



SUPPLEMENT

TO THE

NEW SOUTH WALES

GOVERNMENT GAZETTE

OF WEDNESDAY, OCTOBER 23, 1839.

Published by Authority.

SATURDAY, OCTOBER 26, 1839.

ANNO TERTIO  
VICTORIÆ REGINÆ.

No. 16.

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

*“ An Act to allow the Aboriginal Natives of New South Wales, to be received as Competent Witnesses in Criminal Cases.”*

WHEREAS it is found expedient and necessary for the purposes of Justice, and the more effectual prosecution of Crimes and Misdemeanors, that the Evidence of the Aboriginal Natives of the Colony of New South Wales should be receivable in all Courts of Criminal Jurisdiction: And whereas, they have not at present any distinct idea of religion, or fixed belief in a future state of Rewards and Punishments, and therefore cannot be admitted as Competent Witnesses in any Court of Law, without the authority of the Legislature of the said Colony: Be it enacted by the Governor of said Colony with the advice of the Legislative Council thereof, that every Aboriginal Native, or any Half Caste Native brought up and abiding with any Tribe of Aboriginal Natives of the said Colony, shall be permitted to make an Affirmation or Declaration, to tell the truth, the whole truth, and nothing but the truth, or in such other form as may be approved of by the Court, instead of taking an Oath, in any Criminal Proceedings that shall be instituted in Evidence so said Colony; and that the evidence given to have such weight only as corroborating circumstances

firmation or Declaration, shall be lawfully convicted, wilfully, falsely, and corruptly, to have affirmed or declared, any matter or thing, which, if the same had been on Oath in the usual form, would have amounted to wilful and corrupt Perjury, he or she shall incur the same Penalties and Forfeitures, as by the Laws and Statutes of England are enacted against persons convicted of wilful and corrupt Perjury, any Law, Statute, or Custom to the contrary notwithstanding.

*(This Act not to take effect until the same shall have received the Royal Assent.)*

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

“GEORGE GIPPS.”

GOVERNOR.

*Passed the Legislative Council  
this eighth day of October, One  
thousand eight hundred and thirty-  
nine.*

WM. MACPHERSON,

*Clerk of Council.*

ANNO TERTIO  
VICTORIÆ REGINÆ.

No. 17.

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

" An Act to provide for Trial by Jury at  
 " Courts of Quarter Sessions, to be held at  
 " Berrima."

**W**HEREAS, by a certain Act or Ordinance of the Governor and Legislative Council, passed in the third year of the Reign of His late Majesty, King William the Fourth, intituled, " An Act to consolidate and amend 3 William IV. " the Laws for the Transportation No. 3. " and punishment of offenders in " New South Wales, and for defining the respective " powers and authorities of General Quarter " Sessions, and of Petty Sessions; and for " determining the Places at which the same " shall be holden; and for better regulating the " Summary Jurisdiction of Justices of the Peace; " and for repealing certain Laws and Ordinances " relating thereto;" it was among others enacted, That Courts of General Quarter Sessions for the Colony of New South Wales, should, be held at Sydney, Parramatta, Campbelltown, Windsor, Maitland, and Bathurst, and at such other places within the said Colony, and at such times, as the Governor for the time being should by any Proclamation duly issued for such purpose, appoint, and at no other place whatsoever; and whereas His Excellency the Governor hath, in pursuance of the said recited Act issued his Proclamation, whereby the town of Berrima is appointed a place at which Courts of General Quarter Sessions shall be held; and whereas it is necessary to provide for the trial of crimes, offences, and misdemeanors cognizable in the said Courts of Quarter Sessions by Juries, in like manner as by an Act of the Governor and Council, passed in the second year of the Reign of His late Majesty King William the Fourth, intituled, " An Act for regulating the Constitution of " Juries, and for the Trial of Issues in certain " Cases, in the Supreme Court of New South " Wales;" as also by another Act passed in the Fourth year of the Reign of His said late Majesty, intituled, " An Act to continue for a limited time, " an Act of the Governor and Council of New " South Wales, intituled, ' An Act for regulating " the Constitution of Juries, and for the trial of " Issues in certain cases, in the Supreme Court of " New South Wales," and as the same are respectively continued by an Act passed in the First year of the Reign of Her present Majesty Queen Victoria, intituled, " An Act further to continue " for a limited time, an Act intituled, ' An Act " for regulating the Constitution of Juries, and " for the trial of Issues in certain Cases, in the " Supreme Court of New South Wales," is Trials by Jury directed with respect to the trial of Twelve Issues joined on criminal informations exhibited in the Supreme Court; Be it therefore enacted, That all crimes, offences, and misdemeanors, which shall be prosecuted in the said Courts of Quarter Sessions, to be held at Berrima, shall under the like provisions as are by the said last recited Acts made, respecting the trials of issues arraigned before the Supreme Court, be tried by a Jury of twelve inhabitants of the said Colony, who shall be subject to such and the like rules, regulations, and provisions as to their qualifications, exemptions, and disqualifications as are in said last recited Acts made and provided with respect to Juries, for the trial of issues joined on informations exhibited in the said Supreme Court:

Provido, not to interfere with Summary Jurisdiction of Courts of Quarter Sessions.

Provided, however, that nothing herein contained shall restrain, or in any manner interfere with the power and authority by law vested in the said Courts of Quarter Sessions, to take cognizance in a summary way, of crimes, misdemeanors, and other offences not punishable with death, which have been, or shall be committed by transported felons or other offenders, whose sentences have not expired or been remitted.

