



ANNO QUINTO

Gulielmi IV. Regis.

No. 11.

By His Excellency Colonel GEORGE ARTHUR, Lieutenant Governor of the Island of Van Diemen's Land and its Dependencies with the advice of the Legislative Council.

An ACT for the Extension of Trial by Jury ;—and to regulate the Constitution of Juries.

WHEREAS by the Statute passed in England in the ninth year of the reign of His late Majesty 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 is provided that if either of the parties Plaintiff and Defendant in any action at law brought in the Supreme Court of Van Diemen's Land should be desirous of having any issue or issues of fact tried by a Jury and should apply for that purpose to the said Court then it should be lawful for the said Court to award or refuse a Trial by Jury as the justice of each particular case might seem to such Court to require the qualifications numbers and summonses of which Juries and all other rules for their constitution and proceeding should be fixed within the Colony by some general Law or Ordinance to be passed by the Governor thereof with the advice of his Legislative Council.

AND WHEREAS in pursuance of the said provision of the said Statute an Act was passed by His Excellency the Lieutenant Governor of this Island with the advice of the Legislative Council in the eleventh

PREAMBLE.

Statute 9 G. 4. c. 83, sec. 8.

Colonial Act 11 G. 4, No. 5

year of His said Majesty for fixing the qualifications numbers and summonses of Jurors within this Island and its Dependencies intituled "*An Act to regulate the constitution of Juries.*"

Statute 9 G. 4, c. 83, sec. 10

AND WHEREAS by the said Statute of the ninth year of His late Majesty it is enacted that it should be lawful for His said Majesty his Heirs and Successors by any Order by him or them issued with the advice of his or their Privy Council at any time or times thereafter to authorise the Officer administering the Government of Van Diemen's Land with the advice of the Legislative Council of the Colony farther to extend and apply the form and manner of proceeding by Grand and Petit Juries or either of them at such times and with under and subject to such limitations modifications and rules as to the said Officer and Legislative Council should seem meet and as should be specified in any Law made in such behalf and that so far as such manner of proceeding by Juries should be extended and applied as aforesaid then the form and manner of proceeding thereinbefore directed as well in the prosecution of offences as in the trial of issues should determine.

Order in Council 28th June 1830.

AND WHEREAS by an Order in Council issued by His Majesty with the advice of his Privy Council bearing date the twenty-eighth day of June one thousand eight hundred and thirty His said Majesty was pleased in pursuance of the authority so in him vested as aforesaid to authorise the Governors of New South Wales and Van Diemen's Land respectively or either of them with the advice of the Legislative Councils of the said Colonies respectively or either of them farther to extend and apply the form and manner of proceeding by Grand or Petit Juries or either of them in the Presentment and Trial of all crimes misdemeanors issues matters and things properly cognizable by Juries in such parts of the said Colonies and their Dependencies respectively at such time and with under and subject to such limitations modifications and rules in respect thereof as to the said Governors and Councils respectively should seem meet and as should from time to time be specified by any Law or Ordinance to be by them made in such behalf.

Extension of trial by Jury.

AND WHEREAS it is expedient to extend and apply the form and manner of proceeding by Juries in this Colony in the manner hereinafter specified and for that purpose to repeal in the manner hereinafter provided for the said Act of this Island relating to Juries passed in the said eleventh year of His late Majesty.

Number of Jurors in ordinary cases.

BE IT THEREFORE ENACTED by His Excellency Colonel GEORGE ARTHUR Lieutenant Governor of the Island of Van Diemen's Land and its Dependencies with the advice of the Legislative Council that after the publication of this Act in all Actions at Law in The Supreme Court of Van Diemen's Land (except in such cases as are next hereinafter mentioned) all Issues of fact shall be tried and all Damages recoverable in any such Action after Judgment by default or upon Demurrer (other than such damages as are usually assessed or computed by the Court or some Officer thereof) shall be assessed before one or more of the Judges of the said Court by a Jury consisting of four persons duly qualified under this Act as Special Jurors and returned and chosen as hereinafter mentioned.

