



S U P P L E M E N T
TO THE
NEW SOUTH WALES
GOVERNMENT GAZETTE,

OF WEDNESDAY, SEPTEMBER 16, 1840.

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SATURDAY, SEPTEMBER 19, 1840.

ANNO QUARTO.
VICTORIÆ REGINÆ.
No. 10.

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

An Act to Amend an Act intituled, "An Act to consolidate and Amend the Laws for the Transportation 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."

WHEREAS by an 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 to consolidate and amend the Laws for the Transportation 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," after reciting that Transported Felons frequently abscond and absent themselves from service and cannot be apprehended until the term of their Transportation has expired, it is enacted, That every such person shall be liable to be tried in a summary manner, although at the time of such trial the sentence of such person may have expired, and being con-

dicted thereof, shall be liable to serve for such and the like time as such person was absent from the service of his or her employer, and be subject to such and the like punishment, and to be dealt with in all respects, as persons absconding during any subsisting sentence are liable to by the said recited Act; and whereas it is expedient and necessary, that a similar provision should be made for Transported Offenders so absconding and absenting themselves from their service, who may be apprehended at any time before their respective sentences of Transportation shall have expired: Be it therefore enacted by

His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, that as often as any person, being under sentence of Transportation or order of removal, shall abscond or absent himself or herself from the service of his or her Master or Employer, every such person, being convicted thereof, shall, together with any other punishment authorized by Law, be liable to serve and is hereby required to serve for such and the like time as such person shall have absconded and been absent from the service of his or her employer; and until the expiration of the whole of such time, although the same may exceed the term of his or her sentence of Transportation, such persons shall be subject to such and the like punishment, and to be dealt with in all respects as Convicts whose sentences of Transportation have not expired, anything in any Law to the contrary notwithstanding.

(Punishment of Male Convicts absconding a first time.)

II. And be it enacted, That every Male Offender under sentence of Transportation, as

aforsaid, who shall be convicted before any two or more Justices in Petty Sessions of absconding a first time, and of being absent for any period exceeding one week, shall be liable to be punished as in the said recited Act is mentioned for such offence, or to be kept to labour in Irons on the Roads or other Public Works of the said Colony, for any period not exceeding one year, nor less than three Calendar months, or for the term such Transported Offender shall have been absent.

(Male Offenders absconding a second time or oftener, liable to be kept to labour in Irons, on the Roads or Public Works, for any time not exceeding two years.)

III. And whereas it is expedient and necessary to alter and amend so much of the said recited Act as relates to punishment for absconding a second time or oftener: Be it enacted, That every Transported Male Offender, who shall abscond from the employment of Government, or from the service of his Master or Mistress a second time or oftener, shall be liable, at the discretion of any Bench of Magistrates, to be kept to labour in Irons on the Roads or other Public Works of the said Colony, for any time not exceeding two years, nor less than three Calendar months, or for the time such Transported Offender shall have been so absent.

(Punishment of Male Convicts absconding and abandoning Property.)

IV. And be it enacted, That in case any such Transported Male Offender as aforesaid, shall abscond and abandon any property of which he may have charge, such abandonment shall be deemed to be an aggravation of the offence, and shall render such Offender liable to be dealt with in the discretion of the Justices, as for a misdemeanor under the provisions of the said recited Act.

(Punishment of Convicts found at large beyond the limits of the Colony.)

V. And whereas by an Act of the said Governor and Council, passed in the third year of the Reign of his said late Majesty, 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," it is amongst other things enacted, That any Convict found on board any Ship or Vessel about to leave the said Colony, with intent to escape therefrom, shall be deemed guilty of a misdemeanor, and on conviction before any Court of General Quarter Sessions, shall be Transported to a Penal Settlement for fourteen years, and any Convict found on board any Ship or Vessel without lawful authority, shall be liable on conviction before any two or more Justices of the Peace, to be kept to labour in Irons on the Roads or other Public Works of the said Colony, for Twelve Calendar Months: And whereas it is expedient to provide also for the punishment of Convicts found at large beyond the limits of the said Colony: Be it enacted, That any Convict who may have escaped from the said Colony, and who may be found at large anywhere beyond the limits of the same, or within any of Her Majesty's Possessions in the Islands of New Zealand, shall be guilty of a misdemeanor, and on conviction before any

Court of General Quarter Sessions, shall be Transported to a Penal Settlement for fourteen years.

