep the said original corrected list amongst the records of his office, and have the other fair copy thereof ready to be produced in the Supreme Court, or Circuit Court, or in any Court of Quarter Sessions, when the same shall be required therein.

6 Wil. IV., No. 15. s. 2.

2 Wil. IV., No. 3, s. 12.

Lists to be forwarded by the Clerks of the Bench to the Sheriff.

IX. And be it enacted, That the said Sheriff shall keep the lists so transmitted to him by the Clerks of the Benches among the records of his office; and shall within ten days from the receipt of the said lists cause to be fairly and truly made out therefrom, a book for each such jurors' district as aforesaid, to be called the "jurors' book" for the district of (*naming the district*), and shall, in the said book, cause to be transcribed the names of all persons contained in the said lists for each jurors' district, together with the addition of the respective residences, degree, calling, or business and qualifications of the said persons, in alphabetical order beginning under each letter of the alphabet with the surname of each person, and such "jurors' book" shall be kept by the said Sheriff among the records of his office, and shall be ready to be produced in Court upon the trial of every issue, and shall be brought into use on and from the first day of January, after the allowance of the said list, and shall be used for one year then next following, or until a new list shall have been duly prepared, corrected, and allowed, in and for another year.

Lists to be recorded by Sheriff.

Jurors' book to be made from lists by Sheriff.

X. And be it enacted, That immediately after making out the said "jurors' books" respectively, the Sheriff shall make out from each of the said books, a list of the names of every man therein described, as an Esquire, or person of a 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, or as a Member of the Council of the City of Sydney or Town of Melbourne; and shall in such list insert the said names in alphabetical order, together with the respective places of abode and additions of the said persons; and shall prefix to every name in such list its proper number from the first name down to the last, in a regular arithmetical series; and every such list shall be called "the special jurors' list" for the same district as the said "jurors' book" from which it has been so made out, and shall be, by the said Sheriff, annexed thereto, to be kept and produced therewith; and the said Sheriff shall forthwith transmit a copy of each of such special jury lists to the Clerks of the Petty Sessions from whence he shall have received the general list from which the same shall have been extracted; and such special jury list shall be kept by the said Clerk of Petty Sessions ready to be produced in any such Court as aforesaid, when required therein.

Sheriff to make out special jury list. Sec. 13 of 4 Vic., No. 28.

Jury lists for newly
created courts.

XI. And be it enacted, That in case the Governor of the Colony of New South Wales shall by any Proclamation or Proclamations, issued and published as by law is required, direct a Circuit Court or Circuit Courts, or any Court of General or Quarter Sessions of the Peace, to be holden at any town or place where 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 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 thereupon the said Bench of Magistrates shall, in pursuance of such direction, and they are hereby authorized and required to prepare and cause to be prepared, within three months after the receipt of any such direction, lists of all jurors within the jurors' district for such town or place, and thereupon the Clerks of Petty Sessions, Chief Constables, Justices, and Sheriff, shall do and perform, within the said period of three months, all such acts, matters, and things, in and towards preparing, correcting, and allowing the jury lists, and making out the jurors' book and special jury list for every such jurors' district, as are hereinbefore required to be ordinarily done in the months of August, September, and October, in each and every year; and all such jury lists, when settled, shall come into force, and the persons whose names shall be therein set down, shall be liable to serve as jurors immediately after the jurors' book for such newly appointed town or place shall have been made out by the said Sheriff; and each of the said lists shall respectively continue in force until new lists shall have been allowed, and a new jurors' book shall have been made out, under the provisions hereinbefore contained.

General jury precepts
how issued.

XII. And be it enacted, That it shall be lawful for the Chief Justice of the Supreme Court of New South Wales, the Resident Judge for the District of Port Phillip, and any Chairman of the Courts of General and Quarter Sessions of the Peace, and they are hereby respectively required, from time to time, and as often as occasion shall demand, to issue a precept or precepts, under their hands and seals, according to the form set forth in the Schedule hereto annexed, marked C, to be called a "general jury precept," and to be directed to the Sheriff of the Colony, requiring him to summon jurors for the trial of issues and assessment of damages in the said Supreme and Circuit Courts, and in the said Courts of General and Quarter Sessions: Provided always, that the said "general jury precept" shall not, at any one time, require the said Sheriff to summon more than forty-eight, nor less than thirty-six names of jurors; and shall specify the time when, and the place where, the attendance of such jurors is required; and shall be issued and delivered to the said Sheriff eight clear days before the time so specified for such attendance, if the same be required in the City of Sydney or Town of Melbourne, and in all other cases fourteen clear days before the time of such attendance.

2 Wil. IV., No. 3,
s. 15.
4 Wil. IV., No. 12,
s. 7.
4 Vic., No. 28, s. 2.

Special jury precepts
how issued.

XIII. And be it enacted, That whenever a jury or juries of twelve or of four special jurymen shall be required in the Supreme Court, or in any Circuit Court of this Colony for the trial of any issues, as hereinafter is provided, it shall be lawful for the Chief Justice of the Supreme Court, and the Resident Judge for the District of Port Phillip, (as the case may require) and they are hereby respectively directed, from time to time, and as often as occasion shall demand, to issue one or more general "special jury precepts," under his hand and seal, according to the form set forth in the Schedule hereto annexed, marked C, to be called "special jury precepts;" and whenever a jury or juries of twelve common jurors shall be required, it shall in like manner be lawful for the said Chief Justice, or Resident Judge, and he is hereby directed to issue a general common jury precept, under his hand and seal, according to the said form, to be called a "common jury precept;" and such precepts respectively shall be directed to the Sheriff of the Colony, requiring him to summon a competent number of special jurors, or of common jurors, (as the case may be) not less than twice nor more than three times the number of the jurors to be impaneled; and every such precept shall be issued and delivered to the Sheriff
eight.

eight clear days before the time so specified for the attendance of the jurors, if the same be required in the City of Sydney or Town of Melbourne, and in all other cases fourteen clear days before the time of such attendance.

XIV. And be it enacted, That as often as a "general jury precept," as hereinbefore provided, shall be delivered to the Sheriff, he shall, and is hereby required to summon the persons whose names shall appear on the said "jurors' book," for the district within which the attendance of the said jurors' is by the said "general jury precept" required, according to the order in which the said names so appear in said "jurors' book," from the first name down to the last, until every such person shall have been summoned in succession; and the same order shall be observed in each succeeding year, the Sheriff beginning, every year, with the names in the "jurors' book" for that year next after the names of the persons appearing by the "jurors' book" for the year preceding, to have been last summoned for such year: and if, through any casualty there shall be no "jurors' book," for any particular district, in existence for the current year, it shall be lawful to summon jurors for such district from the "jurors' book" for that district of the year preceding: and as often as a "special jury precept" shall be delivered to the Sheriff, he shall and is hereby required to summon the persons whose names shall appear in the special jury list for the jurors' district within which the attendance of the said special jurors shall be required, in the same order, and subject to the same provisions in all respects *mutatis mutandis*, as are above prescribed with respect to the summoning of jurors under a general jury precept: Provided always, that no Justice of the Peace shall be summoned or impanelled as a juror to serve at any General or Quarter Sessions of the Peace: Provided also, that the names of all persons so summoned in pursuance of each such "general jury precept," whether issued by the said Chief Justice, Resident Judge, or Chairman, shall be chosen in the manner and succession hereinbefore required, without any further distinction whatsoever, priority being given by the said Sheriff to every such "general jury precept," according to the time of its receipt at his office.

Names of jury how chosen in pursuance of general precept.

XV. And be it enacted, That upon the receipt of any such "general jury precept," or "special jury precept," the Sheriff shall forthwith issue a summons, in writing, to the several jurors so required to be summoned, signed by himself, or his deputy, to the effect as in the Schedule D, to this Act annexed; and the said summons shall be delivered to every such juror, or shall be left at his usual place of abode at least four clear days before the attendance of such juror is required in the City of Sydney or Town of Melbourne, and in all other cases at least eight clear days before the time specified for such attendance.

Jury how summoned in pursuance of general precept.

XVI. And be it enacted, That upon the day, and at the place named, in every such "jury precept" for the appearance of the jurors thereby required to be summoned, the Sheriff shall, by himself or his deputy, return the said "jury precept" into the Court holden at the place where such jurors are so required to attend; and shall annex to the said "precept" a panel containing the names, in alphabetical order, of the persons so summoned by him, in pursuance of the said "jury precept;" and shall also, therewith, furnish to the Clerk of the said Court, the names of the said persons, with their respective additions, and places of abode, written upon separate pieces of card, each piece of card being, as nearly as may be, of equal size: Provided that no omission or informality, with respect to any lists, or precepts, or panels returned in pursuance of this Act, shall affect or invalidate any verdict returned by a jury, which shall in other respects be according to law.

Sheriff's return to general precept.

XVII. And be it enacted, That all crimes and misdemeanors prosecuted in the Supreme Court, the Circuit Courts, or Courts of General and Quarter Sessions, shall be tried by a jury consisting of twelve men chosen and returned according to the provisions of this Act, and every such jury shall be subject to the same rules, regulations, and manner of proceeding, as are observed upon any criminal trial in the Court of Queen's

Mode of trial by jury appointed for crimes and misdemeanors.

Bench

Bench in England, as nearly as may be, and so far as the same may not be specially provided for in this Act.

Criminal special jury.

XVIII. And be it enacted, That as often as any application shall be made to the Supreme Court by Her Majesty's Attorney General, or other prosecutor, or by or on behalf of any defendant in any criminal cause depending in the said Supreme Court, or in any Circuit Court, for a special jury to try the issue in such cause, (except in cases of treason or felony) it shall be lawful for the said Court to order a special jury to be summoned for the trial of such issue; and every such special jury shall be taken from the special jurors' list, for the jurors' district within which such case is to be tried, and shall be summoned, struck, and sworn in like manner as is hereinafter directed and provided for summoning, striking, and swearing special juries for the trial of civil issues, and shall be liable to the same fines and forfeitures, and entitled to the same exemptions as are hereinbefore authorized with respect to such juries; Provided however, that any defendant making application for a special jury shall serve a notice in writing, of such application upon the Attorney General, or other prosecutor, at least four clear days before the time of his making the same.

Power reserved to Courts of issuing precepts and making orders, &c., as heretofore.

XIX. Provided always, and be it enacted, That the Supreme Court and Circuit Court, and all Courts of Oyer and Terminer and Gaol Delivery, and Courts of General and Quarter Sessions of the Peace, shall respectively have and exercise the same power and authority as they have heretofore had or exercised in issuing any writ or precept, or in making any award or order, orally or otherwise, for the return of a jury for the trial of any issue before any of such Courts respectively, or for the amending or enlarging any panel of jurors returned for the trial of any such issue; and the return to every such writ, precept, award, or order, shall be made in the manner heretofore used and accustomed in such Courts respectively in England, save and except that the jurors shall be qualified according to this Act.

Mode of trial in civil issues.

XX. And be it enacted, That (except in such cases as are hereinafter mentioned) all actions at law, and all civil issues of fact in the Supreme Court, shall be tried, and all damages and sums of money recoverable in any such action after judgment by default or upon demurrer, other than such damages as are usually assessed or computed by the Court or some officer thereof, shall be assessed before one or more Judge or Judges of the said Court, whether the trial or assessment shall be had in the said Court, or in any Circuit Court in this Colony, by a jury consisting of four persons duly qualified according to law as special jurors, and returned and chosen as hereinafter mentioned.

But if plaintiff or defendant apply to the court for such purpose, the trial may be had before a jury of twelve persons.

XXI. Provided always, and be it enacted, That if either of the parties, plaintiff or defendant, in any action, at any time after issue joined, shall apply to the said Court for that purpose, in the same manner as he would now have to apply for a trial by jury, it shall be lawful for the said Court to order, that the trial shall be had by a jury consisting of twelve persons, who shall be returned, under the provisions of this Act, either from amongst the class of special jurors or of common jurors, or in cases to be tried on Circuit, partly from each class, as the Court shall think fit to order.

Trial by jury in unprovided cases to be governed by English rules.

XXII. And be it enacted, That in every such case of trial or assessment as aforesaid, and in every other case whatsoever of trial by jury, under the provisions of this Act, when no other mode of proceeding is by this Act specially provided, the jurors and jury, and every assessment or trial by them shall, as far as may be practicable, be subject to the same rules and manner of proceeding as would in England be observed in an action at law in the Courts of Westminster, or on a trial at *Nisi Prius*.

Common jury how sworn in criminal trials.

XXIII. And be it enacted, That upon calling on for trial, by a jury of twelve persons, any criminal issue joined in the said Supreme Court or Circuit Courts, or in the said Courts of General and Quarter Sessions, the Clerk of the Court shall, in open Court, put the pieces of card furnished by the Sheriff as before mentioned, into a box provided for that purpose,

purpose, and shall draw out therefrom the said pieces of card, one after the other, until twelve men shall appear without just cause of challenge, which said men being duly sworn, shall be the jury to try such issue; and in case the whole number of the said cards shall be exhausted by challenge or otherwise, before twelve men are duly sworn, it shall be lawful for either the Crown or the prisoner to pray a *tales*; whereupon Tales allowed. the Court or Judge, or Chairman, as the case may be, may command the Sheriff or his deputy, forthwith to appoint as many good and lawful men of the bystanders, (being qualified and liable to serve as jurors for such district of the Colony) as may be sufficient to make up twelve men for the trial of the said issue; Provided however, that the pieces of card containing the names of the jurors so drawn and sworn as aforesaid, shall be kept apart by themselves until such jury shall have given in their verdict, and the same shall have been recorded, or until such jury shall, by consent of the parties, or by leave of the Court, be discharged, and then the said pieces of card shall be returned to the box, there to be kept with the other names remaining undrawn, and so *toties quoties* as long as any issue remains to be tried: Provided also, that where no objection shall be made on behalf of the Queen, or any other party, it shall be lawful for the Court to try any such criminal issue with the same jury that shall have previously tried, or been drawn to try, any other such issue, without their names being returned to the box and redrawn, or to order the name or names of any man or men on such jury, whom both parties may consent to withdraw, or who may be justly challenged or excused by the Court, to be set aside, and another or other names to be drawn from the box, and to try such issue with the residue of such original jury and with such man or men whose name or names shall be so drawn, and who shall appear and be approved as indifferent, and so *toties quoties* as long as any such issue remains to be tried by such jurors.

XXIV. And be it declared and enacted, That challenge to the Right of challenge. array and to the polls of jurors may be made, and shall be allowed in every Court in the Colony, for such and the like cause, in such and the like form and manner, and under and subject to the like laws, rules, and regulations, in every respect, as by law is or are established, used and practised in like cases in Her Majesty's Courts of Record at Westminster: Provided also, that in all inquests to be taken before any of the Courts hereinbefore mentioned, wherein the Queen is a party, notwithstanding it be alleged by them that sue for the Queen, that the jurors of those inquests, or some of them, be not indifferent for the Queen, yet such inquests shall not remain untaken for that cause; but if they that sue for the Queen will challenge any of those jurors, they shall assign of their challenge a cause certain, and the truth of the same challenge shall be inquired of according to the custom of the Court, and it shall be proceeded to the taking of the same inquisitions, as it shall be found if the challenges be true or not, after the discretion of the Court: Provided always, that nothing herein contained shall affect, or be construed to affect, the power of any Court to order any juror to stand by until the panel shall be gone through, at the prayer of those prosecuting for the Crown, as has been heretofore accustomed, and that no person arraigned for murder or other felony shall be admitted to any peremptory challenge above the number of twenty.

XXV. And be it enacted, That at the opening of the Court upon Striking jury in civil cases. any sitting for the trial of any civil issue under the provisions of this Act, the Clerk or other ministerial officer of the said Court, shall put together in a box provided for that purpose, the pieces of card furnished by the Sheriff, as hereinbefore directed, containing the names, places of abode, and additions of the jurors returned in the jury panel; and upon any such issue being called on to be tried, such Clerk or officer shall, in open Court, draw out the said cards one after another, until twice the number of jurors required to be impaneled shall appear, and after all causes of challenge allowed shall remain indifferent and approved of, or until the whole of such cards shall be exhausted; and in case of a sufficient number of the jurors named on such cards not being in attendance, the full number

ber of jurors so directed to be drawn shall be completed by appointment of the Sheriff or his deputy from amongst the bystanders, being persons returned in the Sheriff's books as jurors either special or common.

Impaneling jury in civil cases.

XXVI. And be it enacted, That in civil issues, upon twice the number of jurors required to be impaneled being completed, a list of their names shall be delivered, by the Sheriff, or his deputy, to the plaintiff, or his attorney or counsel, by whom one-fourth of the whole number of names contained in such list shall or may be struck therefrom, and the list so reduced shall then be delivered to the defendant, or his attorney or counsel, by whom an equal number of names shall or may be also struck therefrom; and the jurors whose names shall then remain upon such list, or the first four or twelve jurors, whose names shall then be thereon, (as the case may require) shall be the jurors for the trial of the issue or issues in question, and be sworn and impaneled accordingly; and after every such trial, the cards so drawn as aforesaid, shall be returned to the box, to be kept with the others remaining undrawn, and so *toties quoties* as long as any issue shall remain to be tried by such jury.

Trying different issues by the same jury, in civil cases.

XXVII. Provided always, and be it enacted, That where no objection shall be made on behalf of any plaintiff or defendant, it shall be lawful to try any number of different issues with the same jury that shall have been previously drawn for, or have tried any other issue or issues, without having their names returned to the box, or the Court or Judge may order the name of any juror or jurors whom the parties may consent to withdraw, or who may be challenged or excused to be set aside, and another juror or jurors to be drawn from the box from the names remaining undrawn, and who shall be subject to the same mode of striking as the original juror or jurors, to try the issue or issues with the residue of such original jury, and so *toties quoties* as long as any issue shall remain to be tried.

Where damages assessed only.

XXVIII. And be it enacted, That the provisions contained in the three preceding sections, shall be equally in force with respect to all cases in which damages shall be assessed only: Provided that in every such case where the defendant shall not appear, either in person or by counsel or attorney, the list of jurors may be reduced on his behalf by the Clerk or other officer of the Court; and the like course shall be pursued in every case where there shall be an issue or issues for trial, and either of the parties, plaintiff or defendant, shall not so appear.

Cases of difference of opinion in jury provided for.

XXIX. And be it enacted, That in every civil trial or assessment of damages under this Act, where the jury shall have remained six hours or upwards in deliberation, if all of them shall not agree as to the verdict to be given, or amount of damages to be assessed, the decision of three-fourths in number of them shall be taken and entered as the verdict or assessment of all; and if after having remained in the whole twelve hours or upwards in deliberation, three-fourths in number of the jurors shall not concur in any such verdict or assessment, then such jurors shall be discharged, and the cause shall or may, without any new process for that purpose, be again set down for trial or assessment (as the case may be) either at the same or any subsequent sittings, as the Court or presiding Judge may think fit to order.

View how granted.

XXX. And be it enacted, That whenever it shall appear expedient to any Judge of the Supreme Court in any cause depending in the said Court, that some of the jury should have a view of any place in dispute in the cause, it shall be lawful for such Judge to order such view upon the payment, by the party applying for the same, of such sum as to the said Judge may seem reasonable; and such sum shall be paid over to such jurors as shall have such view, and shall attend the trial, and shall be taxed and allowed as other costs in the cause, and two or more jurors as the Judge shall direct mutually chosen by the parties, or in case the parties cannot agree, nominated by the Sheriff, shall be shewn the place, by two persons appointed by the said Judge, and in every such case the said viewers if in attendance upon the Court shall be the first of the jurors named in the Sheriff's list, whether they shall be in the panel returned for the particular

day

day of trial or not, and shall not be struck therefrom by either party, and such viewers so in attendance, together with so many of the jurors whose names shall first stand on the reduced list, as may be necessary to make up the full number of jurors required, shall form the jury to try the cause.

XXXI. And be it enacted, That every juror, summoned in pursuance of any precept as aforesaid, who shall attend the Supreme Court, or any Circuit Court, or any Court of General or Quarter Sessions of the Peace, shall for every day during his attendance upon such Court, (whether he shall have actually served upon a jury or not,) be entitled to receive a compensation for such attendance at the rates mentioned in the Schedule hereto annexed, marked E: Provided however, that in all cases in which there may be a regular steam conveyance, or the passage can be conveniently made, wholly or in part, by water, the allowance of such portion of the journey as shall be or might have been performed by water, shall be limited to the actual amount of the steerage or cabin passage money, payable according to the station in life of the juror: Provided also, that every talesman serving with such jurors shall be entitled to the same compensation as a juror residing within five miles of the said Court.

Allowance to common jury.

XXXII. And be it enacted, That in every action at law there shall be paid by the plaintiff into the hands of the Prothonotary, (to be by him paid over to the Sheriff,) on entering the cause for trial in every case of assessment of damages, the sum of one pound; and in every case of a trial by a jury of four, the sum of two pounds; and in every case of a trial by a common jury of twelve men, the sum of three pounds; and in every case of trial by a special jury of twelve men, the sum of six pounds, which said several amounts shall be allowed as costs in the cause: Provided that when the order for such jury of twelve shall have been made on the application of the defendant, the said sum of three pounds or six pounds, as the case may be, shall be paid by such defendant, on the making of the order, into the hands of the Prothonotary, (to be by him paid over to the Sheriff) or such order shall lapse, and not take effect; and the said sums, together with the amount of all fines on jurors, shall form a fund in the hands of the Sheriff for paying the expenses of civil jurors as aforesaid, and shall be applied accordingly for that purpose, and be accounted for by him in like manner as other public monies are directed to be accounted for by the Sheriff.

Fund for such allowance in civil causes.

8 Vic., No. 4, . 14.

XXXIII. And be it enacted, That the party applying for or electing a special jury of twelve, for the trial of any civil issue, shall pay all expenses occasioned by the trial of the cause by the same, and shall not have any further allowance for the same upon taxation of costs, than such party would be entitled to in case the cause had been tried by a common jury, or a jury of four as hereinbefore directed, unless the Judge before whom the cause be tried, shall, immediately after the verdict, certify under his hand that the same was a cause proper to be tried by a jury of twelve special jurors.

Costs of special jury unless Judge certify.

XXXIV. And be it enacted, That no man shall be liable to be summoned or impaneled to serve as a juror upon any inquest or inquiry, by or before any Sheriff or Coroner, by virtue of any writ of inquiry, or by or before any Commissioner appointed under the Great Seal of the Colony, or the Seal of the Supreme Court, who shall not be duly qualified according to this Act to serve as a juror: Provided always, that nothing herein contained shall extend to any inquest before any Coroner, by virtue of his office, but that Coroners, when acting otherwise than under a writ of inquiry, may respectively take and make all inquests and inquiries by jurors of the same description as they have been used and accustomed to do before the passing of this Act: Provided however, that in thinly populated districts it shall be lawful for any Coroner, at his discretion, to swear a jury of any number not less than five, and the verdict of such jury shall be as valid and effectual in law as if the accustomed number were impaneled and sworn.

Qualification of jurors upon inquests under writs of inquiry and commissions.

Juries upon coroners' inquests.

XXXV. And be it enacted, That every Clerk of Petty Sessions, or Chief Constable, who shall wilfully neglect or refuse to execute any of

Liabilities of clerks and constables.

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the duties hereinbefore prescribed and appointed to be by him executed, shall, for every such neglect or refusal, forfeit any sum not exceeding fifty pounds, whereof one moiety shall be paid to the Colonial Treasurer, for the purposes of the General Revenue of the said Colony, and the other moiety shall, with full costs, go to any person suing for the same by action of debt in the Supreme Court, or in any Court of Petty Sessions in the said Colony, to the extent of the jurisdiction of such Court.

Liability of Justices.

XXXVI. And be it enacted, That every Justice of the Peace, who shall have been summoned, as hereinbefore directed, to attend at any Special Petty Sessions for correcting and allowing any jury list, who shall fail or neglect to attend such Special Petty Sessions, without any reasonable cause for such non-attendance, shall be liable to a fine not exceeding the sum of ten pounds, which shall be summarily imposed by the Supreme Court of the Colony, upon the motion of the Attorney General, and upon the fact of such non-attendance being duly proved on affidavit to the satisfaction of the said Court; and the Clerk of the Bench shall, at the said Special Petty Sessions, make an entry in writing of the name of every Justice of the Peace residing in the jurors' district, and so summoned as aforesaid, distinguishing those that attended, and those that were absent at the correction and allowance of the said list as aforesaid; and shall, at the final adjournment of the said Special Petty Sessions, transmit a certificate thereof to the Attorney General, verified by declaration, which certificate shall be taken to be *prima facie* proof of the non-attendance of the Justices therein stated to have been absent from the said Special Petty Sessions.

2 Wil IV., No. 3, s. 2.

Liability of Sheriff.