II.—PROVIDED ALWAYS AND BE IT ENACTED that if either of the parties Plaintiff or Defendant at any time after the Declaration shall have been duly delivered shall apply to the said Court or one of the Judges thereof for that purpose the Trial shall be had by a Jury consisting of twelve persons who shall be returned under the provisions of this Act either from amongst the class of Special Jurors or of Common Jurors at the election of the party against whom such application shall be made if he shall make any such election and if not then at the discretion of the Court or Judge making the Order for the Trial by such Jury.

Civil cases in which trial by a Jury of twelve shall be awarded.

III.—AND BE IT ENACTED that in every such case of Trial or Assessment as aforesaid and in every other case whatsoever of Trial by a Jury whether in Civil or Criminal cases under the provisions of this Act (where no other mode of proceeding is by this Act specially provided) the Jurors and Jury and every Assessment or Trial by them shall as far as may be practicable be subject to the same rules and manner of proceeding as would in England be observed (if a Civil case) in an action at law in the Court of King's Bench or (if a Criminal case) upon the trial of an Indictment before Justices of Gaol Delivery.

General rule.

IV.—PROVIDED ALWAYS AND BE IT ENACTED that with respect to every Jury in any Civil case if after having remained six hours or upwards in deliberation all of them shall not agree as to the Verdict to be given or amount of Damages to be assessed the decision of three-fourths in number of them shall be taken and entered as the Verdict or Assessment of all and if after having remained in the whole twelve hours or upwards in deliberation three-fourths in number of the Jurors shall not concur in any such Verdict or Assessment then such Jury shall be discharged and the Cause shall or may without any new process for that purpose be again set down for Trial or Assessment (as the case may be) either at the same or any subsequent Sittings as the Court or presiding Judge may think fit to order.

In Civil cases the concurrence of three-fourths of the Jury to be sufficient.

V.—AND BE IT ENACTED that every Order under this Act for Trial by a Jury of twelve persons whether in Civil or Criminal cases shall be made either by Rule and Order thereon or Summons and Order thereon or by Order absolute in the first instance as the Court shall from time to time by any general Rule or Rules for that purpose direct or as the circumstances of the case may require.

Mode of proceeding to obtain an order for a Jury of twelve.

VI.—AND BE IT ENACTED that after the publication of this Act in every Criminal prosecution instituted either in the Supreme Court or any of the Courts of General Quarter Sessions in which it shall immediately after plea pleaded (or if the party prosecuted shall have been previously committed or holden to bail then within ten days next after such committal or holding to bail) be made to appear to the Court in which such plea is pleaded or to one of the Judges of the Supreme Court that either the Lieutenant Governor or other Officer administering the Government or any Member of the Executive or Legislative Council for the time being or any Naval or Military Officer within either of the

Criminal cases in which Trial by a Jury of twelve shall be awarded.

~~Colonies of New South Wales or Van Diemen's Land on full pay is virtually or in fact the Prosecutor or otherwise interested in the prosecution or will be affected by the result thereof in person or in reputation then and in every such case the Trial shall be had by a Jury consisting of twelve persons who shall be returned under the provisions of this Act from amongst the class of Special Jurors only unless the Court or Judge making the Order for such last mentioned Jury shall see fit to direct otherwise.~~

Form and return of Jury
Process.

VII.—AND BE IT ENACTED that the form of Writs and Precepts for the return of Jurors under this Act whether in Civil or Criminal cases shall or may from time to time be settled by the said Supreme Court and the Sheriff shall upon the return of every such Writ or Precept annex a Panel thereto containing the names places of abode and additions of a competent number of Jurors not less than twice nor more than four times the number of the Jurors to be impanelled the names of which same Jurors shall be inserted in the Panel annexed to every other such Writ or Precept issued for the trial of any Issue or Issues at or during the same Sittings or Session or upon any day or days of adjournment thereof and every such Writ or Precept shall be issued to the Sheriff at the least six days or in cases to be tried at Launceston at the least ten days before the appointed day of trial. PROVIDED ALWAYS that for the return of Jurors for the trial of Issues or Assessment of Damages under the provisions of the first section of this Act one general Writ or Precept only shall be necessary which shall be made out and delivered to the Sheriff by such Officer of the said Supreme Court as the same Court shall from time to time think fit to order.

