



ANNO OCTAVO

## VICTORIÆ REGINÆ,

No. 12.

By His Excellency SIR JOHN EARDLEY EARDLEY-WILMOT,  
Baronet, Lieutenant-Governor of the Island of Van Diemen's  
Land and its Dependencies, with the Advice of the Legislative  
Council.

*AN ACT for the better Administration of Justice in  
Norfolk Island and for other Purposes connected there-  
with.*

**W**HEREAS an Act was passed in the ninth year of the reign of His late Majesty King George the Fourth intituled *An Act to provide for the Administration of Justice in New South Wales and Van Diemen's Land and for the more effectual Government thereof and for other Purposes relating thereto* which Act was continued by three Acts passed successively in the seventh year of the reign of His late Majesty King William the Fourth in the first and in the first and second years of the reign of Her present Majesty—AND WHEREAS the said Act was further continued by an Act passed in the second and third years of the reign of Her present Majesty intituled *An Act to amend an Act of the Ninth Year of King George the Fourth to provide for the Administration of Justice in New South Wales and Van Diemen's Land and for the more effectual Government thereof and for other Purposes relating thereto and to continue the same until the Thirty-first day of December One thousand eight hundred and forty and thenceforward to the End of the then next Session of Parliament* whereby it was amongst other things enacted that it should be lawful for the Local Legislatures of the respective Colonies of New South Wales and Van Diemen's Land by any Laws or Ordinances to be by them or either of them from time to time for that purpose made in the manner and subject to the conditions and provisoes therein mentioned to make such provision as to them might seem meet for the better administration of justice and for defining the constitution of the Courts of Law

PREAMBLE.

6 & 7 W. 4, c. 46.  
7 W. 4 & 1 Vict.  
c. 42.  
1 & 2 Vict. c. 50  
2 & 3 Vict. c. 70.

and Equity and of Juries within the said Colonies respectively or within any present or future Dependency thereof respectively any thing in the said recited Act passed in the ninth year of the reign of His said late Majesty King George the Fourth or in any Charter of Justice or Order in Council made and issued in pursuance thereof or in any law statute or usage to the contrary thereof in any wise notwithstanding—

3 & 4 Vict. c. 62. AND WHEREAS the said Act was further continued with the amendments thereto by an Act passed in the third and fourth years of the reign of Her present Majesty and by an Act passed in the fourth and fifth years of Her present Majesty intituled *An Act to continue until the Thirty-first day of December One thousand eight hundred and forty-two and from thence until the End of the next ensuing Session of Parliament certain Acts for providing for the Administration of Justice in New South Wales and Van Diemen's Land and for the more effectual Government thereof* and ultimately by an Act passed in the

5 & 6 Vict. c. 76. fifth and sixth years of the reign of Her present Majesty the said recited Acts are declared to be permanent with respect to Van Diemen's Land—

6 & 7 Vict. c. 35. AND WHEREAS by an Act passed in the sixth and seventh years of the reign of Her present Majesty intituled *An Act to amend so much of an Act of the last Session for the Government of New South Wales and Van Diemen's Land as relates to Norfolk Island* it was enacted that it should be lawful for Her Majesty by Letters Patent under the Great Seal of the United Kingdom of Great Britain and Ireland to sever Norfolk Island from the Government of New South Wales and from the Diocese of Australia and to annex it to the Government and Colony of Van Diemen's Land and to the Diocese of Tasmania from and after a day to be mentioned in such Letters Patent and from and after such day Norfolk Island should cease to belong to the Colony of New South Wales and to the Diocese of Australia and should be taken to be a part of the Colony of Van Diemen's Land and of the Diocese of Tasmania—

AND WHEREAS in pursuance of the last-mentioned Act Her Majesty hath been pleased by Letters Patent under the Great Seal of the United Kingdom of Great Britain and Ireland bearing date the Twenty-fourth day of October in the seventh year of Her reign to sever Norfolk Island from the Government of New South Wales and from the Diocese of Australia and to annex it to the Government and Colony of Van Diemen's Land and to the Diocese of Tasmania from and after the Twenty-ninth day of September in the eighth year of Her reign—

