

ANNO QUARTO

GEORGII IV. REGIS.

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Execution of the Judgments, Decrees, Orders, and Process thereof; and the said Judges shall from Time to Time be appointed by His Majesty, His Heirs and Successors; and the said ministerial and other Officers of the said Courts respectively shall from Time to Time be appointed to and removed from their respective Offices in such Manner as His Majesty, His Heirs and Successors, shall by such Charters or Letters Patent as aforesaid direct; and the said Judges shall respectively be entitled to receive such reasonable Salaries as His Majesty, His Heirs and Successors, shall approve and direct, which Salaries shall be in lieu of all Fees or other Emoluments whatsoever; and it shall and may be lawful for His Majesty, His Heirs and Successors, from Time to Time as Occasion may require, to remove and displace any such Judge or Chief Justice, and in his Place and Stead to appoint another fit and proper Person: Provided nevertheless, that if it shall at any Time hereafter appear to His Majesty, His Heirs and Successors, expedient to augment the Number of the Judges of either of the Courts of Judicature aforesaid, then and in that Case it shall and may be lawful for His Majesty, His Heirs and Successors, from Time to Time as Occasion may require, by Commission under His or their Royal Sign Manual, to augment the Number of Judges of both or either of the said Courts to Three, and to grant to such additional Judges such reasonable Salary or Salaries as to His Majesty, His Heirs and Successors, shall seem meet, and which shall be in lieu of all Fees and Emoluments whatever; provided also, that in case of the Absence or Death of any or either of the Judges of the said Courts in *New South Wales* or *Van Diemen's Land* respectively, or in case of any such Disease or Infirmity as shall render any such Judge permanently incapable of discharging the Duties of his Office, it shall be lawful for the Governor or acting Governor of *New South Wales* to appoint some fit and proper Person to act in the Place and Stead of any Judge so being absent, dying, or becoming permanently incapable, until such Judge shall return to the Execution of his Office, or until a Successor shall be appointed by His Majesty, as the Case may require; and in the mean time until such Judge shall return as aforesaid, or a Successor shall be appointed, and shall actually enter on the Discharge of his Office in the said Courts respectively, the Person so to be appointed by the Governor or Acting Governor as aforesaid shall have and exercise all the Jurisdiction, Powers, and Authorities belonging to or vested in the Judges of the said Courts respectively.

Jurisdiction of such Courts.

II. And be it further enacted, That the said Courts respectively shall be Courts of Record, and shall have Cognizance of all Pleas, Civil, Criminal, or Mixed, and Jurisdiction in all Cases whatsoever, as fully and amply to all Intents and Purposes in *New South Wales* and *Van Diemen's Land* respectively, and all and every the Islands and Territories which now are or hereafter may be subject to or dependant upon the respective Governments thereof, as His Majesty's Courts of King's Bench, Common Pleas, and Exchequer at *Westminster*, or either of them, lawfully have or hath in *England*; and the said Courts respectively shall also be at all Times Courts of Oyer and Terminer, and General Gaol Delivery, in and for *New South Wales*

Wales and *Van Diemen's Land*, and the Dependencies thereof respectively; and the said Judges so appointed shall have and exercise such and the like Jurisdiction and Authority in *New South Wales* and *Van Diemen's Land*, and the Dependencies thereof respectively, as the Judges of the Courts of King's Bench, Common Pleas, and Exchequer in *England*, or any of them, lawfully have and exercise, and as shall be necessary for carrying into effect the several Jurisdictions, Powers, and Authorities committed to the said Courts respectively.

The Supreme Courts in New South Wales and Van Diemen's Land to have Jurisdiction over Piracies and Offences committed at Sea, or in New Zealand, and other Places in the Indian or Pacific Oceans.

III. And be it further enacted, That the said Supreme Courts in *New South Wales* and *Van Diemen's Land* respectively shall and may inquire of, hear, and determine all Treasons, Piracies, Felonies, Robberies, Murders, Conspiracies, and other Offences of what Nature or Kind soever committed or that shall be committed upon the Sea, or in any Haven, River, Creek, or Place where the Admiral or Admirals have Power, Authority, or Jurisdiction, or committed or that shall be committed in the Islands of *New Zealand*, *Otaheite*, or any other Island, Country, or Place, situate in the *Indian* or *Pacific Oceans*, and not subject to His Majesty, or to any *European* State or Power, by the Master or Crew of any *British* Ship or Vessel, or any of them, or by any *British* Subject sailing in or belonging to, or that shall have sailed in or belonged to and have quitted any *British* Ship or Vessel to live in any Part of the said Islands, Countries, or Places, or that shall be there living; and that all Persons convicted of any of the Offences so to be inquired of, heard, and determined in the said Courts respectively, shall be subject and liable to and shall suffer all such and the same Pains, Penalties, and Forfeitures as by any Law or Laws now in force Persons convicted of the same respectively would be subject and liable to in case the same were respectively inquired of, tried, heard, determined and adjudged in *England*, any Law, Statute, or Usage to the contrary notwithstanding.

The Trial of Crimes and Misdemeanors cognizable in the said Courts to be prosecuted by Information, and tried by the Judge and Seven Officers of the Army or Navy.

IV. And be it further enacted, That all Crimes, Misdemeanors, and Offences cognizable in the said Courts respectively, shall be prosecuted by Information in the Name of His Majesty's Attorney General, or other Officer duly appointed for such Purpose by the Governor or Acting Governor aforesaid, and all Issues of Fact joined on every such Information shall be tried by the respective Judges of the said Courts, and a Jury of Seven Commissioned Officers of His Majesty's Sea or Land Forces, whether on full or Half Pay; and such Jurors shall from Time to Time be nominated for the Purpose aforesaid by the Governor or Acting Governor of *New South Wales* or *Van Diemen's Land* respectively for the Time being; and the said Officers shall severally be liable to be challenged or objected to upon the special Ground of direct Interest or Affection, to be specified in open Court at the Time of Challenge; and in case of such Challenge or Objection being allowed by the Judges of the said respective Courts, the Officer or Officers so challenged or objected to shall be succeeded by another such Officer or Officers as aforesaid, who shall in like Manner be nominated by the Governor or Acting Governor for the Time being as aforesaid, and be liable in the same Manner to Challenge or Objection,

jection, until Seven Officers shall appear duly qualified for the Trial of any Offender in the said Courts respectively, and the said Officers shall thereupon severally take and repeat in open Court the same Oath as is taken by Petit Jurors impannelled for the Trial of any Crime or Misdemeanor in any Court of Record in *England*, and shall return their Verdict in open Court, by the Mouth of the senior Officer serving on such Jury; and the Proceedings of the said Courts respectively shall be under the Controul and Direction of the respective Judges thereof; and all Matters of Law arising in the Course of Trial shall be determined by such Judges respectively, and the Judgment of the said Courts respectively shall be pronounced by them in the Manner by Law established on the Trial of Persons indicted in any Court of Record in *England*: Provided nevertheless, that if at the Time of the Meeting of the Supreme Court of *Van Diemen's Land* there should not be Seven Commissioned Officers of His Majesty's Sea or Land Forces within the Distance of Fifty Miles from the Place of holding such Court, or in case of the Sickness of any such Officers, the Person administering the Government of *Van Diemen's Land* shall nominate such Magistrates of the said Island, or of any District or County of the said Island, as to him shall seem meet, to act as Jurors on the Trials of such Crimes, Misdemeanors, or Offences as aforesaid, together with such and so many Commissioned Officers as aforesaid as may then be within such Distance as aforesaid, and competent to act upon such Jury, so as that there may in every Case be a complete Jury of Seven Men for the Trial of the said Crimes, Misdemeanors, and Offences; and the Magistrates so to be appointed by the Person administering the Government of *Van Diemen's Land* shall be liable to be challenged or objected to in such and the same Manner, and shall, if necessary, be succeeded by some other Magistrates to be nominated by the Person administering the Government of the said Island, and shall severally take and repeat such Oath as is hereinbefore directed with respect to the said Commissioned Officers of His Majesty's Sea and Land Forces.

