



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

OF WEDNESDAY, OCTOBER 28, 1840.

Published by Authority.

SATURDAY, OCTOBER 31, 1840.

ANNO QUARTO
VICTORIÆ REGINÆ.

No. 19.

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 regulate the payment of the Duties of Customs in Her Majesty's Dominions in the Islands of New Zealand.

WHEREAS, by an Act passed in the present Session of the Legislative Council of the Colony of New South Wales, intituled "An Act to declare that the Laws of New South Wales extend to Her Majesty's Dominions in the Islands of New Zealand; and to apply the same, so far as applicable, in the Administration of Justice therein, and to indemnify certain Officers for acts already done," it was enacted, that all Laws, Acts, or Ordinances of the Governor and Legislative Council of New South Wales, which then were, or thereafter might be, in force within the said Colony, should extend to, and be applied in the administration of Justice within, Her Majesty's Dominions in the Islands of New Zealand, so far as the same could be applied therein, any Law or Custom to the contrary thereof in any wise notwithstanding: And whereas, since the passing of the said Act, all the Islands in the South Pacific Ocean known by the name of New Zealand have been, by Proclamation, published in the *New South Wales Government Gazette*, by order of His Excellency the Governor of the said Colony of New South Wales, declared to be within the Dominions of Her Majesty: And whereas by a certain other Act of the said Governor and Legislative Council, passed in the present Session of the said Council, 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 theretofore levied on Spirits, Wine, and other Goods and Merchandise imported into the said Colony of New South Wales were repealed, and increased Duties imposed in lieu thereof: And whereas, it is expedient to suspend, for a limited time, the payment of all Rates, Dues, Fees, and Duties of Customs within the said Islands of New Zealand: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, That until the first day of July, one thousand eight hundred and forty-one, no Rates, Dues, Fees or Duties of Customs, shall be charged, or payable, or paid, on any Spirits, Wine, or other Goods or Merchandise within or imported into the said Islands of New Zealand, any thing in the said recited Act or Acts to the contrary notwithstanding; and that from and after the said

No Duties of Customs to be levied in New Zealand before the 1st July, 1841.

On unmanufactured Tobacco before the 1st January, 1843.

First day of July, One thousand eight hundred and forty-one, all Rates, Dues, Fees, and Duties of Customs which now are, or then may be by Law charged, payable and paid on all Spirits, Wine, and other Goods and Merchandise, imported into the parts of New Holland which are within the said Colony of New South Wales, shall and may also be charged, payable and paid, upon all Spirits, Wines, and other Goods and Merchandise (except Tobacco) imported into the said Islands of New Zealand; Provided however, that no Duty of Customs shall be charged, payable, or paid on any Tobacco which may be imported into any of the said Islands of New Zealand, until the first day of January, One thousand eight hundred and forty-three.

(Goods imported into New Zealand, and thence exported to New South Wales, to be chargeable

with Duty in New South Wales the same as if they had not been landed in New Zealand.)

II. And whereas, for the protection of the Revenue, it is expedient and necessary to prevent the importation into any part of New Holland comprised within the Territory of New South Wales, of Spirits, Wine, or other Goods or Merchandise from the said Islands of New Zealand, without payment of the accustomed Duties: Be it therefore enacted, That any Spirits, Wine, or other Goods or Merchandise whatsoever, which may, until after the expiration of the time and times hereinbefore limited, be imported into the said Islands of New Zealand without payment of Duty, shall, if exported from the said Islands of New Zealand and landed in any part of New Holland within the Territory of New South Wales as aforesaid, be chargeable with the like Duties as they would by Law be chargeable with, if imported directly into any part of New Holland within the said Territory of New South Wales, without having been previously imported into New Zealand.

(Duties already paid not to be refunded.)

III. And be it enacted, That nothing in this Act contained, shall be held, or construed, to entitle any person whomsoever to any Drawback or exemption from any Rates, Dues, Fees, or Duties of Customs, which may have been paid or demanded from such person in New Zealand, under and by virtue of any Law or Ordinance which may have been in force within the said Colony of New South Wales and its Dependencies before the passing and publication of this Act.

(Wholesale Dealers in Spirits to be Licensed.)

IV. And be it enacted, That from and after the passing and publication of this Act, and until the first day of July, one thousand eight hundred and forty-one, it shall not be lawful for any person or persons to import into the said Islands of New Zealand, or to sell or to dispose of by *wholesale* therein, any Spirituous Liquors, without having previously obtained from the Governor of the said Colony of New South Wales, or from the Lieutenant-Governor of the said Islands of New Zealand, a License authorising such person or persons to import or to dispose of the same, under a penalty of Five Hundred pounds: Provided however, that nothing herein contained shall subject to the said Penalty, or in any manner prevent any person holding a license as a Publican within the said Islands of New Zealand from selling or disposing of Spirituous Liquors by retail, pursuant to and under the terms and conditions of such License.

(Way in which Licenses are to be granted.)

V. And be it enacted, That any person desirous of obtaining such License as first aforesaid, shall make application, in writing, for the same to the Colonial Secretary for the said Colony of New South Wales, or to the Colonial Secretary of the said Islands of New Zealand; and if such application shall be approved by the Governor of the said Colony of New South Wales, or by the Lieutenant-Governor of the said Islands of New Zealand, it shall be lawful for the Colonial Treasurer of the said Colony of New South Wales, or the Colonial Treasurer of the said Islands of New Zealand, on payment of the sum of Thirty Pounds by the party requiring the same, to issue such license authorising such party to import into the said Islands

of New Zealand, and to sell and dispose of by *wholesale* therein, any Spirituous Liquors, for any period between the passing of this Act and the first day of July, One Thousand eight hundred and forty-one.

(The Stock of such Wholesale Dealers, and also of Licensed Publicans, to be taken on the 1st of July, 1842, and Duties charged on it.)

VI. And be it enacted, That from and after the passing and publication of this Act, and until the first day of January, One Thousand eight hundred and forty-two, it shall be lawful for any Officer of Customs, with his assistants, from time to time to enter into and upon the Stores of all Wholesale Dealers in Spirituous Liquors, and into and upon the Premises of all Licensed Publicans, and to take an account of the stock or quantity of Spirituous Liquors respectively found therein; and no Wholesale Dealer shall remove from off his Premises (after such Stock has been taken) any Spirituous Liquors without procuring from the nearest Custom House Officer, or, where there is no such Officer, from the Police Magistrate, a Permit for such removal; and all Spirituous Liquors removed without such Permit may, if the quantity exceed Two Gallons, be seized, together with the cart and horse or boat used for their removal, by any Officer of Customs or Police, and shall be liable to forfeiture, and the person causing them so to be removed shall forfeit and pay a penalty of Ten Pounds.

(Powers given to Officers of Customs to enter the Premises of such Dealers and Publicans.)

VII. And be it enacted, That in case any person shall refuse to permit such Officer and his assistants (after a demand for that purpose being made by such Officer) to enter into any such Stores or Premises as aforesaid, or in case any person after such entrance shall hinder, interrupt, or prevent, such Officer from making such examination and taking such account as aforesaid, every such person shall be liable to a penalty of Five Hundred Pounds.

(Persons holding Licenses to sell Spirituous Liquors, either by Wholesale or Retail, to make Oath between the 1st and 7th of July, 1841, as to the precise quantity of Spirituous Liquors then in their possession, and to pay the Duty thereon.)