Summoning Jurors.

VIII.—AND BE IT ENACTED that every Juror returned under the provisions of this Act shall be summoned at the least three days or if his usual place of residence be above ten miles distance from the place of trial then at the least four days before the appointed day of trial such days to be reckoned exclusive of the day of service but inclusive of such day of trial. And every Summons to any such Juror shall be in the form contained in the Schedule to this Act annexed marked A. and be signed by such Sheriff or his Deputy and be delivered to every such Juror or left at his usual place of abode.

Special Jurors.

IX.—AND BE IT ENACTED that for the purposes of this Act the class of Special Jurors shall be composed of all such persons (in other respects duly qualified as Jurors) as shall be described respectively in the Jurors' Book hereinafter mentioned either as Esquire or Merchant or Bank Director and shall be summoned and serve accordingly and every such Special Juror in consideration of the duties by this Act imposed upon him shall be exempted from service upon any Common Jury other than by his own consent. PROVIDED that no person shall be summoned as a Juror under this Act (except in such special cases as are next hereinafter provided for) whose usual place of residence (if he be a Special Juror) shall be above twenty-five miles distance or (if a Common Juror) shall be above ten miles distance from the place of trial.

X.—PROVIDED ALWAYS AND BE IT ENACTED that in every case in which if the same occurred in England an Order would or might by the course and practice of the Court of King's Bench be made in that Court for the change of the venue or for the trial being had in some other County than that wherein the venue is laid and in every case in which for any other reason it shall appear to be conducive to the ends of justice it shall be lawful for The Supreme Court of Van Diemen's Land or either of the Judges thereof to direct not only at what place within this Island the trial of any Issue or Issues or Assessment of any Damages under the provisions of this Act shall be had but also from what district or districts the Jurors whether Special or Common shall in any such case be returned any thing in the preceding section to the contrary notwithstanding. And the said Court or any Judge thereof may in any such case give all such farther directions in that behalf from time to time as shall be just and reasonable or as the circumstances of the case may require.

Proviso for cases of change of Venue &c.

XI.—AND BE IT ENACTED that at the opening of the Court upon any Sitting for the trial of any Issue or Issues under the provisions of this Act (as well in cases Criminal as Civil) the name place of abode and addition of every Juror returned for the trial of such Issue or Issues written upon a separate piece of card each piece being as near as may be of equal size shall by the Sheriff or his Deputy be delivered to the Clerk or other Ministerial Officer of the said Court by whom such pieces of card shall be put together in a box provided for that purpose and upon any such Issue being called on to be tried such Clerk or Officer shall in open Court draw out the said cards one after another until twice the number of Jurors required to be impannelled shall appear and after all causes of challenge allowed shall remain indifferent and approved of or until the whole of such cards shall be exhausted—and in case of a sufficient number of the Jurors named on such cards not being in attendance the full number of Jurors so directed to be drawn shall be completed by appointment of the Sheriff or his Deputy from amongst the bye-standers being persons in other respects duly qualified either as Special or Common Jurors as the case may be.

Calling the Jury.