XXXVII. And be it declared and enacted, That the Sheriff shall, by himself or his deputy, be in attendance upon the said Supreme Courts, Circuit Courts, and Courts of General and Quarter Sessions of the Peace within the said Colony, during every sitting of the said Courts; and in every case of non-attendance upon any of the said Courts shall be liable to a fine, not exceeding fifty pounds, to be summarily imposed, at the discretion of the Court, for such non-attendance; and if he shall neglect or refuse to discharge the duties hereinbefore required of him, or shall otherwise fail well and faithfully to do and perform all or any of the acts, matters, and things hereby required to be by him performed, he shall, for every such breach of duty, be summarily fined a sum not exceeding fifty pounds, at the discretion of the Court, in relation to which such duties, acts, matters, and things were required to be discharged, done, and performed.

Liability of viewers.

XXXVIII. And be it enacted, That if any juror, who shall have had a view of any place in dispute in any cause, according to the provisions hereinbefore contained, shall make default when the cause in which he was appointed a viewer shall be called on for trial, it shall be lawful for the Court or Judge, unless reasonable cause be shewn, to set upon such viewer a fine not exceeding the amount of ten pounds, over and above the fine to which he shall be liable, under the provisions hereinafter contained, for non-attendance as a juror.

Liability of jurors making default.

XXXIX. And be it enacted, That if upon calling over the names upon any jury panel returned as hereinbefore required, any person appearing thereon shall fail to attend, or after appearance shall wilfully withdraw himself from the presence of the above mentioned Courts, it shall be lawful for such Courts respectively at their discretion, summarily to impose any fine, not exceeding twenty pounds, upon the party so failing to attend, or withdrawing himself, unless good cause for such defaulter's absence be made to appear, on oath, to the satisfaction of the said Courts respectively: Provided always, that it shall be lawful at any time for the said Courts respectively to exempt from attendance, either during the session or for any less period, any person summoned as a juror, who may to such Courts respectively shew, on oath, sufficient grounds for such exemption: Provided also, that no juror summoned for the trial of civil issues shall be compelled to attend at any sittings for more than three consecutive days, unless the presiding Judge shall otherwise order.

XL. And be it enacted, That if any man being duly summoned and returned to serve as a juror upon any inquest or inquiry, before any Sheriff or Coroner, or before any of the Commissioners hereinbefore mentioned, shall not, after being openly called three times, appear and serve as a juror, every such Sheriff, or in his absence the Under Sheriff, and such Coroner and Commissioner respectively, are hereby authorized and required (unless some reasonable excuse shall be proved on oath, affirmation, or solemn declaration, if required.) to impose such fine upon every man so making default as they shall respectively think fit, not exceeding five pounds; and every such Sheriff, Under Sheriff, Coroner, and Commissioner, respectively, shall make out and sign a Certificate containing the christian name and surname, the residence and trade or calling of every man so making default, together with the amount of the fine imposed, and the cause of such fine, and shall transmit such certificate to the Clerk of the Peace for the county or district in which every such defaulter shall reside, on or before the first day of the Quarter Sessions next ensuing; and every such Clerk of the Peace is hereby required to copy the fines so certified on the roll on which all fines or forfeitures imposed at such Quarter Sessions shall be copied; and the same shall be estreated, levied, and applied in like manner, and subject to the like powers, provisions, and penalties, in all respects, as if they had been part of the fines imposed at such Quarter Sessions.

XLI. And be it declared and enacted, That any person who shall corruptly influence, or attempt to influence any juror, and every juror consenting thereto, shall be guilty of a misdemeanor, and shall, upon conviction thereof in any Court of competent jurisdiction, be liable to fine and imprisonment, at the discretion of such Court.

XLII. And be it enacted, That all fines imposed under this Act, by the said Supreme Court or Circuit Courts, or by any Judge thereof, shall be levied in the same manner as any other fines imposed by the Supreme Court, or in the manner next hereinafter mentioned; and all fines imposed by any Court of General or Quarter Sessions, or by any Chairman thereof, by virtue of this Act, shall be levied and recovered in the manner appointed by the Act of the Governor and Legislative Council, passed in the second year of Her Majesty's reign, intituled, "*An Act for the more effectual recovery of fines, and enforcement of forfeited recognizances imposed and entered into by and before Justices of the Peace in New South Wales,*" and all such fines howsoever imposed, shall go and be applied to the fund hereinbefore provided for the payment of jurors.

XLIII. And be it enacted, That in all matters and things to be done in the district of Port Phillip, under and by virtue of this Act, which are not specially provided for herein, the words "Governor," "Supreme Court," "Judge," "Attorney General," "Prothonotary," and "Sheriff," as often as they occur throughout this Act, shall be held respectively to be applicable to the Superintendent, Supreme Court, Resident Judge, Crown Prosecutor, Deputy Registrar, and Deputy Sheriff of the said district of Port Phillip.

XLIV. And be it enacted, That this Act shall commence and take effect on the first day of October next, and that from and after that date the Acts passed in the second, fourth, and fifth years of the reign of King William the Fourth, and respectively intituled, "*An Act to amend an Act, intituled, 'An Act for regulating the constitution of juries, for the trial of civil issues in the Supreme Court of New South Wales;'*" "*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 in criminal cases in the said Colony;'*" "*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;'*" and also an Act passed in the

Liability of coroners jurors.

Punishment for embracery.

Recovery of fines in Supreme Court.

In Quarter Sessions.

2 Vic., No. 8.

District of Port Phillip.

Commencement of Act.

Repeal of:—
 2 Wil. IV., No. 3.
 4 Wil. IV., No. 12.
 5 Wil. IV., No. 25.
 2 Vict., No. 5.
 3 Vict., No. 11.
 3 Vict., No. 17.
 7 Vict., No. 29.
 8 Vict., No. 4.

second

second year of Her present Majesty's reign, intituled, " *An Act to provide for trial by jury at the Courts of Quarter Sessions, to be held at Melbourne and Port Macquarie ;*" and also two Acts passed in the third year of Her present Majesty's reign, intituled respectively, " *An Act to make further regulation with respect to trial by jury in criminal issues, in the Colony of New South Wales, and to amend the form of proceeding in criminal prosecutions in said Colony ;*" and " *An Act to provide for trial by jury at Courts of Quarter Sessions to be held at Berrima ;*" and also two other Acts passed in the seventh and eighth years of Her Majesty's reign, intituled respectively, " *An Act to further amend and 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, '*" and " *An Act to amend the laws regulating trial by jury in New South Wales, in so far as they relate to the trial of civil causes, '*" shall be repealed : Provided always, that no Act repealed by any of the Acts hereinbefore recited, shall be revived by the repeal of the said herein recited Acts.

Jury lists for 1848 to be prepared, published, &c., in October, November, and December ;

XLV. And whereas it is expedient and necessary that after the passing of this Act, and in the present year one thousand eight hundred and forty-seven, the lists of jurors should be prepared, published, and corrected, in different months from those hereinbefore mentioned : Be it enacted, That the Clerks of Petty Sessions, Chief Constables, Justices, and Sheriffs, shall, during the present year, do and perform all such acts, matters, and things, in and towards preparing, publishing, correcting, and altering the jury lists, and making out the jurors' book and special jury list for each jurors' district within the months of October, November, and December, as are hereinbefore required to be ordinarily done in the months of August, September, and October, in each and every year, and all such jury lists when settled, shall come into force, and the persons whose names shall be therein set down shall be liable to serve as jurors immediately after the jurors' book for each district shall have been made out by the Sheriff, and each of such lists shall continue in force until new lists shall have been allowed, and a new jurors' book shall have been made out, under the provisions hereinbefore contained : Provided always, that until such jury lists shall come into effect under the provisions of this Act, the jury lists which are now, and shall be in operation at the time of the passing thereof, shall continue in full force and effect.

but present jury lists to continue in force until new lists shall come into effect.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this second day of September, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

W. M. MACPHERSON,
CLERK OF THE COUNCIL.

CH^s. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 17th September, 1847.

SCHEDULES REFERRED TO.

A.

District
of }
}

To the Chief Constable of the District of

TAKE NOTICE, that you are hereby required to make out, before the first day next, a true list, in writing, in the form hereunto annexed, containing the names of all persons between the ages of twenty-one and sixty, qualified to serve as jurors, in your district.

B.

B.

LIST of all persons within the district of _____, liable to serve on juries.

District, and (Street, if in a Town.)	Christian and Surname, (full length.)	Title, quality, calling, or business.	Nature of qualification.
Parramatta, } Macquarie-street ... }	Adams John	Esquire	Freehold £100 p̄ annum.
Sydney,..... } George-street	Bowles James ...	Grocer	£400 of personal Estate.

C.

FORM OF PRECEPT.

(To be adopted for general, special, or common juries of twelve, and to juries of four.)

To the Sheriff of _____ or his deputy, greeting :—

PURSUANT to the Act of the Governor and Council, in such case made and provided, you are hereby commanded that you cause to come before [here insert the style of the Court] to be holden at the Court House at _____, on (here insert the day of the week) the _____ day of _____, now next [or instant] _____ good and lawful men of the jurors' district for _____ aforesaid, duly qualified according to law as jurors (or as "common jurors" or special jurors, according as the precept shall be intended to be a "general jury precept," "common jury precept," or "special jury precept,") to make a jury of the country for the trial of all such issues of fact or other matters as shall be then required to be tried by a general jury of twelve men, (or by a common jury, or a special jury of four or of twelve men, according as the precept shall be intended. And that you have then there the names of those jurors as by law is required of you, together with due proof of the service of a summons upon such of the said jurors as shall have been served, and of the time and manner thereof, and of the causes wherefore the others of such jurors have not been served with such summons, and also this writ.

GIVEN under my hand and seal, at _____ this _____ day of _____, A. D.

D.

FORM OF SUMMONS.

Mr. A. B., (naming the juror,) you are hereby required to appear, as a juror, in the Supreme or Circuit Court, or Court of Quarter Sessions (naming the Court), to be holden at _____, on (here insert the day of the week) the _____ day of _____ next, at ten o'clock in the forenoon; and you are there to attend, from day to day, until you shall be discharged by the said Court, under penalty of the fine by law imposed in this behalf.

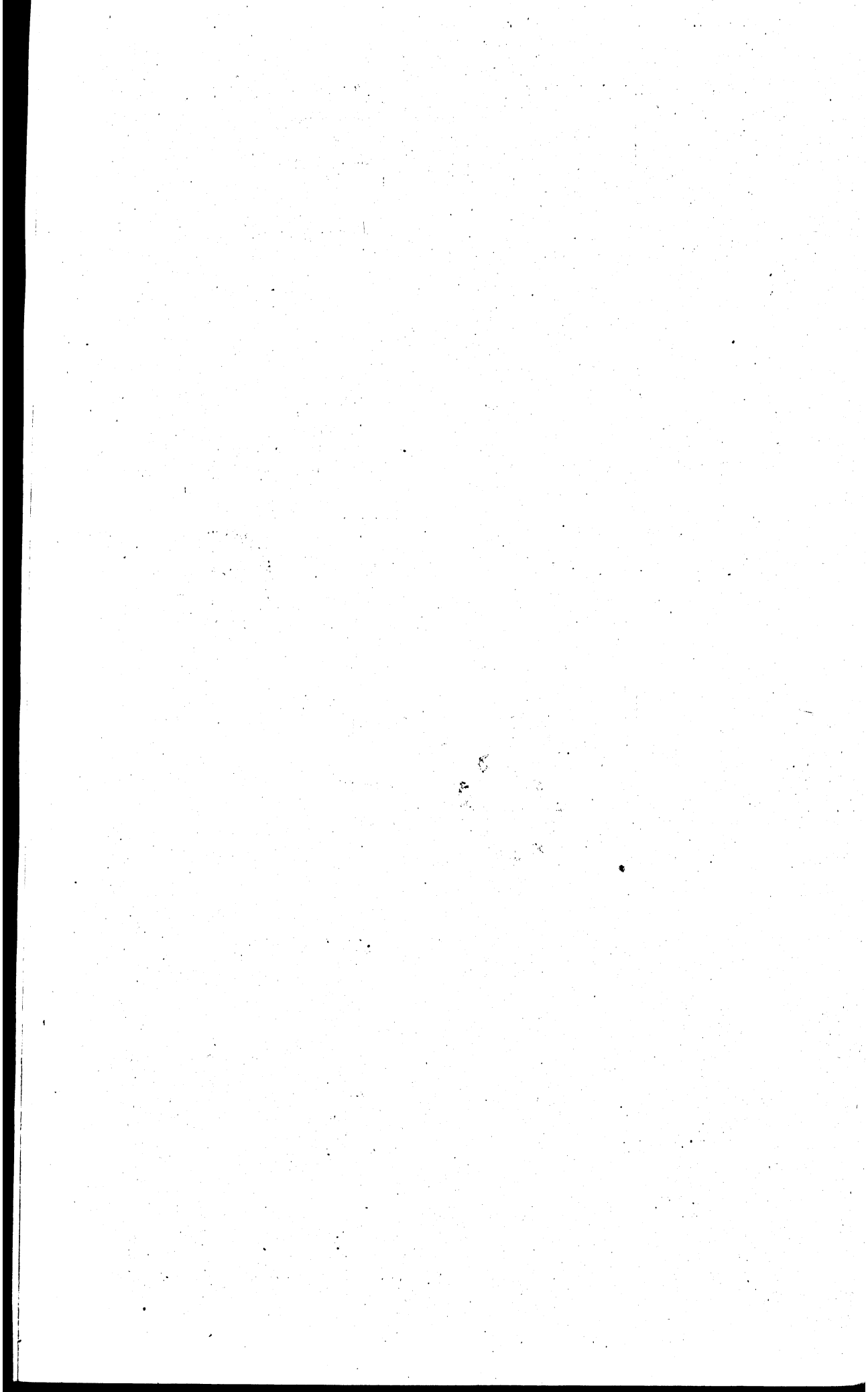
(Signed) _____ C. D.,
Sheriff.

E.

	s.	d.
Common Jurors and Jurors summoned under a General Jury Precept, residing within five miles of the Court, per diem	2	6
The same where residing more than five miles from the Court, per diem	5	0
And for every mile of distance beyond five miles, between such Juror's residence and the Court	0	8
Special Jurors summoned under a Special Jury Precept, if residing beyond two miles, and within five miles of the Court, per diem	5	0
The same where residing more than five miles from the Court, per diem	7	6
And for every mile of distance beyond five miles, between such Juror's residence and the Court	1	0
Every bystander sworn on a trial.....	5	0

(i. e. 4d. each way.)

(i. e. 6d. each way.)



No. XXI.

An Act to enable the Council of the City of Sydney to make Bye-laws for the Licensing and Regulating Hackney Carriages within the City of Sydney, and its vicinity, and the conduct of the Owners and Drivers thereof. [Assented to, 17th September, 1847.]

WHEREAS by an Act of the Governor and Legislative 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 amongst other things enacted, that it shall be lawful for the Council of the said City to make, publish, alter, modify, amend or repeal such Bye-laws and Regulations as to them shall seem meet for the good rule and government of the said City, for the regulation and government of carters, porters, and drivers, and for other purposes; and to impose penalties for breaches of the Bye-laws so to be made under the restrictions and provisions contained in the said Act: And whereas doubts are entertained whether the Council of the said City are empowered by the said Act to make Bye-laws for licensing and regulating Hackney Carriages plying for hire within the City and its vicinity, and the conduct of the owners, and drivers thereof, and it is expedient that such doubts should be removed: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That from and after the passing of this Act it shall be lawful for the Council of the said City from time to time to make and publish such Bye-laws as to them shall seem meet, for licensing and regulating Hackney Carriages plying for hire within the said City, and the owners and drivers thereof, and within the distance of eight miles from the Corporate limits of the said City; the amount payable for such license, and the manner of paying for the same; and for regulating the conduct of the owners and drivers of such Hackney Carriages: Provided that for every such license for any one year, there shall be paid such sum as the Council of the said City shall direct, not exceeding the sum of three pounds.

II. And be it enacted, That the Council of the said City, in the Bye-laws so to be made by them, by virtue of this Act, shall have power and authority to make regulations touching the licensing and the conduct of the owners, drivers, and conductors of such Hackney Carriages in their several employments, the hours within which such owners, drivers, or conductors shall exercise their calling; whether they shall wear any and what badges; the number and description and furnishing of such Hackney Carriages; the number of persons to be carried in the same; the situation and number of public stands; the amount of fares for time or distance to be paid for the use of such Hackney Carriages; the safe custody and delivery of any property which may be accidentally or otherwise left in such Hackney Carriages; the punishing the misconduct of the drivers and conductors of, and persons attending such Hackney Carriages, whether in the way of imposition by demanding or receiving more than the regular fare, or otherwise, as well within the said City, as within the distance of eight miles from the Corporate limits thereof, and all other matters and things connected with the good government and regulation of Hackney Carriages, and the owners and drivers thereof, both within the said City, and within the distance of eight miles from the Corporate limits of the said City: Provided that for every such license of any such owner, driver, or conductor, there shall be paid such sum as the Council of the said City shall direct, not exceeding the sum of five shillings.

III. And be it enacted, That the Council of the said City shall have power and authority, by such Bye-laws, to fix the amount of fines and penalties for infringing regulations, and

and penalties to be imposed on the owners and drivers of such Hackney Carriages for misconduct or imposition in demanding or receiving more than the regular fares or otherwise; and on persons hiring such Hackney Carriages for fraudulently evading the payment of such fares, or for the breach of any other Bye-law which the said Council may make in respect to such Hackney Carriages, the owners and drivers thereof: Provided always, that such fines or penalties shall not exceed, for any one offence, the sum of ten pounds.

As to recovery of such fines, &c.

IV. And be it enacted, That all fees, penalties, fines, and forfeitures inflicted or imposed under the provisions of this Act, or by, or under any Rule, Order, or Bye-law, made in pursuance thereof, may, in the case of non-payment, be recovered in the same manner as any fees, penalties, fines, and forfeitures inflicted or imposed under the provisions of the hereinbefore first recited Act.

As to appropriation of such fines, &c.

V. And be it enacted, That all fees, penalties, fines, and forfeitures recovered or received under this Act, and under any Bye-laws made in virtue thereof, and also the amount of all sums received for licensing such Hackney Carriages, shall be paid to the Treasurer of the said City, for the local improvement and benefit thereof: Provided always, that it shall be lawful for the Governor of the Colony for the time being to pardon any offender, and to remit the whole or any part of any such penalty, fine, or forfeiture, as the justice of each particular case, may seem to him to require.

Bye-laws may be repealed or altered.

VI. And be it enacted, That the Council of the said City may, from time to time, as they shall think fit, repeal, alter, or amend any Bye-laws which may be made in pursuance of this Act, and make others in their stead: Provided always, that no such Bye-laws shall be made, altered, or repealed, unless two-thirds at least of the whole number of the Council of the said City shall be present.

Extending to Committees of the City Council the power to make, alter, or repeal such Bye-laws, subject to the approval of such Council.

VII. And whereas, by the said hereinbefore first recited Act, it is enacted, that it shall be lawful for the Council of the said City to appoint out of their own body, from time to time, such and so many Committees, either of a general or special nature, and consisting of such number of persons as they may think fit, for any purposes which, in the discretion of such Council, would be better regulated and managed by means of such Committees; provided always, that the acts of every such Committee shall be submitted to the Council for their approval: Be it enacted, That the said provision shall extend to the making, altering, and repealing of all the Bye-laws by this Act authorised to be made, altered, or repealed, and to the granting or revoking of all licenses hereby authorised to be granted or revoked.

Proceeding before any such Bye-law can be of force.

VIII. And be it enacted, That no Bye-law made in pursuance of this Act shall be of any force or effect until the expiration of forty days after the same, or a copy thereof, sealed with the seal of the Corporation, shall have been sent to the Governor for the time being of the said Colony; nor until a copy of such Bye-law shall have been affixed to the outer door of the Town Hall, or in some other public place within the City; nor until a copy of the same shall have been published in the *New South Wales Government Gazette* for at least one week; and if at any time within the said period of forty days, the Governor of the said Colony shall disallow such Bye-law or any part thereof, such Bye-law or the part thereof so disallowed, shall not come into operation: Provided always, that in the case of any such Bye-laws it shall be lawful for the said Governor, at any time within such forty days as aforesaid, to enlarge, as he shall think fit, the period within which any such Bye-laws shall remain inoperative; and no such Bye-law shall come into force until after the expiration of such enlarged period: Provided further, that no Bye-law to be passed by the Council of the said City shall be repugnant to the general spirit and intendment of the laws in force within the Colony of New South Wales: Provided also, that a copy of any such Bye-law, under the common seal of the Mayor, Aldermen, Councillors, and Citizens of the City of Sydney, with a declaration thereon, signed by the Mayor
of

of the said City for the time being, that the same has been sent sealed as aforesaid to the Governor for the time being of the said Colony, and published in the *New South Wales Government Gazette* as aforesaid, shall be received as evidence of the existence of any such Bye-law, and of the sending and publishing thereof as aforesaid, in all Courts of Law and Equity, and before all Justices in Sessions or otherwise.

IX. And be it enacted, That wherever in this Act the word "Hackney Carriage" is used, the same shall be held to mean any coach, car, cabriolet, or other vehicle plying for hire within the said City, and within the distance of eight miles from the corporate limits of the said City: Provided however, that nothing contained in this Act, nor in any Bye-law made by virtue thereof, shall be held to extend to any carriage or vehicle duly licensed as a Stage Carriage, in pursuance of the Act of the Governor and Legislative Council, passed in the tenth year of the reign of His late Majesty King William the Fourth, intituled, "*An Act for regulating Stage Carriages in New South Wales*:" Provided that such Stage Carriage shall ply at regular periods as such to places beyond the corporate limits of the said City.

What shall be considered a Hackney Carriage.

CHARLES NICHOLSON,

Speaker.

Passed the Legislative Council, this third day of September, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,

CLERK OF THE COUNCIL.

CH^s. A. FITZ ROY,

GOVERNOR.

Govt. House, Sydney, 17th September, 1847.

No. XXII.

An Act to amend the Law relative to the security to be given on Appeals from the decrees and orders of the Primary Judge in Equity, to the three Judges of the Supreme Court of New South Wales. [Assented to, 1st October, 1847.]

WHEREAS by an Act made and passed in the fourth year of the reign of Her present Majesty, by the then Governor and Legislative Council of the Colony of New South Wales, intituled, "*An Act to provide for the more effectual administration of Justice in New South Wales and its dependencies*," it was (amongst other things) provided and enacted, that it should be lawful for the Governor of New South Wales for the time being, to nominate and appoint from time to time, either the Chief Justice, or if he should decline such appointment, then one of the Puisnè Judges of the Supreme Court of the said Colony, to sit and hear and determine, without the assistance of the other Judges, or either of them, all causes and matters at any time depending in the said Supreme Court in Equity, and coming on to be heard and decided at Sydney; and that every decree or order of such Chief Justice, or of the Judge so appointed, should in any such cause or matter, (unless appealed from in the manner in the said Act provided) be as valid, effectual, and binding, to all intents and purposes, as if such decree or order had been pronounced and made by the full Court; and in and by the said Act it was also (amongst other things) provided and enacted, that it should be lawful for any person feeling aggrieved by any such decree or order, at any time within fourteen days next after the pronouncing or making of the same, to enter an appeal in the Office of the Court, against such decree or order, to the other two Judges at Sydney aforesaid, such person giving security, within fourteen days thence next following, in such manner as should for that purpose be provided by general rules to be in that behalf made,

Preamble.

4 Vic., No. 22, sect. 20.

Sect. 21.

to

5 Vic., No. 9, sect.
12.

Sect. 13.