His Majesty may hereafter institute other Criminal Courts in any new Settlements.

V. And be it further enacted, That it shall be lawful for His Majesty, His Heirs and Successors, by his or their Instruction under His or their Royal Sign Manual, at any Time hereafter to authorize the Governor or Acting Governor of *New South Wales* for the Time being, to convene a Court or Courts, as often as Occasion may require, for the Trial of all Crimes and Misdemeanors committed within any Place or Places in *New South Wales* or *Van Diemen's Land*, or the Dependencies thereof, which by any Order in Council to be for that Purpose issued as after mentioned shall be appointed for the Reception of transported Felons and other Offenders; which Court or Courts shall be of Record, and shall have and exercise all the Powers and Authorities incident and belonging to a Court of Record, and shall consist respectively of a Judge to be appointed by His Majesty, His Heirs and Successors, and such and so many proper Persons, not fewer than Three or more than Five, as shall be appointed for such Purpose by such Governor or Acting Governor, by Commission to be duly made and executed under his Hand and Seal; and such Persons shall be sworn in such and the like Form,

Form, and the Verdict of the Whole of such Persons shall be taken and recorded in such and the like Manner, and the Proceedings of the said last-mentioned Court or Courts shall be superintended and the Judgments thereof pronounced by the Judge or Judges presiding at every such Trial, according to such and the like Law and Usage as is herein-before directed with respect to the Trials of Persons prosecuted before the said Supreme Courts of Judicature of *New South Wales* and *Van Diemen's Land* respectively; and in all Cases where the Offence charged against any Person indicted before any such Court or Courts so to be established in any such Place or Places as aforesaid, shall not be punishable with Death, the Judge or Judges of the said Court or Courts respectively shall, and he and they is and are hereby authorized to adjudge the Offender to any Corporal Punishment not extending to Life or Limb, as the Circumstances of the Case may require: Provided always, that the Particulars and Grounds of every such Sentence shall in all Cases be made known by the Judge or Judges of the said last-mentioned Court or Courts respectively to the Governor or Acting Governor of *New South Wales* or *Van Diemen's Land*, as the Case may be, for his Approbation.

Trial of Actions at Law to be by the Chief Justice and Two Magistrates, unless the Parties shall desire to have a Jury.

VI. And be it further enacted, That in any Actions at Law to be brought in the said Supreme Courts of *New South Wales* and *Van Diemen's Land* respectively, whenever the Parties Plaintiff and Defendant in any such Action shall join Issue on any Matter of Fact, the Trial of such Issue or Issues shall be by the Chief Judge of the said Courts respectively, and by Two Assessors, being Magistrates or Justices of the Peace in and for the said Colony, or some County or District thereof; and the said Magistrates shall be nominated from Time to Time for the Purpose aforesaid by the Governor or Acting Governor for the Time being of *New South Wales* and *Van Diemen's Land* respectively, and shall be liable to Challenge upon such and the same Grounds as may lawfully be alleged as Causes of Challenge against any Person impannelled as a Juror, for the Trial of any Issue of Fact joined between the Parties in any Action depending in any of His Majesty's Courts of Record at *Westminster*, and such Challenges shall be made in open Court, and decided by the Judges of the said Supreme Courts respectively; and in case any such Challenge shall be allowed by the said Judges respectively, another Justice of the Peace shall be nominated in manner aforesaid in the Place of the Justice against whom such Challenge shall have been so allowed, who may in like Manner be challenged, until Two Justices shall appear competent to act as Assessors of the Court upon the Trial of the said Issue or Issues of Fact; and the said Two Assessors shall thereupon severally take and repeat in open Court such and the same Oath as is taken by any Juror sworn upon the Trial of any Issue of Fact in any of His Majesty's said Courts of Record at *Westminster*, and the Judges of the said Supreme Courts respectively shall, together with the said Two Assessors, give their Verdict upon every such Issue or Issues of Fact as aforesaid; and in case any such Judge and Assessors cannot agree upon such Verdict, the Verdict of the major Part of them shall be taken, entered, and recorded as the Verdict of all:

all: Provided always, that if the Parties, Plaintiff and Defendant in any such Action, shall be desirous of having any such Issue or Issues of Fact as aforesaid tried by a Jury of Twelve Men, and shall concur in an Application for that Purpose to the Judges of the said Supreme Courts respectively, then and in every such Case such Issue or Issues of Fact shall be tried by a Jury, under the Direction of the said Judges respectively.

Qualification of Jurors.

VII. And be it further enacted, That no Person shall be deemed competent to serve upon any Jury as aforesaid, who shall not have and possess a Freehold Estate of Fifty Acres or more of cleared Land, or a Freehold Dwelling House or Tenement of the Value of Three hundred Pounds Sterling or upwards, situate in some Part of *New South Wales* or *Van Diemen's Land* respectively.

His Majesty, by Order in Council, authorized to extend the Trial by Jury.

VIII. And be it further enacted, That it shall and may be lawful for His Majesty, His Heirs and Successors, by any Order to be by Him or Them issued with the Advice of His or Their Privy Council, at any Time or Times hereafter, to cause the Trial by Jury to be further introduced and applied in such Parts of *New South Wales* and *Van Diemen's Land*, and their respective Dependencies, at such Time, in such Cases, and with, under, and subject to such Rules, Modifications, and Limitations in respect thereof, as to His Majesty, His Heirs and Successors, shall seem meet, and as shall be specified in any such Order in Council in that Behalf.

Courts to have Equitable Jurisdiction.

IX. And be it further enacted, That the said Supreme Courts respectively shall be Courts of Equity in *New South Wales* and *Van Diemen's Land*, and the Dependencies thereof respectively, and shall have Power and Authority to administer Justice, and to do, exercise, and perform all such Acts, Matters, and Things necessary for the due Execution of such Equitable Jurisdiction, as the Lord High Chancellor of *Great Britain* can or lawfully may within *England*.

Courts to have Ecclesiastical Jurisdiction.

X. And be it further enacted, That the said Supreme Courts respectively shall be Courts of Ecclesiastical Jurisdiction, and shall have full Power and Authority to administer and execute within *New South Wales* and *Van Diemen's Land*, and the Dependencies thereof respectively, such Ecclesiastical Jurisdiction and Authority as shall be committed to the said Supreme Courts respectively by His Majesty's said Charters or Letters Patent; provided, that in all Cases where the Executor or Executors of any Will, upon being duly cited, shall refuse or neglect to take out Probate, or where the next of Kin shall be absent, and the Effects of the Deceased shall appear to the said Judges respectively to be exposed and liable to Waste, it shall be lawful for the said Judges respectively to authorize and empower the Registrar, or other Ministerial Officer of the said Supreme Courts respectively, to collect such Effects, and hold or deposit or invest the same in such Manner and Place, or upon such Security, and subject to such Orders and Directions as shall be made, either as applicable to all such Cases, or specially in any Case, by the said Judges, in respect of the Custody, Controul, or Disposal thereof.

XI. And

Courts to issue foreign Attachments.