VIII. And in order that the true amount of Duties payable on all Spirits held by any Licensed person may be ascertained: Be it enacted, That all persons holding Licenses for the sale of Spirituous Liquors, whether by Wholesale or Retail, shall, between the First and Seventh days of July, One Thousand eight hundred and forty-one, repair to the nearest Custom House provided such Custom House be within the distance of Ten Miles from the residence of such Licensed person, and then and there declare on Oath before the Collector or other Principal Officer of Customs, what is the precise quantity of Spirits then in his or her possession; and if the distance of such Custom House be more than Ten Miles from the residence of such licensed person, such person shall either proceed to such Custom House, and make such declaration as aforesaid, or shall before some Justice of the Peace make a return or declaration on Oath of the quantity of Spirits then in his or her possession, which declaration or return shall be transmitted by the said Justice of the Peace to

the Collector of the Customs at the nearest Custom House, and that in either case the said licensed person shall be held within the first and the fourteenth days of July, in the same year, to pay or cause to be paid to the said Collector of Customs the whole of the Duties which would be chargeable on the same Spirits if they had been imported into New Zealand, on or after the said First day of July : And the whole or any part of the Spirits so returned as being in the possession of such licensed person, may be seized, and held as security by any Officer of Customs, for the due payment of the said Duties on or before the Fourteenth day of July, as aforesaid ; and that if such Duties shall not be paid on the said fourteenth day of July, or security given to the satisfaction of the Collector for the payment of the same, the said Spirits shall be forfeited, together with the casks or vessels in which they may be contained ; and any Spirits or Cordials subsequently found in the Stores or possession of any such licensed person, or in or upon any other Stores or Premises (if the quantity exceeds Ten Gallons) on which it shall not be proved that the Duty has been paid, shall, together with the Casks or vessels containing the same, be liable to be seized and forfeited.

(Application of Penalties.)

IX. And be it enacted, that all forfeitures and penalties recovered under this Act shall be divided, paid, and applied, after deducting the charges of prosecution, and other contingent expenses, as follows :—that is to say, one moiety to Her Majesty, for the Public uses of the said Islands, and the other moiety to the Seizing Officer, or to the person or persons who shall sue, or shall have sued for such penalty.

(Penalties and Forfeitures how to be sued for.)

X. And be it enacted, That all penalties and forfeitures incurred or imposed by this Act shall and may be sued for, prosecuted, and recovered by Action of Debt, Bill, Complaint, or Information in any of Her Majesty's Courts of Record in the said Islands, or in the Courts of Vice Admiralty, in the name of Her Majesty's Attorney General, or in the name or names of some Officer or Officers of Her Majesty's Customs, or by Information before any two or more Justices of the Peace for the said Islands.

“ GEORGE GIPPS.”

*Passed the Legislative Council
this thirteenth day of October,
One thousand eight hundred and forty.*

Governor.

WM. MACPHERSON,

Clerk of Councils.

ANNO QUARTO

VICTORIÆ REGINÆ.

No. 20.

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 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-one, and for further Appropriating the said Revenue.

WHEREAS, by a certain 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 Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes, relating thereto,*” it was among other things enacted, that all and every the powers and authorities vested by certain other Acts of Parliament therein referred to, or either of them, in the Governor of New South Wales, or the person administering the Government thereof, should thenceforth be vested in, and exercised by the said Governor, acting with the advice and consent of the Legislative Council of the said Colony ; and that the produce of the several Duties imposed and made payable under and by virtue of the said recited Acts therein referred to, and also under and by virtue of that Act, should be applied in such manner and to such purposes as the said Governor and Council should from time to time by any Law or Ordinance appoint : 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 sum of forty-eight thousand three hundred and twenty-two pounds, one shilling, and ten-pence, voted, but not required, There shall and for the service of the year One thousand eight hundred and thirty-nine, there shall and may be issued and applied, any sum or sums of money not exceeding forty-six thousand two hundred and eleven pounds, eleven shillings, and sixpence, to supply deficiencies in the Amount appropriated for certain Departments and Services for the said year.

(There shall and may be issued and applied £22,988 19s. 9d. for the Supplementary Expenditure of 1840.)

II. And be it enacted, That out of the produce of the said Duties there shall and may be issued and applied, any sum or sums of money not exceeding twenty-two thousand nine hundred and eighty-eight pounds, nineteen shillings, and nine-pence, to defray the Supplementary charge on the Colonial Treasury for the service of the year One thousand eight hundred and forty, as herein-after more particularly expressed : that is to say, any sum or sums of money not exceeding five hundred and ninety-nine pounds, eighteen shillings, and five-pence, to defray the Supplementary Expense of the Department of the Councils ; and any sum or sums of money not exceeding four thousand two hundred and eighty-eight pounds, and eight shillings, to defray the Supplementary Expense of the Post Master General's Department, including the sum of one hundred and fifty pounds to provide stamps for the Country Post Offices, exhibiting the dates of the receipt and dispatch of letters ; and any sum or sums of money not exceeding one hundred and nine pounds, and sixteen shillings, to defray the Supplementary Expense of the Colonial Storekeeper's Department ; and any sum or sums of money not exceeding three hundred and fifty pounds, to provide a salary for the District Surveyor, Sydney ; and any sum or sums of money not exceeding three hundred and seventy-nine pounds,

(There shall and may be issued and applied £22,988 19s. 9d. for the Supplementary Expenditure of 1840.)

II. And be it enacted, That out of the produce of the said Duties there shall and may be issued and applied, any sum or sums of money not exceeding twenty-two thousand nine hundred and eighty-eight pounds, nineteen shillings, and nine-pence, to defray the Supplementary charge on the Colonial Treasury for the service of the year One thousand eight hundred and forty, as herein-after more particularly expressed : that is to say, any sum or sums of money not exceeding five hundred and ninety-nine pounds, eighteen shillings, and five-pence, to defray the Supplementary Expense of the Department of the Councils ; and any sum or sums of money not exceeding four thousand two hundred and eighty-eight pounds, and eight shillings, to defray the Supplementary Expense of the Post Master General's Department, including the sum of one hundred and fifty pounds to provide stamps for the Country Post Offices, exhibiting the dates of the receipt and dispatch of letters ; and any sum or sums of money not exceeding one hundred and nine pounds, and sixteen shillings, to defray the Supplementary Expense of the Colonial Storekeeper's Department ; and any sum or sums of money not exceeding three hundred and fifty pounds, to provide a salary for the District Surveyor, Sydney ; and any sum or sums of money not exceeding three hundred and seventy-nine pounds,