(Indemnifying Officers in certain cases.)

VI. And be it enacted, That no Action shall lie against any Justice of the Peace, Superintendent of Convicts, or other person acting under competent authority, for any order, or any thing done, in respect of any such Transported offender, previously to the passing of this Act, who may have absconded and been apprehended previously to the expiration of his sentence, unless the same would have been illegal in the case of any such Transported Offender who had absconded and been apprehended subsequently to the expiration of his sentence.

(5 Geo. IV., No. 3, repealed.)

VII. And whereas it is expedient that an Act of the Governor and Legislative Council of the said Colony, passed in the fifth year of the reign of His late Majesty King George the Fourth, intituled "An Act to prevent the harbouring of Runaway Convicts, and the encouraging of Convicts tipping and gambling," should be repealed: Be it enacted, that the same shall be, and is hereby repealed accordingly.

(Penalties imposed by 3 Wm. IV., No. 3, on free persons harbouring Runaway Convicts, increased.)

VIII. And whereas, by the said first recited Act, provision is made for imposing penalties on free persons harbouring or concealing Convicts illegally at large, and it is expedient to amend and extend the same: Be it enacted, That any settler, householder, or other free person in the Colony of New South Wales, or its Dependencies, who shall harbour in or about his or her house, lands, or otherwise, or in any manner employ any Convict illegally at large, on conviction thereof before any one or more Justice or Justices of the Peace, shall for every such offence forfeit and pay a sum not less than One Pound, nor more than Fifty Pounds: Provided always, that if it be proved to the satisfaction of the Justice or Justices before whom such offence shall be tried, that the person complained against used due and proper diligence in ascertaining whether such Convict, so illegally at large, was free or not, and that such person had reasonable ground for believing that such Convict was free, it shall not be imperative on such Justice or Justices to impose any penalty on such person.

GEORGE GIPPS,

Governor.

Passed the Legislative Council
this first day of September,
One thousand eight hundred
and forty.

WM. MACPHERSON,

Clerk of Councils.

ANNO QUARTO.

VICTORIÆ REGINÆ.

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

An Act to simplify proceedings at Law or in equity by or against the Sydney Banking Company, and for other purposes therein mentioned.

WHEREAS a Banking Company carrying Preamble. on business under the style and name of *The Sydney Banking Company* is es-

published in this Colony, and it is expedient to simplify proceedings at Law or in Equity, commenced by or against the said Company: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, That from and after the passing of this Act, every action, suit, or proceeding at law or in equity, to be commenced or prosecuted by or on behalf of the said Company, against any person or persons (whether a member or members of such Company or otherwise,) or against any body or bodies politic or corporate, for recovering any debt due to, or enforcing any claim or demand of, the said Company, or relating to any matter connected with the concerns of the said Company, shall be commenced and prosecuted in the name of the Manager for the time being of the said Company as the nominal plaintiff, complainant, or petitioner on behalf of the said Company; and that all actions, suits, or proceedings as aforesaid to be commenced or prosecuted against the said Company, shall be commenced, instituted, or prosecuted against the Manager for the time being of the said Company, as the nominal defendant for and on behalf of the said Company, and in all criminal prosecutions, to be instituted or carried on by or on behalf of the said Company, for fraud upon or against the said Company, or for embezzlement, robbery, stealing, or counterfeiting the bills, notes, bonds, monies, effects, or property of the said Company, or for any felony, misdemeanor, or other offence in which the said Company shall or may be concerned, it shall be lawful to state the property of the said Company to be the property of such Manager for the time being of the said Company; and any offender or offenders may be thereupon lawfully convicted of any such offence; and that neither the death, resignation, suspension, or removal of such Manager shall abate or prejudice any such action, suit, or proceeding, but the same may be continued in the name of the next or any succeeding Manager for the time being of the said Company: Provided nevertheless, that the body or goods, lands or tenements of such Manager shall not, by reason of his being defendant in any such action, suit, or proceeding, be liable to be arrested, seized, or taken in execution: And Provided further, that all costs and expenses to be incurred by such Manager in prosecuting or defending any action or suit for or on behalf of the said Company, shall be defrayed out of the funds of the said Company.