XI. And be it further enacted, That in all Cases where the Process of the said Supreme Courts respectively hath been sued out against any Defendant or Defendants in any Plaint or Action entered in the said Supreme Courts respectively, for Debt upon Specialty, or Bill or Note under Hand, or Book Debt, upon a *Concessit solvere*, and a *Non est inventus* hath been returned, it shall be lawful for the said Supreme Courts respectively to issue an Attachment, thereby commanding the Sheriff or Provost Marshal of *New South Wales* or *Van Diemen's Land* respectively, or his lawful Deputy, to attach the Monies, Goods, Chattels, or Debts of any such Defendant or Defendants, in the Hands of any Person or Persons whomsoever, and notwithstanding any such Person shall be the Wife or Attorney of the Defendant aforesaid, in whose Possession or Power such Monies, Goods, and Chattels may be, or from whom such Debts may be due, and also to require such Person or Persons to appear at a Day certain of the next Term or Meeting of the said Supreme Courts respectively, to shew Cause why the said Monies, Goods, Chattels, or Debts, or so much thereof as will satisfy the Debt demanded, should not be delivered to the Plaintiff or Plaintiffs in such Action; at which Day, if the said Person or Persons shall confess, or it shall otherwise be made to appear to the Satisfaction of the said Supreme Courts respectively, that the said Monies, Goods, Chattels, or Debts do properly belong to the said Defendant or Defendants against whom Process hath been returned as aforesaid, and if the said Plaintiff or Plaintiffs, their, his, or her Agent or Attorney do swear in open Court that the Debt so demanded is due, and that no Part thereof hath been satisfied, and do also give Security in Double the Debt demanded, to restore with Treble Damages the same, or so much thereof as shall afterwards be disproved, then and in all such Cases the Plaintiff or Plaintiffs shall have Judgment for the said Debt demanded, and Execution against the said Monies, Goods, Chattels, and Debts so attached: Provided always, that if the said Defendant or Defendants, or any Person as Attorney to the said Defendant or Defendants, shall appear, and put in Bail to answer the Action and satisfy the Judgment, then and in all such Cases the said Attachment shall be dissolved, and Proceedings had according to the usual Course in the said Supreme Courts respectively; and if any Person or Persons as aforesaid, in whose Possession or Power such Money, Goods, Chattels, or Debts shall be so attached, shall dispose of the same or any Part thereof before the said Debt demanded shall be satisfied, or the said Attachment dissolved, then and in every such Case the said Person or Persons for such their Default shall be liable to make Satisfaction to the Plaintiff or Plaintiffs, out of his, her, or their proper Estates, and in case no such Satisfaction shall be made, shall be liable to be dealt with as for Contempt of the said Supreme Courts respectively.

Where the Cause shall exceed 500*l.* and shall not be tried by a Jury, the

XII. And be it further enacted, That on the Trial of every Issue of Fact joined between the Parties in any Action at Law by this Act made cognizable in the said Supreme Courts, where the Sum or Matter at Issue shall exceed the Amount or Value of Five hundred Pounds Sterling, and where such Trial shall not be by a Jury, the Judges

Evidence to be taken in Writing.

Judges of the said Supreme Courts respectively shall cause the Evidence to be taken down in Writing by the Clerk or other proper Officer of the said Supreme Courts respectively, and repeated in open Court to the Witnesses respectively giving the same; and the Evidence so taken and repeated shall be entered upon the Proceedings of the Court, and be of Record, and that no Objection shall be allowed to the Competency of Witnesses of sufficient Age and Discretion, except for Interest in the Event of the Trial; and in every Case in which any Appeal shall be made or allowed under the Provisions of this Act, Copies of all Documents and Papers which shall have been produced and given in Evidence shall be certified by the said Clerk, or other proper Officer of the Court to be appointed for that Purpose, as authentic; and also Copies of any Documents and Papers which shall have been produced and tendered in Evidence, and rejected, shall, if required by the Party producing the same, be in like Manner authenticated, but marked by such Officer as aforesaid as rejected, in order that all such Copies may be annexed to the Record as Part thereof, in case of Appeal.

Parties allowed to appeal to the Court of Appeals where the Cause of Action shall exceed 500*l.*

XIII. And be it further enacted, That it shall be lawful for the Plaintiff or Plaintiffs, Defendant or Defendants, against whom any Judgment, Decree, Order, or Sentence of the said Supreme Courts respectively shall be given, for or in respect of any Sum or Matter at Issue above the Amount or Value of Five hundred Pounds Sterling, to appeal therefrom to the Court of Appeals herein-after mentioned; and the Party or Parties appealing from such Judgment, Decree, Order, or Sentence, shall, within Fourteen Days from the passing thereof, give Notice to the adverse Party or Parties of such Appeal, and within Twenty-eight Days from and after such Judgment, Decree, Order, or Sentence, enter into sufficient Security, to be approved by the Judges of the said Supreme Courts respectively, to satisfy or perform the said Judgment, Decree, Order, or Sentence, in case the same shall be affirmed, or the Appeal dismissed, together with such further Costs as shall be awarded thereon; and in all Cases of Appeal where Notice shall be given and Security perfected as aforesaid, Execution shall be stayed, and not otherwise.

Appeals may be allowed by the Judges where the Cause of Action shall be less than 500*l.* in certain Cases.

XIV. And be it further enacted, That it shall be lawful for the Judges of either of the Supreme Courts aforesaid, on the Application of either of the Parties, Plaintiff or Defendant, at or before the Hearing or Trial of any Suit or Action commenced in the said Supreme Courts respectively, to permit an Appeal to the said Court of Appeals from any Judgment, Decree, Order, or Sentence of the said Supreme Courts respectively, although the Sum or Matter at Issue, for or in respect of which such Judgment, Decree, Order, or Sentence shall or may be given, made or pronounced, shall not amount to or be of the Value of Five hundred Pounds Sterling, in case it shall be made to appear to the Satisfaction of the said Judges of the said Supreme Courts respectively that such Judgment, Decree, Order, or Sentence may be of peculiar Importance, or may affect directly or indirectly the Decision of any other Question or Questions of peculiar Importance, or involve directly or indirectly any Claim, Demand, or Question to or respecting

respecting Property, or any Civil Right, amounting to or of the Value of Five hundred Pounds Sterling; and in all such Cases where the Trial shall not be by a Jury, the Evidence given before the said Supreme Courts respectively shall be taken down in Writing, and repeated to the Witnesses giving the same; and such Evidence shall be of Record, and Copies shall be made and authenticated of all Documents and Papers produced, in such Manner as before directed respecting the Trial of Issues of Fact where the Sum or Matter at Issue shall exceed the Amount or Value of Five hundred Pounds Sterling.

The Governor to hold a Court of Appeals.

XV. And be it further enacted, That the Governor or Acting Governor of *New South Wales* shall from Time to Time hold a Court, to be called "The Court of Appeals of the Colony of *New South Wales*," which Court shall have Power and Authority, in all such Cases as aforesaid, to receive and hear Appeals from the Judgments, Decrees, Orders, and Sentences of the Supreme Courts of *New South Wales* and *Van Diemen's Land* respectively, and to affirm, alter, or reverse the said Judgments, Decrees, Orders, or Sentences, in whole or in part, or to dismiss the said Appeals, with Costs or otherwise, as may be just: Provided always, that the Governor or Acting Governor aforesaid shall be assisted in the hearing or determining of all Appeals from the Supreme Court of *Van Diemen's Land* by the Chief Justice of the Supreme Court of *New South Wales*: Provided also, that the Record of every Judgment, Decree, Order, or Sentence to be pronounced by the said Court of Appeals, shall by such Court be remitted to the Supreme Court whence the Appeal was brought, to be by such Supreme Court carried into effect according to Law: Provided also, that upon any Appeal to be brought to the said Court of Appeals from any Judgment of either of the said Supreme Courts, founded upon the Verdict of a Jury of Twelve Men, the said Court of Appeals shall not reverse, alter, or inquire into the said Judgment, except only for Error of Law apparent upon the Record.

Appeals to His Majesty in Council to be regulated by Charter.

XVI. And be it further enacted, That it shall and may be lawful for His Majesty, by the said Charters or Letters Patent respectively, to allow any Person or Persons feeling aggrieved by any Judgment, Decree, Order, or Sentence of the said Court of Appeals, to appeal therefrom to His Majesty in Council, in such Manner, within such Time, and under and subject to such Rules, Regulations, and Limitations, as His Majesty, by any such Charters or Letters Patent respectively, shall appoint and prescribe.