and three shillings, towards the erection of the Parochial School of Saint Philip, Sydney, sums to an equal amount having been raised by private contributions; and any sum or sums of money not exceeding thirty-one pounds, nineteen shillings, and ten pence, in aid of Private Contributions to a like amount, for the Wesleyan Methodist Sunday Schools, Sydney; and any sum or sums of money not exceeding one hundred and eighty-three pounds, fourteen shillings, and six pence, in aid of Private Contributions to a like amount, for the Australian School Society; and any sum or sums of money not exceeding three hundred and fifty pounds, and twelve shillings, in aid of Private Contributions to a like amount for the Sydney Dispensary; and any sum or sums of money not exceeding ninety-three pounds, and thirteen shillings, in aid of Private Contributions to a like amount, for the Sydney Strangers' Friend Society; and any sum or sums of money not exceeding seven hundred and fifty-four pounds, and fifteen shillings, to defray the difference to Colonel Kenneth Snodgrass between the sum of one thousand pounds, proposed on the eleventh day of October One thousand eight hundred and thirty-eight, by Resolution of the Legislative Council, to be paid to him for extra services rendered to the said Colony while holding the Appointment of Brigade Major, and the sum of two hundred and forty-five pounds, and five shillings, already paid to him out of the Military Chest; and any sum or sums of money not exceeding six hundred pounds to meet the retired allowance of three hundred pounds to Frederick Garling, Esquire, late Clerk of the Peace, and the further allowance of three hundred pounds on condition of his properly arranging and giving over the Records of his late Office; and any sum or sums of money not exceeding five thousand pounds, towards building the New Gaol at Darlinghurst; and any sum or sums of money not exceeding four thousand pounds, towards building the New Gaol at Parramatta; and any sum or sums of money not exceeding one thousand Pounds, for draining, fencing, and other extra work at the Lunatic Asylum, Tarban Creek; and any sum or sums of money not exceeding five hundred pounds, by way of Gratuity to Mr. Surveyor Huddle, who, after upwards of seventeen years' service, now retires in infirm health; and any sum or sums of money not exceeding six hundred and eleven pounds to defray the Supplementary Expense of the Town Surveyor's Department; and any sum or sums of money not exceeding one thousand six hundred pounds, towards defraying the expense of building a Strong Room for preserving the Colonial Records, and of a Vault for the Treasury, beneath it; and any sum or sums of money not exceeding two thousand five hundred and thirty-six pounds, towards indemnifying Thomas Moore, Esquire, for the loss he sustained by the sale of the Burwood Estate, in the year One thousand eight hundred and twelve, under a Commission by the late Governor Macquarie, and with the approbation of the Judge and Members of the then subsisting Court of Civil Jurisdiction, as directed and required by the said Commission.

(There shall and may be issued and applied £49,959 4s. 7d., for the Civil Establishment for the year 1841.)

III. And be it enacted, That out of the pro-

duce of the said duties there shall and may be issued and applied, any sum or sums of money not exceeding forty-nine thousand nine hundred and fifty-nine pounds, four shillings, and seven pence, for defraying the charge of the Civil Establishment of New South Wales, for the year One thousand eight hundred and forty-one, as hereinafter more particularly expressed; that is to say, any sum or sums of money not exceeding five hundred and eighty pounds, one shilling, and three pence, to defray the expense of the Establishment of His Excellency the Governor; and any sum or sums of money not exceeding one thousand four hundred and thirty-five pounds, eight shillings, and nine pence, to defray the expense of the Department of the Executive and Legislative Councils; and any sum or sums of money not exceeding seven thousand two hundred and two pounds, and five pence, to defray the expense of the Department of the Colonial Secretary; and any sum or sums of money not exceeding four thousand and twenty-seven pounds, eleven shillings, and eight pence, to defray the expense of the Colonial Treasurer's Department; and any sum or sums of money not exceeding two thousand five hundred and seventy-nine pounds, eight shillings, and nine pence, to defray the expense of the Auditor General's Department; and any sum or sums of money not exceeding eight thousand two hundred and forty-six pounds, fourteen shillings, and seven pence, to defray the expense of the Customs Department at Sydney; and any sum or sums of money not exceeding three hundred and eighty-six pounds, sixteen shillings, and three pence, to defray the expense of the Customs Department at Newcastle; and any sum or sums of money not exceeding sixteen thousand eight hundred and ninety-seven pounds, six shillings, and three pence, to defray the expense of the Postmaster General's Department; and any sum or sums of money not exceeding four hundred and six pounds, eighteen shillings, and nine pence, to defray the Salaries and Allowances of Inspectors of Colonial Distilleries; and any sum or sums of money not exceeding two hundred pounds, to defray the Salary and Allowance of the Inspector of Slaughter Houses, Sydney; and any sum or sums of money not exceeding three hundred and forty-five pounds, twelve shillings, and six pence, to defray the expense of the Department of the Commissioner for the Assignment of Convicts; and any sum or sums of money not exceeding nine hundred and forty-six pounds, and ten shillings, to defray the expense of the Department of the Colonial Botanist; and any sum or sums of money not exceeding eight hundred and eighty-eight pounds, and five shillings, to defray the expense of the Government Domain, Parramatta; and any sum or sums of money not exceeding two hundred pounds, to defray the expense of the Australian Museum; and any sum or sums of money not exceeding one thousand four hundred and forty pounds, eleven shillings, and seven pence, to defray the expense of the Colonial Storekeeper's Department; and any sum or sums of money not exceeding one thousand seven hundred and sixty-six pounds, and five pence, to defray the expense of the Harbour Master's Department, Sydney; and any sum or sums of money not exceeding four hundred and

eighteen pounds, seventeen shillings, and one penny, to defray the expense of the Light House at the South Head of Port Jackson; and any sum or sums of money not exceeding four hundred and sixty-seven pounds, seventeen shillings, and six pence, to defray the expense of the Floating Light Vessel, near the entrance of Port Jackson; and any sum or sums of money not exceeding two hundred and ninety-two pounds, and three shillings, to defray the expense of the Harbour Master's Department at Newcastle; and any sum or sums of money not exceeding two hundred and fifty pounds, three shillings, and four pence, to defray the expense of the Harbour Master's Department, at Port Macquarie; and any sum or sums of money not exceeding four hundred and thirty pounds, seventeen shillings, and six pence, to defray the expense of the Telegraph Stations; and any sum or sums of money not exceeding three hundred pounds, to defray the Salary of the Health Officer, Port Jackson; and any sum or sums of money not exceeding two hundred and fifty pounds, to defray the Salary of the Colonial Agent General.

(There shall and may be issued and applied £18,840 13s. 4d. for the Surveyor General's Department for the year 1841.)

IV. And be it enacted, That out of the produce of the said Duties, there shall and may be issued and applied, any sum or sums of money not exceeding eighteen thousand eight hundred and forty pounds, thirteen shillings, and four pence, for defraying the charge of the Surveyor General's Department in the said Colony, for the year One thousand eight hundred and forty-one.

(There shall and may be issued and applied £75,453 7s. 10d. for the Department of Public Works and Buildings for the year 1841.)

V. And be it enacted, That out of the produce of the said Duties there shall and may be issued and applied, any sum or sums of money not exceeding seventy-five thousand four hundred and fifty-three pounds, seven shillings, and ten pence, for defraying the charge of the Department of Public Works and Buildings in the said Colony, for the year One thousand eight hundred and forty-one, as hereinafter more particularly expressed; that is to say, any sum or sums of money not exceeding nineteen thousand and twenty-one pounds, seven shillings, and eight pence, to defray the expense of the Department of the Colonial Engineer; and any sum or sums of money not exceeding twenty-four thousand eight hundred pounds, to defray the expense of Public Works; and any sum or sums of money not exceeding one thousand six hundred and nine pounds, and ten shillings, to defray the expense of the Department of the Colonial Architect and Surveyor of Buildings; and any sum or sums of money not exceeding twenty-five thousand five hundred pounds, to defray the expense of Public Buildings; and any sum or sums of money not exceeding three thousand one hundred and seventy two pounds, ten shillings, and two pence, to defray the expense of the Department of the Town Surveyor, Sydney; and any sum or sums of money not exceeding one thousand pounds, to defray the expense of conveying Stone for Metalling the Streets of Sydney; and any sum or sums of money not exceeding three hundred and fifty

No. 70. October 31, 1840.

pounds, to defray the Salary of the District Surveyor of Buildings, Sydney.

(There shall and may be issued and applied £24,287 3s. for the Judicial Establishment for the year 1841.)