Persons appealing from the decrees or orders of the Primary Judge in Equity, to the three Judges, to deposit a sum not exceeding £100, as security to prosecute such appeal with all due diligence, and to pay costs if awarded against them.

to prosecute such appeal with effect, and to obey such decree or order in all things, in case of the eventual affirmance of the same, and also to pay the costs of such appeal, if costs should be thereupon awarded against him: And whereas by another Act, made and passed in the fifth year of the reign of Her said present Majesty, by the then Governor and Legislative Council of the said Colony, intituled, "*An Act for the further amendment of the Law, and for the better advancement of Justice,*" it was (amongst other things) enacted, that after the passing thereof, in case of the absence from Sydney, or illness of the Chief Justice, or other Judge appointed to sit in Equity, it should be lawful for either of the other Judges, (during such absence or illness), to sit alone and hear and determine all causes and matters in Equity, in like manner as the Judge so being ill or absent might have done if not so incapacitated, but subject nevertheless to the like appeal; and in and by the said lastly hereinbefore mentioned Act, it was also (amongst other things) provided and enacted, that every appeal from any decree or order made, or to be made, under the said last mentioned Act, or the Act firstly hereinbefore mentioned, should thereafter be preferred to, and should be set down and come on to be heard and decided before, and by the three Judges at Sydney, in such manner and form, and subject to such general rules as they should from time to time prescribe and make, or (in the absence of any such rule) as they should in any case direct: And whereas in pursuance of the provisions of the Act firstly hereinbefore mentioned, one of the Puisnè Judges of the said Court has been duly nominated and appointed to sit and hear and determine without the assistance of the other Judges, or either of them, all causes and matters at any time depending in the said Supreme Court in Equity, and coming on to be heard and decided at Sydney aforesaid, the Chief Justice of the said Court having declined such appointment: And whereas under and by virtue of the provisions of the said Acts, and of general rules of the said Supreme Court, made in pursuance thereof, no appeal from any decree or order of the said Judge so nominated and appointed to hear and determine causes and matters in the said Court in Equity as aforesaid, can be made to the three Judges of the said Court, unless the person appealing shall give security, by a bond of himself and two sureties, not only to pay the costs of such appeal, if costs shall be thereupon awarded against him, but also to prosecute such appeal with effect, and to obey the decree or order appealed from in all things, in case of the eventual affirmance of the same, by reason whereof persons feeling aggrieved by such decrees or orders may be unjustly precluded from appealing therefrom to the three Judges of the said Court, and it is therefore just and expedient to make other provision relative to the security to be given in reference to such appeals: Be it therefore enacted, by His Excellency the Governor of the said Colony, by and with the advice and consent of the Legislative Council thereof, That from and after the passing hereof, any person or persons appealing from any such decree or order to the three Judges of the said Court, under the provisions of the said Acts, or either of them, shall within fourteen days from the time of lodging or filing such appeal, deposit in the hands of the Master in Equity of the said Court, such sum of money not exceeding the sum of one hundred pounds, as such Master shall in each case direct, or, at the option of the person or persons appealing, give and deposit with such Master, a bond of two persons to be approved of by such Master, in such sum of money not exceeding the sum of one hundred pounds, as such Master shall in each case direct; which bond shall be from such two persons binding them, their heirs, executors, and administrators, to the person or persons in whose favor the decree or order appealed from shall be, his, her, or their executors and administrators, conditioned to be void if the person or persons by whom such appeal shall be made, shall prosecute the same with all due diligence, and pay all such costs of, and occasioned by such appeal, as the said Court shall adjudge or award, and which said sum of money or bond, as the case may be, shall be held by such Master subject to the order of the said Court, as security that the person or persons by whom

whom such appeal shall be made, shall prosecute the same with all due diligence, and pay all such costs of, and occasioned by such appeal, as the said Court shall adjudge or award; and that no other security shall be required, from any person or persons so appealing from any such decree or order as aforesaid, in reference to any such appeal, anything in the said Acts or either of them, or any Rule or Rules of the said Court, to the contrary in anywise notwithstanding: Provided that all and every securities or security already given, in reference to any such appeal, shall remain and be as valid and effectual to all intents and purposes whatsoever, as if this Act had not been passed.

No other security to be required, anything in 4 Vic., No. 22, and 5 Vic., No. 9, or Rules of Supreme Court, notwithstanding.

II. Provided always, and be it further enacted, That if such sum of money, or such bond as is hereby directed, shall not be so deposited as aforesaid, within the said period hereby provided from the time of lodging or filing any such appeal, then such appeal shall be deemed to have been abandoned.

If money not deposited, appeal to be deemed abandoned.

III. Provided also, and be it further enacted, That no such appeal in pursuance of the Acts hereinbefore mentioned, or either of them, shall stay the execution of, or any proceeding upon any decree or order thereby appealed from, but that every such decree or order may be carried into execution, and all proceedings taken thereupon, in like manner as if no such appeal had been made therefrom, unless the Judge for the time being, appointed in pursuance of the provisions of the Act firstly hereinbefore mentioned, to sit and hear and determine causes and matters in the said Court in Equity, shall, in pursuance of the provision hereinafter contained, order the execution of such decree or order to be stayed: Provided that nothing herein contained shall apply to any appeal upon which security has been already given, in pursuance of the aforesaid Acts or either of them, or the aforesaid Rules of the said Supreme Court made in pursuance thereof.

Execution of such decrees or orders not to be stayed by appeal, unless the Primary Judge shall so order.

IV. Provided also, and be it further enacted, That it shall be lawful for the said Judge, so appointed for the time being as aforesaid, to order that the execution of any such decree or order shall be stayed, until any such appeal therefrom shall be determined, which order the said Judge is hereby authorized and empowered to make, either upon such terms as to security or otherwise, or absolutely without any terms whatever, as to such Judge shall seem fit.

Primary Judge may order execution of decrees or orders to be stayed, either with or without terms as to security or otherwise.

V. And be it further enacted, That this Act, or any part thereof, may be altered, varied, or repealed by any Act or Acts to be passed in the present Session of the said Council.

Act may be altered or repealed.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council this twenty-seventh day of August, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^S. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 1st October, 1847.

No. XXIII.

An Act for the Protection of Seamen entering on board Merchant Ships. [Assented to, 1st October, 1847.]

WHEREAS seamen are sometimes subjected to impositions and injustice by persons who undertake to procure seamen to enter on board merchant ships, who have no interest in the said ships: And whereas it is expedient to afford protection to seamen entering on board merchant vessels in the Colony of New South Wales: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That from and after the passing of this Act it shall be lawful for the Governor, with the advice of the Executive Council, and he is hereby empowered to license such

Preamble.

Governor and Executive Council may license persons to procure seamen for merchant ships.

such

such persons as he may deem to be requisite and fit, and who may desire to take out such license, to hire, engage, supply or provide seamen, to be entered on board merchant ships; and every such license shall be granted for such period, upon such terms, and upon such security being given, and shall be revocable upon such conditions as the Governor, with the advice of the Executive Council, may at any time or times appoint.

Manner of granting and revoking license.

II. And be it enacted, That every such license shall be granted, and every revocation thereof shall be made, by minute or resolution of the Executive Council; and a copy of any such minute or resolution, certified and signed by the Clerk of the Executive Council, shall be received as evidence of such license and revocation, without further proof thereof.

No person not duly licensed or interested in the ship, to be concerned in procuring seamen to be entered.

III. And be it enacted, That no person not licensed as aforesaid, or not being the owner, part owner, master, or person in charge of a merchant ship, or the ship's husband, or agent, shall hire, engage, supply, or provide a seaman to be entered on board any merchant ship; and no person, whether licensed or not, other than the owner, part owner, master, or person in charge of a merchant ship, or the ship's husband, or agent, shall demand or obtain the certificate of discharge of any seaman for the purpose, or under the pretence of engaging him on board of any merchant ship.

No person interested in the ship shall knowingly receive seamen hired contrary hereto.

IV. And be it enacted, That no owner, part owner, master, or person in charge of any merchant ship, or ship's husband, or agent, shall knowingly receive or accept to be entered on board the said ship, any seaman who has been hired, engaged, supplied, or provided to be entered on board thereof, contrary to the provisions of this Act.

Penalty on every person guilty of any of the offences above described.

V. And be it enacted, That every person guilty of any of the offences above described, shall, upon conviction thereof, forfeit and pay, for each and every seaman hired, engaged, supplied, or provided to be entered on board, and for every certificate of discharge demanded or obtained contrary to the provisions of this Act, or for every seaman knowingly received or accepted to be entered on board, contrary to the provisions of this Act, a sum not exceeding twenty pounds, for each offence, although several seamen may be included in the same contract, or several certificates of discharge may be obtained, or several seamen may be received or permitted to remain at the same time.

Unlicensed persons not to be employed for the purpose of engaging seamen.

VI. And be it enacted, That it shall be unlawful for any person to employ any unlicensed person or persons, for the purpose of engaging or providing seamen to be entered on board merchant ships; and that any licensed person knowingly employing any unlicensed person for the purposes aforesaid, shall forfeit and pay a sum not exceeding twenty pounds, and, in addition thereto, shall forfeit and lose his license.

No advance note or wages to be given or paid to any seaman, until after the ship's articles have been duly signed.

VII. And be it enacted, That the owner, part owner, master, or person in charge of any merchant ship, or ship's husband, or agent, shall not pay or advance, nor give any note in writing, or otherwise, in the nature of, and purporting to be an advance note for any part of the wages of any seaman hired, engaged, supplied, or provided to be entered on board the said ship, until six hours after the ship's articles have been duly signed by the said seaman, and by the master or owner of the said ship, and then only to the said seaman himself, unless such wages, or advance of wages, be paid in money, in which case the payment thereof may be made to the said seaman himself, at any period most convenient after the signing of the said ship's articles as aforesaid; and all payments of wages contrary to the provisions of this Act shall be, and are hereby declared to be null and void, and the amount thereof shall be recoverable by the said seaman, as if they had not been paid or advanced.

Penalty for receiving remuneration for hiring seamen from any other than the owner, master, &c.

VIII. And be it enacted, That if any person shall demand or receive from any seaman, or from any person other than the owner, part owner, master, or person in charge of a merchant ship, or the ship's husband, or agent, requiring seamen, any remuneration whatever, either directly or indirectly, for and on account of the hiring, supplying, or providing any such seaman, he shall forfeit, for every such offence, a sum not exceeding five pounds.

IX.

IX. And be it enacted, That it shall not be lawful for any person (other than any officer or person in Her Majesty's service or employment) to go and be on board any merchant vessel arriving, or about to arrive, at the place of her destination, before or previous to her actual arrival at the wharf or quay or other place of her discharge, without the permission and consent of the master or person in charge of the said vessel; and if any person (other than as aforesaid) shall go and be on board any such vessel, before or previous to her actual arrival as aforesaid, without the permission and consent of the said master or person in charge of the said vessel, he shall for every such offence forfeit and pay a sum of money not exceeding twenty pounds; and for the better securing the person of such offender, the master or person in charge of the said vessel is hereby authorized and empowered to take any person so offending as aforesaid into custody, and to deliver him up forthwith to any constable or peace officer, to be by him taken before a Justice or Justices, to be dealt with according to the provisions of this Act.

Persons not to be admitted on board merchant vessels, before their arrival at place of discharge, without permission.

X. And be it enacted, that if any person shall, on board any merchant ship, within twenty-four hours of her arrival at any port as aforesaid, solicit any seaman to become a lodger at the house of any person not so licensed as aforesaid, and letting lodgings for hire, or shall take from and out of such ship, any chest, bedding, or other effects of any seaman, except under the personal direction of such seaman, and without having the permission of the master or person in charge of such ship, he shall be liable to forfeit and pay for every such offence the sum of five pounds.

Penalty for soliciting sailors to become lodgers in houses of unlicensed persons, or removing sailors' effects from on board.

XI. And be it enacted, That if any person shall demand and receive of and from any seaman, payment in respect of his board or lodging in the house of such person, for a longer period than such seaman shall have actually resided and boarded therein, or shall receive or take into his possession, or under his control, any moneys, documents, or effects of any seaman, and shall not return the same, or pay the value thereof when required so to do by such seaman, after deducting therefrom what shall be justly due and owing in respect of the board and lodging of such seaman, he shall forfeit and pay a sum not exceeding ten pounds, over and above the amount or value of such moneys, documents, or effects, after such deductions as aforesaid, which shall be adjudged to be forthwith paid to such seaman, under the conviction by the Justices before whom such offence shall be heard and determined.

Penalty for receiving remuneration for board of sailors, for longer period than is due, or for neglecting to return moneys or effects belonging to seamen.

XII. And be it enacted, That all penalties and forfeitures imposed by this Act, shall and may be recovered, with costs, by summary proceedings before any two Justices of the Peace, residing in or near to the place where the offence shall be committed, or where the offender shall be; and if the sum imposed as a penalty or adjudged to be paid as aforesaid, by any such Justices, shall not be paid, either immediately after the conviction, or within such reasonable time as such Justices shall at the time of the conviction appoint, it shall be lawful for the Justices to commit the offender or offenders to the Common Gaol or House of Correction there to be imprisoned only, or to be imprisoned and kept to hard labor, according to the discretion of such Justices, for any term not exceeding six calendar months, the commitment to be determinable upon payment of the amount and costs; and all such penalties and forfeitures shall be paid and applied in manner following; that is to say, one moiety of such penalty shall be paid to the informer or person upon whose discovery or information the same shall be recovered, and the residue thereof shall be paid to Her Majesty, Her Heirs, and Successors, for the public uses of the said Colony, and in support of the Government thereof; and shall be applied thereto in such manner as shall be directed by any Act to be passed by the Governor and Legislative Council: Provided always, that in all cases of complaint made by or on the behalf of any seaman under this Act, the evidence of such seaman shall be received and taken, notwithstanding he may be interested in the matter: Provided also, that such seaman shall not in any such case where he shall have been so examined, receive any part

Recovery and application of penalties.

No. XXIV.

An Act for the better preservation and management of the Estates of deceased persons in certain cases. [Assented to, 1st October, 1847.]

WHEREAS by an Act of Parliament, passed in the ninth year of the Preamble.
 reign of His late Majesty King George the Fourth, intituled,
 "An Act to provide for the Administration of Justice in New South
 9 Geo. 4, c. 83, sec.
 12.
 "Wales and Van Diemen's Land, and for the more effectual Government
 thereof, and for other purposes relating thereto," it was amongst other
 things enacted, "that in all cases where the executor or executors of any
 will, upon being duly cited, shall refuse or neglect to take out probate,
 or where the next of kin shall be absent, and the effects of the deceased
 shall appear to the Supreme Court to be exposed and liable to waste,
 it shall be lawful for the said Court to authorize and empower the Re-
 gistrar, or other ministerial officer of the said Court, to collect such
 effects, and hold or deposit, or invest the same, in such manner and
 place, or upon such security, and subject to such orders and directions
 as shall be made, either as applicable in all such cases, or specially in
 any case, by the said Court in respect of the custody, control, or dis-
 posal thereof:" And whereas by an Act of the Governor and Council
 of New South Wales, passed in the first year of the reign of Her present
 Majesty, intituled, "An Act for the investment of moneys belonging to
 1 Vict, No. 4.
 "Intestate Estates, by the Supreme Court, in the New South Wales
 Savings' Bank at Sydney," provision is made for the investment of
 moneys belonging to estates of persons dying intestate, under the control
 of the Supreme Court of New South Wales, in the said Bank, and for
 the withdrawal thereof: And whereas it is expedient to extend the power
 of collecting, managing, and administering the estates of deceased persons,
 in cases where there shall not be any person empowered to collect,
 administer, or manage the same, and otherwise to regulate the powers and
 duties of the Judges of the said Supreme Court, and of the officer appointed
 to collect the said estates: Be it therefore enacted by His Excellency the
 Governor of New South Wales, with the advice and consent of the Legis-
 lative Council thereof, That any officer appointed or to be appointed
 hereafter by the said Supreme Court to collect the estates of deceased
 persons, under the provisions of the said Act of Parliament shall, in res-
 pect of his said office, be styled "Curator of Intestate Estates," and shall
 perform the duties, and have the powers and rights, and be subject to the
 liabilities, hereinafter expressed, declared and contained; and such officer
 shall from time to time procure and give security by bond or recognizance
 to Her Majesty the Queen and her Successors, in the sum of two thousand
 pounds by himself and such sureties as her said Majesty or her Succes-
 sors may think fit, conditioned for the collection and due payment of and
 accounting for all monies which shall come to his hands by virtue of his
 office of Curator of Intestate Estates: Provided always, that no surety
 for such officer shall be liable beyond the separate amount in which he
 may have bound himself, and also, that every such surety may withdraw
 from any further liability for the future under any such bond or recog-
 nizance, by giving to Her Majesty's Attorney General for New South
 Wales, three months notice in writing of his intended withdrawal, with-
 out prejudice nevertheless to his liability for any previous breach of the
 condition of such bond or recognizance.

Curator of Intestate
Estates;

to give security.

Liability of sureties

II. And be it enacted, That the Curator of Intestate Estates shall, from time to time, so soon as conveniently may be after receiving information, on oath, of the death of any person leaving any personal estate liable to be collected by him, apply to the said Court, or one of the Judges thereof, for an order authorizing him to collect, manage, and administer such estate; and the said Court or Judge shall, if satisfied that the case is within the provisions of the said Act of Parliament, or of this Act, make such order; which order, when made, shall give to the

Order to collect, and
effect thereof.

Curator

Curator of intestate estates the same power over the personal estate of the deceased person, except as hereby enacted, as he would have had if letters of administration of such personal estate had been granted to the said officer, subject nevertheless to any order or orders which may from time to time be made by the said Court, or one of the Judges thereof, on petition as hereinafter mentioned, touching the said estate, or the collection, management, or administration thereof: Provided nevertheless, that an order to collect, manage, and administer any estate shall not, either before or after the same shall be made, prevent the proving of any will, or the obtaining of any letters of administration to the personal estate of any person dying intestate, or limit or affect the powers or duties of any executor or administrator of the same estate.

Order to collect, &c., not to prevent the subsequent proving of a will, &c.

Mode of proceeding under this Act.

III. And be it enacted, That after an order to collect, manage, and administer the estates of deceased persons shall have been made, all disputes and matters touching the collection, management, or administration of the same, within the provisions of the said Act of Parliament, or of this Act, and all claims and demands thereon, except as hereinafter provided, shall be decided by the said Supreme Court, or one of the Judges thereof, on petition, in like manner as if the matter were in the equitable jurisdiction of the said Court; and the Judges of the said Court shall from time to time make such general rules and orders, touching such petitions and the proceedings thereon as to them shall seem expedient; and all petitions and orders presented and made under the provisions of the said Act of Parliament, or of this Act, and all affidavits used in support of, or in opposition to such petitions, or otherwise relating to the estates of such deceased persons as aforesaid, and all accounts of the collection of intestates' estates passed or to be passed, shall be filed in such office of the Supreme Court as the said Judges shall from time to time direct: Provided nevertheless, that if the said Supreme Court, or the Judge to whom any petition shall be presented, touching the matters aforesaid, shall think it desirable that the matter in question should not be decided on petition, the said Court or Judge shall order such proceedings to be instituted at Law or in Equity as shall be considered proper for the decision thereof.

Enforcing orders.

IV. And be it enacted, That all orders which shall be made by the said Court, or a Judge thereof, shall be enforced by the same process as the like orders would be enforced by, if they were made by the said Supreme Court in its equitable jurisdiction; and that all affidavits made in respect of the collection, management, or administration of the estates of deceased persons, under the provisions of the said Act of Parliament, or of this Act, or relating thereto, or to any proceedings at Law or in Equity, under the provisions of this Act, or relating thereto, may be sworn before a Commissioner of the Supreme Court for taking affidavits, or (in places beyond the County of Cumberland) before any Justice of the Peace, who is hereby empowered to administer the same, anything in an Act passed in the ninth year of Her Majesty's Reign, intituled, "*An Act for the more effectual abolition of Oaths and Affirmations taken and made in various Departments of the Government of New South Wales, and to substitute Declarations in lieu thereof, and for the suppression of voluntary and extra judicial Oaths and Affidavits,*" to the contrary notwithstanding.

9 Vic., No. 9.

Persons dying beyond the jurisdiction of the Court.

V. And be it enacted, That the Curator of intestate estates shall apply for an order to collect, manage, and administer the estate of any deceased person, and the said Court or Judge thereof shall have authority to make such order, whenever such person shall have died beyond the jurisdiction of the said Court, but leaving personal property within the jurisdiction thereof, which would be held to be within the provisions of the said Act of Parliament, or of this Act, if such person had died within the jurisdiction of the said Court.

Cases where no Probate within six months.

VI. And be it enacted, That when any person shall have died, having made a will, and named executors or an executor thereof, bequeathing personal property within the jurisdiction of the said Court, and probate thereof or letters of administration with the will annexed, shall

shall not have been obtained within six calendar months after the death of the testator, the Curator of intestate estates, upon information on oath being given to him of the said facts, shall cite the executors named in the said will, to come in and prove the same, or shew cause within fourteen days after such citation, why an order should not be made for the said officer to collect, manage, and administer the said estate; and such citation shall be by notice under the hand of the Curator of intestate estates, which notice shall, (with respect to such of the said executors as shall have a place of residence within this Colony known to the said Curator,) be served personally, or by delivery at such residence; and (with respect to such of them as may be out of the Colony, or have no known place of residence within it) shall be twice inserted in the *Government Gazette*; and if at the expiration of the said fourteen days, the said will shall not be proved, or cause shewn to the satisfaction of the said Court, or a Judge thereof, why the order should not be made, such order shall, upon the petition of the said officer, be made accordingly.

VII. And be it enacted, That when any person shall have died intestate (or if he shall have made a will, without naming any executor thereof,) leaving personal property within the jurisdiction of the said Supreme Court, and letters of administration shall not have been obtained within three calendar months after the death of such deceased person, the Curator of intestate estates, upon information on oath being given to him of the said facts, shall cite in manner aforesaid the widow and next of kin who may be entitled to administer, to apply for and obtain letters of administration, or shew cause within one calendar month after such citation why an order should not be made for the said officer to collect, manage, and administer the said estate; and if, at the expiration of the said one calendar month, letters of administration shall not have been obtained, or cause shewn to the Court, or a Judge thereof, why such order should not be made, such order, upon the petition of the said officer, shall be made.

The like, where no
Executor named, or
no Will made.

VIII. And be it enacted, That in all proceedings under the said Act of Parliament, or under this Act, and in all proceedings at Law or in Equity, the said officer shall sue and be sued by his name, with the addition of the words "Curator of Intestate Estates," and it shall not be necessary for him, or the person or persons suing him, to state or prove his general authority to collect, manage, and administer the estates of the deceased persons leaving property within the provisions of the said Act of Parliament, or of this Act, but merely the order made on the petition of the said Curator for such purposes, in the specific estate to which the proceedings may relate; and whenever the office of "Curator of Intestate Estates" shall become vacant, by the death or removal of the officer appointed for the time being to collect, manage, and administer the estates of deceased persons, and another officer shall be appointed to that office during the pendency of any petition, action, suit, or other proceeding, such petition, action, suit, or proceeding shall not abate or become defective, but the petition, action, suit, or other proceeding shall be continued by or against the officer newly appointed, and his name be used in all future proceedings in lieu of the name of the officer so deceased or removed.

Suits by or against
Curator.

IX. And be it enacted, That the Curator of intestate estates shall make, or cause to be made, an inventory or list of all the personal estate of the persons whose estates he shall have been ordered to collect, manage, and administer, and shall retain the same in his office, and shall keep an account of all his receipts, payments, and dealings in every such estate, and shall retain all letters received, and copies of all letters written by him, and all deeds, papers, and writings of and relating to such estates, and shall permit all persons to inspect and take copies of the same, and of all proceedings relating thereto, at all reasonable hours, or shall furnish office copies thereof on payment of the fees mentioned in the Schedule hereto annexed, and shall convert into money all such personal estate as shall not consist of money, unless order be made to the contrary by the said Court, or a Judge thereof.

Accounts to be kept,
&c.

Payment of Debts.

X. And be it enacted, That the Curator of intestate estates shall, at such times as he shall think fit, cause advertisements to be inserted in the *New South Wales Government Gazette*, and such other public papers as he shall deem expedient, calling upon the creditors of the persons whose estates he shall have been ordered to collect, manage, and administer, to come in and prove their debts before him; and the said Curator of intestate estates shall allow any claim which may be made before him, if the same shall amount to the sum of twenty pounds or upwards, upon the like proof as would be required by the Master in Equity for proof of a claim made before him, upon a reference to take an account of debts in a suit instituted by a creditor on behalf of himself and others, against an executor or administrator; and shall allow any claim not amounting to the sum of twenty pounds, upon the affidavit of the claimant alone, or where he shall think fit to call for further evidence, upon such further evidence as he shall require; and the said Curator of intestate estates shall, as soon after the expiration of the time allowed for proof of debts as he conveniently can, pay the debts proved, if the whole thereof can be paid, and if not, shall declare and pay a dividend thereon; and if he shall collect any further assets after making such payment, he shall, in case any part of the debts proved remain unpaid, pay the same, and any debts subsequently proved before him, (or a dividend thereon, as the case may be) but such debts as shall be subsequently proved shall first be paid a dividend, in proportion to their amount, equal to the dividend paid to creditors having previously proved their debts; and after payment of all debts, fees, and expenses incident to the collection, management, and administration of such personal estate, shall pay over the residue to the personal representative of the intestate or testator (as the case may be) so soon as such representative shall have been duly constituted.

Investments in Savings' Bank.

XI. Provided always, and be it enacted, That nothing in this Act contained shall be construed to repeal or affect (except as herein expressly enacted) the provisions of the said recited Act of Council, or any general rule or rules made or to be made by the Judges of the said Court, with respect to the investment of money belonging to the estates of intestate persons in the *New South Wales Savings' Bank*; save and except that any order for the withdrawing of any such money may be made by the said Court, or one of the Judges thereof.

Payment to relatives, &c., in petty cases.