His Majesty to make Rules and Orders for the Conduct of all Business in the said Courts.

XVII. And be it further enacted, That it shall be lawful for His Majesty, His Heirs and Successors, by His said Charters or Letters Patent, or by any Order in Council, at any Time hereafter to make and prescribe, or to authorize and empower the Judges of the said Supreme Courts in *New South Wales* and *Van Diemen's Land* respectively, under such Limitations as His Majesty shall deem proper, to make and prescribe such Rules and Orders touching and concerning the Time and Place of holding the said Courts respectively, the Forms and Manner of Proceeding, and the Practice and

Pleadings upon all Indictments, Informations, Actions, Suits, and other Matters to be therein brought, the appointing of Commissioners to take Bail and examine Witnesses, the taking Examinations of Witnesses *de bene esse*, and allowing the same as Evidence, the granting of Probates of Wills and Letters of Administration, the Proceedings of the Sheriff, Provost Marshal, and other ministerial Officers, the Process of the said Courts, and the Mode of executing the same, the impannelling of Juries, the Admission of Attornies, Solicitors, and Barristers, the Fees, Poundage, or Perquisites to be lawfully demanded by any Officer, Attorney, or Solicitor in the said Courts respectively, and all other Matters and Things whatsoever, as to His Majesty, His Heirs and Successors, shall seem meet for the Conduct of Business in the said Courts respectively, and as may be adapted to the Circumstances and Condition of the said Colony; and such Rules and Orders from Time to Time to alter, amend, or revoke, as to His Majesty, His Heirs and Successors, shall seem requisite; and all Rules and Orders so to be established by any such Order or Orders in Council as aforesaid shall be of such and the like Force and Effect as if the same had been inserted in this present Act.

Regulations as to opening the Supreme Courts.

XVIII. And be it further enacted, That the Governor or Acting Governor of *New South Wales* and *Van Diemen's Land*, and the Dependencies thereof respectively, upon the Arrival in the said Colony of His Majesty's Charter or Letters Patent for the Establishment, by virtue of this Act, of the Supreme Courts of *New South Wales* and *Van Diemen's Land* respectively, shall by Proclamation notify to the Inhabitants of the said Colony the Time when the said Courts respectively are to be opened, and the Judges thereof respectively are to assume and enter upon the Exercise of their Jurisdiction therein; and when and so soon as the said Courts shall actually have so assumed and entered upon the Exercise of such Jurisdiction, then and from thenceforth the Act made and passed in the Twenty-seventh Year of His late Majesty's Reign, intituled *An Act to enable His Majesty to establish a Court of Criminal Judicature on the Eastern Coast of* New South Wales, *and the Parts adjacent*, shall cease to have effect and determine, and the Courts of Criminal and Civil Jurisdiction in *New South Wales* and its Dependencies respectively, instituted by His Majesty's Letters Patent under the Great Seal, and bearing Date respectively the Second Day of *April*, and the Fourth Day of *February*, in the Twenty-fourth and Fifty-fourth Years of His late Majesty's Reign, shall likewise cease and determine, and every Suit or Complaint which shall at that Time be depending in the said Courts respectively shall and may be proceeded upon in the said Supreme Courts of *New South Wales* or *Van Diemen's Land* respectively, in the same Manner as any Suit or Complaint originally commenced or brought in such Courts respectively under this Act, and as if such Suit or Complaint had been originally brought or commenced in such Courts respectively; and all the Records, Muniments, and Proceedings whatsoever of and belonging to the said Courts of Criminal and Civil Jurisdiction respectively shall, from and immediately after the opening of the Supreme Courts respectively instituted under this

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Act, be delivered over and deposited for safe Custody in the said Supreme Courts respectively, to which all Parties concerned shall and may have Recourse as to the other Records of the said Courts; provided, that until the said Supreme Courts to be established by virtue of this Act shall have actually assumed and entered upon the Exercise of their Jurisdiction in the said Colony, the said Courts of Criminal and Civil Jurisdiction now existing within *New South Wales* and *Van Diemen's Land*, and the Dependencies thereof, shall enjoy and exercise all Powers, Authorities, and Jurisdictions lawfully vested in them by the said several Letters Patent, as fully and effectually to all Intents and Purposes as if this Act had not been made.

Courts of Sessions to be held, and the Authority thereof extended.

XIX. And be it further enacted, That Courts of General or Quarter Sessions shall be holden in *New South Wales* and *Van Diemen's Land*, and their Dependencies, at such Times and Places as the Governor or Acting Governor of *New South Wales* shall by his Proclamation appoint; and the said Courts of Sessions respectively shall have Power and Authority to take cognizance of all Matters and Things cognizable in Courts of General or Quarter Sessions in *England*, so far as the Circumstances and Condition of the said Colony shall require and admit; and the said Courts shall have Power and Authority in a summary Way to take cognizance of all Crimes and Misdemeanors not punishable with Death, which have been or shall be committed by any Felons or other Offenders who have been or shall be transported to *New South Wales* or its Dependencies, and whose Sentences shall not have expired or been remitted, and also of all Crimes and Misdemeanors committed by any such Felons or Offenders on board of any Ship or Vessel during the Voyage to *New South Wales* or the Dependencies thereof, and the same to punish, if such Courts shall see fit, by extending the Time for which such Persons may have been originally transported, or by Transportation to such other Part of *New South Wales*, or the Dependencies thereof, as shall or may be appointed for the Reception of Offenders as hereafter mentioned, and as the Case may require, and by hard Labour for any Time not exceeding Three Years; and also in a like summary Way to take cognizance of all Complaints made against any such Felons or Offenders for Drunkenness, Disobedience of Orders, Neglect of Work, Absconding or Desertion, abusive Language to their, his, or her Employers or Overseers, Insubordination or other turbulent or disorderly Conduct, and all such Offences to punish by whipping or other corporal Punishment not extending to Privation of Life or Member, or by Removal to some other Part or Place in the said Colony or its Dependencies, and hard Labour, according to the Nature and Degree of such Offences respectively: Provided, that a Return of all Sentences imposed by the said Court be made to such Governor or Acting Governor aforesaid, and shall be by him within Six Months transmitted to one of His Majesty's Principal Secretaries of State in *England*.

The Governor to institute Courts of Requests,

XX. And be it further enacted, That it shall be lawful for the Governor or Acting Governor of *New South Wales* from Time to Time to institute Courts of Civil Jurisdiction, to be called "Courts of

and such Courts to determine all Civil Suits under 10*l.*

of Requests," in different Parts of *New South Wales* and *Van Diemen's Land*, or the Dependencies thereof, as occasion shall require, with full Power and Authority to hear and determine in a summary Way all Actions, Plaints, and Suits for the Payment or Recovery of any Debt, Damages, or Matter not exceeding Ten Pounds Sterling, except the Matter in question shall relate to the Title to any Lands, Tenements, or Hereditaments, or to the taking or demanding of any Duty payable to the King, or to any Fee of Office, annual Rent, or other such Matter, where Rights in future may be bound, or to any general Right or Duty, and to award Costs therein; and the Determination and Award of such Courts of Requests, in all Cases within the Jurisdiction thereof, shall be final, and shall be carried into Execution by Attachment and Sale of the Goods and Effects, or by corporal Arrest of the Party or Parties against whom such Determination or Award shall be made; and each of the said Courts of Requests respectively shall be holden by a Commissioner, to be appointed by the Governor or Acting Governor aforesaid for the Time being, with such Salary as the said Governor or Acting Governor, with the Approbation of His Majesty, shall think proper to appoint; which Salary shall be in lieu of all Fees, Profits, or Emoluments whatever, in respect of the Office of such Commissioner as aforesaid.