AND WHEREAS an Act of this Island was passed in the eighth year of His late Majesty King George the Fourth intituled *An Act for the Transportation of Offenders from Van Diemen's Land* whereby it was amongst other things enacted that it should be lawful for the Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies whenever he should think fit so to do to order any male offender or offenders being under such sentence or order of transportation as in the said Act mentioned to be removed and confined and kept to labour either at Macquarie Harbour or Maria Island or any other port or place within this Island or its Dependencies to be appointed for the reception of offenders and every offender who should be so removed should continue at such port or place aforesaid and be under the custody and management of the Commandant thereof until the said Governor should

otherwise direct or until such offender should be entitled to his liberty—AND WHEREAS it is expedient that all the Laws in force in Van Diemen's Land should extend to and be applied in the administration of justice in Norfolk Island—AND WHEREAS the removal of persons under charge of capital and other offences committed at Norfolk Island from thence for trial in the Supreme Court of Van Diemen's Land would necessarily be attended with great delay expense and inconvenience and it is expedient that a Court should be established in Norfolk Island for the trial and punishment of crimes misdemeanors and offences of what nature or degree soever committed by felons or other offenders under sentence or order of Transportation or removal to Norfolk Island whether the same be committed within the said Island or on board of any ship or vessel during the passage of such felons or offenders to the same or at the island called Philip Island adjacent to Norfolk Island—BE IT THEREFORE ENACTED by His Excellency SIR JOHN EARDLEY EARDLEY-WILMOT Baronet Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies by and with the advice of the Legislative Council that from and after the passing of this Act there shall be a Court of Criminal Jurisdiction in Norfolk Island which shall be styled the Criminal Court of Norfolk Island and that such Court shall be holden by one Judge at such times and places within the said Island as His Excellency the Lieutenant-Governor of Van Diemen's Land by warrant under his hand from time to time shall appoint and direct and that such Court shall be a Court of Record and shall have and exercise all the powers and authority incident and belonging to a Court of Record and shall have full power and authority to take cognizance of all crimes misdemeanors and offences soever committed by any felons or other offenders under sentence or order of Transportation or removal to or confinement at Norfolk Island whether the same be committed within the said Island or on board of any ship or vessel during the passage of such felons or offenders to the same or at the island called Philip Island adjacent to Norfolk Island and the said crimes misdemeanors and offences so committed to adjudge and punish respectively

II. AND BE IT ENACTED that it shall be lawful for His Excellency the Lieutenant-Governor from time to time as occasion shall require by warrant under his hand to appoint a fit and competent person as and to be Judge of the said Court and the said Court shall have such ministerial Officers as shall be necessary for conducting the proceedings and executing the processes judgments and orders thereof and the said ministerial Officers shall be appointed to and removed from their respective offices in such manner as the said Lieutenant-Governor for the time being shall direct and such Judge shall also possess and may lawfully exercise all the powers and authorities which can or may be exercised by Judges of Courts of Oyer Terminer and Gaol Delivery in England. Governor may appoint Judge.

III. AND BE IT FURTHER ENACTED that all crimes misdemeanors and other misconduct cognizable by the said Court shall be prosecuted by Criminal Information in the name of such Officer as How prosecutions to be carried on.

shall from time to time be appointed for such purpose by the Lieutenant-Governor of Van Diemen's Land and every such information shall be exhibited by such Officer at the time appointed by the Court for the trial of such felons or offenders respectively and the said Court shall call the party or parties accused in such information before the Court and cause him her or them severally to be arraigned upon such information and in case he she or they confess the same then the said Court shall record such confession or in case he she or they shall plead to such information the said Court shall proceed to hear and determine such plea according to Law or to try the party or parties accused as the case may require and shall examine Witnesses upon oath to be administered by the said Court as well for as against the said party or parties and all issues of fact joined on every such information shall be tried by and before the said Judge and five Commissioned Officers of Her Majesty's Sea or Land Forces whether on Full or Half Pay and such Officers shall from time to time be nominated for the purpose aforesaid by the Lieutenant-Governor of Van Diemen's Land 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 Judge of the said Court the Officer or Officers so challenged or objected to shall be succeeded by another such Officer or other such Officers as aforesaid who shall in like manner be nominated by the Lieutenant-Governor as aforesaid and be liable in the same manner to challenge or objection until five Officers shall appear duly qualified for the trial of any offender in the said Court 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 trial and the proceedings of the said Court shall be under the control and direction of the Judge thereof and all matters of law arising in the course of any such trial shall be determined by such Judge and the judgment of the said Court shall be pronounced by him in the manner by law established on the trial of persons prosecuted by information by the Attorney-General in the Supreme Court of Van Diemen's Land—PROVIDED NEVERTHELESS that if at the time of the meeting of the said Court there shall not be five Commissioned Officers of Her Majesty's Sea or Land Forces resident within the jurisdiction of the said Court or in case of the sickness of any such Officers or that any such Officers cannot attend such Court by reason of some other employment necessarily requiring his presence at some other place (of which necessity the said Judge shall decide) the Commandant or other person for the time being discharging the office of Commandant shall nominate such and so many Justices of the Peace of Van Diemen's Land and its Dependencies resident in Norfolk Island as to him shall seem meet to act on the trial of such crimes misdemeanors or offences as aforesaid together with such and so many Commissioned Officers as may then be within the jurisdiction of the said Court and competent to act upon such trial so that there may be in every case five Officers or Justices or five Officers and Justices for