VI. And be it enacted, That out of the produce of the said Duties there shall and may be issued and applied, any sum or sums of money not exceeding twenty-four thousand two hundred and eighty-seven pounds, and three shillings, for defraying the charge of the Judicial Establishment of the said Colony, for the year One thousand eight hundred and forty-one, as hereinafter more particularly expressed; that is to say, any sum or sums of money not exceeding seven thousand two hundred and forty-four pounds, eleven shillings, and eight pence, to defray the expense of the Supreme Court; and any sum or sums of money not exceeding four thousand and forty-four pounds, and ten shillings, to defray the expense of the Law Officers of the Crown; and any sum or sums of money not exceeding two thousand nine hundred and seventy pounds, fifteen shillings, and one penny, to defray the expense of Courts of Requests; and any sum or sums of money not exceeding four thousand eight hundred and seventy-eight pounds, to defray the expense of Courts of Quarter Sessions; and any sum or sums of money not exceeding three thousand two hundred and ninety-five pounds, eight shillings, and nine pence, to defray the expense of the Sheriff's Department; and any sum or sums of money not exceeding one thousand eight hundred and fifty-three pounds, seventeen shillings, and six pence, to defray the Salaries of Coroners and the expense of Inquests.

(There shall and may be issued and applied £94,011 11s. 6d. for the Police and Gaol Establishments for the year 1841.)

VII. And be it enacted, That out of the produce of the said Duties there shall and may be issued and applied, any sum or sums of money not exceeding ninety-four thousand and eleven pounds, eleven shillings, and six pence, for defraying the charge of the Police and Gaol Establishments of New South Wales, for the year One thousand eight hundred and forty-one, as hereinafter more particularly expressed; that is to say, any sum or sums of money not exceeding fourteen thousand one hundred and fifty pounds, sixteen shillings, and eight pence, to defray the expense of Police for the Town of Sydney; and any sum or sums of money not exceeding thirty-five thousand seven hundred and eight pounds, five shillings, and ten pence, to defray the expense of Police for the Country Districts; and any sum or sums of money not exceeding nineteen thousand six hundred and fifty pounds, eleven shillings, and nine pence, to defray the expense of the Mounted Police; and any sum or sums of money not exceeding ten thousand nine hundred and sixty-five pounds, to defray the expense of the Border Police; and any sum or sums of money not exceeding six thousand one hundred and forty-two pounds, nine shillings, and four pence, to defray the expense of the Sydney Gaol; and any sum or sums of money not exceeding six hundred and eighty-four pounds, sixteen shillings, and eight pence, to defray the expense of the Debtors' Prison, Sydney; and any sum or sums of money not ex-

ceeding six thousand seven hundred and nine pounds, eleven shillings, and three pence, to defray the expense of Gaols in the Country Districts.

(There shall and may be issued and applied £38,321 10s. for the Church Establishments for 1841.)

VIII. And be it enacted, That out of the produce of the said Duties there shall and may be issued and applied, any sum or sums of money not exceeding thirty-eight thousand three hundred and twenty-one pounds, and ten shillings, for defraying the charge of the Church Establishments of the said Colony, for the year one thousand eight hundred and forty-one, as hereinafter more particularly expressed; that is to say, any sum or sums of money not exceeding eighteen thousand three hundred and seventy-one pounds, and ten shillings, (including the sum of six thousand pounds, towards the erection of Churches and Ministers' Dwellings, on condition of sums to an equal amount being raised by private contributions,) to defray the expense of the Establishment of the United Church of England and Ireland; and any sum or sums of money not exceeding six thousand eight hundred pounds, (including the sum of three thousand one hundred and fifty pounds, towards the erection of Churches and Ministers' Dwellings, on condition of sums to an equal amount being raised by private contributions,) to defray the expense of the Presbyterian Church, in connexion with the Established Church of Scotland; and any sum or sums of money not exceeding three thousand four hundred and fifty pounds, (including the sum of two thousand pounds towards the erection of Chapels and Ministers' Dwellings, on condition of sums to an equal amount being raised by private contributions,) to defray the expense of the Wesleyan Mission; and any sum or sums of money not exceeding eight hundred and fifty pounds, towards defraying the expense of erecting Particular Baptist Chapels and Ministers' Dwellings, on condition of sums to an equal amount being raised by private subscriptions; and any sum or sums of money not exceeding eight thousand eight hundred and fifty pounds, (including the sum of three thousand pounds towards erecting Chapels and Ministers' Dwellings, on condition of sums to an equal amount being raised by private contributions,) to defray the expense of the Establishment of the Roman Catholic Church.

(There shall and may be issued and applied £16,944 2s. 9d. for the School Establishments for the year 1841.)

IX. And be it enacted, That out of the produce of the said Duties there shall and may be issued and applied, any sum or sums of money not exceeding sixteen thousand nine hundred and forty-four pounds, two shillings, and nine pence, for defraying the charge of the School Establishments of the said Colony, for the year One thousand eight hundred and forty-one, as hereinafter more particularly expressed; that is to say, any sum or sums of money not exceeding three thousand one hundred and seventy-two pounds, to defray the expense of the Male Orphan School; and any sum or sums of money not exceeding three thousand and twenty-two pounds, two shillings and nine pence, to defray the expense of the Female Orphan School; and any sum or sums of money

not exceeding one thousand five hundred pounds, to defray the expense of Orphan Schools for destitute Roman Catholic Children; and any sum or sums of money not exceeding three thousand nine hundred and fifty pounds, (including the sum of one thousand pounds, on condition of sums to an equal amount being raised by private contributions) to defray the expense of Schools of the Church of England; and any sum or sums of money not exceeding one thousand five hundred pounds, towards the support of Presbyterian Schools, on condition of sums to an equal amount being raised by private subscriptions; and any sum or sums of money not exceeding three hundred and fifty pounds, towards the support of Wesleyan Methodist Day Schools, on condition of sums to an equal amount being raised by private subscriptions; and any sum or sums of money not exceeding one thousand four hundred and fifty pounds, (including the sum of seven hundred pounds, on condition of sums to an equal amount being raised by private contributions,) to defray the expense of Roman Catholic Schools; and any sum or sums of money not exceeding two thousand pounds, towards defraying the expense of Building New Orphan Schools at Parramatta.

(There shall or may be issued and applied £1,670 for pensions for the year 1841.)

X. And be it enacted, That out of the produce of the said Duties there shall and may be issued and applied, any sum or sums of money not exceeding one thousand six hundred and seventy pounds, for defraying the charge of Pensions payable by the said Colony, in the year One thousand eight hundred and forty-one, as hereinafter more particularly expressed, that is to say, any sum or sums of money not exceeding two hundred and fifty pounds, to defray the expense of Pensions payable in England; and any sum or sums of money not exceeding one thousand four hundred and twenty pounds, to defray the expense of Pensions payable in the said Colony.

(There shall and may be issued and applied £18,871 for Miscellaneous Services for the year 1841.)