XII.—AND BE IT ENACTED that upon twice the number of Jurors required to be impannelled being completed a list of their names shall be delivered by the Sheriff or his Deputy to the Plaintiff or Prosecutor (as the case may be) or his Attorney or Counsel by whom one-fourth of the whole number of names contained in such list shall or may be struck therefrom and the list so reduced shall then be delivered to the Defendant or Prisoner (as the case may be) or his Attorney or Counsel by whom an equal number of names shall or may be also struck therefrom and the Jurors whose names shall then remain upon such list or the first four or twelve Jurors whose names shall then be thereon (as the case may be) shall be the Jurors for the trial of the Issue or Issues in question and be sworn and impannelled accordingly. And after every such trial the cards so drawn as aforesaid shall be returned to the box to be kept with the others remaining undrawn and so toties quoties as long as any Issue shall remain to be tried.

Striking a reduced list.

Jury trying several issues in succession.

XIII.—PROVIDED ALWAYS AND BE IT ENACTED that where no objection shall be made on behalf of any Plaintiff or Prosecutor or of any Defendant or Prisoner (as the case may be) it shall be lawful to try any number of different Issues with the same Jury that shall have been previously drawn for or have tried any other Issue or Issues without having their names returned to the box or the Court or Judge may order the name of any Juror or Jurors on such Jury whom the parties may consent to withdraw or who may be challenged or excused to be set aside and another Juror or Jurors to be added from the names remaining undrawn to try the Issue or Issues with the residue of such original Jury and so toties quoties as long as any Issue shall remain to be tried.

Jurors making default.

XIV.—AND BE IT ENACTED that if any man liable to serve upon any Jury under this Act shall after having been duly summoned as a Juror as aforesaid omit to attend pursuant to such summons or being thrice called shall not answer to his name then upon proof of service of such Summons being made in open Court or otherwise to the satisfaction of the Court or Sitting Judge he shall forfeit and pay such Penalty or Sum not less than two pounds nor more than ten pounds as such Court or Judge shall think fit to order.

Compensation to Jurors.

XV.—AND BE IT ENACTED that every Juror summoned to attend upon any Jury under the provisions of this Act whose usual place of residence shall be above five miles distance from the place of trial shall receive from the Sheriff or his Deputy as a compensation for his expenses the sum of five shillings for every day during which he shall be in attendance on the Court in obedience to such Summons whether he shall have actually served upon a Jury or not and if his place of residence be above ten miles distance then an additional sum of sixpence for every mile of such distance coming and the like sum for returning.

Fund for such payment.

XVI.—AND (in order to form a fund for such payments to Jurors) BE IT ENACTED that in every Action at law there shall be paid into the hands of the Sheriff by the prevailing party in every Case of Assessment of Damages such sum not exceeding ten shillings and in every Case of Trial by a Jury of four persons such sum not exceeding twenty shillings and in every Case of Trial by a Jury of twelve persons such sum not exceeding three pounds as the Supreme Court shall from time to time think fit to order which said amounts shall be allowed to such prevailing party as Costs in the Cause and the same sums together with the amount of all Fines on Jurors levied under this Act shall form a fund in the hands of the Sheriff for paying the expenses of Jurors as aforesaid and be applied to that purpose accordingly.

Levying amount of fines.

XVII.—AND BE IT ENACTED that the amount of every such fine or penalty so imposed as aforesaid upon any Juror for not attending in obedience to the Summons served upon him shall or may at any time upon a Certificate of such Fine having been so imposed signed by the proper Officer of the Court and directed to the Sheriff or his Deputy be by the said Sheriff or Deputy levied in a summary manner by Distress and Sale of the goods and chattels of the person on whom such Fine or Penalty shall have been imposed and the surplus money (if any) remaining

after payment of such Fine shall be thereafter rendered to him by the Sheriff first deducting the reasonable charges of such Distress and Sale and such Certificate shall in all cases unless the Court or Judge shall otherwise order be made out and delivered to the Sheriff within fourteen days next after such fine shall have been imposed.