The Governor, with the Assistance of the Chief Justice, to settle Rules and Fees to be followed and taken in the Courts of Sessions and Requests.

XXI. And be it further enacted, That the Governor or Acting Governor of *New South Wales* shall and may, with the Assistance of the Chief Justice of the Supreme Court of *New South Wales*, from Time to Time settle such Forms of Process, and such Rules of Practice and Proceeding, for the Conduct and Dispatch of Business in the said Courts of Sessions and Requests respectively, and appoint such reasonable Fees to be taken as shall seem necessary and proper for expediting the Business of the said Courts with most Convenience and least Expence to the Parties concerned therein, and such Rules and Forms shall be followed, and such Fees shall be paid accordingly, and no other.

Provision for declaring Insolvencies, and distributing the Effects of Insolvent Persons in New South Wales.

XXII. And whereas it is expedient to make Provision for an equal Distribution of the Effects of Insolvent Debtors in *New South Wales* and *Van Diemen's Land*, and the Dependencies thereof, among their Creditors; be it further enacted, That as often as any Writ or other Process for the Recovery of any Debt or Sum due shall be issued by the Supreme Courts aforesaid, or either of them, against any Person or Persons residing or carrying on Business in *New South Wales* or *Van Diemen's Land*, or any Place within the respective Dependencies thereof, and it shall be made to appear to the said Courts respectively, at the Return of such Writ or Process, that the Person or Persons against whom the same shall have been issued is or are unable to pay Twenty Shillings in the Pound to all his, her, or their Creditors, it shall be lawful for the Judges of the said Courts respectively to cause the Person or Persons against whom the same shall have been issued, together with all his, her, or their Creditors, to be summoned by public Notice to attend the said Court on a certain future Day; and in the meantime, if it shall appear necessary to the Judges of the said Courts respectively, to appoint one or more of the said Creditors

as provisional Trustee or Trustees, to discover, collect, and receive the Estates and Effects of such Person or Persons so appearing to be insolvent, subject to the Orders and Directions of the said Judges respectively; and if after due Examination of the Person or Persons against whom Process shall have been issued as aforesaid, or if such Person or Persons shall abscond or fail to attend the said Courts respectively, pursuant to such Summons as aforesaid, it shall be made to appear to the Satisfaction of the said Judges respectively that such Person or Persons is or are insolvent, it shall be lawful for the said Courts respectively to declare such Person or Persons insolvent accordingly, and immediately to take Order for discovering, collecting, and selling the Estates, Debts, and Effects of such Insolvent or Insolvents, and distributing the Produce thereof equally and rateably amongst all his, her, or their Creditors, and for that Purpose to authorize any Two or more Creditors of the said Insolvent or Insolvents, or any other fit and proper Person or Persons to be for that Purpose nominated by the said Courts respectively, to act as and be Trustees for the Benefit of the Creditors of such Insolvent or Insolvents; and the said Courts respectively shall from Time to Time make such Orders as shall be just, for better discovering, collecting, selling, and realizing the Estates, Debts, and Effects of the Person or Persons so declared insolvent, and for making a rateable Distribution thereof amongst all the Creditors of such Insolvent Person or Persons, or, if Occasion shall require, for vesting the same, or any Parts thereof, in the Public Funds or Securities in *England*, until such Distribution can be made.

Regulations as to granting Certificates to Insolvents.

XXIII. And be it further enacted, That if such Insolvent Person or Persons shall make a full and true Disclosure, Discovery, and Surrender of all his, her, or their Estates, Goods, Debts, and Effects, and shall conform to the Orders and Directions of the said Judges of the said Supreme Courts respectively in respect thereof, the same shall and may, with the Consent in Writing under the Hands of the major Part in Number and Value of the Creditors of such Insolvent or Insolvents, be certified by the Judges, under the Seal of the said Courts respectively; and such Certificate may be pleaded, and shall be a Bar to all Suits and Complaints for Debts and Contracts for Payment of Money due, and entered into by such Person or Persons prior to the Time of his, her, or their being declared insolvent as aforesaid; and if any Person or Persons so declared insolvent as aforesaid shall fail to make a true Disclosure and Discovery of all his, her, or their Estate or Estates and Effects, or shall otherwise refuse to conform to the Orders or Directions of the said Judges of the said Courts respectively, it shall be lawful for the said Courts respectively to cause such Person or Persons to be arrested and imprisoned until he, she, or they shall make such Disclosure and Discovery, and in all respects conform to such Orders and Directions: Provided always, that no Person or Persons who shall be declared insolvent as aforesaid a Second Time, shall be entitled to any such Certificate, unless his, her, or their Estate or Estates and Effects, when collected and realized, shall be sufficient to pay at least Fifteen Shillings in the Pound to all his, her, or their Creditors; and that

no Person or Persons who shall be declared insolvent as aforesaid a Third Time or oftener shall be entitled to any such Certificate.

His Majesty to constitute a Council in New South Wales; and the Governor, with the Advice of such Council, shall have Power to make Laws for the Government of the said Colony.

XXIV. And whereas it may be necessary to make Laws and Ordinances for the Welfare and good Government of the said Colony of *New South Wales*, and the Dependencies thereof, the Occasions of which cannot be foreseen, nor without much Delay and Inconvenience be provided for, without entrusting that Authority for a certain Time, and under proper Restrictions, to Persons resident there: And whereas it is not at present expedient to call a Legislative Assembly in the said Colony; be it therefore enacted, That it shall and may be lawful for His Majesty, His Heirs and Successors, by Warrant under His or Their Sign Manual, to constitute and appoint a Council, to consist of such Persons resident in the said Colony, not exceeding Seven nor less than Five, as His Majesty, His Heirs and Successors, shall be pleased to appoint; and upon the Death, Removal, or Absence of any of the Members of the said Council, in like Manner to constitute and appoint such and so many other Person or Persons as shall be necessary to supply the Vacancy or Vacancies; and the Governor or Acting Governor for the Time being of the said Colony, with the Advice of the Council to be appointed as aforesaid, or the major Part of them, shall have Power and Authority to make Laws and Ordinances for the Peace, Welfare, and good Government of the said Colony, such Laws and Ordinances not being repugnant to this Act, or to any Charter or Letters Patent or Order in Council which may be issued in pursuance hereof, or to the Laws of *England*, but consistent with such Laws, so far as the Circumstances of the said Colony will admit: Provided always, that no Law or Ordinance shall be passed or made, unless the same shall first by the said Governor or Acting Governor be laid before the said Council, at a Meeting to be for that Purpose convened by a written Summons under the Hand of such Governor or Acting Governor, to be delivered to or left at the usual Place of Abode of the Members of such Council respectively; provided also, that in case all or the major Part of the Members of the said Council shall dissent from any Law or Ordinance proposed by such Governor or Acting Governor at any such Meeting as aforesaid, the Members of the said Council so dissenting shall enter upon the Minutes of such Council the Grounds and Reasons of such their Dissent, and in every such Case such proposed Law or Ordinance shall not pass into a Law; provided nevertheless, that if it shall appear to the Governor or Acting Governor for the Time being of the said Colony, that such proposed Law or Ordinance is essential to the Peace and Safety thereof, and cannot without extreme Injury to the Welfare and good Government of the said Colony be rejected, then and in every such Case, if any one or more Member or Members of the said Council shall assent to such proposed Law, the said Governor shall enter upon the Minutes of the Council the Grounds and Reasons of such his Opinion; and in every such Case, and until the Pleasure of His Majesty, His Heirs and Successors, shall be made known in the said Colony respecting the same, such Law or Ordinance shall be of full Force and Effect in the said Colony, and the Dependencies thereof, any such Dissent as aforesaid of Majority of the Members of the said Council notwithstanding.