XI. And be it enacted, That out of the produce of the said Duties there shall and may be issued and applied any sum or sums of money not exceeding eighteen thousand eight hundred and seventy-one pounds, for defraying the charge of Miscellaneous Services of the said Colony, for the year One thousand eight hundred and forty-one, as hereinafter more particularly expressed; that is to say, any sum or sums of money not exceeding one thousand pounds, to defray the expense of the Commission for hearing and determining on Claims to Grants of Land; and any sum or sums of money not exceeding one thousand and sixteen pounds, to defray the expense of the Management of the Clergy and School Estates; and any sum or sums of money not exceeding two hundred pounds, towards the support of the Sydney School of Arts; and any sum or sums of money not exceeding four thousand pounds, to defray the expense of Stationery, Printing, Bookbinding, Gazettes, and Almanacks for the several Colonial Departments; and any sum or sums of money not exceeding six hundred pounds, to defray the expense of Furniture for Government Houses and Public Offices;

and any sum or sums of money not exceeding four hundred and fifty pounds, to defray the expense of Fuel and Light for Government Houses and the several Public Offices; and any sum or sums of money not exceeding three hundred pounds, to defray the expense of conveying Stores to the several Public Departments; and any sum or sums of money not exceeding two hundred pounds, to defray the expense of Lighting the Government Lamps in the Town of Sydney; and any sum or sums of money not exceeding one hundred and five pounds, to defray the expense of training Firemen to work the engines in Sydney, when required; and any sum or sums of money not exceeding two thousand five hundred pounds, to defray the expense of the support of free Paupers in the Colonial Hospitals; and any sum or sums of money not exceeding one thousand five hundred pounds, towards the support of the Lunatic Asylum; and any sum or sums of money not exceeding seven thousand pounds, to meet Unforeseen Expenses, on occasions of emergency, and to be hereafter accounted for.

(There shall and may be issued and applied £63,891 4s. 5d. for the Establishments at PORT PHILLIP for the year 1841.)

XII. And be it enacted, That out of the produce of the said Duties there shall and may be issued and applied, any sum or sums of money not exceeding sixty three thousand, eight hundred and ninety one pounds, four shillings, and five pence, for defraying the charge of the Establishments at Port Phillip for the year One thousand eight hundred and forty one, as hereinafter more particularly expressed; that is to say, any sum or sums of money not exceeding one thousand two hundred and four pounds, to defray the expense of the Establishment of His Honor the Superintendent of the District of Port Phillip; and any sum or sums of money not exceeding one thousand eight hundred and twelve pounds, ten shillings, and eight pence, to defray the expense of the Establishment of the Sub-Treasurer, at Port Phillip; and any sum or sums of money not exceeding four thousand three hundred and two pounds, three shillings, and nine pence, to defray the expense of the Establishment of the Sub-Collector of Customs, at Port Phillip; and any sum or sums of money not exceeding two thousand one hundred and five pounds, and ten shillings, to defray the expense of the Post Office Establishment, at Port Phillip; and any sum or sums of money not exceeding two thousand eight hundred and seventy-seven pounds, two shillings, and six pence, to defray the expense of the Establishment of the Harbour Master, at Port Phillip; and any sum or sums of money not exceeding three hundred and twelve pounds, and fifteen shillings, to defray the expense of Light Houses, at Port Phillip and Williams' Town; and any sum or sums of money not exceeding five thousand six hundred and ninety-one pounds, eighteen shillings and four pence, for the Surveyor General's Establishment, at Port Phillip; and any sum or sums of money not exceeding five thousand and twenty-four pounds, nine shillings, and two pence, to defray the expense of Public Works, at Port Phillip; and any sum or sums of money not exceeding twenty thousand five hundred pounds to defray the expense of Public Buildings at Port Phillip;

and any sum or sums of money not exceeding four hundred pounds, to defray the salary of the Clerk of the Crown, at Port Phillip; and any sum or sums of money not exceeding one thousand and ninety pounds, to defray the expense of Courts of Quarter Sessions, at Port Phillip; and any sum or sums of money not exceeding one thousand two hundred and ninety-one pounds, sixteen shillings, and three pence, to defray the expense of the Sheriff's Establishment, at Port Phillip; and any sum or sums of money not exceeding one hundred and eighty pounds, to defray the salary of a Coroner and the expense of Inquests, at Port Phillip; and any sum or sums of money not exceeding one thousand seven hundred and fifty eight pounds, three shillings, and nine pence, to defray the expense of the Police at Melbourne, in the District of Port Phillip; and any sum or sums of money not exceeding one thousand and thirteen pounds, thirteen shillings, and nine pence, to defray the expense of the Police at Geelong, in the District or Port Phillip; and any sum or sums of money not exceeding seven hundred and forty-seven pounds, eighteen shillings, and nine pence, to defray the expense of the Police at Portland Bay, in the District of Port Phillip; and any sum or sums of money not exceeding four thousand eight hundred and eight pounds, sixteen shillings, and eight pence, to defray the expense of the Mounted Police, for the District of Port Phillip; and any sum or sums of money not exceeding three thousand five hundred and ninety one pounds, and five shillings, to defray the expense of the Border Police, for the District of Port Phillip; and any sum or sums of money not exceeding one thousand pounds, to defray the expense of the Native Police, at Port Phillip; and any sum or sums of money not exceeding two thousand nine hundred and fifty pounds, (including the sum of two thousand pounds towards the erection of Churches and Ministers' Dwellings, on condition of sums to an equal amount being raised by private contributions,) to defray the expense of the Ecclesiastical Establishments, at Port Phillip; and any sum or sums of money not exceeding seven hundred and fifty pounds, in aid of the establishment and support of Schools, at Port Phillip, on condition of sums to an equal amount being raised by private contributions; and any sum or sums of money not exceeding four hundred and seventy-nine pounds, and ten pence, to defray the expense of the Medical Establishment, at Port Phillip.

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

XIII. 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.

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

XIV. 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.

"GEORGE GIPPS,"

Governor.

*Passed the Legislative Council,
this sixteenth day of Oc-
tober, One thousand eight hun-
dred and forty.*

WM. MACPHERSON,
Clerk of Councils.

ANNO QUARTO

VICTORIÆ REGINÆ.

No. 21.

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 enable the Trustees of the intended New Roman Catholic Church of Saint Patrick, in the Town of Sydney, to build at a less distance from the outer edge of the footway of Charlotte Place than is allowed by Law.

WHEREAS, by an Act passed in the Fifth Year of the Reign of His late Majesty King William the Fourth, intituled, "An Act for better regulating the Alignment of Streets in the Town of Sydney," it is among other things enacted, That it shall not be Lawful for any person to erect any Building of any kind or description whatsoever within the Town of Sydney within twelve feet of the outer Curb Stone or the exterior edge of the Footways in the said Town; and whereas it is found necessary for the convenience of the Roman Catholics in the said Town, to erect a New Church in that part thereof called Church Hill; and whereas a portion of ground has been conveyed by one William Davis to certain Trustees for that purpose, bounded on the South by Charlotte Place, on the West by Gloucester Street, on the north by the property of Matthew Harris, and on the East by the property of William Davis, which portion of ground will not be sufficiently large for the site of the intended Church unless the Southern wall of the same be permitted to approach so near to the outer edge of the Northern Foot-way of Charlotte Place, near the junction of that Street with Gloucester Street as to be at the distance only of about nine feet from the outer edge of the said Footway, which cannot be effected without the aid of the Legislature: Be it therefore enacted, by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof, That immediately from and after the passing and publication of this Act, it shall be lawful for the Trustees of the said intended Roman Catholic Church of Saint Patrick, to erect the Southern Wall of the said Church at a distance not less than nine feet from the outer edge of the Northern Foot-way of Charlotte Place, and parallel to the same, anything in the said recited Act,

or in any other Act, in any way to the contrary notwithstanding.

GEORGE GIPPS,

Governor.

*Passed the Legislative Council,
this sixteenth day of October,
one thousand eight hundred
and forty.*

WM. MACPHERSON,

Clerk of Councils.