XII. And be it enacted, That after the expiration of twelve calendar months from the time fixed by the advertisement for creditors to come in and prove their debts, if no debt shall be proved, or no creditor having proved his debt shall remain unpaid, it shall be lawful for any Judge of the Supreme Court, if he shall think fit so to do, to order the Curator of intestate estates to pay any sum, not exceeding fifty pounds, to any person claiming to be a party in distribution, or to be a legatee under a will without letters of administration having been obtained, or the will being proved, and without legal proof of the right or title of the party so claiming; and the said Curator of intestate estates shall pay the money so ordered to be paid, or, if necessary, shall remit the same in such manner as he shall think most safe and convenient.

Passing Curator's accounts, and advertising same, &c.

XIII. And be it enacted, That the Curator of intestate estates shall, once in every quarter of a year, on a day to be fixed by a Judge of the Supreme Court, or oftener if required by the said Court, pass his accounts in each estate before one of the Judges of the said Court; but the passing of such accounts shall not prevent his being thereafter liable to any claim which may be at any time made on him in respect of any sum received and not accounted for, or any sum which might have been received by him but for his wilful neglect or default; and the Curator of intestate estates shall, in every year, in the month of January, transmit to Her Majesty's Principal Secretary of State for the Colonies, a Return of all moneys paid, received, and invested in the *Savings' Bank*, in respect of all the estates of deceased persons entrusted to him for collection during the preceding year, distinguishing the particular estate in which the same have been so received, paid, or invested; and he shall also publish twice

in

in every year, in the months of January and July, a like return in the *New South Wales Government Gazette* in respect of the six months preceding.

XIV. And be it enacted, That the Curator of intestate estates shall have the same power to require a release and discharge upon the winding up any estate in his charge, and handing over the property which may be in his hands to the person or persons entitled thereto, as any executor, administrator, or any other trustee now has in the like circumstances.

Discharge to Curator
on winding up estate.

XV. And be it enacted, That the Clerks to the several Benches of Magistrates within the Colony of New South Wales, shall, at the request of the Curator of intestate estates, act as his agents in the collecting and getting in of all property within their districts respectively, belonging to deceased persons whose estates shall have been duly ordered to be collected; and where any such property shall be situate in any part of the Colony to which there shall have been no such Clerk appointed, the Curator of intestate estates shall appoint as his agent, to collect and get in the property of the deceased, such person as he shall think fit; and such Clerks and agents shall collect all such property, and convert the same (if so directed) into money, and remit the proceeds, or pay debts due by the deceased person out of the same, and otherwise act in the premises, under the direction of the Curator of intestate estates, who shall not be answerable for any act or omission of any such Clerk or agent, not in conformity with any such direction, or which shall not have happened by the said Curator's own default or neglect.

Agents to Curator.

XVI. And be it enacted, That the Curator of intestate estates shall take, retain, and receive the fees set out in the Schedule hereunto annexed, and also a commission at the rate of five pounds per centum, on all sums of money which shall be collected by him, whether personally, or by any Clerk or agent as aforesaid, and pay the same into the Colonial Treasury: Provided that in respect of all sums of money which shall be collected or come to the hands of any Clerk to a Bench of Magistrates, or other agent employed by the said Curator, he shall make an allowance at the rate of three pounds per centum to such Clerk or agent out of such commission, as a remuneration for his services.

Fees to be taken, and
appropriation there-
of.

XVII. And be it enacted, That in the first week of January next, and in the first week of the same month in every succeeding year, the Trustees of the New South Wales Savings' Bank shall pay all sums of money which shall, on the first day of that month, have been in the said Bank, to the credit of any intestate estate, for the term of six years next preceding, to the Colonial Treasurer of the Colony, for the public uses of the said Colony, and in support of the Government thereof; and the said sums shall be applied thereto in such manner as shall be directed by any Act or Acts of the said Governor and Legislative Council, subject to the provisions hereinafter contained; and that the Curator of intestate estates shall, on the said first day of January in every year, or within two days next following, furnish to the Trustees of the said Savings' Bank, and also to the Colonial Treasurer, an account of all sums of money which shall be so payable, which account shall be a sufficient authority for the said Trustees to pay the sums mentioned therein to the said Colonial Treasurer.

Payments to Colonial
Treasury after six
years.

XVIII. And be it enacted, That if at any time after any such sum of money shall have been so paid to the said Colonial Treasurer, any person shall present a petition to the Supreme Court, or one of the Judges thereof, praying for the payment to him of such sum, or any part thereof, (a copy of such petition being previously served on the Curator of intestate estates) and the said Court or Judge shall be of opinion, upon any affidavit or other sufficient evidence adduced, that the person petitioning is entitled to the same sum, or any part thereof, the said Court or Judge shall make an order for payment thereof, after deducting any costs and expenses which may have been incurred by the Curator of intestate estates, or otherwise in respect of such application, or shall make such

Provision for parties
subsequently claim-
ing.

other

other order touching the premises as shall be just ; and on any such order being served on the Colonial Secretary, the same shall be immediately communicated to His Excellency the Governor, and thereupon it shall be lawful for the said Governor, and he is hereby required to issue a warrant under his hand to the Colonial Treasurer of the said Colony, to pay the money mentioned in such order to the party entitled to receive the same, in pursuance thereof; but no interest shall be paid or be payable on any such sum of money by virtue of any such order, or otherwise, from the time the same shall have been paid to the Colonial Treasurer as aforesaid.

Treasurer to pay under Governor's warrant ;

XIX. And be it enacted, That the Colonial Treasurer shall issue and pay the money mentioned in such Warrant as aforesaid, to the person or persons to whom the same shall be payable by virtue of such order as aforesaid.

and to receive credit for the same.

XX. And be it enacted, That the said Colonial Treasurer shall in his accounts be allowed credit for all sums of money paid by him in pursuance of any such Warrant as aforesaid, and that the receipts of the respective persons to whom the same shall be so paid shall be full and valid discharges to the said Treasurer in passing his said accounts, for any such sum or sums as shall be therein mentioned to have been received.

Act not to extend to Port Phillip.

XXI. Provided always and be it enacted, That nothing in this Act contained shall extend or be held applicable to that part of the Colony, comprehended within the District of Port Phillip, or interfere in any way with the duties of the Deputy Registrar of the Supreme Court in that District.

CHARLES NICHOLSON,

Speaker.

Passed the Legislative Council, this eighth day of September, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,

CH^S A. FITZ ROY,

CLERK OF THE COUNCIL.

GOVERNOR.

Govt. House, Sydney, 1st October, 1847.

SCHEDULE REFERRED TO.

	£	s.	d.
For every order to collect where effects shall appear to be above £50...	0	7	6
Where effects shall appear to be £50 or under	0	5	0
For every order to pay money, if £10 and under £20	0	2	6
If £20 and under £50	0	5	0
If £50 and under £100	0	10	0
And on every £100 above the first	0	2	6
For every common order	0	2	6
For every special order	0	5	0
For every office copy, 3d. per folio.			
On every audit of accounts, including the direction to invest assets, if the amount which shall have been in the Curator's hands be under £20...	0	5	0
If £20 and under £50.....	0	7	6
If £50 and under £100	0	10	0
For every £100 above the first	0	2	6

XXV.

An Act further to amend the laws relating to the Savings' Banks of New South Wales and Port Phillip respectively, and to empower the Trustees of the Savings' Bank of New South Wales to erect premises wherein to carry on the business of that Institution.

[Assented to, 1st October, 1847.]

WHEREAS it is expedient to amend the laws relating to the Savings' Preamble.

Banks of New South Wales and Port Phillip respectively, in manner hereinafter mentioned, and to empower the Trustees of the Savings' Bank of New South Wales to erect premises wherein to carry on the business of that Institution: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That all lands, tenements, and hereditaments, which now do, or hereafter may belong to the Savings' Banks of New South Wales and Port Phillip respectively, by virtue of any mortgage, release, or grant, or otherwise howsoever, and in whosoever name or names the same respectively shall or may stand or be held in trust, for or on behalf of the said Banks respectively, shall, from and after the passing of this Act, and at all times hereafter, be vested in law, in the respective Vice Presidents for the time being of such Banks, and their successors in office, for the use and benefit of the depositors in the said respective Banks, so that upon the death, resignation, or removal of any such Vice President, the same shall vest in the succeeding Vice President for the same estate or interest, as the former Vice President had therein, and subject to the same trusts; and that the said Vice Presidents respectively, shall have power and authority to execute on behalf of the said respective Banks, all deeds relating to any such said lands, tenements, and hereditaments as aforesaid, as may from time to time be acquired, in the course of the management of the affairs of the said Institutions respectively: Provided always, that during any interval which shall or may happen between the death, resignation, or removal, of any such Vice President, and the appointment of his successor in office, all such lands, tenements, and hereditaments, shall vest in the Trustees for the time being of the said Banks respectively.

All lands, &c., belonging to Savings' Banks to vest in law in the respective Vice Presidents and their successors.

Vice Presidents to have power to execute on behalf of Banks, all deeds relating to such lands, &c.

During interval between death, &c., of Vice President, and appointment of his successor, lands, &c., to vest in Trustees.

II. And whereas it is expedient to authorize the deposit of funds belonging to the said Savings' Banks respectively in the Public Treasury, as well as in the ordinary Banks of the Colony as now by law is permitted: Be it therefore declared and enacted, That any portion of the funds of the said Savings' Banks respectively, shall and may, at the discretion of the Trustees thereof respectively for the time being, and with the approval of the Governor of the said Colony, or of the Superintendent of Port Phillip, as respects the funds of the Savings' Bank of that district, be deposited in the Colonial Treasury, at Sydney, or the Sub-Treasury at Port Phillip, upon such terms, and subject to such conditions, as may be arranged by and between the said Governor or Superintendent, (as the case may require) and the Trustees of the said Banks respectively.

Funds of Savings' Banks may at the discretion of the Trustees, and with the consent of the Governor, or Superintendent of Port Phillip respectively, be deposited in the Colonial Treasury, or Sub-Treasury at Melbourne.

III. And whereas it is understood to be the gracious intention of Her Majesty, to grant to the Vice President of the Savings' Bank of New South Wales, on behalf of the same, a piece or parcel of land at Sydney, for the purpose of providing a site for the erection thereon of a suitable Banking House and premises for carrying on the business of the said Institution: Be it enacted, That it shall and may be lawful for the Vice President and Trustees of the said last mentioned Bank, to expend from time to time and as the same shall be required, out of the Rest or Security Fund belonging to the said Bank, such sums of money not exceeding in the whole, the sum of three thousand pounds, as the Governor for the time being of the said Colony shall approve of, in and towards the erection upon

Vice President and Trustees of Savings' Bank of New South Wales, authorized to expend £3,000, in the erection of a Banking House, in Sydney, on land to be granted by Her Majesty.

the

the land so expected to be granted as aforesaid, when the same shall have been granted, of a Banking House, building, or premises wherein to carry on the business of the said Institution.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this ninth day of September, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^S. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 1st October, 1847.

No. XXVI.

An Act to indemnify the Officers of Customs in respect of certain Duties omitted to be charged. [Assented to, 1st October, 1847.]

Preamble.

4 Vict., No. 11.

Indemnifying Officers,
&c., from damages,
penalties, &c.

WHEREAS since the passing, in the fourth year of the reign of Her Majesty Queen Victoria, of the Act intituled, "*An Act for increasing the Duties on Spirits, Wine, and other Goods and Merchandise imported into the Colony of New South Wales and its Dependencies,*" the Duties thereby imposed on certain articles, the produce or manufacture of the United Kingdom, have been omitted to be charged by the several Officers of Customs, by reason of an unintentional misconstruction of the said Act: And it is expedient that such Officers should be indemnified in respect of such omissions: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That all Officers of Customs in the said Colony, and all others acting in their aid and assistance, shall be freed and discharged from all damages, penalties, forfeitures, and charges whatsoever, to which they might otherwise be liable for having so omitted to charge the legal duties on any article, the produce and manufacture of the United Kingdom, comprised within the fourth class of dutiable articles enumerated in the first section of the said recited Act, imported into the Colony of New South Wales.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this sixteenth day of September, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^S. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 1st October, 1847.

No. XXVII.

An Act to render valid the acts and appointments of Parties as Guardians of the Persons and Estates of Infants, and as Committees of the Persons and Estates of Lunatics, under Orders made by the Primary Judge in Equity, and to authorise the making of Orders in cases of Infancy, by the said Primary Judge in future. [Assented to, 1st October, 1847.]

Preamble.

4 Victoria, No. 22.

WHEREAS by a certain Act of the Governor and Legislative Council of New South Wales, passed in the fourth year of the reign of Her Majesty Queen Victoria, intituled "*An Act to provide for the more effectual administration of justice in New South Wales and its Dependencies,*" it was enacted, that it should be lawful for the Governor of New South Wales for the time being to nominate and appoint, from time to

to time, either the Chief Justice, or if he should decline such appointment, then one of the Puisnè Judges, to sit, and hear, and determine, without the assistance of the other Judges, or either of them, all causes and matters at any time depending in the Supreme Court in Equity, and coming on to be heard and decided at Sydney; and it was further enacted, that every decree or order of the said Chief Justice, or of the Judge so appointed, should, in any such cause or matter, unless appealed from in the manner thereafter provided, be as valid, effectual, and binding, to all intents and purposes, as if such decree or order had been pronounced and made by the full Court: And whereas under and by virtue of the said recited Act certain of the Judges of the said Supreme Court have severally, from time to time, been nominated and appointed to sit, hear, and determine, as Primary Judges in Equity, such matters as aforesaid: And whereas the said several Judges, so acting as aforesaid, have heard and determined matters relating to the appointment of guardians of the persons and estates of infants, and also matters in lunacy, and have issued grants of the persons and estates of lunatics residing in the said Colony of New South Wales: And whereas it hath lately been decided by the Supreme Court of New South Wales that the Primary Judge in Equity hath and had no jurisdiction in such matters of lunacy as aforesaid: And whereas doubts are entertained whether the said several Primary Judges in Equity have had or have jurisdiction in matters relating to the appointment of guardians to infants and their estates as aforesaid: And whereas several parties have acted as guardians of the persons and estates of infants, and as committees of the persons and estates of lunatics and otherwise, on the belief that they had authority so to do under and by virtue of orders of the said several Primary Judges in Equity by them severally granted or made in the Equitable Jurisdiction of the said Court: And whereas it is expedient that such parties as aforesaid who have *bonâ fide* acted under and by virtue, and in pursuance of the said orders so obtained and granted as aforesaid should be protected from all claims and demands, actions and suits, or other proceedings which might or may be made or instituted against them in respect of their nomination or appointment having been made without authority: And whereas it is expedient that the Chief Justice or other Judge appointed to act as Primary Judge in Equity should have jurisdiction in the premises in matters of infancy: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That all orders heretofore made by the Primary Judge in Equity for the time being in matters of lunacy and infancy, and all grants of the persons and estates of lunatics shall be held to have been and to be valid and effectual, to all intents and purposes.

Orders made by Primary Judge in Equity in matters of lunacy and infancy to be valid and effectual.

II. And be it declared and enacted, That the said Chief Justice or Judge so appointed, or to be appointed, as aforesaid, under and by virtue of the said hereinbefore recited Act, shall have full power to hear and determine all matters relating to the appointment of guardians of infants and their estates, and every order of such Chief Justice or Judge so appointed, or to be appointed, as aforesaid, shall, in all such matters, be valid, effectual, and binding, to all intents and purposes, (subject however to be appealed from in the manner in the said hereinbefore recited Act mentioned.)

Power of Primary Judge in Equity as to appointment of guardians of infants and their estates.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this twenty-first day of September, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^S. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 1st October, 1847.



An Act to facilitate the granting of Leases [Assented to, 1st
October, 1847.]

WHEREAS it is expedient to facilitate the leasing of lands and tenements: Be it enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That whenever any party to any deed made according to the tenor and effect of the form set forth in the first Schedule to this Act, or whenever any party to any other deed which shall be expressed to be made in pursuance of this Act, shall employ in such deed respectively any of the forms of words contained in column I. of the second Schedule hereto annexed, and distinguished by any number therein, such deed shall be taken to have the same effect, and be construed as if such party had inserted in such deed the form of words contained in column II. of the same Schedule, and distinguished by the same number as is annexed to the form of words employed by such party, but it shall not be necessary in any such deed to insert any such number.

Where the words of column I. of the second schedule employed, the deed to have the same effect as if words of column II. were inserted.

II. That every such deed, unless any exception be specially made therein, shall be held and construed to include all out-houses, buildings, barns, stables, yards, gardens, cellars, ancient and other lights, paths, passages, ways, waters, watercourses, liberties, privileges, easements, profits, commodities, emoluments, hereditaments, and appurtenances whatsoever to the lands and tenements therein comprised, belonging, or in anywise appertaining.

Deed to include all houses, &c.

III. That in taxing any bill for preparing and executing any deed under this Act, or which might be prepared under this Act, it shall be lawful for the proper taxing officer of the Supreme Court, and he is hereby required in estimating the proper sum to be charged for such transaction, to consider, not the length of such deed, but only the skill and labor employed, and responsibility incurred in the preparation thereof.

Remuneration for deed under the Act not to be by length only.

IV. That any deed, or part of a deed, which shall fail to take effect by virtue of this Act, shall nevertheless be as valid and effectual, and shall bind the parties thereto, so far as the rules of Law and Equity will permit, as if this Act had not been made.

Deed not taking effect by this Act to be valid.

V. That in the construction, and for the purposes of this Act and the Schedules hereto annexed, unless there be something in the subject or context repugnant to such construction, the word "lands" shall extend to all tenements and hereditaments, or any undivided part or share therein respectively; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing, and the converse; and every word importing the masculine gender only shall extend and be applied to a female as well as a male; and the word "party" shall mean and include any body, politic or corporate, or collegiate, as well as an individual.

Construction clause.

VI. That the Schedules, and the directions and forms therein contained, shall be deemed and taken to be parts of this Act.

Schedules, &c., part of Act.

CHARLES NICHOLSON,

Speaker.

Passed the Legislative Council, this twenty-first day of September, one thousand eight hundred and forty-seven.

In the name, and on the behalf of Her Majesty, I assent to this Act.

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^s. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 1st October, 1847.

SCHEDULES

SCHEDULES REFERRED TO.

The first Schedule.

This Indenture made the day of , one thousand eight hundred and forty- (or other year) in pursuance of an Act to facilitate the granting of leases between (here insert the names of the parties, and recitals, if any,) witnesseth, that the said (lessor) or (lessors) doth or do demise unto the said (lessee) or (lessees) his (or their) heirs or executors, administrators, and assigns, as the case may be, all, &c., (parcels) from the day of , for the term of thence ensuing, yielding and paying therefor during the said term the rent of (state the rent and mode of payment.) In witness whereof the said parties hereto have hereunto set their hands and seals.

The second Schedule.

Directions as to the forms in this Schedule.

- 1.—Parties who use any of the forms in the first column in this schedule may substitute for the words "lessee" or "lessor" any name or names, and in every such case corresponding substitutions shall be taken to be made in the corresponding forms in the second column.
2.—Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in the forms in the first column of this schedule, and corresponding changes shall be taken to be made in the corresponding forms in the second column.
3.—Such parties may fill up the blank spaces left in the forms 4 and 5, in the first column of this schedule so employed by them, with any words or figures, and the words or figures so introduced shall be taken to be inserted in the corresponding blank spaces left in the forms embodied.
4.—Such parties may introduce into, or annex to, any of the forms in the first column, any express addition to, exceptions from, or express qualifications thereof respectively, and the like additions, exceptions, or qualifications shall be taken to be made from, or in the corresponding forms in the second column.
5.—Where the premises demised shall be of freehold tenure, the covenants 1 to 10 shall be taken to be made with, and the proviso 11 to apply to, the heirs and assigns of the lessor; and where the premises demised shall be of leasehold tenure, the covenants and proviso shall be taken to be made with, and apply to, the lessor, his executors, administrators, and assigns, unless otherwise stated.

Column 1.

Column 2.

1. That the said (lessee) covenants with the said (lessor) to pay rent;

1. And the said lessee doth hereby, for himself, his heirs, executors, administrators, and assigns, covenant with the said lessor that he, the said lessee, his executors, administrators, and assigns will, during the said term, pay unto the said lessor the rent hereby reserved, in manner hereinbefore mentioned, without any deduction whatsoever.

2. And to pay taxes;

2. And also will pay all taxes, rates, duties, and assessments whatsoever, now charged, or hereafter to be charged, upon the said demised premises, or upon the said lessor, on account thereof.

3. And to repair;

3. And also will, during the said term, well and sufficiently repair, maintain, pave, empty, cleanse, amend, and keep the said demised premises, with the appurtenances, in good and substantial repair, together with all chimney-pieces, windows, doors, fastenings, water-closets, cisterns, partitions, fixed presses, shelves, pipes, pumps, pales, rails, locks, and keys, and all other fixtures and things which at any time during the said term shall be erected and made when, where, and so often as need shall be.

4. And to paint outside every year;

4. And also that the said lessee, his executors, administrators, and assigns, will in every year, in the said term paint all the outside wood-work and iron-work belonging to the said premises with two coats of proper oil colors, in a workmanlike manner.

5. And to paint and paper inside every year;

5. And also that the said (lessee,) his executors, administrators and assigns will in every year, paint the inside wood, iron, and other works, now or usually painted, with two coats of proper oil colors, in a workmanlike manner; and also to re-paper, with paper of a quality as at present, such parts of the premises as are now papered; and also wash, stop, whiten, or color such parts of the said premises as are now plastered.

6. And to insure from fire in the joint names of the said (lessor) and the said (lessee.)

6. And also that the said lessee, his executors, administrators, and assigns, will forthwith insure the said premises hereby demised to the full value thereof, in some respectable Insurance Office, in the joint names of the said lessor, his executors, administrators and assigns, and the said lessee, his executors, administrators, and assigns, and keep the same so insured during the said term, and will, upon the request of the said lessor, or his agent, shew the receipt for the last premium paid for such insurance for every current year; and as often as the said premises hereby demised shall be burnt down, or damaged by fire, all and every the sum or sums of money which shall be recovered or received by the said (lessee,) his executors, administrators, or assigns, for or in respect of such insurance, shall be laid out and expended by him in building or repairing the said demised premises, or such parts thereof as shall be burnt down, or damaged by fire as aforesaid.

Column 1—continued.

7. And that the said (*lessor*) may enter and view state of repair; and that the said (*lessee*) will repair according to notice.

8. That the said (*lessee*) will not use premises as a shop.

9. And will not assign without leave;

10. And that he will leave premises in good repair.

11. Proviso for re-entry by the said lessor on non-payment of rent, or non-performance of covenants.

12. The said (*lessor*) covenants with the said (*lessee*) for quiet enjoyment.

Column 2—continued.

7. And it is hereby agreed that it shall be lawful for the said lessor and his agents, at all reasonable times during the said term, to enter the said demised premises, to take a schedule of the fixtures and things made and erected thereupon, and to examine the condition of the said premises, and further, that all wants of reparation which upon such views shall be found, and for the amendment of which notice in writing shall be left at the premises, the said lessee, his executors, administrators, and assigns will, within three calendar months next after every such notice, well and sufficiently repair and make good accordingly.

8. And also that the said lessee, his executors, administrators, and assigns, will not convert, use, or occupy the said premises, or any part thereof, into or as a shop, warehouse, or other place for carrying on any trade or business whatsoever, or suffer the said premises to be used for any such purpose, or otherwise than as a private dwelling house, without the consent, in writing, of the said lessor.

9. And also that the said (*lessee*) shall not, nor will, during the said term, assign, transfer, or set over, or otherwise by any act or deed procure the said premises, or any of them, to be assigned, transferred, or set over unto any person or persons whomsoever, without the consent, in writing, of the said (*lessor*), his executors, administrators, or assigns first had and obtained.

10. And further that the said (*lessee*) will, at the expiration or other sooner determination of the said term, peaceably surrender and yield up unto the said lessor the said premises hereby demised, with the appurtenances, together with all buildings, erections, and fixtures now or hereafter to be built or erected thereon, in good and substantial repair and condition in all respects, reasonable wear and tear, and damage by fire only excepted.

11. Provided always, and it is expressly agreed, that if the rent hereby reserved, or any part thereof, shall be unpaid for fifteen days after any of the days on which the same ought to have been paid, (although no formal demand shall have been made thereof) or in case of the breach or non-performance of any of the covenants and agreements herein contained on the part of the said lessee, his executors, administrators, and assigns, then and in either of such cases, it shall be lawful for the said lessor, at any time thereafter, into, and upon the said demised premises, or any part thereof, in the name of the whole to re-enter, and the same to have again, re-possess, and enjoy as of his or their former estate, anything hereinafter contained to the contrary notwithstanding.

12. And the lessor doth hereby, for himself, his heirs, executors, administrators, and assigns, covenant with the said lessee, his executors, administrators, and assigns, that he and they paying the rent hereby reserved, and performing the covenants hereinbefore on his and their part contained, shall and may peaceably possess and enjoy the said demised premises for the term hereby granted, without any interruption or disturbance from the said lessor, his executors, administrators, or assigns, or any other person or persons lawfully claiming by, from, or under him, them, or any of them.