XVIII.—AND BE IT ENACTED that in every case in which it shall appear to be expedient it shall be lawful for the Court or any Judge thereof to grant a Rule that the Jury shall have a view of any particular place and in every such case such and so many Jurors (not less than two) as shall be for that purpose nominated by the Sheriff and be mutually agreed upon between the parties shall be shewn the place by two persons to be appointed by the Court or Judge for that purpose and such Court or Judge may order such sum as may appear to be reasonable for defraying the expenses of such view to be deposited in the hands of the Sheriff by the party applying for the same view which sum shall be allowed as Costs in the Cause and be paid over to such of the viewers as shall attend the trial. PROVIDED that the name of every viewer so nominated shall be inserted in the Panel annexed to the Jury Process and that such viewers as shall attend the trial shall be the first sworn of the Jury.

Appointment of viewers.

XIX.—AND BE IT ENACTED that every man (except only as hereinafter excepted) above the age of twenty-one years who shall have within this Island or its Dependencies in his own name or in trust for him in land or other real estate to the value of sixty pounds by the year or in real estate and personal estate together to the value of eighty pounds by the year or shall be the tenant of any house (if in Hobart Town or Launceston) at a yearly rental of seventy-five pounds or if in any other part of the Colony at a yearly rental of fifty pounds shall be qualified and shall be liable to serve as a Juror whether Common or Special under the provisions of this Act as aforesaid.

Age and qualification of Jurors.

XX—PROVIDED ALWAYS AND BE IT ENACTED that no Judge of the Supreme Court or Chairman of any Court of General Quarter Sessions or Ministerial Officer of either of those Courts no Clergyman Roman Catholic Priest or Dissenting Minister no Officer in the Navy or Army on full pay other than an Officer in the Department of the Commissariat no person above the age of sixty-five years no Police or Assistant Police Magistrate Officer or person employed in the Customs Sheriff's Officer or Gaoler and no practising Barrister Attorney Physician Surgeon or Apothecary shall be liable to serve as a Juror under this Act except by his own consent.

General exemptions.

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XXI.—PROVIDED ALSO AND BE IT ENACTED that it shall be lawful for the Governor or Lieutenant Governor by any Order or Orders in writing under his Hand (to be directed and delivered to the Sheriff) from time to time to exempt either generally or for a limited period from liability to serve on Juries under this Act any Public Officer or Officers whose attendance on such Juries shall appear to him to be incompatible with the performance of his or their other public duties as to such Governor or Lieutenant Governor may seem expedient and every such Public Officer shall be exempted from service as a Juror accordingly.

Special exemptions.

Disqualification.

XXII.—PROVIDED ALSO AND BE IT ENACTED that no man not being a natural born subject of the King unless he shall have received Letters of Denization under the provisions of the Act lately passed for that purpose nor any man who hath been or shall be attainted of treason or convicted of any felony or infamous crime (unless he shall by virtue of the provisions of some Act of Parliament be as to such felony or crime in the situation of a person having obtained a free pardon under the Great Seal for the same or have actually obtained a free pardon for the same) nor any man who hath been or shall be a second time convicted of any felony or infamous crime shall be qualified to serve on any such Jury.

Want of qualification.

XXIII.—AND BE IT ENACTED that the want of qualification according to this Act shall in every case be a good cause of challenge and upon any such challenge being made the Court or Presiding Judge shall immediately proceed in a summary way to inquire into the truth of the fact and shall allow or reject such challenge as shall seem just and the party so challenged shall thereupon be sworn of the Jury or be discharged accordingly. **PROVIDED ALWAYS** that no objection to any Juror shall be allowed or any want of qualification in a Juror be inquired into after verdict.

List of Jurors to be made.

XXIV.—AND BE IT ENACTED that the Police Magistrates for the time being at Hobart Town New Norfolk Richmond Oatlands Swan Port Campbell Town Norfolk Plains and Launceston respectively shall in the month of August in each year cause to be prepared and made out in alphabetical order a list of every man residing within their respective districts duly qualified as a Juror according to this Act with his Christian and Surname or names at full length place of abode and quality calling or business according to the form contained in the Schedule to this Act marked B.

Copies of such lists to be exhibited.