XXV. Provided also, and be it further enacted, That in case any Rebellion or Insurrection shall have actually broken out in the said Colony, or if in the Judgment of the Governor or Acting Governor thereof for the Time being, there shall be good and sufficient Cause to apprehend that any such Rebellion or Insurrection is about forthwith to break out therein, then and in every such Case it shall and may be lawful for such Governor or Acting Governor to promulgate and enforce within the said Colony and its Dependencies any Law or Ordinance which may be necessary for suppressing or preventing any such Rebellion or Insurrection as aforesaid, although every Member of the said Council should dissent from any such Law or Ordinance.

In case of actual or apprehended Rebellion or Insurrection, the Governor to make Laws for suppressing the same.

XXVI. Provided also, and be it further enacted, That it shall and may be lawful for His Majesty, His Heirs and Successors, by any Order to be by Him or Them issued by and with the Advice of His or Their Privy Council, to make and establish any Law or Ordinance which may have been previously laid before and dissented from by the whole or the major Part of the said Council, in case such Law or Ordinance shall appear to His Majesty, His Heirs and Successors, to be necessary for the better Government of the said Colony and its Dependencies.

His Majesty in Council may make and establish any Law which may have been dissented from by the Council in New South Wales.

XXVII. Provided also, and be it further enacted, That the said Governor and Council shall not impose any Tax or Duty upon any Ship or Vessel trading with the said Colony or the Dependencies thereof, or upon any Goods, Wares, and Merchandize imported into or exported from the same, nor any other Tax or Duty, except only such Taxes or Duties as it may be necessary to levy for local Purposes; and the Purposes for which every such Tax or Duty may be so imposed, and to or towards which the Amount thereof is to be appropriated and applied, shall be distinctly and particularly stated in the Body of every Law or Ordinance imposing every such Tax or Duty.

No Tax or Duty shall be imposed by the Governor and Council, except for local Purposes.

XXVIII. And whereas an Act of Parliament was made in the Fifty-ninth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act to stay Proceedings against any Governor or other Person concerned in imposing and levying Duties in* New South Wales; *to continue, until the First Day of* January *One thousand eight hundred and twenty-one, certain Duties; and to empower the said Governor to levy a Duty on Spirits made in the said Colony:* And whereas the said Act hath been continued from Time to Time by divers Acts of Parliament, and was varied and altered by an Act passed in the Third Year of the Reign of His present Majesty, intituled *An Act to continue, until the First Day of* January *One thousand eight hundred and twenty-four, an Act passed in the Fifty-ninth Year of His late Majesty, relating to imposing and levying Duties in* New South Wales; *to authorize the imposing and levying other Duties on Goods imported into the said Colony; and to suspend for Ten Years the Payment of Duty on the Importation of certain Goods the Produce of* New South Wales; and it is expedient that the said Act of the Fifty-

59 G. 3. c. 114. and 3 G. 4. c. 96., allowing certain Powers of Taxation to the Governor, made perpetual.

Fifty-ninth Year of the Reign of His said late Majesty King *George* the Third should be made perpetual, and that all the Powers and Authorities thereby or by the said Act of the Third Year of the Reign of His present Majesty committed to the Governor or other Person administering the Government of *New South Wales*, should be continued as fully as if this present Act had not been made; be it therefore enacted by the Authority aforesaid, That the said Act passed in the Fifty-ninth Year of His said late Majesty King *George* the Third shall be and the same is hereby made perpetual, and that nothing in this Act contained shall extend or be construed to extend to repeal, alter, or affect the said last-mentioned Act, or the said Act passed in the Third Year of the Reign of His present Majesty; any thing herein contained to the contrary in anywise notwithstanding.

No Law to be passed until a Copy shall have been laid before the Chief Justice, and his Certificate given thereupon, &c.

XXIX. And be it further enacted, That no Law or Ordinance shall by the said Governor or Acting Governor be laid before the said Council for their Advice or Approbation, or be passed into a Law, unless a Copy thereof shall have been first laid before the Chief Justice of the Supreme Court of *New South Wales*, and unless such Chief Justice shall have transmitted to the said Governor or Acting Governor a Certificate under the Hand of such Chief Justice, that such proposed Law is not repugnant to the Laws of *England*, but is consistent with such Laws, so far as the Circumstances of the said Colony will admit.

Laws, &c. made by the Governor, &c. within Six Months from the Date thereof to be transmitted for His Majesty's Approbation.

XXX. And be it further enacted, That every Law or Ordinance so to be made as aforesaid, shall, within Six Months from the Date thereof, be transmitted by the Governor or Acting Governor for the Time being of the said Colony to One of His Majesty's Principal Secretaries of State for the Time being; and that it shall and may be lawful for His Majesty, His Heirs and Successors, from Time to Time as He or They shall think necessary, to signify, through One of His or Their Principal Secretaries of State, His or Their Approbation or Disallowance of all such Laws and Ordinances; and that from and immediately after the Time when such Disallowance shall be published in the said Colony, by a Proclamation to be for that Purpose issued by the said Governor or Acting Governor, all such Laws and Ordinances shall be null and void; but in case His Majesty, His Heirs and Successors, shall not, within the Space of Three Years from the making of such Laws and Ordinances, signify His or Their Disapprobation or Disallowance thereof as aforesaid, then and in that Case all such Laws and Ordinances shall be valid and effectual, and have full Force.

Laws to be laid before Parliament.

XXXI. Provided also, and be it further enacted, That all Laws and Ordinances to be made in the said Colony, and all Orders to be made by His Majesty, His Heirs and Successors, with the Advice of His and their Privy Council, in pursuance of this Act, shall be laid before both Houses of Parliament within Six Weeks at latest next after the Commencement of each Session.

XXXII. And

XXXII. And be it further enacted, That the Members for the Time being of the said Council shall by virtue of such their Office be Justices of the Peace in and for the whole of the said Colony of *New South Wales* and its Dependencies, and shall within the said Colony take Precedence of all Persons next after the Governor or Acting Governor thereof, and the Judges of the said Supreme Courts, and the Commander in Chief for the Time being of His Majesty's Forces within the said Colony and its Dependencies; and the said Members of the Council shall, before they enter upon and discharge the Duties of such their Office, severally take and subscribe, before and in the Presence of the Governor or Acting Governor thereof for the Time being, an Oath in the following Words; that is to say,

Members of the Council to be Justices of the Peace.

Oath to be taken.

'I do swear, That I will, to the best of my Judgment and Ability, faithfully advise and assist the Governor or Acting Governor of the Colony of *New South Wales* and its Dependencies, in all such Matters as shall be brought under my Consideration as a Member of the Council of the said Colony; and I swear, that I will not, directly or indirectly, communicate or reveal to any Person or Persons, any Matter which shall be so brought under my Consideration, or which shall become known to me as a Member of the said Council. So help me GOD.'

XXXIII. And be it further enacted, That in case of the Death, Absence, or permanent Incapacity of any Member or Members of the said Legislative Council, the Governor or Acting Governor for the Time being of the said Colony shall and may appoint some fit and proper Person to act in the Place and Stead of such Person or Persons, until the Vacancy or Vacancies so created shall be filled up by an Appointment to be made by His Majesty, His Heirs and Successors, in manner aforesaid.

Regulations as to any Vacancy in the Council.