ANNO QUARTO

VICTORIÆ REGINÆ.

No. 22.

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 the more effectual Administration of Justice in New South Wales and its Dependencies.

WHEREAS by an Act of Parliament passed in the Second and Third Year of the Reign of Her present Majesty Queen Victoria, intituled, "An Act to amend an Act of the Ninth Year of King George the Fourth, to provide for the Administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes relating thereto, and to continue the same until the thirty-first day of December, one thousand eight hundred and forty, and thenceforward to the end of the then next Session of Parliament;" after reciting that by the said Act passed in the Ninth year of King George the Fourth provision was made for the Administration of Justice in the said Colonies, and for defining the constitution and powers of the Courts of Law and Equity therein; and further reciting that the provisions of the said Act had by reason of the extension of the said Colonies, been found in divers respects inapplicable to the circumstances of the said Colonies, and to the wants of the inhabitants thereof: But the Local Legislatures of the said respective Colonies established under the said last mentioned Act had no power to repeal or alter any of the before mentioned provisions, it was enacted, that it should be lawful for the Local Legislatures of the said respective Colonies, by any Laws or Ordinances to be by them from time to time for that purpose made in manner prescribed by the said Act of the Ninth year of King George the Fourth, and subject to the conditions and provisions therein contained, to make such provision as to them may seem meet for the better Administration of Justice, and for defining the constitution of the Courts of Law and Equity, and of Juries within the said Colonies respectively, or within any present and future Dependency thereof respectively, any thing in the said recited Act, or in any Charter of Justice, or Order in Council made and issued in pursuance thereof, or in any Law, Statute, or usage to the contrary thereof in anywise notwithstanding; and whereas the population and settlement of the Colony of New South Wales have greatly increased and extended since the passing of the said Act of the Ninth year of King George the Fourth, and Her Majesty's

Islands of New Zealand have been annexed to New South Wales and now form a part of the Territory dependent on the Government thereof; by reason whereof, and of the distance of those Islands, and of the District of Port Phillip from Sydney, the Supreme Court of New South Wales as at present constituted has become inadequate to the discharge of the whole judicial business of the said Colony and its Dependencies; and it has therefore become necessary that Circuits should be established, and that the Judges of the said Supreme Court should no longer be as

at present limited to three: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That for the better and more effective

Administration of Justice throughout the said Colony and its Dependencies, in addition to the three Judges of the said Supreme Court already appointed, there shall and may be appointed a Judge or Judges (not exceeding two) of the said Court, as the same shall be deemed necessary by Her Majesty; and that until the pleasure of Her Majesty, Her Heirs and Successors shall be duly signified in that behalf, it shall and may be lawful for the said Governor, by Commission or Commissions, under the Great Seal of the Colony, in the name and on behalf of Her Majesty to appoint such Judge or Judges as aforesaid; and from and after the issue by the said Governor of any such Commission or Commissions, the person or persons thereby respectively appointed, shall, until Her Majesty's pleasure be duly signified as aforesaid, be and be deemed to be a Judge or Judges respectively of the said Courts to all intents and purposes:

Such Judges to be Barristers of at least five years' standing. Provided always that no person shall be so appointed unless he be a Barrister of England or Ireland of not less than five year's standing.

(Salaries of Judges to be paid as prescribed by 2 Wm. IV., No. 4.)

II. And be it enacted, That the said additional Judges shall be entitled to receive, and shall receive the same Salaries respectively, as the Puisne Judges of the said Court are authorised to receive by an Act of the Governor and Legislative Council of New South Wales, passed in the second year of the Reign of His late Majesty, King William the Fourth, intituled "An Act to provide for the payment of the Salaries of the Governor of New South Wales, and the Judges of the Supreme Court thereof, out of the Revenues of the Customs of the said Colony," and that the said Salaries shall be paid to them respectively in the manner provided by that Act.

(Provision for supplying vacancies.)

III. And be it enacted, That in case of the death, resignation, absence, illness, or incapacity of any of the said Judges, or in case Her Majesty should be pleased not to approve of the appointments made by the Governor as aforesaid or either of them, it shall be lawful for the Governor for the time being to nominate and appoint from time to time a Successor or Successors in such Office, subject to Her Majesty's pleasure or approval as aforesaid.

(Residence of Judges at Port Phillip and New Zealand to be fixed by the Governor.)

IV. And whereas it is essential to provide for No. 70. October 31, 1840.

the due Administration of Justice in the said Districts or Dependencies called Port Phillip and New Zealand, respectively, which object can best be effected by resident Judges: Be it enacted, That it shall be lawful for the Governor of the said Colony for the time being to appoint from time to time one of the Judges of the said Court, not being the Chief Justice, to reside in the said District of Port Phillip, and one other of the said Judges at New Zealand, and by Proclamation or Proclamations, for that purpose issued with the advice of the Executive Council, to declare and define the limits of the said District and Islands respectively within which such resident Judges shall respectively exercise jurisdiction; and within the limits of Port Phillip and New Zealand respectively, which shall be so declared and defined, the said Judges, whilst so resident therein, shall have, exercise, and enjoy all such and the like powers, jurisdiction, and authority, as now is, or are, or can be legally exercised by the said Supreme Court, or by all or any of the Judges thereof, collectively or individually.

(In matters that belong to the full Court, decisions may be reviewed by the Court in Banco sitting in Sydney.)

V. Provided always and be it enacted, That the decision of every such resident Judge in any matter only which would in Sydney properly belong to the full Court, and every General Rule made by any such Judge, may be brought under the review of the Judges of the said Court sitting in Sydney in Banco, by way of appeal, or otherwise, in such manner and form, and on such terms to be imposed on the litigating parties respectively, and subject to such rules and regulations in all other respects, as the said last mentioned Judges shall from time to time, in that behalf, make and prescribe: Provided always, that no appeal shall be allowed from any order for the granting of a Re-hearing only, or of a New Trial, or of any Writ of Attachment, or of any Interlocutory Order merely, whereby the merits of the case shall not be concluded.

(Exclusive Jurisdiction of Sydney Judges.)

VI. And be it declared and enacted, That neither of the said resident Judges shall, whilst so resident at New Zealand, or Port Phillip, as aforesaid, have any jurisdiction or authority in or over any cause or matter instituted or pending in the said Supreme Court before the Judges sitting in Sydney, or any power to revoke or vary any Judgment, Decree, or Order, made in or relating to any such cause or matter by such last mentioned Judges, or any of them.

(Seal of the Court to be issued by resident Judges)

VII. And be it enacted, That the said resident Judges shall, or lawfully may, respectively, on all occasions where by law or custom the seal of a Court is used, have and use a Duplicate or Fac Simile of the Seal of the Supreme Court of New South Wales: Provided that on the Seal used by the Judge resident at Port Phillip the words "Port Phillip" shall be engraven; and on the Seal used by the Judge resident at New Zealand, the words "New Zealand" shall be engraven, in addition to all other words or letters on such Seal, in such manner, and in such compartment thereof, as the Governor for the time being may direct.

(Power to appoint Deputy Sheriffs and other Officers.)

VIII. And be it enacted, That it shall be lawful for Her Majesty, Her Heirs and Successors, and in the mean time, and until the nomination shall be by Her or Them approved or disallowed, it shall be lawful for the Governor for the time being, to appoint from time to time one or more Deputy Sheriff or Sheriffs, at and for Port Phillip and New Zealand respectively, for the discharge, within the limits thereof, of all the duties by law appertaining to the office of Sheriff, or which are or lawfully may be assigned to that Officer to be discharged; but for the acts or defaults of which said Deputy Sheriff, the Sheriff of the Colony shall not be in any manner responsible; and all such Ministerial Officers shall be appointed by the said Governor as he shall, from time to time, on the advice of such Judges respectively, decide to be necessary.