XXV.—AND BE IT ENACTED that in the first week of the month of September in every year every such Police Magistrate shall cause a true copy of the list prepared by him certified under his hand to be in substance a true copy to be affixed to the principal door of the Court House or Police Office within his district with a notice thereunder written that all objections to the said list will be heard at the then next ensuing Court of General Quarter Sessions to be holden in or for that district in the month of October thence next following **PROVIDED** that for the purposes of this Act the Court of General Quarter Sessions holden at Richmond shall be deemed to be holden for the district of Swan Port.

Original lists to be kept for inspection.

XXVI.—AND BE IT ENACTED that the original of every such list shall during the month of September be retained in the custody of the Magistrate by whom the same shall have been so prepared and at the foot of such list there shall be written a Certificate under his hand that the same is a true list of all the Jurors resident within his district duly qualified under this Act according to the best of his belief and every

inhabitant of any such district shall have access at all reasonable times during the said month of September and opportunity to inspect such original list at the office of such Magistrate without fee or reward in order that any errors or omissions in such list may be more readily discovered and rectified.

XXVII.—AND WHEREAS it is of importance that every such list should be as free from error as possible not only with respect to the qualifications of Jurors but the statement of their particular quality or calling **BE IT ENACTED** that at such General Quarter Sessions every such Police Magistrate shall attend with the original list so prepared by him as aforesaid and thereupon the Justices assembled (of whom such Magistrate shall be and continue to be one) shall proceed to strike out of such list the names of all persons who shall appear to them to be not qualified or disqualified or incapacitated by any permanent infirmity and to insert all names (if any) improperly omitted in such list and generally to correct all other errors therein as to misdescriptions or otherwise. **PROVIDED ALWAYS** that it shall be lawful for every such Court for the purposes aforesaid to adjourn from time to time if expedient but so nevertheless as that every such list shall be finally settled before the end of the month of November then ensuing. And so also as that at each Sitting of the Court for the purposes aforesaid every Police and Assistant Police Magistrate resident within the District for which the Court shall be holden shall be present and assisting thereat.

Quarter Sessions to correct the lists.

XXVIII.—AND BE IT ENACTED that so soon as any such list shall be finally settled at any such Court as aforesaid the same shall be signed by at the least two of the Justices then present and shall forthwith be transmitted by the Chairman or Presiding Justice to the Sheriff and the Sheriff shall within twenty days after the receipt of such lists in every year cause to be transcribed fairly in regular alphabetical order in a book to be kept in his Office for that purpose and to be called the Jurors' Book the Christian and Surnames of all the persons mentioned in such lists with the place of abode and quality calling or business of each respectively.

Lists to be transmitted to Sheriff.

XXIX.—AND BE IT ENACTED that a true copy of every such Jurors' Book shall in the month of December in each year be made out and delivered by the Sheriff into the office of the Registrar of The Supreme Court in order that the same may be referred to in the said Court as the same may be required and every such Jurors' Book shall be brought into use by the Sheriff on the first day of the ensuing month of January and shall continue to be thereafter used during the whole of that year.

Jurors' Book to continue one year.

XXX.—AND BE IT ENACTED that the names of persons as Jurors shall be taken from such Book only and so from year to year from the Jurors' Book for the appropriate current year and no other persons shall be Summoned or Returned as Jurors under this Act in any case whatever.

Jurors to be returned from Jurors' Book when completed:

XXXI.—AND BE IT ENACTED that where any Jury Process shall be directed to any Coroner or other person than the Sheriff such

Where the Jury Process is not directed to the Sheriff.

Coroner or person shall have free access to every such Book and shall in respect of such Process and the several persons summoned as Jurors in pursuance thereof and all other matters in relation thereto respectively be subject to the same Liabilities and be invested with the same Powers as the Sheriff would have been subject to or invested with by virtue of this Act or otherwise in case the same Process had been directed to such Sheriff.

Each Juror to be summoned in turn.