(Memorial of names of Manager and Directors to be recorded in Supreme Court.)

II. And be it enacted, That as soon as conveniently may be after the passing of this Act, and from time to time, upon or as soon as conveniently may be after the appointment of any new Manager of the said Company, a memorial in writing shall be recorded in the Supreme Court of New South Wales, wherein shall be set forth in words at length the style and firm of the said Company, and the Christian and Surnames, additions, and places of abode of the Manager, and of every Director for the time being of the said Company in the form or to the effect set forth in the Schedule to this Act annexed; and that every such memorial shall be signed by the Manager for the time

being of the said Company, and by three of the Directors therein named and verified by the oath of the said Manager (made before the Registrar or some Commissioner of the said Court) that the same contains a true account of the several particulars therein set forth to the best of the knowledge and belief of the deponent.

(No proceeding to be commenced or continued until memorial duly recorded.)

III. And be it enacted, That until the first of such memorials so verified shall be recorded as aforesaid, no action, suit, or other proceeding at law, or in equity, shall be commenced for or on behalf of the said Company, under the provisions of this Act: And unless such memorial shall be from time to time recorded as aforesaid, within the space of thirty days after the appointment of any new Manager as aforesaid, no action, suit, or other proceeding as aforesaid shall be commenced, or if commenced, shall be continued for or on behalf of the said Company, until the memorial hereby required upon such appointments respectively, shall be duly recorded.

(Plaintiff in any action not to be nonsuited for want of proof of record of memorial)

IV. And be it enacted, That in any action to be brought by any Manager of the said Company by virtue of this Act, the plaintiff therein shall not be nonsuited, nor shall a verdict be given against the plaintiff for want of proof of the record of such memorial as hereinbefore mentioned; but in case the defendant in any such action shall make it appear on such trial that no such memorial has been recorded, then a nonsuit shall be entered in such action.

(Manager or other Officers to give evidence notwithstanding their interest.)

V. And be it enacted, That in all actions, suits, petitions, or other proceedings, in which the said Manager for the time being shall be, on behalf of the said Company, plaintiff, complainant, petitioner, or defendant, it shall and may be lawful for such Manager, or for any other Officer engaged in the executive duties of the said Company, to give evidence in any such action, suit, or other proceeding, notwithstanding that the name of such Manager shall be used as plaintiff, complainant, petitioner, or defendant, and notwithstanding that such Manager or other Officer may be interested in the result of such action, suit, petition, or proceeding, as a shareholder or copartner in the said Company.

(Execution may issue against individual members.)

VI. And be it enacted, That execution upon any judgment or decree in any such action, suit, petition, or other proceeding obtained against the Manager for the time being of the said Company, whether he be plaintiff or defendant therein, may be issued against and levied upon the goods, chattels, lands, and tenements of any member or members whomsoever of the said Company, in like manner as if such judgment or decree had been obtained against such member or members personally.

