



ANNO DECIMO QUINTO

# VICTORIÆ REGINÆ.

*By His Excellency SIR CHARLES AUGUSTUS FITZ ROY, Knight Companion of the Royal Hanoverian Guelphic Order, Governor-General of all Her Majesty's Australian Possessions, and Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, with the advice and consent of the Legislative Council.*

## No. III.

An Act to amend in some respects the Act passed to consolidate the Laws relating to Juries. [Assented to, 1st December, 1851.]

**W**HEREAS the Act passed in the eleventh year of the Reign of Her Majesty, intituled "*An Act to consolidate and amend the Laws relative to Juries in New South Wales*" requires amendment: Be it therefore enacted, by the Governor-General of New South Wales, by and with the advice and consent of the Legislative Council thereof, That after the passing of this Act the compensation to Jurors for attendance in the Supreme Court, Circuit Courts, and Courts of General or Quarter Sessions, respectively, instead of the sums mentioned in Schedule E of the said recited Act, shall be the sums mentioned in the Schedule to the present Act; and that so long as any country Juror shall unavoidably, or *bonâ fide* for the purpose only of attendance on the panel, remain in the City or Town where the Court holds its sittings, he shall be entitled to payment in respect of every day of such detention, whether the Court shall actually then sit or not.

II. And be it enacted, That where the Jury shall have sat on the same trial, in any civil case, more than three days, it shall be lawful for the presiding Judge to direct the prevailing party to pay them severally, (or to the Sheriff or his Deputy for their use,) in respect of the fourth and every subsequent day, such additional sum or sums (over and above the amount to which they shall be entitled under the Schedule) as the said Judge shall, under the circumstances, think reasonable and proper; the same to be allowed eventually as costs in the cause.

III.

Jury money, 11 Vic.,  
No. 20, s. 32.

III. And be it enacted, That in every case where the amount required by the thirty-second section of the said recited Act shall have been paid to the Prothonotary, and no trial or assessment shall eventually be had, the amount so paid shall on demand be returned to the party having paid the same.

Issue of Precepts.

IV. And be it enacted, That after the passing of this Act, every Precept for the summoning of Jurors, returnable in the Supreme Court, or in any Circuit Court, may be under the hand and seal of any Judge of the said Supreme Court; and every such Precept returnable in any Court of General or Quarter Sessions, may be under the hand and seal of the Chairman, or of any Justice of the Peace for the Colony.

Informalities in sum-  
moning Jurors.

V. And be it enacted, That no omission, error, or irregularity, by the Sheriff or any of his Officers, in the time or mode of service of any Jury summons, or in the summoning or return of any Juror or Jurors, (where there shall be no question as to his or their identity,) by a wrong name or names, shall be cause of challenge, either to the array or to any such Juror; nor shall any matter which might have been objected by way of challenge (to the polls or to the array, as the case may be,) invalidate or affect any verdict, in any case, civil or criminal, unless the objection shall have been taken by way of challenge.

Jurymen dead or  
absent, &c.

VI. And be it enacted, That it shall be lawful for the Sheriff, in civil cases, to omit the summoning of persons whom he shall know to be dead, or to be absent from the district, or incapacitated by disease from attending as Jurymen: Provided, that he shall specially return to the Court the names of all such persons, with the ground on which he has omitted to serve them.

Exemptions from  
serving.

VII. And be it enacted, That after the passing of this Act, no Clerk to any practising Barrister or Attorney shall be liable to serve on any Jury.

Special Jurors for  
Sydney not liable to  
serve at Courts of  
Quarter Sessions,  
unless summoned  
specially.

VIII. Whereas it has been found to be unduly burdensome to Special Jurors in the District of Sydney to attend as Jurors in Courts of General and Quarter Sessions as well as the Supreme Court in its several jurisdictions: Be it enacted, That from and after the passing of this Act, no person whose name shall be and appear on the Special Jury List for the Jurors' District of Sydney, shall be liable or be compelled to attend as a Juror in any Court of General or Quarter Sessions of the Peace in said Colony, unless summoned under a Special Jury Precept.