XXXII.—AND (to the end that all persons liable to serve as Jurors under this Act may bear an equal share of the duty by this Act imposed upon them and that the undue selection of any Juror shall be impracticable) BE IT ENACTED that every person so liable whether as a Special or Common Juror shall be summoned from such Jurors' Book in regular alphabetical rotation as his name shall be therein until every such Special or Common Juror shall have been summoned in his turn and in case any such person shall make default such Defaulter shall be summoned a second time or oftener until he shall have served for such default or defaults and the same order shall be observed in each succeeding year the Sheriff commencing with the names in the new Book next after the names of the persons in the last Book last summoned.

Penalties on Sheriff and Police Magistrates.

XXXIII.—AND BE IT ENACTED that if any Sheriff shall wilfully insert or knowingly suffer to be inserted as a Juror in any such Jurors' Book the name of any man not inserted as a Juror in any of such lists so settled as aforesaid or shall wilfully omit or knowingly suffer to be omitted as a Juror in any such Book the name of any man inserted as a Juror in any such list or shall contrary to the provisions of this Act wilfully neglect or omit to make out or to deliver any such Jurors' Book as aforesaid he shall forfeit and pay to the use of His Majesty such fine not exceeding one hundred pounds as the Supreme Court shall think fit to impose. AND if any such Police Magistrate shall wilfully neglect or omit duly to prepare and make out any such list as aforesaid or shall knowingly and wilfully insert as a Juror in any such list the name of any man not duly qualified to serve as aforesaid or knowingly and wilfully omit to insert as a Juror in any such list the name of any man duly qualified and liable to serve as aforesaid he shall for every such Offence upon Information in that behalf exhibited in the said Court by His Majesty's Attorney General forfeit and pay to the use of His Majesty such Fine not exceeding one hundred pounds as the Court shall think fit to impose.

The state of the Jurors Fund to be published half yearly.

XXXIV.—AND WHEREAS it is desirable that the state of the Fund hereinbefore provided for payments to Jurors should be periodically known. BE IT ENACTED that the Sheriff shall half-yearly in the month of July and January cause an account of the state of the said Fund to be published in the Hobart Town Gazette made up to the end of the month of June or December (as the case may be) shewing the amount of the sums in that behalf received and expended by him distinguishing therein the amount of sums received in Assessment Cases from those received on Trials and both from the amount of sums received for Fines and specifying on the other hand the amount of sums paid to Jurors in

Civil and Criminal Cases respectively distinguishing the Sums paid to them for daily expenses from the Sums paid for mileage.

XXXV.—AND BE IT ENACTED that from and after the publication of this Act the said recited Act of this Island intituled “*An Act to regulate the constitution of Juries*” shall be and the same is hereby repealed. *Except* as to any matters or things done under the said Act before the time of such publication and as to all or any matters and things in relation thereto then remaining to be done. *And especially except* as to the use of the Jurors’ Book for the present year and the final completion settlement and transmission of the several Jury lists and the making and copying of the Jurors’ Book for the now ensuing year which said last mentioned Jurors’ Book shall be completed and brought into use for that year the same as if the said Act had not been so directed to be repealed but the names of all persons summoned as Jurors under the provisions of this Act shall (notwithstanding the said repeal) be taken during the present year from the Jurors’ Book for this year and during the now ensuing year from the Jurors’ Book so to be made out for that year the same as if the said Act remained in full force.

Act of 11 Geo. 4 No. 5 repealed.

XXXVI.—AND WHEREAS by the said recited Statute of the ninth year of His late Majesty it is enacted that all Crimes Misdemeanors and Offences cognizable in the Supreme Courts of New South Wales and Van Diemen’s Land respectively should be prosecuted by Information in the name of His Majesty’s Attorney General or some other Officer appointed by the Governor for that purpose but it was provided that it should be lawful for any person by leave of the said Courts respectively first had and obtained to exhibit a Criminal Information against any other person in the name of the said Attorney General or such other Officer for any Crime or Misdemeanor not punishable with death and every Information so exhibited should be heard tried and determined in the same manner as with respect to other Informations under the said Statute is required.