(Remedy against Deputy Sheriffs at Port Phillip and New Zealand.)

IX. And be it enacted, That in every case in which any Writ or Process shall have been duly delivered to any such Deputy Sheriff to be executed by him, every person who would by law be entitled to a remedy against the Sheriff, by action or otherwise, for or in respect of any act or default of such Sheriff, or any of his Officers, in case such Writ or Process had been directed and delivered to him, shall or lawfully may have and be entitled to the like remedy and proceedings against such Deputy Sheriff, notwithstanding that in point of form such Writ or Process may be directed to the Sheriff only.

(Preamble to Criminal Prosecutions.)

X. And whereas by the said recited Act, passed in the ninth year of the Reign of King George the Fourth, it was enacted, That until further provision should be made as hereinafter provided, for proceeding by Juries, all crimes, and misdemeanours, and offences, cognizable in the said Supreme Court, should be prosecuted by Information in the name of the Attorney-General, or other Officer appointed for such purpose by the Governor of the said Colony, and that all crimes and offences (not committed by transported felons and other offenders) should be prosecuted and tried before the Courts of General and Quarter Sessions in the said Colony, in the same manner, and subject to the same rules in every respect, as are in the said recited Act, made and prescribed with respect to trials in the Supreme Court: And whereas it is expedient that separate Officers should be appointed to prosecute in all trials for crimes, misdemeanours, and offences within the limits of Port Phillip and New Zealand respectively, as well as in the Courts of General and Quarter Sessions throughout the Colony: Be it enacted, That until Grand Juries be established therein, it shall be lawful for the Governor of New South Wales, for the time being, to appoint from time to time some fit and proper person for Port Phillip, and a like person for New Zealand; (such persons being respectively Barristers of England or Ireland, by whom, and in whose name, all crimes, misdemeanours, and offences, cognizable in the Supreme Court of New South Wales, and in the several Courts of General and Quarter Sessions (save as in the said recited Act is excepted), shall be prosecuted within the aforesaid limits of Port Phillip and New Zealand respectively; and also

that it shall be lawful for the said Governor to appoint any Officer or Officers, by whom, and in whose name, all crimes, misdemeanours, and offences cognizable in the several Courts of General and Quarter Sessions in all other parts of the said Colony may be prosecuted, except as aforesaid: Provided always, that nothing herein contained shall be construed to limit or control any Authority vested by Law in Her Majesty's Attorney-General for the said Colony.

(Resident Judges at Port Phillip and New Zealand to preside at Quarter Sessions.)

XI. And be it enacted, That each of the Judges so resident at Port Phillip and New Zealand respectively, lawfully may, whilst so resident, in virtue of such his office, preside as Chairman of any Courts of General Quarter Sessions, there now holden, and also of any other Court of Quarter Sessions there hereafter established, as the said Governor shall from time to time, by Warrant under his hand, for that purpose appoint, any thing in any now existing Act or Acts for the establishment or regulation of any such Court notwithstanding.

(The several Courts of General Quarter Sessions empowered to make and prescribe Rules, Forms, Practice, Proceeding, and Process for the conduct and dispatch of business therein, provided a copy thereof be transmitted to the Judges of the Supreme Court at Sydney, within one month from the making of the same.)

XII. And be it enacted, That after the passing of this Act, the several Courts of General Quarter Sessions throughout the Colony, and the Dependencies thereof, shall, or lawfully may, from time to time, make and prescribe all such Rules and Forms, Practice, Proceeding, and Process, for the conduct and dispatch of business therein respectively, as to such Courts shall seem proper, and the same, from time, shall or may revoke or vary, as occasion may require: Provided always, that a copy of every such Rule and Form so made and prescribed shall, within one month next following the making thereof, be transmitted by the Clerk of the Peace acting at or in such Court, to the Judges of the Supreme Court at Sydney aforesaid, who shall have power to revoke or alter the same, as to them may seem expedient.

(Writs of Execution and of Attachment and Subpœna to be in force throughout the Colony.)

XIII. And be it enacted, That every Writ of Execution and Writ of Subpœna issued out of the Supreme Court, or by either of the said resident Judges, and every Rule of Court or Order made, and every Writ of Attachment granted by the said Court, or any such resident Judge, shall be of equal force and validity, and shall or lawfully may be served and enforced or carried into effect respectively, according to the tenor thereof, in every part of New South Wales and its Dependencies: Provided that nothing in this Section contained shall be construed to confer on the said Resident Judges, or either of them, any original jurisdiction over any person or matter other than, and except, as first aforesaid.

(Provision for examining Witnesses de bene esse, or on Commission.)

XIV. Provided always, and be it enacted, That in all cases, whether at Law or in Equity, or in any Ecclesiastical Proceeding, where any Witness shall be beyond Seas, or at a greater distance than two hundred miles from the intended place

of trial, or shall, from age or infirmity, be unable to attend the trial, or where from either of such last mentioned causes, or from his or her being about to depart beyond Sea, or to some place beyond the said distance of two hundred miles, the testimony of any such Witness shall be in danger of being lost, it shall be lawful for the said resident Judges respectively, (or for any of the Judges resident at Sydney, if the cause or matter be there pending) to grant a Commission, or make an Order, at any stage of the cause, for the examination of such Witness, either *vera voce* or upon interrogatories, as such Judge shall think fit to direct, and before such person or persons, or such Commissioner or other officer of the Court as he shall for that purpose appoint; and every such examination being duly taken and returned, shall be allowed and read as evidence at the trial or hearing accordingly: And the like Commission may be issued, or Order made under the like circumstances in any Criminal Case, if on the application, or by and with the consent of the Attorney General or the Crown Prosecutor, as well as the Prisoner, but not otherwise.

(Power given to change the venue.)

XV. And be it enacted, That whenever it shall appear that a fair or unprejudiced trial of any issue at Law, whether Civil or Criminal, cannot otherwise be had, or where, for any other reason, it shall to such Court or Judge appear expedient so to do, it shall be lawful for the Supreme Court sitting in Banco at Sydney, in all cases wheresoever pending, and for the said resident Judges in cases pending before them respectively, to change the venue and direct the trial to be had in some other part of, or at some particular place within the Colony or its Dependencies, as to such Court or Judges shall seem meet, and for that purpose to make all such Orders, and (where the venue shall be changed at the instance of either of the parties) to impose all such terms and conditions as justice shall appear to require.

(Governor may with advice of Executive Council appoint Circuit Courts to be holden.)

XVI. And whereas it is necessary that Circuit Courts should be established for the more easy and convenient trial of Criminal as well as Civil issues: Be it therefore enacted, That it shall be lawful for the Governor of the said Colony, by Proclamation or Proclamations under his hand issued and published, from time to time, by and with the advice of the Executive Council of the same, to direct Circuit Courts to be holden in or at such Towns or Places within the Colony as he shall by the advice aforesaid think fit to appoint, and to fix from time to time, and vary or alter as occasion may require, the times and places for holding the said Courts respectively.

(Constitution of such Courts, to be holden before one Judge, defined.)

