

No. XXV.

JURY TRIALS.

An Act to continue for a limited time an Act of the Governor and Council of New South Wales intituled “*An Act for regulating the constitution of Juries and for the Trial of Issues in certain cases in the Supreme Court of New South Wales*” and to make further provisions for Trial by Jury. [23rd June, 1835.]

Preamble.

9 Geo. IV. c. 83.

WHEREAS by an Act of Parliament 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*” it is enacted that it shall and may be lawful for His Majesty His Heirs and Successors by an Order to be by him or them issued with the advice of his or their Privy Council at any time or times hereafter to authorize 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 further 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 times and with under and subject to such limitations modifications and rules in respect thereof as to the said Governors and Councils respectively shall seem meet and as shall from time to time be specified by any Law or Ordinance to be by them made in such behalf And whereas by an Order in Council bearing date the twenty-eighth day of June one thousand eight hundred and thirty His said late Majesty was pleased by and with the advice of His Council to authorize the Governor of New South Wales with the advice of the Legislative Council 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 in respect thereof as to the said Governor and Council should seem meet and as should from time to time be specified in any Law or Ordinance to be by them made in such behalf And whereas an Act of the Governor with the advice of the Legislative Council of the said Colony was passed in the second year of the reign of His present Majesty intituled “*An Act for regulating the constitution of Juries and for the Trial of Issues in certain cases in the Supreme Court of New South Wales*” which said Act of the Governor and Council was by a certain other Act of the Governor and Council intituled “*An Act to continue for a limited time an Act of the Governor and Council of New South Wales intituled ‘An Act for regulating the constitution of Juries and for the Trial of Issues in certain cases in the Supreme Court of New South Wales’ and to make further provision for Trial by Jury in Criminal Cases in the said Colony*” continued until the thirtieth day of June one thousand eight hundred and thirty-five and it is expedient

Order in Council of
28th June 1830.

2 Gul. IV. No. 3.

4 Gul. IV. No. 12.

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expedient further to continue the said first recited Act as hereinafter provided Be it therefore enacted by His Excellency the Governor with the advice of the Legislative Council That the said first Act of the Governor and Council (except so much thereof as is by the said last recited Act of the Governor and Council or by this Act repealed or altered) shall be and the same is continued in force from the said thirtieth day of June until the thirtieth day of June one thousand eight hundred and thirty-six.

2 Gul. IV. No. 3 continued until the 30th day of June 1836.

2. And be it further enacted That so much of the said first recited Act of the Governor and Council as relates to the form and manner of striking and summoning a special jury and also so much thereof as empowers the Supreme Court to grant a tales where a sufficient number of special jurors shall not attend and provides that the Court shall in no case allow such "tales" unless nine of the jurors summoned for the trial of the cause shall be in attendance upon the Court shall be and the same is hereby repealed.

Certain parts of 2 Gul. IV. No. 3 repealed.

3. And be it further enacted That whenever the Supreme Court shall hereafter direct a special jury for the trial of any civil or criminal issue the Chief Clerk or other proper officer of the said Court shall appoint a time and place for the nomination of such special jury and a copy of the rule of Court and of such Clerk's or officer's appointment shall be served on the Sheriff or his deputy and on all the parties who have been usually served with the same in the accustomed manner and the said Chief Clerk or other proper officer at the time and place appointed being attended by the Sheriff or his deputy who are hereby respectively required to bring with them the "Jurors' Book" and the "Special Jurors' List" in the said first recited Act mentioned shall in the presence of all the parties or of their respective attornies (or such of them as choose to attend) take from the said "Special Jurors' List" forty-eight names beginning at the top of such list and proceeding downwards according to the order in which such names are successively placed until the full number of forty-eight special jurors shall be completed and the said Chief Clerk or other proper officer shall make a list of the said forty-eight special jurors and each of the parties or their respective attornies who shall attend at the time and place appointed as aforesaid shall strike out fifteen names from the said forty-eight or in case either of the parties or their attornies may not attend the Chief Clerk or other proper officer shall strike out fifteen names of the party or parties absent and the remaining eighteen names shall be returned by the Sheriff or his deputy for the trial of such issue as aforesaid.

Mode of striking special jury.

4. Provided always and be it further enacted That every special jury which shall be directed for the trial of any issue during the same Civil Term or Criminal Session of the Supreme Court shall be struck in like manner as hereinbefore directed from the same forty-eight names and at every succeeding Term or Criminal Session of the said Court the like number of names shall be taken from the "Special Jurors' List" beginning with the name next after the names of the persons composing the last list of forty-eight special jurors and so on "toties quoties" and the like order shall be observed in each succeeding year beginning in the new list with the names next after those composing the last forty-eight special jurors in the old list and as often as the Special Jurors' List shall in any case be gone through before the full number of forty-eight special jurors shall be completed as aforesaid the said Sheriff or his deputy shall complete such number by recommencing with the names at the top of the said list and proceeding downwards as hereinbefore directed until the full number of forty-eight special jurors shall be completed.

Special juries for same Term or Session to be struck from the first forty-eight names.

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Summoning special
juries.

5. And be it further enacted That the party or parties moving for a special jury shall full eight days before the attendance of such jury is required deliver a notice in writing to the Sheriff or his deputy requiring him to summon the special jury appointed for the trial of such issue as aforesaid and thereupon the Sheriff or his deputy shall cause such special jury to be summoned within the like time and in the like form and manner as in the said first recited Act of the Governor and Council is provided and directed for summoning common jurors to attend the said Court and all persons who shall be summoned to attend the said Court as special jurors as aforesaid shall be entitled to receive such and the like respective rates of allowance for attendance upon the said Court and and in default of such attendance shall be subject to and liable to such and the like penalties and forfeitures to be recovered in like manner as in and by the said first recited Act of the Governor and Council is provided and directed with respect to special jurors.

Tales de circumstan-
tibus.

6. And be it further enacted That where a full special jury shall not appear before the Supreme Court for the trial of any such issue as aforesaid it shall be lawful for such Court upon request made for the King by any one thereunto authorized or by the parties plaintiff or defendant or their respective attornies in any action or suit whether popular or private to command the Sheriff or his deputy to name and appoint as often as need shall require so many of such other good and lawful men duly qualified to serve as *special* jurors according to the provisions of the said first recited Act as shall make up a full jury for the trial of such issue and the Sheriff or his deputy shall at such command of the Court return such men duly qualified as shall be present or can be found to serve on such jury and shall add and annex their names to the former panel and the King by any one authorized as aforesaid and all and every the parties aforesaid shall in each of the cases aforesaid have their respective challenges to the jurors so added and annexed and the Court shall proceed to the trial of every such issue with the jurors who were summoned and impannelled together with the talesmen so newly added and annexed as if all the same had been originally returned to try the issue.