No. XXIX.

An Act to amend an Act, intituled, "An Act for the more effectual appropriation of Fines and Penalties, in certain cases, in the Colony of New South Wales." [Assented to, 2nd October, 1847.]

WHEREAS by an Act of the Governor and Legislative Council of New South Wales, intituled, "An Act for the more effectual appropriation of Fines and Penalties, in certain cases, in the Colony of New South Wales," passed in the second year of the reign of Her present Majesty, provision was made for the appropriation, in this Colony, of certain

Appropriation of
Fines and Penalties
under Acts of Par-
liament adopted in
New South Wales.

certain Fines and Penalties, which in England are directed by certain Statutes to be paid for the use of the poor of any parish, township, or other place: And whereas there are certain other Laws and Statutes in force within the realm of England, and which are also applicable to the said Colony, and which direct the appropriation of Fines, Forfeitures, and Penalties for the use of the General Rates of the county, riding, or division in which the township or place is situated, and it is expedient that such Fines, Forfeitures, and Penalties should be paid in like manner as prescribed by the said recited Act of Council: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That whenever any Law or Statute that is or shall be in force within the Realm of England, and which shall be in other respects applicable to the said Colony, or which shall have been or shall be adopted in the said Colony, shall direct the appropriation of any Fine, Forfeiture, Penalty, or sum of money, or any part thereof, to be paid to the Overseers of the Poor for the use of County or other Rates, or to any person or persons, or for any purpose or purposes inapplicable to the state or circumstances of the said Colony, the same shall be and is hereby required to be paid at the discretion of the Justice, Judge, or Court, imposing the Fine, Forfeiture, or Penalty, to the Treasurer or other authorised officer of any Benevolent or Charitable Institution established, or to be established, in any District of the said Colony, for the relief of such poor persons as through age, accident, or infirmity, are unable to support themselves: Provided, that in any District, except as hereinafter provided, in which there is no such Benevolent or Charitable Institution, the same shall be paid towards the support of the Benevolent Asylum in the City of Sydney: Provided also, that all Fines, Forfeitures, or Penalties which may be levied in those parts of the District of Port Phillip, where no such institution exists, shall be paid towards the support of the Melbourne Hospital.

Not to affect the
Royal prerogative.

II. Provided always, and be it enacted, That nothing herein contained shall abridge or interfere with Her Majesty's Prerogative; and provided also that it shall be lawful for the Governor of the said Colony (whenever he shall see fit) to remit the whole or any part of any of such Fines, Forfeitures, or Penalties; and every such Fine, Forfeiture, or Penalty so remitted, shall become null and void, any conviction, suit, or other proceeding to the contrary notwithstanding.

CHARLES NICHOLSON,

Speaker.

Passed the Legislative Council, this ninth day of June, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,

CH^S. A. FITZ ROY,

CLERK OF THE COUNCIL.

GOVERNOR.

Govt. House, Sydney, 2nd October, 1847.

No. XXX.

An Act for the better punishment of Indecent Assaults upon Female Children. [Assented to, 2nd October, 1847.]

Preamble.

Punishment provided
for certain indecent
assaults upon female
children under ten
years of age.

WHEREAS it is expedient to provide for the more effectual punishment of offenders, in cases of indecent assaults on female children: Be it enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That every person who, after the passing of this Act, shall be convicted of any assault with intent to commit the crime of rape, or any assault with intent unlawfully and carnally to know and abuse any girl under the age of ten years, shall be liable to transportation for such term (not being more than fifteen years, nor less than seven years) as the Court shall think fit, or to such period of hard labor as is or shall be by law provided in lieu of transportation for that term.

II.

II. And be it enacted, That where any person shall be tried on any information or indictment, charging him with the commission of the crime of rape, or with having unlawfully and carnally known and abused any girl under the age of ten years, it shall be lawful for the jury to acquit him of the crime or offence so charged, and to find a verdict against him (if the evidence shall warrant such finding,) of guilty of assault, with intent to commit the same; and such person shall, upon such finding, be deemed and taken to be convicted, within the meaning of the preceding section; and such verdict may be found, in respect of any such girl under the age of ten years, notwithstanding that she may or shall have consented to the act or acts proved against the prisoner.

Offenders may be found guilty of assault with intent, &c.

III. And be it enacted, That every person who, after the passing of this Act, shall be convicted of the offence of unlawfully and carnally knowing and abusing any girl, above the age of ten years, and under the age of twelve years, shall be liable to transportation for such term (not being more than ten years nor less than five years,) as the Court shall think fit, or to such period of hard labor as is or shall be by law provided in lieu of transportation for that term; and on any information or indictment for such offence, it shall be lawful for the jury to acquit the prisoner of the same, and to find a verdict against him (if the evidence shall warrant such finding) of guilty of an attempt to commit the same offence; and the Court may, upon such finding, sentence him to hard labor, with or without imprisonment, for any term not exceeding three years.

Punishment for offences against female children above ten and under twelve years of age.

IV. And be it enacted, That if any person shall unlawfully and indecently assault any female child under the age of twelve years, whether such assault be with or without the consent of such child, every such offender shall be guilty of a misdemeanor, and being convicted thereof shall be kept to hard labor upon the roads, or other public works in the said Colony, for any term not exceeding three years: Provided always, that if such offender be a transported felon, the Court may direct that the said labor shall be performed by the said offender in irons.

Indecent assault upon a female child, under twelve years of age, a misdemeanor.

V. And be it enacted, That if any person, who shall have been convicted of the misdemeanor hereinbefore mentioned, shall afterwards commit any such misdemeanor, such person shall be deemed guilty of felony, and being convicted thereof, shall be transported for any term not more than ten years; or sentenced to such period of hard labor as is, or shall be by law provided in lieu of transportation for that that term.

Second conviction a felony.

VI. And be it enacted, That in any indictment or information for the felony hereinbefore mentioned, it shall be sufficient to state that the offender was at a certain time and place convicted of an indecent assault upon a female child, without otherwise describing such previous conviction; and a certificate, containing the substance and effect only, (omitting the formal part) of the indictment or information, and of the conviction for such indecent assault, purporting to be signed by the Clerk or other officer having the custody of the Records of the Court where the offender was so convicted, shall, upon proof of the identity of the person of the offender, be sufficient evidence of such conviction, without proof of the signature, or of the official character of the person appearing to have signed the same: Provided always, that it shall not be lawful on the trial of any person for any such felony, to charge the jury to inquire concerning such previous conviction until after they have inquired concerning such felony, and shall have found such person guilty of the same; and whenever, in such indictment or information, such previous conviction shall be stated, the reading of such statement to the jury, as part of the indictment or information, shall be deferred until after such finding as aforesaid: Provided nevertheless, that if upon the trial for such felony as aforesaid, such person shall offer evidence of his good character, it shall be lawful for the prosecutor, in answer thereto, to give evidence of such

Practice on trial of such felony.

such previous conviction before such verdict of guilty shall have been returned, and the jury shall then inquire concerning such previous conviction at the same time that they inquire concerning such felony.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this twenty-ninth day of September, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

W.M. MACPHERSON,
CLERK OF THE COUNCIL.

CH^s. A. FITZ ROY.
GOVERNOR.

Govt. House, Sydney, 2nd October, 1847.

No. XXXI.

An Act to enable Trustees of Commons in New South Wales, to have perpetual succession, and to empower them to regulate the use of such lands as may be granted as Commons within the said Colony; and for other purposes relating thereto. [Assented to, 2nd October, 1847.]

Preamble.

WHEREAS by various instruments, respectively under the hand of the Governor for the time being of the Colony of New South Wales, certain portions of land were allotted as common lands, for the use of the settlers and cultivators in the respective districts in or next to which such lands are severally situated, but such instruments are deemed insufficient, in law, for the purposes of securing and regulating the rights of common intended to be thereby granted: And whereas it is expedient that bodies of Trustees, with perpetual succession, should be created, for the purpose of holding such common lands, under grants from the Crown, for the use aforesaid, and of making such regulations in relation to common lands heretofore allotted, or which may at any time hereafter be granted by the Crown, as may be necessary for the more effectual and equal enjoyment of the same: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That when and so often as any grant from the Crown shall be made unto and to the use of Trustees and their successors, of any lands as commons for the use of the settlers, and cultivators, and other inhabitants, of any parish or district within the said Colony, such Trustees and their successors, to be appointed as hereinafter is provided, shall be a body corporate under the name of the Trustees of the district in such grant specified, and under that name shall have perpetual succession, and shall be sued and sue in relation to the said common, and shall be capable of holding such common lands, in perpetuity upon the trusts and for the uses declared in such grant.

Trustees and their successors to be a body corporate, and as such may sue and be sued.

Vacancies occurring by death or otherwise, how to be supplied.

II. And be it enacted, That when any Trustee of any such common shall die, or be absent from the Colony for more than twelve months, or refuse or become incapable to act in the trusts, or powers reposed in him, in relation to the said common, then and so often as the same shall happen, a meeting of the persons entitled to the use of such common, shall be convened by the surviving or continuing Trustees, or one of them, by a notice to be affixed in the office of the nearest Court of Petty Sessions, and also in two or more conspicuous places on the said common, at which meeting the senior Trustee present thereat shall preside; and at such meeting, a new Trustee shall be elected by the majority of persons present, who in the opinion of the Trustees or Trustee so presiding, then are and shall for six months previously, have been entitled to use the said common; and every such election shall be forthwith communicated by the presiding Trustees or Trustee, to the Colonial Secretary for the time being of the said Colony: Provided always, that if no such election shall have taken place,

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place, within twelve months after any vacancy shall have occurred, it shall and may be lawful for the said Governor for the time being, to appoint a new Trustee to fill every such vacancy.

III. And be it enacted, That the Trustees for the time-being, of ^{Trustees to regulate rights of settlers, &c., as to grazing :} any such common, or the majority of them, shall have power to ascertain, determine, and declare by writing, under their hands and seals, from time to time, the number and description of cattle and other stock, which the respective settlers, cultivators, and other inhabitants, for whose use the common shall have been granted, shall, having reference to the grant thereof, be entitled to depasture upon the said common, in right of their respective farms, lands, and houses: Provided, however, that such writing be forthwith deposited in the office of the nearest Court of Petty Sessions, and that if any person shall feel himself aggrieved, by the decision of the Trustees in this behalf, he shall be at liberty to appeal at any time within two months, from the time of depositing such writing in the said office, to the said Court, which said Court shall have full power to hear and determine the said appeal in a summary manner, and to confirm or alter the decision of the said Trustees in relation to the party so appealing. ^{subject to appeal to nearest Court of Petty Sessions :}

IV. And be it enacted, That it shall and may be lawful for the Trustees for the time being of any such common to make such rules and regulations for the better and more convenient and equal use and enjoyment of the said common, and of the timber growing or being thereon, and of all other rights, privileges, and easements incident thereto, by the persons having right of common thereon, under the grant thereof, as to them shall seem necessary or expedient; and for the enforcement of such rules and regulations to impose fines not exceeding, in any one case, the sum of ten pounds for breaches thereof, respectively; and also for raising, assessing, levying, and appropriating such monies as shall be required for the purpose of defraying any costs, charges, and expenses which the said Trustees shall or may at any time be put or exposed to, in or about the maintaining or improving of the said common, or in the protection of the rights of the said common; and a copy of such rules and regulations shall, within fourteen days from the making thereof, be transmitted to the office of the nearest Court of Petty Sessions, and also to the Governor for the time being of the said Colony, who shall have power, at any time within two months from the receipt of such copy, to disallow the said rules and regulations, or any of them, and shall signify such disallowance to the Court of Petty Sessions nearest to the said common, and in the meantime, no such rules or regulations shall be in force. ^{and may make regulations, and enforce the same by fines,} ^{subject to the approval of the Governor,}

V. And be it enacted, That the Trustees for the time being of any such common, or the major part of them, with the consent of the majority of the commoners assembled at a meeting convened for that purpose as hereinbefore mentioned, shall have power to grant leases of portions of such common, not exceeding in the whole one-fourth part thereof, at any one time, for terms not exceeding seven years, for the purpose and on condition that the lands so let shall be cleared of timber, or otherwise improved by the tenants thereof, so as to be of increased value as common, at the expiration of certain leases. ^{and with the approval of the commoners may grant leases :}

VI. And be it enacted, That any one or more of the Trustees of any such common shall have power to distrain, or cause to be distrained and impounded, any cattle or other stock found depasturing upon the said common which shall belong to any person not entitled to the use thereof, or to any commoner who shall, at the time of such distress, have surcharged thereon; and also to claim, demand, and recover such damages, in respect of such cattle or other stock so distrained, as could or might be claimed by the owner of any private lands in respect of animals found trespassing and doing damage upon the same. ^{and may distrain stock trespassing.}

VII. And be it enacted, That all and every the persons entitled for the time being to the use of the said common as commoners thereon, shall have all the same rights and remedies between themselves and against strangers as, by the Law of England, are possessed and enjoyed by commoners on the waste lands of any manor in England; and that all persons whatsoever,

whatsoever shall be subject to the same liabilities in relation to commons in the said Colony, as if the same respectively were commons in England aforesaid.

As to moneys received or recovered by Trustees.

VIII. And be it enacted, That all sums of money recovered and received by the Trustees of any common for trespasses or otherwise, under this Act, shall be expended by the said Trustees in or about the improving of the said common or otherwise in relation thereto; and a just and true account of such receipts and expenditure shall be exhibited by the said Trustees at the Court of Petty Sessions nearest to the said common, and shall be published in the *New South Wales Government Gazette*, at some time during the month of January in every year.

Recovery and appropriation of Fines and Penalties.

IX. And be it enacted, That all fines and penalties inflicted or imposed under the provisions of this Act, or by or under any rule, order, or bye-law made in pursuance thereof, may, in case of non-payment, be recovered in a summary way by the order and adjudication of any one Justice of the Peace presiding at Petty Sessions, on complaint made to him on the oath or affirmation of any of the said Trustees, or of any person having a right of commonage, or on the confession of the party or parties offending, (which oath, affirmation, or confession, such Justice is hereby required and empowered to administer and receive,) and in default of immediate payment of any such fine or penalty, the same shall be levied by distress and sale of the offender's goods and chattels by warrant under the hand and seal of such Justice, and the same shall be paid over to the Colonial Treasurer for and on behalf of Her Majesty, Her Heirs and Successors, for the public uses of the said Colony, rendering the overplus, (if any) on demand, to the party or parties whose goods and chattels shall be so distrained and sold, the reasonable charge of such distress and sale being first deducted; and in case any such fines or penalties be not forthwith paid, it shall be lawful for such Justice, and he is hereby required and empowered to order such offender or offenders to be kept in safe custody until return can conveniently be made to such warrant of distress, unless such offender or offenders shall give sufficient security to the satisfaction of such Justice for his or her appearance before such Justice, or before some other Justice, on such day as shall be appointed for the return of such warrant of distress; but if it shall appear on return of said warrant, that no sufficient distress can be had whereupon to levy the said fine or penalty, and such costs as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of said Justice, upon confession of the offender or otherwise, that he or she hath not sufficient goods and chattels whereupon such fines or penalties can be levied if a warrant of distress were issued, such Justice shall not be required to issue such warrant of distress, and thereupon it shall be lawful for such Justice, by warrant under his hand and seal, to commit such offender to any common gaol or house of correction, there to remain for any time not exceeding three calendar months, unless such fine or penalty be sooner paid or satisfied, together with all the costs and charges attending such prosecution, to be ascertained by such Justice.

Distress and sale.

Imprisonment when not sufficient distress.

CHARLES NICHOLSON,

Speaker.

Passed the Legislative Council, this sixteenth day of June, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

W. M. MACPHERSON,
CLERK OF THE COUNCIL.

CH^s A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 2nd October, 1847.

An Act for Compensating the Families of Persons killed by Accidents. [Assented to, 2nd October, 1847.]

WHEREAS no action at law is now maintainable against a person ^{Preamble.} who by his wrongful act, neglect, or default, may have caused the death of another person, and it is oftentimes right and expedient that the wrongdoer in such case should be answerable in damages for the injury so caused by him: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That whensoever the death of a person shall be caused by a wrongful act, neglect, or default, and the act, neglect, or default, is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, then and in every such case the person who would have been liable if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony.

II. And be it enacted, That every such action shall be for the benefit of the wife, husband, parent, and child of the person whose death shall have been so caused, and shall be brought by and in the name of the executor or administrator of the person deceased; and in every such action the jury may give such damages as they may think proportioned to the injury resulting from such death to the parties respectively for whom and for whose benefit such action shall be brought; and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties, in such shares as the jury by their verdict shall find and direct.

III. Provided always, and be it enacted, That not more than one action shall lie for and in respect of the same subject matter of complaint; and that every such action shall be commenced within twelve calendar months after the death of such deceased person.

IV. And be it enacted, That in every such action the plaintiff on the record shall be required, together with the declaration, to deliver to the defendant or his attorney, a full particular of the person or persons for whom and on whose behalf such action shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

V. And be it enacted, That the following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject matter; that is to say, words denoting the singular number are to be understood to apply also to a plurality of persons or things; and words denoting the masculine gender are to be understood to apply also to persons of the feminine gender; and the word "person" shall apply to bodies politic and corporate; and the word "parent" shall include father and mother, and grandfather and grandmother, and stepfather and stepmother; and the word "child" shall include son and daughter, and grandson and granddaughter, and stepson and stepdaughter.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this eighth day of June, one thousand eight hundred and forty-seven. } *In the name and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^s. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 2nd October, 1847.

No. XXXIII.

**An Act to regulate the Taxation of Attorneys Bills of Costs and
the practice of Conveyancing. [Assented to, 2nd October,
1847.]**

Preamble.

Attorneys not to commence an action for fees until one month after delivery of bill of costs.

Taxation of bills whether relating to business transacted in Court or not.

Taxation after one month.

WHEREAS it is expedient that attorneys' bills of costs, whether for law, equity, criminal, conveyancing, or other business transacted by them as such attorneys, should be liable to be taxed, and that the practice of conveyancing should be regulated: Be it enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That from and after the passing of this Act, no attorney, nor any executor, administrator, or assignee of any attorney, or the trustee of his estate, shall commence or maintain any action or suit for the recovery of any fees, charges, or disbursements, for any business done by such attorney, until the expiration of one month after such attorney, or executor, administrator, or assignee of such attorney, shall have delivered unto the party to be charged therewith, or sent by the post to, or left for him at his counting house, office of business, dwelling house, or last known place of abode, a bill of such fees, charges, and disbursements, and which bill shall be subscribed by such attorney, in his proper handwriting, (or in the case of partnership, by any of the partners, either with his own name, or with the name and style of such partnership,) or by the executor, administrator, or assignee of such attorney, or the trustee of his estate; and upon the application of the party chargeable by such bill within such month, an appointment for taxation of the same may be obtained, as of course, and without order of a Judge, from the Master in Equity, in case the whole of the business contained in such bill shall have been transacted in the Supreme Court in its equitable jurisdiction, or in any matter of lunacy, or shall relate to conveyancing business; from the Chief Commissioner of Insolvent Estates in case of the whole of such business contained in such bill shall have been transacted in the Supreme Court in its Insolvency Jurisdiction; and from the Prothonotary of the Supreme Court, in every other case including criminal business; and though the business or part of the business contained in such bill shall not have been transacted in the Supreme Court; and thereupon such bill and the demand of such attorney, executor, administrator, or assignee shall be taxed and settled by such officer without any money being brought into Court, and the Supreme Court or a Judge thereof shall restrain such attorney, or executor, administrator, or assignee of such attorney, or the trustee of his estate, from commencing any action or suit touching such demand pending such taxation; and the costs of such taxation shall, as hereinafter provided, be paid according to the event of such taxation.

II. And be it enacted, That in case no such application as aforesaid shall be made within such month as aforesaid, then it shall be lawful for the Supreme Court, or a Judge thereof, either upon the application of the attorney, or the executor, administrator, or assignee of the attorney, or the trustee of his estate, whose bill may have been so delivered, sent, or left as aforesaid, or upon the application of the party chargeable by such bill, with such directions, and subject to such conditions as the Court or Judge making such reference shall think proper, to refer such bill, and the demand of such attorney, or executor, administrator, or assignee of such attorney, or the trustee of his estate, thereupon to be settled and taxed by such officer of the Court as aforesaid; and in case any such reference as aforesaid shall be made on the application of the party chargeable by such bill, then without any money being brought into Court; and such Court or Judge may restrain such attorney, or the executor, administrator, or assignee of such attorney, or the trustee of his estate, from commencing or prosecuting any action or suit touching such demand, pending such reference upon such terms as shall be thought fit:

Provided

Provided always, that no such reference as aforesaid shall be directed upon an application made by the party chargeable with such bill, after a verdict shall have been obtained, judgment signed, or a writ of inquiry executed in any action for the recovery of the demand of such attorney, or executor, administrator, or assignee of such attorney, or the trustee of his estate, or after the expiration of twelve months after such bill shall have been delivered, sent, or left as aforesaid, except under special circumstances, to be proved to the satisfaction of the Supreme Court or a Judge thereof, to whom the application for such reference shall be made.

III. And be it enacted, That upon every such appointment, reference, if either the attorney, or executor, administrator, or assignee of the attorney or trustee of his estate, whose bill shall have been delivered, sent, or left, or the party chargeable with such bill having due notice, shall refuse or neglect to attend such taxation, the officer to whom such appointment or reference shall be made, may proceed to tax and settle such bill and demand ex parte; and in case any appointment or reference as aforesaid shall be obtained or made upon the application of the party chargeable with such bill, or upon the application of such attorney, or the executor, administrator, or assignee of such attorney, or trustee of his estate, and the party chargeable with such bill shall attend upon such taxation, the costs of such appointment or reference shall, except as hereinafter provided for, be paid for according to the event of such taxation; that is to say, if such bill when taxed, be less by a sixth part than the bill delivered, sent, or left, then such attorney, or executor, administrator, or assignee of such attorney, or trustee of his estate, shall pay such costs; and if such bill when taxed shall not be less by a sixth part than the bill delivered, sent, or left, then the party chargeable with such bill making such application, or so attending shall pay such costs; and every order to be made for obtaining such appointment or such reference as aforesaid shall direct the officer to whom such reference shall be made, to tax such costs of such appointment or reference to be so paid as aforesaid, and to certify what, upon such taxation, shall be found to be due to or from such attorney, or executor, administrator, or assignee of such attorney, or trustee of his estate, in respect of such bill or demand, and of the costs of such appointment or reference (if payable:) Provided always, that such officer shall in all cases be at liberty to certify specially any circumstances relating to such bill or taxation, and the Court or Judge shall in all cases be at liberty to make thereupon such order as such Court or Judge may think right respecting the payment of the costs of such taxation: Provided also, that where such reference as aforesaid shall be made, as hereinbefore provided, then the said Court or Judge shall be at liberty, if it shall be thought fit, to give any special directions relative to the costs of such reference: And provided further, that it shall be lawful for the said Court or Judge, in any case to make such order for the delivery by any attorney, or the executor, administrator, or assignee of any attorney, or trustee of his estate, of such bill as aforesaid, and for the delivery up of deeds, documents, or papers in his custody, possession, or power, or otherwise touching the same, in the same manner as has heretofore been done as regards such attorney by such Court or Judge, where any such business had been transacted in the Court.

IV. And be it enacted, That it shall not in any case be necessary in the first instance, for such attorney, or the executor, administrator, or assignee of such attorney, or trustee of his estate, in proving a compliance with this Act, to prove the contents of the bill he may have delivered, sent, or left, but it shall be sufficient to prove that a bill of fees, charges, or disbursements, subscribed in the manner aforesaid, was delivered, sent, or left in manner aforesaid; but nevertheless it shall be competent for the other party to shew that the bill so delivered, sent, or left, was not such a bill as constituted a *bonâ fide* compliance with this Act: Provided always, that it shall be lawful for any Judge of the Supreme Court to authorize an attorney to commence an action or suit for the recovery of his fees, charges, or disbursements, against the party chargeable

Taxation after twelve months under special circumstances.

OR Payment of costs of taxation.

Court may order attorney to deliver his bill, and to deliver up deeds, &c.

Evidence of delivery of bill.

Power in Judge to authorize action before one month.

chargeable therewith, although one month shall not have expired from the delivery of a bill as aforesaid, on proof to the satisfaction of the said Judge, that there is probable cause for believing that such party is about to quit the said Colony.

Costs allowed according to skill and responsibility.

V. And be it enacted, That in taxing any bill for preparing or drawing any deed, contract, case, or other document, it shall be lawful for the taxing officer, and he is hereby required, in estimating the proper sum to be charged for such transaction, to consider the skill and labor properly employed, and the expense and responsibility incurred in the preparation thereof.

Bills may be taxed upon the application of third parties.