XVII. And be it enacted, That every such Circuit Court shall be holden by a Judge of the said Supreme Court, and shall have such Ministerial Officers as may be required, and as the Governor for the time being shall from time to time appoint: And the said Courts respectively shall be Courts of Record, and shall have the same powers and jurisdiction as Courts of Oyer and Terminer, and Gaol Delivery, and of *Nisi Prius*, have respectively in England, and shall or lawfully may hear and determine all cases of crimes and misdemeanors committed within the said Colony, and try and

determine all issues of fact joined in any action or other proceeding commenced or pending in the said Supreme Court, and shall proceed in all cases according to the form and manner observed and established by Law in the said Supreme Court in similar cases: And the said Circuit Courts shall respectively stand in the same relation to the said Supreme Court as Courts of Oyer and Terminer, and Gaol Delivery, and *Nisi Prius* respectively in England stand in with respect to Her Majesty's Superior Courts of Record at Westminster.

(Provision in case of Court not being opened on exact day.)

XVIII. And be it enacted, That if in any case the Judge shall not arrive at any such Circuit, Town or Place, in time to open the Court, or shall not actually open such Court on the day for that purpose appointed by any such Proclamation as aforesaid, the subsequent holding of such Court shall not for that reason be, or be taken to be illegal, but the same shall or lawfully may be opened and holden either by the same Judge, or by any other Judge of the Supreme Court, on any other day or days next following: Provided that every such Circuit Court shall be actually opened and holden on the day so appointed, except in cases of unavoidable accident, and that then the Court shall be opened and holden as soon afterwards as possible.

(Declaratory clause as to Powers of the Judges collectively.)

XIX. And be it enacted and declared, That in all cases where any power, jurisdiction, or authority, hath been at any time, or shall hereafter be (or is by this present Act) conferred on, or entrusted to, or is now in any manner vested in the said Supreme Court, or in the Judges thereof collectively, the same may lawfully be exercised in Sydney by the three Judges there resident, or by the majority of them, and at New Zealand and Port Phillip (for the limits respectively assigned to those places) by the resident Judges respectively, but as to the latter, subject to such review by the full Court at Sydney as is in that behalf hereinbefore provided.

(Power to vest Equity Jurisdiction in one Judge.)

XX. Provided always and be it enacted, That it shall 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 shall decline such appointment, then one of the Puisne 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 said Supreme Court in Equity, and coming on to be heard and decided at Sydney; and every Decree or Order of such Chief Justice, or of the Judge so appointed, shall in any such cause or matter (unless appealed from in the manner hereinafter 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.

(Provision for Appeal.)

XXI. Provided nevertheless and be it enacted, That it shall 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 shall for that purpose be provided by General Rules to be in that behalf made, 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 shall be thereupon awarded against him: Provided nevertheless that nothing in this Act contained, shall be construed to abridge or affect in any manner the right and power of any Suitor or Party to appeal to Her Majesty in Her Privy Council from and against any such Decree or Order, or against any reversal or affirmance thereof.

(Revival of the Office of Master in Equity.)

XXII. And whereas the Equity Branch of the Supreme Court hath lately increased so much that it is expedient and necessary to revive the Office of Master in Equity: Be it enacted, That the said Office of Master be revived accordingly, and that it shall and may be lawful for the Governor of the said Colony, subject to the approval of Her Majesty, to appoint a Barrister of England or Ireland, of at least five years standing, to discharge the duties of the same, together with such other duties belonging to the said Court as may be compatible with such Office, at such salary as may be deemed reasonable.

(Power to Judges to regulate pleadings, practice, &c. and to make Rules for carrying out the objects of this Act.)

XXIII. And be it enacted, That it shall be lawful for the Judges, from time to time, to make and establish all such General Rules and Orders as to them shall seem meet, for the regulation of practice and pleadings in the said Supreme Court, in all respects in the several branches of its jurisdiction, and especially for the purpose of facilitating or more fully carrying into effect all or any of the provisions and objects of this Act, and for fixing the amount of fees and costs to be allowed in respect of all matters at any time pending in the said Court, as well to the Officers and Ministers thereof, and to the Officers and Ministers of the several Circuit Courts, as to the several Practitioners therein respectively, and also for the government and conduct of all such Officers and Ministers, and all or any of such Rules and Orders from time to time, by any other Rules or Orders for that purpose, to revoke or alter as circumstances shall appear to the said Judges to require, and every Rule and Order so made and established (unless disallowed as hereinafter provided) shall be of the same force and effect as if the same had been inserted in, and had respectively formed part of this present Act.

(Proviso.)

XXIV. Provided always and be it enacted, That a copy of every such Rule or Order shall, within one month next after the making thereof, be by the said Judges transmitted to His Excellency the Governor for the time being, to be by him forwarded, as soon afterwards as conveniently may be, to Her Majesty's Secretary of State for the Colonial Department, for Her Majesty's approval or disallowance thereof, as to Her Majesty shall seem meet.

(Regulating Mesne Process Arrests.)

XXV. And be it enacted and declared, That in every case wherein a Judge of the Supreme Court may now by Law order an arrest on Mesne

process, upon an affidavit of an intended departure beyond the jurisdiction of the Court, it shall, after the passing of this Act, be lawful for any Judge resident at Sydney, to make such an Order although the intention of the party shall appear to be to proceed to Port Phillip or New Zealand only; and in like manner it shall be lawful for the Judges resident at Port Phillip and New Zealand, respectively, to make such an Order whenever the departure intended shall appear to be beyond the limits of those places respectively.

(Certain cases may be tried in local District.)

XXVI. And be it enacted, That Writs of Inquiry in all cases where breaches shall have been suggested under the Statute in such case made and provided, and also Writs of Inquiry or Writs of Trial in other cases where the damages sought to be recovered shall not exceed fifty pounds, and where any Judge of the Supreme Court shall be satisfied that no difficult question of law or fact will arise, may (by leave of any such Judge) be issued out of the said Court, directed to any Commissioner of the said Court, or to any Chairman of any Court of Quarter Sessions under such General Rules or Orders as shall in that behalf be from time to time made and established by the said Supreme Court for the determination of all such matters, in such manner as shall be most conducive to the advantage of suitors and to the avoiding of expense and delay.

(Powers to single Judge in Vacation)

XXVII. And be it enacted, (in order to prevent the delay and consequent mischief which might otherwise ensue) That every Judge of the Supreme Court shall in vacation have power to make all such Orders, and grant all such Writs, as can only under ordinary circumstances be made or granted respectively by the Court: Provided that no such Writ or Order shall continue in force after the first day of the next ensuing Term, unless the Court shall then otherwise direct; and the like power shall or lawfully may be also exercised by any single Judge, in cases of exigency in Term: Provided that no Order made, or Writ granted, as last aforesaid, shall continue in force after the then next ensuing sitting day in Banco of the full Court.

(Power to direct trial of Feigned Issues.)

XXVIII. And be it enacted, That it shall be lawful for the Court in every case in which the ends of justice shall appear to them to render that mode of enquiry expedient, whether at Common Law or in its Equitable or Ecclesiastical Jurisdiction, to direct the trial, by a Jury, of any Feigned Issue or Issues, and for that purpose from time to time to make all such Orders and issue all such Writs and cause all such proceedings to be had and taken from time to time as the said Court shall think necessary; and upon the Finding of such Jury (unless a new trial shall for any sufficient reason in that behalf be ordered) to give such decision, and make such Decree, or pronounce such Judgment, in the cause or matter pending before them, as Justice shall seem to such Court to require.

"GEORGE GIPPS,"

Passed the Legislative Council, this sixteenth day of October, one thousand eight hundred and forty.

Governor.

WM. MACPHERSON, Clerk of Councils.