XXXIV. And whereas by an Act passed in the Thirtieth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for enabling His Majesty to authorize the Governor or Lieutenant Governor of such Places beyond the Seas to which Felons or other Offenders may be transported, to remit the Sentences of such Offenders*, after reciting several Orders made by His Majesty with the Advice of His Privy Council, whereby His Majesty had declared and appointed that the Eastern Coast of *New South Wales* and the Islands thereunto adjacent should be the Place or Places beyond Sea to which certain Felons and other Offenders should be conveyed and transported, it was enacted, that it should be lawful for His Majesty, by His Commission under the Great Seal, to authorize the Governor or Lieutenant Governor for the Time being of such Place or Places as aforesaid, by any Instrument in Writing under the Seal of the Government in which such Place or Places should be situated, to remit, either absolutely or conditionally, the Whole or any Part of the Time or Term for which any such Felons or Offenders should have been or should thereafter be respectively conveyed or transported to such Place or Places; and it was further enacted, that such Governor or Lieutenant Governor should, by the first Opportunity, transmit to One of His Majesty's Principal Secretaries of State, Duplicates of every Instrument as aforesaid, and that the

30 G. 3. c. 47. All Instruments whereby the Governors of New South Wales have remitted the Term of Transportation of Felons, to have the same Effect as Pardons under the Great Seal.

Names of such Felons or other Offenders respectively, which should be contained in such Duplicates, should be inserted in the next General Pardon which should pass under the Great Seal of *Great Britain* after the Receipt of such Duplicates: And whereas in virtue of the said Act and of His Majesty's Commission under the Great Seal, the Governors of *New South Wales* for the Time being have from Time to Time remitted the Time or Term for which divers Felons and other Offenders have been transported to the said Places, but the Duplicates of the several Instruments, by which such Times or Terms of Transportation were remitted, have not been regularly transmitted to *England*, and the Names of the Felons, or other Offenders respectively therein contained, have not been inserted in any General Pardon under the Great Seal of *Great Britain*; be it further enacted, That all Instruments in Writing, made in conformity with the said Act, or which shall be so made before the First Day of *January* next, whereby any Governor or Lieutenant Governor of *New South Wales*, for the Time being, hath remitted or shortened, or may remit or shorten the Time or Term of Transportation of any Felons or Offenders as aforesaid, shall have and shall be deemed and taken to have had, within *New South Wales* and its Dependencies, from the Days of the respective Dates of such several Instruments, such and the like Force and Effect in the Law, to all Intents and Purposes, as any General Pardon, if passed under the Great Seal aforesaid, and including the Names of such Felons or other Offenders respectively, could or would have had; and the same Instruments, whenever they shall be ratified by His Majesty, if His Majesty shall be pleased to ratify the same, and such Ratification shall be notified in Writing by One of His Majesty's Principal Secretaries of State, shall have the same Force and Effect within this Realm, and all other His Majesty's Dominions, from the Days of the respective Dates of such several Instruments, or from such other Days as shall be expressed in such Ratifications respectively.

Regulations as to Remissions of Time of Transportation in future.

XXXV. And be it further enacted, That all Instruments in Writing whereby any Governor or Acting Governor of *New South Wales* shall hereafter remit or shorten the Time or Term of Transportation of any Felons or other Offenders, in pursuance of the said Act passed in the Thirtieth Year of the Reign of His said late Majesty King *George* the Third, shall by such Governor or Acting Governor be transmitted to His Majesty, His Heirs and Successors, for His and Their Approbation or Allowance; and in case His Majesty, His Heirs and Successors, shall, through One of His or Their Principal Secretaries of State, signify His or Their Approbation or Allowance of any such Remission of shortening of any such Time or Term of Transportation as aforesaid, then and in such Case only, every such Instrument so transmitted as aforesaid shall have, and shall be deemed and taken from the Date thereof to have had, within *New South Wales* and the Dependencies thereof, but not elsewhere, such and the same Effect in the Law, to all Intents and Purposes, as if a General Pardon had passed under the Great Seal aforesaid, on the Days of the Dates of such Instruments respectively, in which the Names of such Felons or Offenders as aforesaid had been included.

Persons under Sentence of Transportation, who shall be convicted there of Offences punishable by Transportation, may be detained in New South Wales or its Dependencies for the same Terms for which they might have been transported.

XXXVI. And be it further enacted, That if any Person or Persons, being in *New South Wales* or any of the Dependencies thereof, under or by virtue of any Sentence of Transportation, or Order of any Court in the United Kingdom of *Great Britain* and *Ireland*, for any Time or Term of Years not then expired, or not remitted by the Governor or Acting Governor of the said Colony, shall be convicted by due Course of Law in the said Colony, or any of the Dependencies thereof, of any Offence which if committed in *England* would or might be punishable by Transportation; it shall and may be lawful for the Court before which any such Offender or Offenders may be so convicted, to sentence and adjudge him, her, or them to Detention and safe Custody in *New South Wales*, or any of the Dependencies thereof, for any Term or Number of Years, not exceeding the Term or Number of Years for which such Offender or Offenders might or could by Law be sentenced to Transportation, in case he, she, or they had been convicted of such or the like Offence in any Court of Record in *England*; and such Detention shall take Effect, and be computed, not from the Date of any such Sentence or Judgment as aforesaid, but from the Time when the Term of such original Sentence of Transportation shall expire; and in case any Person or Persons who shall be so sentenced to be detained in the said Colony or its Dependencies, shall be afterwards at large within any Part of the United Kingdom of *Great Britain* and *Ireland*, without lawful Cause, before the Expiration of the Term for which such Offender or Offenders shall have been sentenced to be detained as aforesaid, every such Offender being at large as aforesaid, and being thereof lawfully convicted, shall suffer Death as in Cases of Felony without Benefit of Clergy; and such Offender or Offenders may be tried before the Justices of Assize, Oyer and Terminer, Great Sessions, or Gaol Delivery for the County, City, Liberty, Borough, or Place, in any Part of His Majesty's Dominions, where such Offender or Offenders shall be apprehended or taken; and on every such Trial, a Certificate in Writing signed by the Judge or Judges of the Court in *New South Wales* or its Dependencies, whereby such Offender was so sentenced to be detained, containing the Effect and Substance only (omitting the formal Part) of the Indictment and Conviction of such Offender, and of the Sentence of Detention, shall be sufficient Proof of the Conviction and Sentence of every such Offender.

Surgeons of Convict Ships may inflict moderate Punishment on Convicts guilty of Misbehaviour.

XXXVII. And be it further enacted, That if any Person or Persons who may hereafter be transported to *New South Wales*, or any of the Dependencies thereof, under any Sentence or Order of any Court in the United Kingdom aforesaid, shall be guilty of Misbehaviour or disorderly Conduct on board of any Ship or Vessel in which such Person or Persons shall be so transported, it shall be lawful for the Surgeon or Principal Medical Officer for the Time being of any such Ship or Vessel to inflict or cause to be inflicted on the Person or Persons so offending, such moderate Punishment or Correction as may be inflicted by Law on Convicts confined on board Vessels in the River *Thames* by the Superintendant or Overseer of those Vessels: Provided always, that no such Punishment or Correction shall be so inflicted, unless the Master or Principal Officer for the Time being of such Ship or Vessel shall first signify his Approbation thereof

thereof in Writing under his Hand; and every such Punishment or Correction as aforesaid, together with the Particulars of the Offence for which the same may be so inflicted, together with such written Approbation as aforesaid, shall on the same Day, in all Cases, be entered by such Master or Principal Officer as aforesaid, upon the Log of every such Ship or Vessel, under a Penalty of Fifty Pounds in case of every Refusal or Neglect to make such Entry, to be recovered by Bill, Plaint, or Information in either of the Supreme Courts of *New South Wales* and *Van Diemen's Land* aforesaid, or in any Court of Record in *England*; One Half of which Penalty shall go to the Use of His Majesty, His Heirs and Successors, and the other Half to the Person or Persons who may inform or sue for the same.

His Majesty to appoint Places for the Reception of Offenders, and to prohibit trading Vessels from holding Intercourse with such Places.