VI. And be it enacted, That where any person not the party chargeable with any such bill, within the meaning of the provisions hereinbefore contained, shall be liable to pay, or shall have paid such bill, either to the attorney, his executor, administrator, or assignee, or the trustee of his estate, or to the party chargeable with such bill as aforesaid, it shall be lawful for such person, his executor, administrator, or assignee, or the trustee of his estate, to make such application for a reference for the taxation and settlement of such bill as the party chargeable therewith might himself make; and the same reference and order shall be made thereupon, and the same course pursued in all respects, as if such application was made by the party so chargeable with such bill as aforesaid: Provided always, that in case such application is made when under the provision herein contained a reference is not authorized to be made except under special circumstances, it shall be lawful for the Court or Judge to whom such application shall be made, to take into consideration any additional special circumstances applicable to the person making such application, although such circumstances might not be applicable to the party so chargeable with the said bill as aforesaid, if he was the party making the application.

A Judge may direct taxation of bills chargeable on executors, &c., upon application of a party interested.

VII. And be it enacted, That it shall be lawful in any case in which a trustee, executor, or administrator has become chargeable with any such bill as aforesaid, for a Judge of the Supreme Court, if in his discretion he shall think fit, upon the application of a party interested in the property out of which such trustee, executor, or administrator may have paid, or be entitled to pay such bill, to refer the same and such attorney's, or executor's, administrator's, or assignee's demand, or the demand of the trustee of his estate thereupon, to be taxed and settled by the proper officer aforesaid, with such directions, and subject to such conditions, as such Judge shall think fit, for the payment of what may be found due, and of the costs of such reference to or by such attorney, or the executor, administrator, or assignee of such attorney, or the trustee of his estate, by or to the party making the application, having regard to the provisions herein contained relative to applications for the like purpose by the party chargeable with such bill, so far as the same shall be applicable to such cases; and in exercising such discretion as aforesaid the said Judge may take into consideration the extent and nature of the interest of the party making such application: Provided always, that where any money shall be so directed to be paid by such attorney, or the executor, administrator, or assignee of such attorney, or the trustee of his estate, it shall be lawful for such Judge, if he shall think fit, to order the same, or any part thereof, to be paid to such trustee, executor, or administrator so chargeable with such bill, instead of being paid to the party making such application; and when the party making such application shall pay any money to such attorney, or executor, administrator, or assignee of such attorney, or the trustee of his estate, in respect of such bill, he shall have the same right to be paid by such trustee, executor, or administrator so chargeable with such bill, as such attorney, or executor, administrator, or assignee of such attorney, or the trustee of his estate had.

Delivery of bill to third parties.

VIII. And be it enacted, That for the purpose of any such reference, upon the application of the person not being the party chargeable within the meaning of the provisions of this Act as aforesaid, or of a party interested as aforesaid, it shall be lawful for the Supreme Court, or a

Judge

Judge thereof, to order any such attorney, or the executor, administrator, or assignee of any such attorney, or the trustee of his estate, to deliver to the party making such application a copy of such bill, upon payment of the costs of such copy.

IX. And be it enacted, That no bill which shall have been previously taxed and settled, either under an appointment or order of reference, shall be again referred, unless under special circumstances the Court or Judge to whom such application is made shall think fit to direct a re-taxation: Provided nevertheless, that where a bill of costs shall have been taxed, an order for review of the taxation may be made, after rule or summons to shew cause, by the Supreme Court, or a Judge thereof, and it shall be lawful for such Court or Judge, in case they or he shall think fit, thereupon to direct the proper officer aforesaid to review and correct such taxation instanter, and whether the order applied for be granted or refused, the costs of the application shall be, in all cases, in the discretion of the Court or Judge.

X. And be it enacted, That the payment of any such bill as aforesaid shall, in no case, preclude the Court or Judge from referring such bill for taxation if the special circumstances of the case shall, in the opinion of such Court or Judge, appear to require the same, upon such terms and conditions, and subject to such directions, as to such Court or Judge shall seem right: Provided always, that the application for such reference be made within twelve calendar months after payment.

XI. And be it enacted. That in all cases in which such bill shall have been referred to be taxed and settled by the Prothonotary of the Supreme Court, such officer shall be at liberty to request the Chief Commissioner of Insolvent Estates, or Master in Equity, to assist him in taxing and settling any bill, or any part of such bill; and such officer, so requested, shall thereupon proceed to tax and settle the same, and shall have the same powers in respect thereof as upon a reference to him, and shall return the same, with his opinion thereon, to the Prothonotary.

XII. And be it enacted, That all applications made under this Act to refer any such bill as aforesaid to be taxed and settled, and for the delivery of such bill, and for the delivery up of deeds, documents, and papers, shall be made in the matter of such attorney, and that upon the taxation, or re-taxation and settlement of any such bill, the certificate of the officer by whom such bill shall have been taxed shall (unless set aside or altered by order, decree, or rule of Court) be final and conclusive as to the amount thereof, and payment of the amount certified to be due, and directed to be paid, may be enforced according to the course and practice of the Supreme Court; and it shall be lawful for such Court, or a Judge thereof, to order judgment to be entered up for such amount, with costs, unless the retainer shall be disputed, or to make such other order thereon as such Judge shall deem proper.

XIII. And be it enacted, That from and after the first day of January next, every person who shall for or in expectation of any fee, gain, or reward, directly or indirectly draw or prepare any conveyance, or other deed or instrument in writing, relating to any real estate, or any proceedings in Law or Equity, (other than and except Barristers, or Attorneys and Solicitors of the Supreme Court, or Certificated Conveyancers as hereinafter mentioned; and other than and except persons solely employed to engross any deed, instrument, or other proceeding, not drawn or prepared by themselves, and for their own account respectively; and other than and except Public Officers drawing or preparing official instruments, applicable to their respective offices, and in the course of their duty,) shall be deemed guilty of a contempt of the Supreme Court, and shall and may be punished accordingly, for every such offence, upon the application of any person complaining thereof; or shall, for every such offence, forfeit and pay the sum of twenty pounds, to be sued for and recovered in a summary way, before any two or more Justices of the Peace, and in accordance with the provisions of an Act passed in the fifth year of His late Majesty King William the Fourth, intituled, "*An Act to regulate summary proceedings before Justices of the Peace.*"

Certificated conveyancers.

Notice.

Examination for certificates.

XIV. And be it enacted, That every person except a Barrister, or Attorney and Solicitor of the Supreme Court, who shall be desirous of practising as a conveyancer, shall, one month at least before making application as hereinafter mentioned, give notice in such manner and form as the Judges of the Supreme Court shall direct, of his intention to apply to the said Court for a certificate to practise as a conveyancer; and any person having given such notice as aforesaid, shall be at liberty to apply to the said Court, touching his fitness to practise as a conveyancer, and thereupon the Judges, or one of them, shall direct that the applicant shall be examined at the earliest convenient time, by the Master in Equity of the said Court, (or such other one or two officers of the Court, as the Judges may appoint to assist him,) touching his, the applicant's, skill and knowledge in conveyancing, as well as to his character for integrity; and the said Master or his assistants shall be at liberty to put such questions to such applicant, in respect to the matters aforesaid, and to require such proof of his character as shall be deemed proper; and if the said applicant shall be considered of competent ability and knowledge, and a fit and proper person to practise as a conveyancer, then the said Master shall, and he is hereby empowered to grant a certificate to such applicant, authorizing him to draw, fill up, and prepare, any conveyance, will, deed, bond, lease, or agreement for a lease, or other contract whatsoever, of or relating to any estate or property, whether real or personal; and every such certificate shall be enrolled in the office of the Registrar of the Supreme Court, whereupon such applicant shall be deemed a certificated conveyancer, and entitled to practise as such; with power of appeal to the Court in case of refusal of such certificate by the Master as aforesaid.

Interpretation clause.

Port Phillip.

XV. And be it enacted, That for all the purposes of this Act, the words "Supreme Court," "Court," "Judge," shall be construed to mean the Supreme Court, holden at Sydney, by and before the Judges of the said Court, or a Judge thereof, and at Port Phillip, the Supreme Court, holden at Melbourne, by and before the Resident Judges there, or the Resident Judge there; the words "Master in Equity," shall be construed to extend and apply to the officer performing the duties of Master in Equity at Port Phillip, or such other person as the Resident Judge there shall appoint for that purpose; the words "Chief Commissioner of Insolvent Estates," shall be construed to extend and apply to the Commissioner of Insolvent Estates for the District of Port Phillip; the words "Prothonotary, or such other person as the Judges shall appoint," shall be construed to mean and apply to the Prothonotary of the Supreme Court, holden at Port Phillip, or such other person as the Resident Judge there shall appoint for that purpose; and the word "Attorney," shall be taken to mean as well Attorney as Solicitor and Proctor; the word "month" shall be taken to mean a calendar month, and every word importing the singular number only, shall extend and be applied to several persons, matters or things, as well as one person, matter or thing; and every word importing the masculine gender only, shall extend and be applied to a female as well as a male; and the word "party" or "person" shall include any body politic or corporate, as well as an individual, unless in any of the cases aforesaid there be something in the subject or context repugnant to such construction.

Number.

Gender.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this twenty-eighth day of September, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^s. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 2nd October, 1847.

No. XXXIV.

An Act to substitute other punishments for Transportation beyond the Seas. [Assented to, 2nd October, 1847.]

WHEREAS impediments have arisen to the carrying into execution Preamble.
of sentences to transportation beyond seas, passed within the Colony of New South Wales, and it is expedient and necessary to make provision for the substitution in certain cases, of other punishments in lieu of actual transportation: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That where any male offender shall now be under conviction, or shall be hereafter convicted in any Court of competent jurisdiction in New South Wales, of any offence now or hereafter punishable by law with transportation, it shall be lawful for such Court at its discretion, either to sentence such offender to transportation for the term of life, or of years, as by law in that behalf provided, or in lieu thereof, that he be kept to hard labor on the roads or other public works of the Colony, for such term as the said Court shall think fit, not being more nor less in any case than the periods next mentioned, that is to say,—in lieu of transportation for life, a period of not less than seven years nor more than fifteen years; in lieu of transportation for fifteen years, or for any term not less than seven years, and not exceeding fifteen years, a period of not less than five years nor more than ten years; and in lieu of transportation for seven years, a period of not less than three years nor more than five years; and upon all convictions for perjury, or for any felony attended with violence to the person, or committed by the offender when armed with any offensive weapon or instrument, or by means of any threat, or by putting in fear, it shall be lawful for the Court before which any such conviction shall have been had, to direct that the offender shall, whether sentenced to hard labor, or to transportation, be kept to hard labor in irons, for any term not exceeding in any case the first three years of his sentence.

Courts to have power to award hard labor on public works, in lieu of transportation;

and in certain cases to direct that the offender shall be kept in irons for a limited time.

II. And be it enacted, That it shall be lawful for the Governor or officer administering the Government of the Colony, in all cases in which he is or shall be authorized on behalf of Her Majesty, to extend mercy to any offender under sentence of death, on condition of transportation, to extend mercy in like manner, on condition of such offender being kept to hard labor on the roads or other public works, for such term as he shall think fit; and also, if he shall think proper, to direct that any offender so pardoned, whether on condition of transportation or of hard labor, shall be kept to hard labor in irons, for any term not exceeding in any case the first three years of the term of transportation, or of hard labor, on condition whereof such offender shall have been so pardoned; and such extension of mercy, whether on condition of transportation or of hard labor, shall be signified by the Colonial Secretary, to the Judge before whom such offender was convicted, who shall allow such offender the benefit of a Conditional Pardon, and shall make an order thereupon for the transportation of such offender, or for his being kept to hard labor, either in or out of irons, as the said Governor shall have directed, pursuant to the condition of such Pardon; and such allowance or order shall be considered as and have the effect of a valid sentence, made and passed by the Court, before which such offender was convicted, and shall be entered on the Records of the Court accordingly.

Governor to be empowered to commute sentences of death, to labor on public works as well as to transportation;

and to direct that the offender be kept in irons for a limited time.

Commutation to be recorded and to have the effect of a sentence.

III. And be it enacted, That where any sentence of transportation shall have been or shall be passed by any Court of competent jurisdiction within the Colony, or where any sentence of death shall have been commuted to transportation, or have been remitted on condition of transportation, every offender under such sentence, or commutation, or conditional remission, shall be liable to be summarily tried, punished, and in all other respects dealt with within the said Colony, as if he were an offender transported to the Colony from England, and whose term of transportation had

How sentences of transportation to be served.

not

How sentences to labor on the public works to be served.

not expired or been remitted; and every offender sentenced to hard labor on the roads or other public works, or pardoned on condition of being kept to hard labor as aforesaid, shall in like manner be liable to be summarily tried, punished, and dealt with, during his term of punishment, in all respects as if he were an offender transported to this Colony from England

How labor in irons to be served.

whose term of sentence had not expired or been remitted; and every offender directed as aforesaid to be kept to hard labor in irons for any term, shall be liable during such last mentioned term, to be summarily tried, punished, and dealt with as if he had arrived in the Colony as a transported offender, and had been sentenced to such labor in irons, upon a subsequent conviction within the Colony, of an offence punishable by the law of England with transportation.

Governor empowered to grant pardons on condition of exile;

IV. And be it enacted, That it shall be lawful for the Governor or officer administering the Government of the Colony, to grant to any person under any sentence or order for transportation, or of hard labor, who shall have served on the roads or other public works of the Colony for not less than two years in any case, a remission of the remainder of the term for which he shall have been so sentenced or ordered for transportation or hard labor, on condition that he shall not remain in, or come

and to make rules for remission of sentence as an incentive to good conduct.

within the Colony during the residue of his said term; and it shall be lawful for the said Governor to make such rules and regulations as he shall think fit for the mitigation or remission, conditional or otherwise, of any sentence or order for punishment under this Act, as an incentive to, or reward for, good conduct whilst the offender shall be serving under such sentence or order, and to mitigate or remit the term of punishment accordingly.

Governor may appoint places of detention for male offenders.

V. And be it enacted, That it shall be lawful for the Governor for the time being of the said Colony, by any notice to be published by His order in the *New South Wales Government Gazette*, to appoint any one or more place or places within the said Colony, or its dependencies, at which male offenders convicted therein, and under order or sentence of transportation, or under any order or sentence passed in pursuance of the provisions of this Act, shall be detained; and every such offender shall be liable to be kept to hard labor at such place or places, during such period of the sentence or term of punishment, as the said Governor shall order and direct.

Penalty on persons being at or near such places without permission.

VI. And be it enacted, That it shall not be lawful for any person whomsoever to be found at or near, or in any manner communicate with any such place so appointed by the Governor, without the permission of the said Governor, or some other proper officer, first had and obtained; and any person who shall be found at or near, or in any manner communicate with any such place as aforesaid, without such permission, shall be guilty of a misdemeanor, and upon conviction thereof before the Supreme Court, or any other Court of competent jurisdiction within the said Colony, or its dependencies, shall, for every such offence, be liable to a fine or penalty not exceeding twenty pounds, or to imprisonment for any time not exceeding three calendar months, or to both, at the discretion of the said Court.

Queen's prerogative of mercy not affected.

VII. And be it enacted and declared, That nothing in this Act contained shall or doth in any manner affect Her Majesty's Royal Prerogative of Mercy.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this twenty-ninth day of September, one thousand eight hundred and forty-seven. { In the name, and on the behalf of Her Majesty, I assent to this Act.

W. M. MACPIERSON,
CLERK OF THE COUNCIL.

CH^s. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 2nd October, 1847.

No. XXXV.

An Act to amend the Laws relating to Courts of Requests in the City of Sydney and County of Cumberland, and in the Town of Melbourne, and County of Bourke respectively. [Assented to, 2nd October, 1847.]

WHEREAS since the passing of a certain Act passed in the tenth year of the reign of Her Majesty Queen Victoria, intituled, "An Act to amend the Law respecting the recovery of Small Debts in all parts of the Colony," doubts have arisen with respect to the jurisdiction of the several Courts of Requests established in the City of Sydney, and in the County of Cumberland, and in the Town of Melbourne, and the County of Bourke, in the District of Port Phillip: And whereas it is expedient to exclude Courts of Requests established and to be established in the City of Sydney and County of Cumberland, and in the Town of Melbourne and County of Bourke, in the District of Port Phillip, from the provisions of the said recited Act, and to provide that all actions, plaints, and suits which shall have been commenced and are still pending, or which shall hereafter be commenced in any such Courts of Requests, shall, subject to the provisions hereinafter contained, be continued, heard, and determined under the provisions of a certain Act made and passed in the sixth year of the reign of Her said Majesty, intituled "An Act to consolidate and amend the Law relating to Courts of Requests, and to extend the jurisdiction of such Courts in the County of Cumberland": And whereas it is expedient, that the Commissioners and other Officers of the said several Courts of Requests, who have acted under the Acts hereinbefore mentioned, or either of them, should be protected from all actions, suits, or other proceedings, which may be instituted against them in consequence of their having so acted: Be it therefore declared and enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That nothing in the said first recited Act contained shall be deemed or construed to alter or repeal any of the provisions of the said last recited Act, passed in the sixth year of the reign of Her said Majesty, so far as relates to any Court of Requests, established or hereafter to be established in the City of Sydney, and County of Cumberland, and in the Town of Melbourne, and County of Bourke, in the District of Port Phillip aforesaid; but that all actions, plaints, and suits, which shall have been commenced and are still pending, or which shall hereafter be commenced in any such Court of Requests, shall from and after the passing of this Act, be continued, heard, and determined, under the provisions of the said last recited Act, subject nevertheless to the provisions hereinafter contained.

not to alter or repeal any provision of 6 Vict. No. 15, so far as relates to Courts of Requests in Sydney, and County of Cumberland, and in Melbourne and County of Bourke.

II. Provided always, and be it enacted, That any Court of Requests now or that may hereafter be established in the City of Sydney, and County of Cumberland, and in the Town of Melbourne and County of Bourke as aforesaid, shall respectively have jurisdiction, power, and authority to hear and determine, in a summary way, and according to equity and good conscience, all actions whatsoever for the recovery of any debt, demand, or damage, whether liquidated or unliquidated, to an amount in any case not exceeding thirty pounds, and to award costs in all such actions either to the plaintiff or the defendant, according to such rules and regulations as have been or may be established in that behalf, under the provisions of the said last recited Act: Provided however, that such Courts shall not have jurisdiction in any case where the matter in question relates to the taking of any duty to Her Majesty, or any fee of office, or to any annual rent, or other matter by which rights in future may be bound, or to any general right or duty, nor where the debt sought to be recovered is for any money or thing won at or by

Jurisdiction of Courts of Requests in the City of Sydney and County of Cumberland; and in the Town of Melbourne and County of Bourke.

Certain exceptions to Jurisdiction.

means

means of any race, match, wager, raffle, or any kind of play or game, nor in any case where the debt or claim shall have arisen more than three years before the issuing of the summons, unless there hath been, in writing, an acknowledgment of, or promise to pay, the same within that period; nor in respect of any contract for the sale of goods, unless the buyer shall have actually received the same, or part thereof, or have given something in earnest to bind the bargain, or in part payment, or some note or memorandum in writing of the bargain shall have been signed by the party sought to be charged by such contract, or his agent thereunto lawfully authorized: Provided also, that in every case of trespass to land, if the title to the freehold therein shall *bonâ fide* be in dispute between the parties, the said Courts shall have no power to adjudicate therein; and provided further, that any period during which the defendant shall be beyond the jurisdiction of the said Courts shall not be considered as any portion of time in the limitation before created: Provided nevertheless that in all cases in which the sum sued for in any such Court of Requests as aforesaid shall exceed ten pounds, the same shall be tried before a Commissioner and Assessors, in the manner provided for in the said last recited Act.

Previous judgments not to be impeached or invalidated.

III. And be it enacted, That no judgment, order, or proceeding, act, matter, or thing given, made, or done, by any Commissioner or other Officer of any of the said Courts of Requests, or other person or persons as aforesaid, before the passing of this Act, shall be impeached or invalidated by reason of the want of, or the supposed want of, power and authority in such Commissioner to have heard and determined, in a summary way, actions for the recovery of any debt, demand, or damage to an amount not exceeding ten pounds; but that the same shall be as valid and effectual to all intents and purposes whatsoever, as if they had been given, made, or done, after the passing, and by virtue of this Act.

Declaratory that concurrent jurisdiction is not given to Courts of Petty Sessions.

IV. And whereas doubts have arisen whether a concurrent jurisdiction has not been given to Courts of Petty Sessions in the City of Sydney and County of Cumberland, and in the Town of Melbourne and County of Bourke, by the said first recited Act, with the Courts of Requests established there, and it is expedient to remove the said doubts: Be it declared and enacted, That from and after the passing of this Act nothing in the said first recited Act, passed in the tenth year of the reign of Her said Majesty, shall be deemed or construed to confer any jurisdiction in respect of any matter or thing therein contained, on any Court of Petty Sessions now or that may hereafter be established in the City of Sydney and County of Cumberland, and in the Town of Melbourne and County of Bourke respectively, anything in the said first recited Act to the contrary notwithstanding.

Indemnity clause.

V. And be it enacted, That no action, suit, information, indictment, prosecution, or other proceeding shall be commenced or prosecuted in any manner whatsoever against any Commissioner or Officer of any of the said Courts of Requests, or any person or persons acting under and in obedience to any order or judgment of any of the said Courts, for any matter or thing done by him or them under the said recited Acts or either of them, by reason of the want of power and authority in such Commissioner to hear and determine in a summary way, actions for the recovery of any debt, demand, or damage to an amount not exceeding ten pounds; and if any action, suit, information, indictment, prosecution, or proceeding whatsoever, shall be, or shall have been commenced against any Commissioner or Officer, or any person or persons acting under or in obedience to any order or judgment of any of the said Courts, in respect of such want of summary jurisdiction under the said recited Acts, or either of them as aforesaid, it shall be lawful for the defendant or defendants to apply to the Supreme Court, or to any Judge thereof, to stay proceedings, and such Court or Judge is hereby required to stay such proceedings accordingly, and to make such order in regard to the costs of such application, as to the Court or Judge shall seem fit.

VI.

VI. And be it enacted, That no plaint entered in any Court of *Certiorari* taken away. Requests holden under this or the said last recited Act, nor any order or other proceedings had thereon, shall be removed out of the said Court by writ of *recordari facias loquelam, certiorari*, or otherwise howsoever.

CHARLES NICHOLSON,

Speaker.

Passed the Legislative Council, this first day of October, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

W.M. MACPHERSON,

CLERK OF THE COUNCIL.

CH^s. A FITZ ROY,

GOVERNOR.

Govt. House, Sydney, 2nd October, 1847.

No. XXXVI.

An Act for removing doubts as to the Election of Mayor and Aldermen, and for other purposes therein mentioned. [Assented to, 2nd October, 1847.]

WHEREAS by an Act of the Governor and Legislative Council of the Colony of New South Wales, made and passed in the sixth year of the reign of Her Majesty Queen Victoria, intituled "*An Act to declare the Town of Sydney to be a City, and to incorporate the Inhabitants thereof*," it is amongst other things enacted, that on the ninth day of November in each year, the Council of the City shall elect out of the Aldermen or Councillors, a fit and proper person to be Mayor of the City; and on the ninth day of November, in every succeeding third year, the Council shall elect one-half of the whole number of Aldermen of the City in lieu of those who go out of office, in manner and form therein stated: And whereas doubts have been entertained, whether the aforesaid provisions may be held to extend to persons elected or chosen to the office of Mayor or Alderman, by a less number of votes than an absolute majority of the votes of the Councillors present and sufficient to constitute a Council according to the provisions of the said Act, and it is expedient that such doubts should be removed: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That no person shall be deemed to be, or be hereafter elected or chosen to the office of Mayor or Alderman, unless he shall have an absolute majority of the votes of the members present at the meeting holden for such purpose, the members present not being fewer than one-third of the whole number of the Council, such absolute majority to be ascertained by show of hands, or by division if so required by any member of Council, anything contained in the hereinbefore recited Act to the contrary notwithstanding.

No person to be deemed elected to the office of Mayor or Alderman, unless he have an absolute majority of the Votes of the Members present at the meeting.

II. And be it enacted, That if no Election be made of the Mayor or other Officers of the City upon the day, or within the time appointed for such Election, or such Election being made shall afterwards become void, whether such omission or avoidance should happen through the default of such person or persons who ought to have been present when such Election or Elections was or were to be made, or by any accident or other means whatsoever, the Corporation shall not be deemed, or taken to be dissolved, or disabled from electing such Officers for the future; but in any case where no Election shall be made as aforesaid, it shall and may be lawful for the Members who have right to vote, or be present at, or to do any other act necessary to be done in order to or for the completion of such Election, and they, or such of them as shall not be hindered by any reasonable impediment or excuse, are hereby required respectively to meet or assemble together in the Town Hall, or other usual place of meeting, for making such Election within such City, upon the day next after the expiration of the time within which such Election ought to have been made,

If Mayor or other Officers be not elected on the day appointed, such Election may be made on a subsequent day.

made, unless such day should happen to be Sunday, and then upon the Monday following, between the hours of Ten o'clock in the forenoon and Two o'clock in the afternoon of the same day, and so on from day to day, until such Election shall be duly made; and that the members, or persons having right to vote at, or to do any other act necessary to be done in order to such Election, or such of them as shall be assembled or met together, shall forthwith proceed to the Election of a Mayor, or other Officer of such City, and to do every act necessary to be done in order to or for the completion of such Election, in such manner as hereinbefore directed, in order to the Election of such Officer or Officers, upon the day, or within the time appointed by the first hereinbefore recited Act,

Meeting for the Election of Mayor and Aldermen to be held at the Town Hall.