the trial of the said crimes misdemeanors and offences and the Justices so to be appointed by the Commandant or other person as aforesaid shall be liable to be challenged or objected to in such and the same manner and shall if necessary be succeeded by some other Justices to be nominated by the said Commandant or other person as aforesaid and shall severally take and repeat such oath as is hereinbefore directed with respect to the said Commissioned Officers of Her Majesty's Sea and Land Forces.

IV. AND BE IT FURTHER ENACTED that all and every the warrants and processes of the said Court shall be under the hand and seal of the Judge of the said Court and shall be directed to the proper ministerial officer or officers appointed by the Lieutenant-Governor of Van Diemen's Land and such warrants and processes shall be in the like form as used and practised in like cases in the Supreme Court of Van Diemen's Land and shall be executed and enforced by the proper officer or officers appointed as aforesaid for such purpose according to law and the judgment or order of the said Court—PROVIDED that no execution of any capital sentence shall be done until the proceedings in the case shall have been transmitted to the said Lieutenant-Governor and shall be by him approved.

Process and judgment of Court.

V. AND BE IT ENACTED that the Records of the Criminal Court of Norfolk Island shall be deposited and kept in the Office of the Registrar of the Supreme Court of Van Diemen's Land who is hereby directed and authorised from time to time as occasion may require to receive and keep the same for safe custody and such Records shall be by him delivered from time to time to such person as the Judge of the said Court shall by order under his hand direct and shall be from time to time taken back by him for such custody as aforesaid as occasion may require and re-delivered upon such order as aforesaid and every person shall be entitled to inspect such Records upon payment of the fee of One Shilling to the said Registrar who is hereby authorised to demand and receive the same for such inspection as aforesaid.

Records.

VI. PROVIDED AND BE IT FURTHER ENACTED that an entry shall be made by the Clerk of the Court in a book or books to be for that purpose kept by the Commandant of Norfolk Island of all the proceedings of the said Court in every case which entry shall be made within ten days next after the termination of every Session of the said Court and such entry shall be certified within the same period by the Judge of the said Court by his affixing his initials to the entry of the proceedings in each case and subscribing his name at length at the foot of the entry of the proceedings of the same Session and that in case of loss of the Records of the said Court the entries so made in such book as aforesaid shall be deemed and taken to be and shall be Records of the said Court as to all such proceedings the Records whereof may be lost as aforesaid.

In case Records lost.

VII. AND BE IT ENACTED that immediately upon the arrival of every Judge of the said Court in Norfolk Island the Commandant

Commandant to furnish Judge

with lists of  
Prisoners.

or other person for the time being discharging the office of Commandant shall cause and procure a true and correct list to be made out and delivered to the said Judge of all transported offenders confined in any prison or other place of confinement within Norfolk Island or the Island called Philip Island in which list shall be specified the crime misdemeanor or offence for which such transported offenders respectively shall be confined and such Judge shall have power and authority to order and direct all such offenders who shall be committed to any such Gaol or place of confinement as aforesaid to be brought before the said Court and to try such transported offenders for the crimes misdemeanors or offences for which they shall be so committed as aforesaid or to discharge such transported offenders from such confinement or to remand them to such confinement as occasion may require.

Justices of Peace  
ex officio.

VIII. AND BE IT FURTHER ENACTED that the Commandant for the time being of Norfolk Island or other person for the time being performing the duty and discharging the office of Commandant shall by virtue of his office be and be deemed and taken to be a Justice of the Peace for Van Diemen's Land and its Dependencies and such other person as aforesaid shall also be and be deemed and taken to be a Justice of the Peace for Van Diemen's Land and its Dependencies for and during the time only whilst he shall perform the duty and discharge the office of Commandant as aforesaid and the senior Officer commanding the Troops in Norfolk Island shall also be and be deemed and taken to be a Justice of the Peace for Van Diemen's Land and its Dependencies.