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

VII. And be it enacted, That, for the purpose of giving better effect to the provision last hereinbefore contained, the Manager for the time being of the said Company shall, within thirty days from the passing of this Act, and thereafter, in the month

of January in each year, cause a true list of the names of all the then existing members of such Company, with their respective places of abode and descriptions, to be recorded on oath in the office of the Registrar of the Supreme Court, and the same shall be open for inspection at all reasonable times, by any person requiring the same, on payment of a fee of one shilling; and if such Manager shall fail to cause such list to be recorded in the manner aforesaid, he shall be liable to a penalty of One hundred Pounds, to be recovered by action of debt in the said Supreme Court by any person or persons suing for the same.

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

VIII. And be it enacted, That every person whose name shall be so recorded shall be considered a member of the said Company, and be liable as such until a new list of the members names shall be recorded as aforesaid, or until he shall have given notice in the *New South Wales Government Gazette*, of his or her retirement from the said Company: Provided always, that every such Manager in whose name any action, suit, petition, or other proceeding shall be commenced, prosecuted, carried on, or defended, and every such member or members against whose goods, chattels, lands, or tenements execution shall be so issued as aforesaid, shall always be reimbursed, and paid out of the funds of the said Company, all such damages, costs, and expenses, as by the event of any such proceedings, such Manager, or member, or members shall or may be put unto in respect thereof: and all such remedies shall be allowed as between the several members of the said Company for the time being, as if this Act had not been passed.

(Bonds, &c. taken in the name of preceding Manager may be put in suit by Manager for the time being.)

IX. And be it enacted, That all bonds, warrants of attorney, and other securities, not assignable in law, which have been, or shall or may at any time hereafter be taken, in the name of any person as Manager of the said Company, for or on account of the said Company, shall and may be put in suit, and be sued or prosecuted upon at law, or in equity, in the name of the Manager for the time being of the said Company, and the proceedings instituted upon or in respect of such bonds, warrants of attorney, or other securities, shall not abate by reason of the death, suspension, or removal of any such Manager pending such proceedings; but the same may be continued, prosecuted, and carried on in the name of the succeeding Manager, to be recorded in the memorial hereinbefore provided in that behalf, and so on from time to time, whensoever any new appointment or election of a Manager shall take place, and such new memorial thereof shall be recorded as aforesaid.

(Saving the Rights of Her Majesty and Others)

X. Provided always, and be it enacted, That nothing in this Act contained shall be deemed to

affect or apply to any right, title, or interest, of Her Majesty, Her Heirs, or Successors, or of any body politic or corporate, or of any other person or persons, excepting such as are mentioned therein, or of those claiming by or under him, her or them.

(Act not to take effect until it shall have received the Royal Approbation.)

XI. 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 order of His Excellency the Governor, for the time being; of the said Colony, in the *New South Wales Government Gazette*.

(Act to be a Public Act.)

XII. 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 in all cases without being specially pleaded.

GEORGE GIPPS,
Governor.

Passed the Legislative Council,
this first day of September,
One thousand eight hundred
and forty.

WM. MACPHERSON,
Clerk of Councils.

SCHEDULE.

A Memorial of the names, additions, and places of abode respectively, of the person and persons respectively, who, upon this day of 18 , are respectively Manager and Directors of the Company, carrying on business under the style and firm of "*The Sydney Banking Company*," to be recorded in the Supreme Court of New South Wales, pursuant to An Act of the Governor of New South Wales, with the advice of the Legislative Council thereof, passed in the fourth year of the reign of her Majesty Queen Victoria, intituled, "*An Act to simplify proceedings at Law or in Equity by or against the Sydney Banking Company, and for other purposes therein mentioned.*"

NAMES.	TRADE OR PROFESSION.	PLACE OF ABODE.
A. B., Director, C. D., ditto.		

E. F., Manager.
A. B. }
C. D. } Directors.
G. H. }

E. F., of , Manager of the Sydney Banking Company, maketh Oath and saith, that the above written Memorial contains a just and true account of the several particulars therein set forth to the best of this deponent's knowledge and belief.

E. F.
Manager.

Sworn before me
this day of 18 }