III. And whereas circumstances have arisen to make it proper and expedient to change the place at which such Elections may be holden for the future: Be it therefore enacted, That from and after the passing of this Act, the Council of the said City, duly elected under the provisions of the hereinbefore recited Act, shall assemble at noon in the Town Hall for the time being, or the building occupied as such, for the election of Mayor or Aldermen on the particular day and time therein mentioned.

As to resignation of office.

IV. And be it enacted, That so much of the fifty-fifth clause of the Act first above recited, as enacts "that every person elected into any corporate office, may at any time resign such office, on payment of the fine which he would have been liable to pay for non-acceptance of the same office," shall be, and the same is hereby repealed; and that instead thereof, it be enacted, that every person elected to any corporate office may at any time resign such office, and the resignation shall be held to be complete from the date of its being received by the Town Clerk, or person acting as such: Provided nevertheless, that the person so resigning shall be liable to the same fine as he would have been liable to pay for non-acceptance of the same office, to be recovered in the manner directed by the said hereinbefore recited Act.

As to making bye-laws, and fixing fines and penalties.

V. And whereas it is expedient to define the powers of the Council of the said City, with regard to making bye-laws, and fixing fines and penalties: Be it declared and enacted, That it shall be competent for the Council of the said City to fix by any bye-law such penalty or penalties, whether fixed or variable, as to them shall seem meet for the enforcement of the provisions thereof: Provided always, that no fine appointed by any such bye-law shall exceed ten pounds, and that no bye-law heretofore made by the said Council shall be invalid, or inoperative, on account of any variable fine or penalty prescribed thereby, but shall, in regard to such variable fine or penalty, be taken to have been, and be as valid and operative, as if such bye-law had been made and passed, after the passing of this Act.

As to evidence of the existence of bye-laws.

VI. And be it enacted, That a copy of any bye-laws to be passed by the Council of the said City, under the Common Seal of the Mayor, Aldermen, Councillors, and Citizens thereof, with a declaration thereon, signed by the Mayor of the City for the time being, and countersigned by the Town Clerk, or person holding the situation of Town Clerk when the bye-law came into force, that the same had been sent, sealed with the said seal, to the Governor for the time being of the said Colony, and that all the other requirements of the ninety-second section of the Act of Council first above recited had been complied with, shall be received as evidence of the existence of any such bye-law, and of the sending and publishing thereof, in all Courts of Law and Equity, and before all Justices in Sessions, or otherwise.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this thirtieth day of September, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

W. M. MACPHERSON,
CLERK OF THE COUNCIL.

CH^S. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 2nd October, 1847.

No. XXXVII.

For applying certain sums arising from the Revenue receivable in New South Wales, to the service thereof, for the year one thousand eight hundred and forty-eight; and for further appropriating the said Revenue. [Assented to, 2nd October, 1847.]

WHEREAS by a certain Act of Parliament, passed in the fifth and sixth year of the reign of Her present Majesty Queen Victoria, intitled, "*An Act for the Government of New South Wales and Van Diemen's Land,*" it was among other things enacted, that the Governor of the said Colony of New South Wales, with the advice and consent of the Legislative Council, should have authority to make laws for the peace, welfare, and good Government of the said Colony; and that with the deductions and subject to the provisions therein contained, the whole of Her Majesty's Revenue within the said Colony, arising from taxes, duties, rates, and imposts, levied on Her Majesty's subjects within the said Colony, should be appropriated to the public service within the said Colony, by Ordinances to be for that purpose enacted by the Governor, with the advice and consent of the Legislative Council of the said Colony, and in no other manner: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That out of the produce of the said taxes, duties, rates, and imposts, there shall and may be issued and applied, any sum or sums of money not exceeding thirty-five thousand and eighteen pounds five shillings and three-pence to defray the charge of the Civil and Legislative Establishments of New South Wales, unprovided for by Schedule B, of the said recited Act of Parliament, for the year one thousand eight hundred and forty-eight, as hereinafter more particularly expressed; that is to say, any sum or sums of money not exceeding six hundred and sixty-seven pounds seven shillings and sixpence, to defray the expense of His Excellency the Governor's Establishment; and any sum or sums of money not exceeding three thousand five hundred and seventy-nine pounds eleven shillings and sixpence, to defray the expense of the Legislative Council Establishment; and any sum or sums of money not exceeding nine hundred and eighty-four pounds twelve shillings, to defray the expense of the Registrar General's Establishment; and any sum or sums of money not exceeding fourteen thousand five hundred and thirty-eight pounds ten shillings and nine-pence, to defray the expense of the Post Office Establishment in the Sydney District; and any sum or sums of money not exceeding six thousand one hundred and ninety-five pounds six shillings and sixpence, to defray the expense of the Post Office Establishment in the Port Phillip District; and any sum or sums of money not exceeding one thousand one hundred and fifty-two pounds nine shillings, to defray the expense of the Colonial Storekeeper's Establishment; and any sum or sums of money not exceeding one thousand five hundred and fifty-two pounds seven shillings, to defray the expense of the Port Master's Establishment at Sydney; and any sum or sums of money not exceeding three hundred and eleven pounds eight shillings, to defray the expense of the Telegraph Stations in the Sydney District; and any sum or sums of money not exceeding five hundred and thirty-two pounds ten shillings, to defray the expense of the Light House at the South Head of Port Jackson; and any sum or sums of money not exceeding five hundred and nineteen pounds ten shillings, to defray the expense of

Preamble.

5 and 6 Victoria, c. 76;

Civil and Legislative Establishments, viz.—

Governor;

Legislative Council;

Registrar General;

Post Office, Sydney;

Post Office, Port Phillip;

Storekeeper;

Port Master Sydney;

Telegraphs, Sydney;

Light-House, South Head;

Floating Light, entrance to Port Jackson ;
Pilot at Wollongong ;

Harbour Master, Newcastle ;

Harbour Master, Port Macquarie ;

Harbour Master, Moreton Bay ;

Light-House, Gabo Island, Cape Howe ;

Harbour Master, Port Phillip ;

Light-House, Gellibrand's Point, Port Phillip ;

Light-House, Shortland's Bluff, Port Phillip ;

Light-House, Cape Otway, Port Phillip ;

Telegraphs, Port Phillip ;

Colonial Agent General ;

Pension, Lady Forbes ;

Pension, Lady Dowling.

Coroners, viz.—

Sydney ;

Port Phillip.

Police Establishments within the settled districts, viz.—

Sydney Police ;

Melbourne Police ;

Water Police, Sydney ;

Water Police, Port Phillip ;

Rural Police ;

of the Floating Light near the entrance of Port Jackson ; and any sum or sums of money not exceeding fifty-four pounds eighteen shillings, to defray the salary of the Pilot in charge of the Basin at Wollongong ; and any sum or sums of money not exceeding four hundred and fifty-seven pounds, to defray the expense of the Harbour Master's Establishment Newcastle ; and any sum or sums of money not exceeding four hundred and eighteen pounds three shillings and sixpence, to defray the expense of the Harbour Master's Establishment at Port Macquarie ; and any sum or sums of money not exceeding seven hundred and seventy-six pounds seven shillings, to defray the expense of the Harbour Master's Establishment at Moreton Bay ; and any sum or sums of money not exceeding six hundred pounds, to defray the expense of the Light House at Gabo Island, Cape Howe ; and any sum or sums of money not exceeding one thousand and seventy-nine pounds sixteen shillings and sixpence, to defray the expense of the Harbour Master's Establishment at Port Phillip ; and any sum or sums of money not exceeding one hundred and eighty pounds sixteen shillings, to defray the expense of the Light House Establishment at Gellibrand's Point, Port Phillip ; and any sum or sums of money not exceeding three hundred and fifty-seven pounds fifteen shillings, to defray the expense of the Light House Establishment at Shortland's Bluff, Port Phillip ; and any sum or sums of money not exceeding three hundred and fifty-six pounds fifteen shillings, to defray the expense of the Light House Establishment at Cape Otway, Port Phillip ; and any sum or sums of money not exceeding one hundred and fifty-three pounds two shillings, to defray the expense of the Telegraph Stations at Port Phillip ; and any sum or sums of money not exceeding one hundred and fifty pounds, to defray the salary of the Colonial Agent General ; and any sum or sums of money not exceeding two hundred pounds, to defray the Pension of Lady Forbes, the widow of Sir Francis Forbes, formerly Chief Justice of New South Wales ; and any sum or sums of money not exceeding two hundred pounds, to defray the Pension of Lady Dowling, the widow of Sir James Dowling, late Chief Justice of New South Wales.

II. And be it enacted, That out of the produce of the said taxes, duties, rates, and imposts, there shall and may be issued and applied any sum or sums of money not exceeding two thousand six hundred and twenty-four pounds one shilling, for defraying the charge for Coroners' Inquests in the said Colony, for the year one thousand eight hundred and forty-eight, as hereinafter more particularly expressed ; that is to say, any sum or sums of money not exceeding two thousand three hundred and fourteen pounds one shilling, to defray the salaries and allowances of Coroners, and the expense of Inquests in the Sydney District ; and any sum or sums of money not exceeding three hundred and ten pounds, to defray the salaries and allowances of Coroners, and the expense of Inquests, in the Port Phillip District.

III. And be it enacted, That out of the produce of the said taxes, duties, rates, and imposts, there shall and may be issued and applied, any sum or sums of money not exceeding fifty-five thousand seven hundred and six pounds four shillings and ten-pence, to defray the charge of the Police Establishments within the settled districts of the said Colony, for the year one thousand eight hundred and forty-eight, as hereinafter more particularly expressed ; that is to say, any sum or sums of money not exceeding eight thousand and ninety-one pounds two shillings and sixpence, to defray the expense of the Sydney Police ; and any sum or sums of money not exceeding three thousand one hundred and twenty-eight pounds, fifteen shillings, to defray the expense of the Melbourne Police ; and any sum or sums of money not exceeding one thousand one hundred and fifty-seven pounds ten shillings and eight-pence, to defray the expense of the Water Police, Sydney ; and any sum or sums of money not exceeding three hundred and eighty-eight pounds twelve shillings, to defray the expense of the Water Police, Port Phillip ; and any sum or sums of money not exceeding twenty-six thousand six hundred and forty pounds three shillings and eight-pence, to defray the expense of the Rural Police of the said Colony, including

including the District of Port Phillip; and any sum or sums of money not exceeding thirteen thousand seven hundred and fifty pounds, to defray the expense of the Mounted Police for the said Colony; and any sum or sums of money not exceeding two thousand five hundred and fifty pounds one shilling, to defray the expense of the Native Police in the District of Port Phillip.

IV. And be it enacted, That out of the produce of the said taxes, duties, rates, and imposts, there shall and may be issued and applied, any sum or sums of money, not exceeding eleven thousand five hundred and seventy-eight pounds thirteen shillings, for defraying the charge of the Gaol Establishments of the said Colony, for the year one thousand eight hundred and forty-eight, as hereinafter more particularly expressed; that is to say, any sum or sums of money not exceeding four thousand one hundred and seventeen pounds two shillings, to defray the expense of the Sydney Gaol; and any sum or sums of money not exceeding one thousand five hundred and four pounds eighteen shillings and sixpence, to defray the expense of the Parramatta Gaol; and any sum or sums of money not exceeding eight hundred and eighty-one pounds eleven shillings, to defray the expense of the Bathurst Gaol; and any sum or sums of money not exceeding one thousand two hundred and five pounds two shillings, to defray the expense of the Newcastle Gaol; and any sum or sums of money not exceeding eight hundred and seventy-eight pounds eleven shillings and sixpence, to defray the expense of the Goulburn Gaol; and any sum or sums of money, not exceeding one thousand one hundred pounds, to cover the expense of a Penal Establishment at Cockatoo Island; and any sum or sums of money not exceeding one thousand eight hundred and ninety-one pounds eight shillings, to defray the expense of the Port Phillip Gaol.

V. And be it enacted, That out of the produce of the said taxes, duties, rates, and imposts, there shall and may be issued and applied, any sum or sums of money, not exceeding seven thousand four hundred and nineteen pounds seven shillings for defraying the charge of the Colonial Medical Establishments of the said Colony, for the year one thousand eight hundred and forty-eight, as hereinafter more particularly expressed; that is to say, any sum or sums of money not exceeding three hundred and twenty-five pounds, to defray the salaries of the Health Officer of Port Jackson, and of the Clerk to the Medical Board, Sydney; and any sum or sums of money not exceeding one hundred pounds, to defray the expense of maintaining the Vaccine Establishment at Sydney; and any sum or sums of money not exceeding three thousand five hundred and forty-five pounds fourteen shillings, to defray the expense of the Lunatic Asylum, Tarban Creek; and any sum or sums of money not exceeding eight hundred pounds, for the support of Free Paupers in the Convict Hospitals; and any sum or sums of money not exceeding one thousand two hundred and fifteen pounds thirteen shillings, to defray the expense of the Lunatic Asylum at Melbourne; and any sum or sums of money not exceeding four hundred and thirty-three pounds to defray the expense of the Medical Establishment, at Port Phillip; and any sum or sums of money not exceeding one thousand pounds, in aid of the Hospitals at Bathurst, Goulburn, Maitland, Windsor, and Melbourne, being two hundred pounds for each, on condition that sums to an equal amount be raised by private subscriptions.

VI. And be it enacted, That out of the produce of the said taxes, duties, rates, and imposts, there shall and may be issued and applied, any sum or sums of money not exceeding sixteen thousand five hundred and fifty-eight pounds one shilling and eight-pence, for defraying the charge of the School Establishments of the said Colony, for the year one thousand eight hundred and forty-eight, as hereinafter more particularly expressed; that is to say, any sum or sums of money not exceeding one thousand eight hundred and ninety-eight pounds nine shillings and eight-pence, to defray the expense of the Protestant Male Orphan School, near Liverpool; and any sum or

pounds

Protestant Female Orphans; pounds twelve shillings, to defray the expense of the Protestant Female Orphan School, Parramatta; and any sum or sums of money not exceeding one thousand two hundred pounds, to defray the expense of the Roman Catholic Orphan School, Parramatta; and any sum or sums of money not exceeding four thousand one hundred and twenty pounds, for Church of England Schools, to be expended under the direction of a Board of Inspection, to be appointed by the said Governor; and any sum or sums of money not exceeding one thousand nine hundred pounds, for Presbyterian Schools, to be expended as aforesaid; and any sum or sums of money not exceeding five hundred and seventy pounds, for Wesleyan Methodist Schools, to be expended as aforesaid; and any sum or sums of money not exceeding one thousand eight hundred and sixty pounds, for Roman Catholic Schools, to be expended as aforesaid; and any sum or sums of money not exceeding one thousand three hundred and eighty pounds, for Schools of all Denominations, in the District of Port Phillip, being five hundred pounds for Church of England Schools, one hundred and sixty pounds, for Presbyterian Schools, three hundred and thirty pounds, for Wesleyan Methodist Schools, two hundred and fifty pounds, for Roman Catholic Schools, and one hundred and forty pounds, for Schools of all other Denominations, within the said District, to be severally expended as aforesaid; and any sum or sums of money not exceeding two thousand pounds, towards establishing Schools to be conducted under Lord Stanley's National System of Education.

Public Works and Buildings, viz.—

VII. And be it enacted, That out of the produce of the said taxes, duties, rates, and imposts, there shall and may be issued and applied, any sum or sums of money not exceeding twenty-nine thousand eight hundred and eighty-eight pounds five shillings, for defraying the charge of Public Works and Buildings in the said Colony, for the year one thousand eight hundred and forty-eight, as hereinafter more particularly expressed, that is to say, any sum or sums of money not exceeding one thousand four hundred and forty-four pounds twelve shillings and sixpence, to defray the expense of the Colonial Architect's Establishment; and any sum or sums of money not exceeding one thousand pounds, to defray the expense of the employment of the Dredging Machine; and any sum or sums of money not exceeding five thousand pounds, for constructing, upholding and repairing the Public Roads, Bridges and Ferries in the County of Cumberland, on which Tolls have been established; and any sum or sums of money not exceeding four thousand pounds, for making and repairing Public Roads and Bridges on which Tolls are not collected; and any sum or sums of money not exceeding one thousand pounds, for the construction of Sewers to the Lunatic Asylum, Tarban Creek; and any sum or sums of money not exceeding five hundred pounds, towards the construction of a Dry Dock at Cockatoo Island; and any sum or sums of money not exceeding the further sum of five hundred pounds, towards completing the New Gaol, Darlinghurst; and any sum or sums of money not exceeding three hundred pounds to defray the expense of building a Court and Watch-houses, Queanbeyan; and any sum or sums of money not exceeding three hundred pounds, to defray the expense of building a Court and Watch-houses, Wellington; and any sum or sums of money not exceeding one hundred pounds, to defray the expense of building a Watch-house, Macdonald's River; and any sum or sums of money not exceeding one hundred pounds, to defray the expense of building a Watch-house, Bungendore; and any sum or sums of money not exceeding one hundred pounds, to defray the expense of additions to the Watch-house at Dungog; and any sum or sums of money not exceeding one hundred and seventy-five pounds, to defray the expense of building a Court and Watch-houses, Kiama; and any sum or sums of money not exceeding seventy pounds, to defray the expense of building a Watch-house, Merriwa; and any sum or sums of money not exceeding one thousand pounds, to defray the expense of building an additional wing to the Roman Catholic Orphan School, Parramatta; and any sum or sums of money not exceeding the further sum of one hundred pounds, to defray the expense of repairing gates and fences

Colonial Architect;

Dredging Machine;

Roads, &c., within the County of Cumberland;

Roads, &c., beyond the County of Cumberland; Sewers, Lunatic Asylum, Tarban Creek;

Dry Dock;

Darlinghurst Gaol;

Queanbeyan Court and Watch-Houses;

Wellington Court and Watch-Houses;

Macdonald's River Watch-House;

Bungendore Watch-house;

Dungog Watch-house;

Kiama Court and Watch-houses;

Merriwa Watch-house;

Additional Wing to the Roman Catholic Orphan School;

Sydney Botanic Garden fences, &c.;

fences

fences at the Botanic Gardens, Sydney; and any sum or sums of money not exceeding ninety pounds, to meet the expense of repairing the Government Wharf at Morpeth; and any sum or sums of money not exceeding the further sum of one hundred pounds, to meet the expense of building a Watch-house at East Maitland; and any sum or sums of money not exceeding the further sum of one thousand pounds, for the erection of the Public Museum, Sydney; and any sum or sums of money not exceeding two thousand five hundred pounds, for casual repairs, additions, and alterations to Colonial Public Buildings; and any sum or sums of money not exceeding seven hundred and forty-six pounds one shilling and sixpence, to defray the expense of the Clerk of Works Establishment, Port Phillip; and any sum or sums of money not exceeding four hundred and thirty-two pounds eleven shillings, to defray the expense of the Superintendent of Bridges Establishment, Port Phillip; and any sum or sums of money not exceeding the further sum of two thousand pounds towards erecting the Bridge over the Yarra Yarra, Port Phillip; and any sum or sums of money not exceeding two thousand pounds, for repairs and other improvements on the Great Lines of public thoroughfare, in the District of Port Phillip; and any sum or sums of money not exceeding two hundred and fifty pounds, to defray the expense of metalling the Main Road to the Beach, Melbourne, Port Phillip; and any sum or sums of money not exceeding five hundred pounds, for Driving Piles as an additional security to the Pier or Jetty at Portland, Port Phillip; and any sum or sums of money not exceeding five hundred pounds, to defray the expense of surveying the Yarra Yarra River, and the Harbour of Corio, Geelong, Port Phillip; and any sum or sums of money not exceeding five hundred pounds, to defray the expense of Repairs to Public Works, Port Phillip; and any sum or sums of money not exceeding the further sum of nine hundred pounds, to defray the expense of building the Melbourne Police Office, and an enclosing Wall and Out Offices thereto; and any sum or sums of money not exceeding one thousand three hundred pounds, to defray the expense of building Quarters for the Superintendent of the Lunatic Asylum, Port Phillip; and any sum or sums of money not exceeding four hundred pounds, to defray the expense of building an enclosing Wall, and of supplying gates for the Powder Magazine, Port Phillip; and any sum or sums of money not exceeding two hundred pounds, to defray the expense of forty Cell Doors, lined with Iron, for the Gaol, Melbourne, Port Phillip; and any sum or sums of money not exceeding one hundred and eighty pounds to defray the expense of building a Watch-house, Collingwood, Port Phillip; and any sum or sums of money not exceeding one hundred pounds, to defray the expense of building a Store Room for the Post Office, Port Phillip; and any sum or sums of money not exceeding five hundred pounds, to defray the expense of Repairs to Public Buildings, Port Phillip.

VIII. And be it enacted, That out of the produce of the said taxes, duties, rates, and imposts, there shall and may be issued and applied, any sum or sums of money not exceeding seven thousand nine hundred and four pounds, fifteen shillings and sixpence, for defraying the charge of Miscellaneous Services in the said Colony, for the year one thousand eight hundred and forty-eight, as hereinafter more particularly expressed; that is to say, any sum or sums of money not exceeding seven hundred and thirty-three pounds, eighteen shillings, to defray the expense of the Botanic Gardens, Sydney; and any sum or sums of money not exceeding two hundred and fifty pounds, for the maintenance of a Botanic Garden, at Melbourne; and any sum or sums of money not exceeding three hundred pounds, in aid of the Colonial Museum; and any sum or sums of money not exceeding two hundred pounds, in aid of the Sydney Mechanics' School of Arts; and any sum or sums of money not exceeding one hundred and fifty pounds, in aid of the Mechanics' Institute, Melbourne, Port Phillip; and any sum or sums of money not exceeding one thousand one hundred and eighteen pounds, seven shillings and sixpence, to defray the expense of the Government Printing Establishment; and any sum or sums of money not exceeding

eight

Wharf at Morpeth;

Watch-House, East Maitland;

Museum, Sydney. Casual Repairs, &c., to Colonial Public Buildings; Clerk of Works, Port Phillip;

Superintendent of Bridges;

Yarra Bridge;

Roads, &c.;

Metalling Beach Road;

Portland Jetty;

Surveying Yarra River and Corio Harbour;

Repairs to Public Works; Melbourne Police Office;

Quarters for Superintendent of Lunatic Asylum;

Wall and Gates for Powder Magazine;

Cell Doors for Melbourne Gaol;

Collingwood Watch-house;

Post Office Store Room;

Repairs to Public Buildings.