XXXVIII. And whereas it may be expedient to appoint certain Ports or Places in *New South Wales*, or the Dependencies thereof, for the Reception of Felons and other Offenders who may hereafter be sentenced to Transportation, or whom it may be necessary to remove from the Settlements at present formed in the said Colony; and for the better preventing the Escape of such Felons or other Offenders, it is expedient that no trading Ship or Vessel should be permitted to enter, or touch at, or hold Intercourse with any such Ports or Places; be it further enacted, That it shall and may be lawful for His Majesty, His Heirs and Successors, by any Order or Orders to be issued by and with the Advice of His or Their most Honourable Privy Council, from Time to Time to appoint such Ports or Places in *New South Wales*, or any of the Dependencies thereof, as shall be deemed proper for the Reception and Keeping of Felons or other Offenders; and to prohibit all Masters, Mariners, and other Persons, commanding, navigating, or sailing on board of any Ship or Vessel, from entering, touching at, or communicating with any such Port or Place, and for that Purpose to establish all such Rules and Regulations as may be necessary; and for the Breach or Violation of any such Order or Orders, Rules or Regulations, to impose all such Penalties and Forfeitures as to His Majesty, His Heirs and Successors, with the Advice of His and Their said Council, shall seem meet; which Penalties and Forfeitures shall and may be recovered in the Supreme Courts of *New South Wales* and *Van Diemen's Land* respectively, or in any Court of Record or Vice Admiralty in any Part of His Majesty's Dominions.

Persons assisting in the Escape of Felons, to be deemed guilty of a Misdemeanor.

XXXIX. And be it further enacted and declared, That any Person or Persons who shall in any Manner contrive, aid, abet, or assist in the Escape, or intended Escape, from any Part of *New South Wales* or *Van Diemen's Land*, or the Dependencies thereof, of any Person or Persons there being under or by virtue of any Judgment or Sentence of Transportation for any Term not then expired, or of any Judgment or Sentence pronounced in any Court of competent Jurisdiction in the said Colony or its Dependencies, is and are, and shall be and be deemed and taken to be guilty of a Misdemeanor, and shall incur and be liable to Fine not exceeding Five hundred Pounds, or to Imprisonment for any Time not exceeding Two Years, or to both, at the Discretion of the Court before which any such Person

or Persons may be convicted; and such Misdemeanor shall and may be tried and inquired of by the Supreme Courts of *New South Wales* or of *Van Diemen's Land* respectively, or by His Majesty's Court of King's Bench at *Westminster*, or by any Court of Record in any of His Majesty's Colonies, Plantations, or Foreign Dominions.

After 30th June 1824 the Provisions of 2 G. 2. c. 36. extended to New South Wales.

XL. And be it further enacted, That from and after the Thirtieth Day of *June* in the Year of our Lord One thousand eight hundred and twenty-four, all the Provisions, Penalties, Clauses, Matters, and Things contained in an Act passed in the Second Year of the Reign of His Majesty King *George* the Second, intituled *An Act for the Regulation and Government of Seamen in the Merchant Service*, shall be and the same are hereby extended to *New South Wales*, and the Dependencies thereof.

Artificers and others may contract, by Indenture, to serve any Person in New South Wales, for any Term not exceeding Seven Years.

XLI. And be it further enacted, That it shall and may be lawful for any Artificer, Handicraftsman, Mechanic, Gardener, Servant in Husbandry, or other Labourer, not being under the Age of Eighteen Years, by Indenture duly executed, and without a Stamp, to contract with any Person or Persons about to proceed to or actually resident in *New South Wales*, or the Dependencies thereof, or with the Agent or Agents of such Person or Persons, faithfully to serve or to proceed to and faithfully serve such Person or Persons in the said Colony, or the Dependencies thereof, for any Period not exceeding the full Term of Seven Years, to be computed from the Day of the Date of such Indenture.

Persons with whom any such Artificers or others shall have contracted to serve; may maintain Action against any Person employing or harbouring them.

XLII. And be it further enacted, That it shall and may be lawful for any Person or Persons with whom such Artificer, Handicraftsman, Mechanic, Gardener, Servant in Husbandry, or other Labourer, shall have so contracted to serve as aforesaid, to maintain an Action on the Case against any Person or Persons who shall employ, retain, harbour, or conceal any such Artificer, Handicraftsman, Mechanic, Gardener, Servant in Husbandry, or other Labourer, with Intent to deprive the Employer of any such Person or Persons of his, her, or their Services or otherwise, with Intent to defraud or injure such Employer; and in case the Plaintiff or Plaintiffs in any such Action shall recover a Verdict, he, she, or they shall, in addition to the Damages found by such Verdict, recover and have Treble Costs.

Court of Sessions or Justices of the Peace to punish Violation of such Indentures, and to determine Differences.

XLIII. And be it further enacted, That it shall and may be lawful for the Court of Sessions, or any Two or more Justices of the Peace in *New South Wales*, or the Dependencies thereof, upon Complaint made upon Oath, to punish by Fine or Imprisonment, or both, any wilful Violation of the Provisions of such Indentures as aforesaid by, or any Misdemeanor, Miscarriage, or Ill-behaviour of, such Artificer, Handicraftsman, Mechanic, Gardener, Servant in Husbandry, or other Labourer, in such his Service or Employment as aforesaid, and also to hear and determine all Complaints, Differences, and Disputes which shall happen and arise between any such Artificer, Handicraftsman, Mechanic, Gardener, Servant in Husbandry, or other Labourer, and the Person or Persons whom he shall have so contracted to serve as aforesaid, and to make such Order or Award in every such Case as

to such Courts of Sessions or Justices respectively shall seem just, and every such Order or Award to enforce by Execution against the Goods, Effects, or other Property of the Party or Parties against whom such Order or Award shall be made, or by Arrest of the Person, and Imprisonment for any Time not exceeding Three Calendar Months.

His Majesty may erect VanDiemen's Land into a separate Colony with distinct Jurisdiction;

after which, Appeal from VanDiemen's Land to Governor of New South Wales to cease.

XLIV. Provided always, and be it further enacted, That in case it shall at any Time seem fit to His Majesty, His Heirs and Successors, to constitute and erect the Island of *Van Diemen's Land*, and any Islands, Territories, or Places thereto adjacent, into a separate Colony, independent of the Government of *New South Wales*, it shall and may be lawful for His Majesty, His Heirs and Successors, so to do, any thing herein-before to the contrary contained in anywise notwithstanding; and in that Case it shall and may be lawful for His Majesty, His Heirs and Successors, by any Order to be by Him or Them issued, by and with the Advice of His or Their Privy Council, to commit to any Persons or Person within the said Island of *Van Diemen's Land*, and such Islands, Territories, or Places as aforesaid, such and the like Powers, Authorities, and Jurisdictions, as by virtue of this present Act or of any other Act of Parliament are or may lawfully be committed to any Person or Persons within the Colony of *New South Wales* and its Dependencies, subject nevertheless to all such and the like Restrictions, Provisoes, and Declarations as are herein-before made and contained, and thereupon the Appeal herein-before granted to the Governor of *New South Wales* and its Dependencies, from the Judgments, Decrees, Orders, and Sentences of the Supreme Court of *Van Diemen's Land*, shall cease and determine;

After such Order, the Governor of Van Diemen's Land may remit Sentences, &c.

and from and after the making of any such Order, all Instruments in Writing whereby any Governor or Acting Governor of *Van Diemen's Land* and its Dependencies shall remit or shorten the Term or Time of Transportation of any Felons or other Offenders shall have such and the like force, effect, and virtue in the Law, as any such Instruments in Writing to be made by any Governor or Acting Governor of *New South Wales* and its Dependencies, can or may lawfully have by virtue of the before mentioned Act passed in the Thirtieth Year of the Reign of His late Majesty King *George* the Third, or by virtue of this present Act.

Continuance of Act.

XLV. And be it further enacted, That this Act shall be and continue in force until the First Day of *July* in the Year of our Lord One thousand eight hundred and twenty-seven, and from thence until the End of the next Session of Parliament.

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