Writs of inquiry and  
writs of trial.

IX. And be it enacted, That nothing in the aforesaid Act of the eleventh year of Her Majesty shall be construed or taken to have repealed the several provisions, or any of them, respecting the issue and return of writs of inquiry and writs of trial, and the trial of issues and assessment of damages under such writs, respectively, contained in the Act passed in the fourth year of Her Majesty's Reign, intituled, "*An Act to provide for the more effectual Administration of Justice in New South Wales and its Dependencies,*" and in the Act passed in the fifth year of Her Majesty's Reign, intituled, "*An Act for the further amendment of the Law, and for the better advancement of Justice,*" and in the Act passed in the tenth year of Her Majesty's Reign, intituled, "*An Act to amend the Law respecting the recovery of small Debts in all parts of the Colony;*" but, after the passing of this Act, all such writs may be issued and returned, and Assessors may be summoned, and issues tried, and damages assessed, under such writs, the same as if the said Act of the eleventh year of Her Majesty had not been passed.

4 Vic., No. 22, s. 26.

5 Vic., No. 9, s. 20.

10 Vic., No. 10, ss. 15,  
16, and 17.

Assessors to be  
Special Jurors.

X. Provided always, That the Assessors shall be summoned and returned from among the class of Special Jurors, residing within ten miles of the place where the trial or assessment shall be had; and that they shall each be entitled to the sum of ten shillings, as compensation for their attendance, to be allowed, together with the Commissioner's fee, as costs in the cause.

## Juries.—1851.

XI. And be it enacted, That at the request of either of the parties <sup>Writ may be directed to any Barrister or Attorney.</sup> in the cause, any such Writ may (if the Judge shall think fit) be in any case directed to, and executed by, any Barrister or Attorney, who shall, for the purposes of such Writ, be deemed a Commissioner, within the meaning of the said several Acts and of this Act.

Passed the Legislative Council, this twenty-sixth day of November, one thousand eight hundred and fifty-one.

CHARLES NICHOLSON,  
SPEAKER.

WM. MACPHERSON,  
CLERK OF THE COUNCIL.

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

CH<sup>s</sup>. A. FITZ ROY,  
GOVERNOR-GENERAL

Govt. House, Sydney, 1st December, 1851.

## SCHEDULE.

- |   | s. | d. |
|---|----|----|
| 1st. Jurors attending under a General Jury Precept:—  |    |    |
| If within three miles of the Court, per diem ... ..   | 2  | 6  |
| If above three but not exceeding five miles, per diem ... ..  | 4  | 0  |
| If above five miles, per diem ... ..  | 6  | 0  |
| And for every mile of distance beyond such five miles ... ..  | 0  | 8  |
| (i. e. 4d. each way; but subject to the proviso in 11 Vic., No. 20, section 31.)  |    |    |
| 2nd. Jurors attending under a Common Jury Precept:—the same rates as above.   |    |    |
| 3rd. Jurors attending under a Special Jury Precept, whether of four or of twelve Jurors:—   |    |    |
| If within three miles of the Court, per diem ... ..   | 5  | 0  |
| If above three but not exceeding five miles, per diem ... ..  | 7  | 6  |
| If above five miles, per diem ... ..  | 10 | 0  |
| And for every mile of distance beyond such five miles ... ..  | 1  | 0  |
| (i. e. 6d. each way; but subject to the proviso in the aforesaid 31st section.)   |    |    |
| 4th. Jurors attending more than three days on the same Panel:—  |    |    |
| If under a General Jury Precept, or Common Jury Precept, an additional sum (for the fourth and every subsequent day) of ...               | 2  | 6  |
| If under a Special Jury Precept, an additional sum (for the fourth and every subsequent day) of ... ..                                    | 5  | 0  |
| If continuously on the same trial, in any civil case, such further sum (if any) as the presiding Judge shall direct under this Act, s. 2. |    |    |
| 5th. Bystanders sworn on any trial; according to the class of Jurors to which they belong:—<br>either 4s. or 7s. 6d.                      |    |    |