Laws of Van Die-  
men's Land to be  
in force in Nor-  
folk Island.

IX. AND BE IT ENACTED that all the laws now in force or which shall hereafter be in force in Van Diemen's Land shall (unless specially excepted) be deemed and taken to extend to and shall extend to Norfolk Island—PROVIDED ALWAYS AND BE IT FURTHER ENACTED that all crimes misdemeanors and offences whatsoever which shall have been committed before the day of the publication of this Act in Norfolk Island by any felons or other offenders under sentence or order of transportation or removal to Norfolk Island whether the same shall be committed within the said Island or on board of any ship or vessel during the passage of such felons or offenders to the same Island or at the island called Philip Island adjacent to Norfolk Island shall be heard and determined by the said Court and punished under the authority of this Act in the same manner as they were punishable under the laws in force in Norfolk Island at the time of the commission of such crimes misdemeanors and offences respectively and that until the alteration of any existing law or the passing of any new law shall have been notified to the Commandant and by him published in Norfolk Island in such manner as to him may seem meet the laws then in force in Norfolk Island shall continue to be applied in the administration of justice and shall be in force in Norfolk Island.

Lieutenant-Go-  
vernor may order  
Convicts to be re-  
moved to Norfolk  
Island.

X. AND BE IT ENACTED that it shall be lawful for the Lieutenant-Governor whenever he shall think fit so to do to order any male offender or offenders being under such sentence or order of transportation as in the said recited Act of this Island mentioned to be removed

and confined and kept to hard labour in Norfolk Island and every such order of removal and confinement as last aforesaid shall be of the like force and effect and shall subject such offender to such and the same laws as if such order of removal and confinement had been made under the authority of the said recited Act of this Island and as if Norfolk Island had been named in the said recited Act and had been a Dependency of this Colony at the time of the passing of the said Act and power had been thereby given to the said Lieutenant-Governor to cause such order of removal thereto and confinement thereat of any such offender.

XI. AND WHEREAS the said Island having been set apart for the reception and control of transported offenders it is expedient to prevent all persons from residing in the Island excepting those persons who are employed by the Government in the command over or control of such transported offenders and it is also expedient to prevent unnecessary communication with the said Island—BE IT THEREFORE ENACTED that if any person except as before excepted shall land or be on the said Island it shall be lawful for the Commandant of the said Island or other person for the time being discharging the office of Commandant if he shall think fit so to do to cause every such person to be arrested and removed therefrom either immediately or at the first convenient opportunity and it shall also be lawful for such Commandant or person discharging the office of Commandant to imprison and detain such person so landing or being on the said Island until such convenient opportunity for removing him therefrom shall happen—PROVIDED that such Commandant or person discharging the office of Commandant shall in every such case report such arrest and removal or imprisonment and detention to His Excellency the Lieutenant-Governor.

Commandant empowered to arrest and remove persons improperly found there.

XII. AND BE IT ENACTED that if any person commanding navigating or sailing in any vessel or boat whatsoever not in the service of the Government or not having a licence in writing for that purpose from the Lieutenant-Governor or permission from the Commandant or person discharging the office of Commandant at Norfolk Island shall (except in cases of unavoidable necessity) touch at or communicate or hold intercourse with the said Island or shall (except in such cases of necessity as aforesaid) be for whatever purpose in any vessel or boat hovering or at anchor nearer to the coast of the said Island or any part thereof than two miles every such person shall forfeit and pay a penalty or sum of not less than Ten Pounds nor more than One Hundred Pounds and such person shall also or lawfully may together with such vessel or boat be forthwith and without any warrant arrested and detained at Norfolk Island until the case shall have been there enquired into and determined or the amount of the penalty incurred by him shall have been paid.

Unauthorised intercourse with the said Island forbidden.

XIII. AND BE IT ENACTED that all fines and penalties by this Act imposed shall be recovered in a summary way by and before any two Justices of the Peace and be applied to the general purposes

Recovery of penalties.

of the Police of the Island of Van Diemen's Land and its Dependencies.

Construction of  
term Lieutenant-  
Governor.

XIV. AND BE IT ENACTED that the term Lieutenant-Governor used in this Act shall be construed to intend and apply to the Governor Lieutenant-Governor or other person for the time being lawfully administering the Government of Van Diemen's Land and its Dependencies.

E. EARDLEY-WILMOT.

Passed the Legislative Council, this thirtieth  
day of September, one thousand eight  
hundred and forty-four,

ADAM TURNBULL, *Clerk of the Council.*