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

II. And be it enacted, That every man who shall reside within the distance of sixty miles from the said town of Berrima, and who shall be qualified as in the said last recited Acts is directed with respect to Juries, for the trial of issues joined in the Supreme Court, shall be liable to serve on Juries for the trial of crimes, offences, and misdemeanors, in the said Courts of Quarter Sessions: Provided, however, that no person residing within the County of Cumberland, or District of Illawarra, shall be liable to serve on any such Juries.

(Preparation of Jury Lists.)

III. And be it enacted, That the Justices in the Petty Sessions which shall be holden at the said town of Berrima, or at any other town or place within the distance of sixty miles from the said town of Berrima, where Petty Sessions are now, or shall hereafter be held, excepting as aforesaid, shall within the first week of the month of January in the next, and in every succeeding year, prepare or cause to be prepared, lists of all men within their respective Townships or Districts liable to serve on the said Juries, setting forth their christian and surnames, residences, titles, additions and qualifications according to the form annexed to this Act; and the said Justices, or any two or more of them, shall respectively subscribe the said lists, with the declaration that each such list contains to the best of their knowledge and belief, the names of all persons liable to serve on Juries in the district for which it is made, and qualified according to the provisions of the said recited Acts.

(Lists to be affixed to Court-house and Churches.)

IV. And be it enacted, That the Police Magistrate for the said town of Berrima, or for any other town or place where Petty Sessions shall be held as aforesaid, shall cause copies of the said lists which shall be made out as aforesaid, to be, within three days after the same shall be prepared, affixed to the principal doors of the Court-house, and also to the principal door of every public place of Religious Worship, within the said towns or places respectively with a notice, signed with his name, that the Justices of the Peace for the said towns or places, will hear, at the then next Petty Sessions, directed to be held for that purpose, as hereinafter mentioned, all objections to the said lists: Provided always, that the said Police Magistrate shall keep the original lists, or copies of the same, to which the inhabitants of the said towns or places shall have access, at any reasonable time within fourteen days after the date of such notice, without fee, in order that due notice may be given of names improperly omitted or inserted.

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

V. And be it enacted, That Special Petty

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

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

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

*(Certificate to be subjoined to Lists.)*

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

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

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

Sessions shall transmit a certified List thereof to the Attorney-General.

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

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

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

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

*(Chairman to issue precept for summoning Jurors.)*

XI. And be it enacted, That it shall be lawful for the Chairman of the General Quarter Sessions for the said District, and he is hereby required, full fourteen days before the time appointed for holding such Court, to issue a Precept, under his hand and seal to the Sheriff of New South Wales, or his Deputy, requiring him to summon so many Jurors to attend the said Court, at such time and place as shall be therein mentioned and appointed; and such Precept shall not require more than twenty-four nor less than eighteen persons, duly qualified to serve as Jurors, to attend the said Court at any one Session thereof.

*(Sheriff or his Deputy to summon Jurors.)*

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

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

"You are hereby required to appear as a Juror at the Court of General Quarter Sessions, to be held at Berrima, on the \_\_\_\_\_ day of \_\_\_\_\_ next, and there to attend from day to day, until you shall be discharged by the said Court.

(Signed) "C. D. Sheriff, or Deputy Sheriff."

And the said summons shall be served personally

upon, or left at the places of abode of the said Jurors respectively, full six days before their attendance shall be required as aforesaid.

(Penalty on Jurors for not attending.)

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

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

XIV. And be it enacted, That all such and the like forms, rules, regulations, and provisions, shall be adopted, observed, and followed in drawing the names of Jurors for the trial of Issues in the said Court of Quarter Sessions, and in praying and allowing a tales, to make up a full Jury, and such and the like rates of compensation shall be allowed and paid to Jurors attending the said Court, as are made and provided in like cases with respect to the trial of actions at Law in the Supreme Court, by the said recited Act, passed in the second year of the Reign of His late Majesty King William the Fourth.

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

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

“GEORGE GIPPS.”

GOVERNOR.

Passed the Legislative Council, this eighth day of October, One thousand eight hundred and thirty-nine.

Wm. MACPHERSON,

Clerk of Councils.

FORM OF RETURN OR LIST REFERRED TO.

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

District or Place; in Towns add the name of the street.	Christian and Surnames at full length.	Title, Quality, Calling, or Business.	Nature of qualification.
Berrima; Street }	Adams John .....	Esquire .....	Freehold—One hundred Pounds per Annum.
Goulburn .....	Bowles James ....	Grocer .....	Four hundred Pounds of Personal Estate.

A. B., J. P.  
C. D., J. P.

Colonial Secretary's Office,  
Sydney, 25th October, 1839.  
COUNCIL.

HIS Excellency the GOVERNOR is pleased to direct that the general objects of the following Bill, about to be brought under the consideration of the Legislative Council, be published for general information.

By His Excellency's Command,  
E. DEAS THOMSON.

“A Bill to abolish the Transportation of Female Convicts, and to provide for the more effectual punishment of Female Offenders within the Colony of New South Wales.”

It is proposed—

1. To abolish the Transportation of Female Convicts from New South Wales to Moreton Bay, or any other Penal Settlement.
2. To substitute for Transportation the punishment of Imprisonment with Labor, or Solitary Confinement.
3. To extend the punishment of Solitary Confinement.
4. To give to the Matron or Superintendent of the Female Factory in New South Wales the powers granted to Gaolers in England, by the 4 Geo. IV., cap. 64.