Miscellaneous, viz.:-

''

Botanic Gardens, Sydney;

Botanic Garden, Melbourne;

Colonial Museum;

Sydney School of Arts;

Melbourne Mechanics' Institute;

Government Printing Office;

Printing Paper;

Newspapers for Record, &c. ;	eight hundred and fifty pounds, to defray the expense of Paper for printing for the Public Service generally; and any sum or sums of money not exceeding one hundred and fifty pounds, to defray the expense of Newspapers for Record, and for the Secretary of State; and any sum or sums of money not exceeding one thousand and fifty pounds, to defray the expense of Furniture for Public Offices generally, being eight hundred pounds for the Sydney District, and two hundred and fifty pounds for the Port Phillip District; and any sum or sums of money not exceeding three hundred pounds, for defraying the expense of the Powder Magazine, Port Phillip; and any sum or sums of money not exceeding one hundred and forty-two pounds ten shillings, for Lighting the Government Lamps, Sydney; and any sum or sums of money not exceeding two hundred and eighty pounds, to defray the expense of preparing the Electoral Lists for the Colony, being one hundred and eighty pounds for the Sydney District, and one hundred pounds for the District of Port Phillip; and any sum or sums of money not exceeding one hundred pounds, to defray the expense of compiling the Meteorological Tables; and any sum or sums of money not exceeding fifty pounds, to meet the expense of erecting Pounds, and the allowances to Poundkeepers; and any sum or sums of money not exceeding thirty pounds, to defray the expense of Provisions to be left at Booby Island, for the relief of shipwrecked persons; and any sum or sums of money not exceeding two thousand pounds, to meet Unforeseen Expenses in cases of emergency, and to be hereafter accounted for; and any sum or sums of money not exceeding one hundred pounds, for the purpose of offering a premium for the best practical Essay on the disease commonly called Catarrh in Sheep, to be awarded by a Select Committee of the said Council in the next Session; and any sum or sums of money not exceeding one hundred pounds, to meet the expense of repairing the Roads, and clearing the Water Tables, of the Government Domain and Hyde Park, Sydney.
Furniture for Public Offices, Sydney and Port Phillip ;	
Powder Magazine, Port Phillip ;	
Public Lamps, Sydney ;	
Electoral Lists for 1848 ;	
Compiling Meteorological Tables ;	
Pounds and Poundkeepers ;	
Provisions to be left at Booby Island ; Torres Straits ;	
Unforeseen Expenses ;	
Essay on Catarrh in Sheep ;	
Government Domain and Hyde Park.	
Police beyond the Settled Districts.	IX. And be it enacted, That out of the produce of the assessment to arise from an Act passed by the said Governor and Legislative Council, during this Session, intituled, " <i>An Act to authorise, for a limited time, an assessment upon Stock pastured beyond the Settled Districts of New South Wales,</i> " there shall and may be issued and applied, any sum or sums of money not exceeding twelve thousand pounds, to defray the expense of maintaining a Police force beyond the Settled Districts of the Colony, for the year one thousand eight hundred and forty-eight.
Supplementary charge for 1847, viz. :—	X. And be it enacted, That out of the produce of the said taxes, duties, rates, and imposts, there shall and may be issued and applied, any sum or sums of money not exceeding thirteen thousand six hundred and twenty-two pounds, five shillings, and seven-pence, for defraying the Supplementary Charge on the Colonial Treasury of the said Colony, for the year one thousand eight hundred and forty-seven, as hereinafter more particularly expressed; that is to say, any sum or sums of money not exceeding sixty pounds, to meet the expense of the conveyance of a second Mail in every week, between Port Fairy and Fiery Creek, from the first day of April to the thirty-first day of December, in the said year; and any sum or sums of money not exceeding one hundred and ten pounds, eight shillings, and four-pence, to meet the expense of the salary of the Harbour Master, at Moreton Bay, at one hundred and fifty pounds per annum, from the sixth day of April to the thirty-first day of December, in the said year; and any sum or sums of money not exceeding one hundred and sixty-five pounds, to meet the expense of providing Buoys, with mooring chains, for the Harbour of Moreton Bay; and any sum or sums of money not exceeding nineteen pounds, fifteen shillings, and five-pence, to meet an increase to the pay of the Coxswain of the Pilot Boat at Port Macquarie, from eight-pence to one shilling and nine-pence per diem, from the first day of January to the thirty-first day of December, in the said year; and any sum or sums of money not exceeding thirty-six pounds, ten shillings, to meet an increase to the pay of four Boatmen in the Department of the Harbour Master, at Port Phillip, from two shillings and sixpence to three shillings per diem, each, from the first day of
Mail between Port Fairy and Fiery Creek ;	January
Harbour Master at Moreton Bay ;	
Buoys with mooring chains, Moreton Bay ;	
Coxswain of Pilot Boat, Port Macquarie ;	
Harbour Master's Department, Port Phillip ;	

January to the thirty-first day of December, in the said year; and any sum or sums of money not exceeding nine pounds, two shillings, and sixpence, to meet an increase to the pay of the Assistant Light House Keeper, at Gellibrand's Point, Port Phillip, from two shillings to two shillings and sixpence per diem, from the first day of January to the thirty-first day of December, in the said year; and any sum or sums of money not exceeding nine pounds, two shillings, and sixpence, to meet an increase to the pay of the Assistant Keeper of the Light House, at Shortland's Bluff, Port Phillip, from two shillings to two shillings and sixpence per diem, from the first day of January to the thirty-first day of December, in the said year; and any sum or sums of money not exceeding four pounds eleven shillings and three-pence, to meet an increase to the pay of the Assistant Telegraph Keeper, at Melbourne, Port Phillip, from one shilling and nine-pence to two shillings per diem, from the first day of January to the thirty-first day of December, in the said year; and any sum or sums of money not exceeding ten pounds, to defray the salary of the Court House Keeper at Darlinghurst, Sydney; and any sum or sums of money not exceeding ten pounds, to defray the salary of the Court House Keeper at Berrima; and any sum or sums of money not exceeding forty-six pounds, to defray the salary of an Interpreter at the Sydney Police Office, at five shillings per diem, from the first day of July to the thirty-first day of December in the said year; and any sum or sums of money not exceeding thirty-six pounds ten shillings, to meet an increase to the pay of four men of the Water Police, Port Phillip, from two shillings and sixpence to three shillings each per diem, from the first day of January to the thirty-first day of December, in the said year; and any sum or sums of money not exceeding fifteen pounds five shillings, to make the pay of the District Constable at Broulee, equal to that of a Chief Constable; and any sum or sums of money not exceeding thirty-four pounds seven shillings and sixpence, to defray the salary of an Ordinary Constable at Dapto, at two shillings and sixpence per diem, from the first day of April to the thirty-first day of December, in the said year; and any sum or sums of money not exceeding four hundred and sixty-four pounds six shillings, to defray the expense of the establishment of the Gaol at Goulburn, from the first day of July to the thirty-first day of December in the said year; and any sum or sums of money not exceeding twenty-five pounds, to defray the salaries of two Chaplains to the Parramatta Gaol, at twenty-five pounds each per annum, from the first day of July to the thirty-first day of December, in the said year; and any sum or sums of money not exceeding twelve pounds ten shillings, to defray the salary of a Chaplain to the Berrima Gaol, at twenty-five pounds per annum, from the first day of July to the thirty-first day of December, in the said year; and any sum or sums of money not exceeding twenty-five pounds, to defray the salaries of two Chaplains to the Bathurst Gaol, at twenty-five pounds each per annum, from the first day of July to the thirty-first day of December, in the said year; and any sum or sums of money not exceeding twenty-five pounds, to defray the expense of Books and Maps for the use of the Patients in the Lunatic Asylum at Tarban Creek, for the said year; and any sum or sums of money not exceeding six pounds two shillings and sixpence, as a gratuity to the Gate Keeper of the Lunatic Asylum at Tarban Creek, at sixpence per diem, from the first day of May to the thirty-first day of December, in the said year; and any sum or sums of money not exceeding fifty pounds, to meet an increase to the salary of the Director of the Botanical Gardens, Sydney, from two hundred pounds to three hundred pounds, from the first day of July to the thirty-first day of December, in the said year; and any sum or sums of money not exceeding eighteen pounds, eight shillings, to meet an increase to the salary of the Overseer of the said Gardens, from three shillings to five shillings per diem, from the first day of July to the thirty-first day of December, in the said year; and any sum or sums of money not exceeding five hundred pounds, towards the construction of a Dry Dock at Cockatoo Island, for the said year; and any sum or sums of money not exceeding two hundred pounds, to defray the expense of repairing the enclosing wall of the Old Burial Ground, George-street, Sydney

Assistant Light House Keeper, Gellibrand's Point, Port Phillip;

Assistant Keeper of Light-House, Shortland's Bluff, Port Phillip;

Assistant Telegraph Keeper, Melbourne;

Court House Keeper, Darlinghurst, Sydney;

Court House Keeper, Berrima; Interpreter, Sydney Police Office;

Water Police, Port Phillip;

District Constable, Broulee;

Ordinary Constable, Dapto;

Gaol Establishment, Goulburn;

Chaplains, Parramatta Gaol;

Chaplain, Berrima Gaol;

Chaplains, Bathurst Gaol;

Books and Maps for the Lunatic Asylum, Tarban Creek;

Gate-keeper, Lunatic Asylum, Tarban Creek;

Director of the Botanical Gardens, Sydney;

Overseer, Botanical Gardens, Sydney;

Dry Dock, Cockatoo Island;

Repairing the enclosing Wall, Old Burial Ground George-street;

Repairing old, and erecting new Fencing, Government Domain; Sydney, for the said year; and any sum or sums of money not exceeding one hundred and fifty pounds, to defray the expense of repairing the Old Fencing, and providing and erecting New Fencing to complete the enclosures of the Government Domain, attached to the New Government House, Sydney, for the said year; and any sum or sums of money not exceeding eighty-five pounds, to defray the expense of repairing the platform of the Queen's Wharf, Sydney, and enclosing a portion of the sides of the Wharf with close paling, in the said year; and any sum or sums of money not exceeding three hundred pounds, to defray the expense of forming landing places at, and suitable approaches to, the Ferries between North Brisbane and Kangaroo Point, and North and South Brisbane at Moreton Bay, in the said year; and any sum or sums of money not exceeding five hundred pounds, to defray the expense of completing a wall to enclose the Queen's Warehouse and Custom House, Sydney, and of providing additional drains and accommodation for Boats' Crews at the same, in the said year; and any sum or sums of money not exceeding four hundred pounds, to defray the expense of repairs to the Dam, at Cook's River, in the said year; and any sum or sums of money not exceeding two hundred pounds, to defray the expense of laying down a mooring chain in Kiama Harbour, in the said year; and any sum or sums of money not exceeding fifty-six pounds five shillings and elevenpence, towards defraying the expense of erecting an office for the Inspector of Distilleries, at the Brisbane Distillery, Sydney, in the said year; and any sum or sums of money not exceeding the further sum of five hundred pounds, towards completing the New Gaol, Darlinghurst, in the said year; and any sum or sums of money not exceeding three hundred pounds, to defray the expense of erecting a Court and Watch Houses at Brisbane Water, in the said year; and any sum or sums of money not exceeding one hundred and fifty pounds, to defray the expense of erecting a Watch House at Blackman's Swamp, in the said year; and any sum or sums of money not exceeding three hundred pounds nineteen shillings and tenpence, to defray the expense of dividing yards, fixing iron railing, and erecting additional privies, at the Parramatta Gaol, in the said year; and any sum or sums of money not exceeding forty-three pounds, to defray the expense of providing metal to macadamize the Gaol Yard at Bathurst, in the said year; and any sum or sums of money not exceeding two hundred pounds, to meet the expense of twenty new cell doors, lined with iron, for the Gaol at Melbourne, Port Phillip, in the said year; and any sum or sums of money not exceeding four hundred and fifty pounds, to defray the expense of purchasing a lantern and apparatus suitable for the present column of the Light House, Shortland's Bluff, Port Phillip, in the said year; and any sum or sums of money not exceeding one thousand pounds, to defray the expense of casual repairs, additions, and alterations, to Colonial Public Buildings, in the said year; and any sum or sums of money not exceeding six hundred and twenty-seven pounds fourteen shillings and sixpence, in aid of the Sydney Infirmary and Dispensary, an equal amount having been raised by private subscription, in the year one thousand eight hundred and forty-six; and any sum or sums of money not exceeding thirty pounds, to defray the expense of providing provisions to be left at Booby Island, for the relief of shipwrecked persons; and any sum or sums of money not exceeding two hundred and four pounds, to defray the expense of providing six sets of Standard Weights and Measures; and any sum or sums of money not exceeding fifty pounds, to defray the expense of procuring from England a new Royal Standard for the service of the said Colony; and any sum or sums of money not exceeding fifty pounds, to defray the expense of fees to Medical Practitioners who give evidence as to the state of persons in charge of the Police as dangerous lunatics, at one guinea in each case; and any sum or sums of money not exceeding fifty pounds, as a gratuity to Mr. George James French, veterinary surgeon, who was seriously wounded by the discharge of his pistol, while aiding the Police to prevent the rescue of certain aboriginal natives of the Murray District;

District, who were concerned in the murder of the late Mr. Beveridge ; and any sum or sums of money not exceeding one thousand seven hundred and eighty pounds, to meet the probable deficiencies in the sums voted for the support of Schools conducted according to the regulations of September, one thousand eight hundred and forty-one, being six hundred and seventy pounds for Schools of the Church of England, seven hundred pounds for Presbyterian Schools, two hundred and twenty pounds for Wesleyan Methodist Schools, one hundred and ten pounds for Roman Catholic Schools, and eighty pounds for Schools of every denomination at Port Phillip ; and any sum or sums of money not exceeding two hundred and forty-five pounds nineteen shillings and three-pence, as an addition to the sum appropriated for the year one thousand eight hundred and forty-six, for the support of Schools of all denominations at Port Phillip ; and any sum or sums of money not exceeding thirty-six pounds seven shillings and three-pence, to cover a deficiency in the sum appropriated for the year one thousand eight hundred and forty-six, for Schools of the Church of England ; and any sum or sums of money not exceeding forty-five pounds eleven shillings and eleven-pence, to cover a deficiency in the sum appropriated for the year one thousand eight hundred and forty-six, for Presbyterian Schools ; and any sum or sums of money not exceeding three hundred and twenty pounds eighteen shillings and three-pence, to cover a deficiency in the sum appropriated for the year one thousand eight hundred and forty-six, for the Lunatic Asylum at Tarban Creek, Sydney ; and any sum or sums of money not exceeding one hundred and seventeen pounds six shillings and sixpence, to cover a deficiency in the sum appropriated for the year one thousand eight hundred and forty-six, for Coroners in the Sydney District ; and any sum or sums of money not exceeding five hundred and twenty-eight pounds fourteen shillings, to cover a deficiency in the sum appropriated for the year one thousand eight hundred and forty-six, for the Native Police in the Port Phillip District ; and any sum or sums of money not exceeding one hundred and fifty-two pounds fifteen shillings and two-pence, to cover a deficiency in the sum appropriated for the year one thousand eight hundred and forty-six, for Gaols ; and any sum or sums of money not exceeding forty pounds nineteen shillings and nine-pence, to cover a deficiency in the sum appropriated for the year one thousand eight hundred and forty-six, to defray the expense of Newspapers for Record and for the Secretary of State ; and any sum or sums of money not exceeding thirty-eight pounds four shillings, to cover a deficiency in the sum appropriated for the year one thousand eight hundred and forty-six, to defray the expense of repairing the Floating Light Vessel, and towing the same to Darling Harbour ; and any sum or sums of money not exceeding seven pounds eleven shillings and three-pence, to cover a deficiency in the sum appropriated for the year one thousand eight hundred and forty-six, to defray the expense of provisions to be left at Booby Island for the relief of shipwrecked persons ; and any sum or sums of money not exceeding one hundred and twenty-five pounds four shillings and eleven-pence, to cover a deficiency in the sums appropriated for the year one thousand eight hundred and forty-six, to defray the expense of the Overland Expedition to Port Essington ; and any sum or sums of money not exceeding three hundred and ten pounds ten shillings, to defray the pay of one Serjeant at three shillings and sixpence, and ten ordinary Constables at two shillings and nine-pence, with an allowance for clothing of three-pence each per diem, in augmentation to the Melbourne Police, from the first July to the thirty-first December, in the said year ; and any sum or sums of money not exceeding one hundred and thirty pounds twelve shillings and nine-pence, to defray the damages and costs incurred in a certain action brought against Richard Furlong, Esquire, in his capacity as a Magistrate of the Territory ; and any sum or sums of money not exceeding two hundred and ten pounds, to meet the expense of building a New Punt for the Ferry at Blackman's Point on the River Hastings ; and any sum or sums of money not exceeding

Schools :—

Church of England ;
Presbyterian ;
Methodist ;
Roman Catholic ;
Every denomination,
Port Phillip ;

Schools, Port Phillip;

Church of England ;

Presbyterian ;

Lunatic Asylum, Tarban Creek ;

Coroners, Sydney District ;

Native Police, Port Phillip ;

Gaols ;

Newspapers for Record, and for the Secretary of State ;

Floating Light Vessel Port Jackson ;

Provisions, Booby Island, Torres Straits ;

Overland Expedition to Port Essington ;

Melbourne Police ;

Richard Furlong, Esquire ;

New Punt at Blackman's Point ;

Government House ; exceeding one hundred pounds, to meet the expense of laying down Pipe, and of lighting with Gas the New Entrance to Government House, Sydney ; and any sum or sums of money not exceeding two hundred and sixty-two pounds three shillings, to cover the expense of converting the building formerly occupied by the Superintendent of Boats at Sydney into a Water Police Office ; and any sum or sums of money not exceeding two hundred pounds, towards building and maintaining the Singleton and Patrick's Plains Benevolent Asylum, to meet the amount of Private Contributions, not exceeding two hundred pounds, in any one year ; and any sum or sums of money not exceeding one hundred and twenty pounds, to meet the expense of employing Free Light-house Keepers, and others in the Establishment of the Harbour Master ; and any sum or sums of money not exceeding three hundred and nine pounds, eight shillings, and four-pence, to meet contingent expenses of the Legislative Council Establishment, not previously provided for ; and any sum or sums of money not exceeding the further sum of one thousand pounds, for the erection of Light Houses in Bass's Straits.

XI. 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 Revenues of the said Colony.

XII. 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.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this first day of October, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

W. M. MACPHERSON,
CLERK OF THE COUNCIL.

CH^s A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 2nd October, 1847.

No. XXXVIII.

An Act to facilitate the proof of Letters Patent or Deeds of Grant from the Crown. [Assented to, 2nd October, 1847.]

Preamble.

Official record of Deeds of Grant to be received in evidence ;

WHEREAS it is expedient to facilitate the proof, in all Courts of Law and Equity, and in all other Courts in the Colony of New South Wales, of the contents of Letters Patent, and Deeds of Grant from the Crown, by which land in the said Colony hath been or shall, after the passing of this Act, be granted to any person or persons whomsoever for any estate or interest: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That every entry or copy now kept or hereafter to be kept as of record, or for public or official purposes, in the Office of the Colonial Secretary, or of the Registrar General of the said Colony, or of the Deputy Registrar of the Supreme Court at Port Phillip purporting to be an entry or copy of any Letters Patent or Deed of Grant from the Crown, of any land situated in the said Colony, to any person or persons whomsoever, shall, in case the Letters Patent or Deed of Grant, of which the

the same purports to be an entry or copy, shall not be produced in evidence, be deemed and taken to be of the same force and effect as the original Letters Patent or Deed of Grant under the Seal of the said Colony, duly recorded and signed by the Governor of the said Colony for the time being; and a copy of any such Entry or Copy, kept, or hereafter to be kept, as of record as aforesaid, of any such Letters Patent or Deed of Grant, certified to be a true copy under the hand of the said Colonial Secretary, or the Registrar General, or Deputy Registrar for the time being, shall, upon proof made that such certificate has been signed by the said Colonial Secretary, or Registrar General, or Deputy Registrar for the time being, (and whom it shall not be necessary to prove to be said Colonial Secretary, or Registrar General, or Deputy Registrar) shall have the same force and effect for the purposes of evidence, to all intents and purposes whatsoever as if the original Letters Patent, or Deeds of Grant of which the copy so produced and certified, shall purport to be a copy of the Entry, or Copy as aforesaid, had been produced in evidence.

and also duly certified
copies of such record.

II. And be it enacted, That for every such copy a fee at the rate ^{Fees.} one shilling and three-pence for every folio of seventy-two words shall be charged previously to the delivery of the same; and the amount thereof shall be duly paid by the officer receiving the same, into the Colonial Treasury for the public uses of the said Colony, and in support of the Government thereof.

CHARLES NICHOLSON,
Speaker.

Passed the Legislative Council, this first day of October, one thousand eight hundred and forty-seven, } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^s. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 2nd October, 1847.

An Act to appoint John Alexander to be the Trustee of certain Indentures of Lease and Release, by way of Settlement bearing date respectively, the second and third days of August, One thousand eight hundred and forty-two, and for other purposes therein mentioned. (Assented to, 2nd October, 1847.)

WHEREAS by Indentures of Lease and Release by way of Settlement bearing date respectively the second and third days August, one thousand eight hundred and forty-two, and made between William Lachlan Macquarie Redfern, Esquire, of the first part, James Alexander, Esquire, and Sarah Alexander, his wife, of the second part, and John Alexander, of Sydney, in the Colony aforesaid, Merchant, and John Betts and David Wallace, Merchants, of the third part, all that parcel of land containing one hundred acres, more or less, situated in Sydney, in the Colony aforesaid, bounded on the north by a west line of thirty chains, commencing at the south-west corner of the Surry Hill Farm; on the west by a south line of thirty-four chains; on the south by an east line of thirty chains, and on the east by a north line of thirty-four chains, passing through the swamp, and which said parcel of land is known as the Redfern Estate was together with other property conveyed and assured unto and to the use of the said John Alexander, John Betts, and David Wallace, their Heirs and Assigns upon and for the trusts, ends, intents, and purposes, and with, under, and subject to the powers, provisoes, agreements, and declarations therein mentioned, expressed and contained of, and concerning the same: And whereas by an Indenture bearing date the twenty-second day of February, one thousand eight hundred and forty-three, indorsed on the said last hereinbefore in part recited

Preamble.

recited Indenture of the third day of August, one thousand eight hundred and forty-two, and made between the said John Alexander and David Wallace of the one part, and the said John Betts of the other part, the said John Alexander and David Wallace did irrevocably disclaim unto the said John Betts, all the lands and hereditaments granted and conveyed by the hereinbefore in part recited Indentures of Settlement to them in conjunction with the said John Betts, together with the conveyance thereof respectively made as aforesaid by the same Indentures of Settlement, and all the trusts, powers, and authorities whatsoever, by the same Indentures given to or vested in them the said John Alexander and David Wallace in conjunction with the said John Betts as aforesaid, upon or over the same hereditaments: And whereas portions of the said lands and hereditaments have been sold under the trusts of the said Indentures of Settlement: And whereas the said John Betts departed this life on the first day of September, one thousand eight hundred and forty-six, leaving an infant heir him surviving: And whereas there now remains no Trustee of the said Indentures of Settlement, and no sufficient power in the said Indentures of Settlement to appoint a new Trustee or Trustees in the place of the said Trustees and Trustee who have so disclaimed, and who has so died as aforesaid: And whereas from the nature of the Trusts of the said Indentures of Settlement no Trustee can be appointed by the Supreme Court of the said Colony who could perform the Trusts of the said Indentures of Settlement: And whereas it would be greatly for the benefit of the persons interested under the said Indentures of Settlement to have a Trustee appointed to carry out the Trusts of the said Indentures of Settlement; and such persons are desirous that the said John Alexander should be reinstated in the said Trusts, and be henceforth empowered to act therein in like manner as if he had not executed such disclaimer as aforesaid, and the said John Alexander hath consented and agreed thereto: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, That the said John Alexander shall henceforth be a Trustee of the said Indentures of Settlement; and that the Lands and Hereditaments hereinbefore particularly described (except such part or parts thereof as is or are sold under the trusts or powers contained in the said Indentures of Settlement) shall henceforth be vested in the said John Alexander, his Heirs and Assigns, upon the trusts, and to and for the ends, intents, and purposes, and with, under, and subject to the powers, provisoes, and declarations mentioned, expressed, and contained in and by the said Indentures of Settlement of the second and third days of August, one thousand eight hundred and forty-two, concerning the said Hereditaments. And that henceforth the said John Alexander shall be invested with, and have the same trusts, powers, and authorities, to all intents and purposes, as if he had been originally appointed the sole Trustee of the said Indentures of Settlement, and had not disclaimed as aforesaid.

John Alexander to be Trustee, and Lands and Hereditaments to be vested in him, excepting such parts thereof as have been sold.

This Act to be binding on W. L. M. Redfern, James Alexander and wife, and their children.

This Act not to invest John Alexander with any larger estate than John Betts would have had if now alive.

Not to affect rights of Her Majesty, or of any body or person, but those for whose benefit passed.

II. And be it further enacted, That this Act shall be binding upon the said William Lachlan Macquarie Redfern, James Alexander, and Sarah his wife, and all and every the child and children of the bodies of the said James Alexander and Sarah his wife, now born, or hereafter to be born, and the said John Alexander, and every Trustee of the said Indentures of Settlement, and every person and persons claiming, or to claim by, from, under, or in trust for them, and each and every of them.

III. Provided nevertheless, and be it further enacted, That nothing in this Act contained shall invest, or be deemed or construed to invest, the said John Alexander, his Heirs or Assigns, or the Trustees or Trustee to be appointed under and by virtue of this Act, with any larger or other estate in the said Lands and Hereditaments than the said John Betts would have had in the same if he were now living.

IV. 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 or Bodies politic

politic or corporate, or of any other person or persons, except the persons at whose instance, or for whose especial benefit this Act was passed, or those claiming from or under him, her, or them.

V. And be it enacted, That this Act shall come into operation so soon as, and not until the same shall have received the Royal Assent, and the notification of such Assent shall have been made in the *New South Wales Government Gazette*. Not to come into operation until Royal Assent notified.

VI. And be it enacted, That the production of the *New South Wales Government Gazette* containing, or purporting to contain a copy of this Act, shall be admitted as *prima facie* evidence of this Act and the contents thereof by all Judges, Justices, and others. Publication in Government Gazette to be admitted as prima facie evidence.

CHARLES NICHOLSON,

Speaker.

Passed the Legislative Council, this twenty-ninth day of June, one thousand eight hundred and forty-seven. } *In the name, and on the behalf of Her Majesty, I assent to this Act.*

WM. MACPHERSON,
CLERK OF THE COUNCIL.

CH^S. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 2nd October, 1847.