Recites 9 Geo. 4 c. 83, secs. 5 and 6.

AND WHEREAS it is expedient to make farther provision in that behalf.

AND WHEREAS by the said Statute it is further enacted that the said Supreme Courts should have cognizance of all Pleas Civil and Criminal and Jurisdiction in all cases as amply to all intents and purposes as the Court of King’s Bench hath in England.

ibid sec. 3.

BE IT THEREFORE ENACTED that after the publication of this Act in every case in which by the course and practice of the said Court of King’s Bench any Criminal Information would or might in England by leave of the said Court be filed in the name of the Master of the Crown Office it shall be lawful for the Supreme Court of Van Diemen’s Land upon motion for that purpose made to authorise a Criminal Information against any person or persons to be exhibited in the said Court in the name of the said Attorney General whether that Officer shall or shall not have previously refused to file or exhibit any such Information or shall or shall not have been in that behalf applied to.

Criminal Informations may be filed by leave of the Court.



Proceedings on such Informations.

XXXVII.—PROVIDED ALWAYS AND BE IT ENACTED that every such Criminal Information so exhibited shall be in such form and subject to such Rules and manner of proceeding and the leave to exhibit the same shall or may be granted only upon such terms and conditions as the said Supreme Court shall in any case for the purpose of securing the substantial ends of Justice think fit to direct and in every case not otherwise provided for every such Criminal Information and all Proceedings in relation thereto shall as far as may be practicable be subject in all respects to the same Rules as are or would be in force and observed in England with respect to any such Criminal Information as aforesaid in the name of the Master of the Crown Office. **AND PROVIDED ALSO** that for the purpose of distinguishing Criminal Informations exhibited by leave of the Court from Informations filed in fact by the Attorney General there shall on every Criminal Information so exhibited be indorsed the words “By leave of the Supreme Court” and also the name of the person prosecuting the same and the signature of the Attorney General to any such Criminal Information shall not be necessary but the same shall be subscribed only by order of the said Court by the proper Ministerial Officer thereof.

Provisions for certain Special cases.

XXXVIII.—PROVIDED ALSO AND BE IT ENACTED that (in every case in which the Attorney General shall be individually the Prosecutor or shall appear to be in any other manner interested in the prosecution or its result and in every case in which it shall for any other reason appear to the said Supreme Court to be expedient so to do) it shall be lawful for the said Court to direct any such Criminal Information as aforesaid to be exhibited not in the name of His Majesty's Attorney General but in the name of some other Officer for that purpose appointed by the Governor or Lieutenant Governor for the time being and any such appointment (without affecting the powers by the said Statute vested in the said Attorney General or any of them) may either be made for some particular and specified case only or generally applicable to any case and to continue in force for a limited period or during pleasure as to such Governor or Lieutenant Governor shall seem meet.

GEORGE ARTHUR.

Passed the Legislative Council
this fifth day of November
one thousand eight hundred
and thirty-four.

ADAM TURNBULL, Clerk of the Council.

SCHEDULE A.

To (naming the Juror)

You are hereby summoned to appear as a Juror in the Supreme Court of Van Diemen's Land [or in the Court of General Quarter Sessions of the Peace as the case may be] to be holden at on the day of at ten o'clock in the forenoon and so from day to day until you shall be by the said Court discharged from farther attendance. And you are requested to take notice that your non-attendance in obedience hereto will subject you to a Fine of not less than two pounds.

Dated this day of of 183 .

[Signature of the Sheriff or his Deputy.]

SCHEDULE B.

A list of all men within the Police District of duly qualified to serve on Juries.

Christian and Surname	Place of residence.	Quality Trade or Business.
(To be written at full length.)	(State the particular place and if in a Town add the name of the Street.)	(Esquire Merchant Farmer Grocer Retail Dealer &c. as the case may be.)

