

No. XI.

An Act to make further regulation with respect to Trial by Jury in Criminal Issues in the Colony of New South Wales and to amend the form of proceeding in Criminal Prosecutions in said Colony. [20th September, 1839.]

JURY TRIALS.

WHEREAS by an Act of Parliament passed in the ninth year of Preamble. 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 was among other things provided That until further provision should be made as thereafter directed for proceeding by juries all issues of fact joined on any information prosecuted for any crime misdemeanor and offence cognizable in the Supreme Court of said Colony in the name of the Attorney General or other officer duly appointed for such purpose by the Governor of said Colony should be tried by one or more of the Judges of said Court and seven Commissioned Officers of His Majesty's sea or land forces whether on full or half pay to be nominated from time to time for such purpose by the said Governor subject to such regulation as is therein specified And whereas it was by said Act also enacted "That it should be lawful for His said 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 thereafter to authorize the said Governor of New South Wales with the advice of the Legislative Council thereof to extend and apply the form and manner of proceeding by grand and petit juries or either of them in the trial of all crimes misdemeanors issues matters and things properly cognizable by juries in such parts of the said Colony and its Dependencies at such times and with and 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 be specified in any Law or Ordinance to be by them made in that behalf and that whenever and so far as such manner of proceeding by juries should from time to time be extended and applied as aforesaid then the form and manner of proceeding thereinbefore directed as to the prosecution of offences should cease and determine" And Order in Council of 28th June 1830. 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 Privy Council to give to the Governor of New South Wales with the advice of the Legislative Council thereof such authority as aforesaid and whereas in pursuance of such Order in Council the said Governor and Legislative Council hath from time to time passed various Acts for the extending applying and regulating of petit juries for the trial of criminal issues in said Colony And whereas the said Colony hath of late years greatly increased in population and a sufficient number of respectable persons qualified to act as jurors is to be found in all parts of the said Colony where juries are required it is deemed expedient that the trial of offences by a jury of seven Commissioned Officers as aforesaid should in future be dispensed with in said Colony and that all crimes misdemeanors and offences cognizable in the Supreme Court of said Colony and prosecuted by information in the name of Her Majesty's Attorney General or other officer duly appointed for such purpose by

Jury Trials.

Offences prosecuted
in Supreme Court to
be tried by twelve
inhabitants only.

2 W. IV. No. 3.

4 W. IV. No. 12.

Juries of Commiss-
ioned Officers to
cease.

9. G. IV. c. 83.

3 W. IV. No. 3.

Offences prosecuted
in Courts of Quarter
Sessions to be tried
by twelve inhabi-
tants only.

by the Governor of said Colony and all issues of fact joined on every such information shall be tried by a jury of twelve of the inhabitants of said Colony only. Be it therefore enacted That from and after the thirty-first day of October next ensuing all crimes misdemeanors and offences cognizable in the said Supreme Court and prosecuted by information in the name of Her Majesty's Attorney General or other officer duly appointed for such purpose by the Governor of said Colony and all issues of fact joined on every such information shall be tried by a jury of twelve inhabitants of said Colony and every such jury shall be subject to such and the like rules regulations and provisions as to their qualifications and exemptions as are made and provided in and by an Act passed in the second year of His late Majesty King William the Fourth 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 Act has been continued from time to time by various other Acts and also to such rules and regulations as are made and provided in and by another Act passed in the fourth year of the reign of His said late Majesty King William the Fourth 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 said Colony'*" subject however to such alteration as may hereafter by the Governor and Council be deemed expedient and that from and after the thirty-first day of October next ensuing the trial of offences by seven Commissioned Officers of Her Majesty's sea or land forces shall cease and determine.

2. And whereas by the said recited Act of Parliament it was further enacted That it be lawful for the said Governor and Council to institute Courts of General and Quarter Sessions within the said Colony by Ordinances to be from time to time for that purpose made and enacted as thereafter mentioned and to give and grant to such Courts power and authority to take cognizance in a summary way of all crimes misdemeanors and other offences or misconduct not punishable by death which had been or should be committed by any felons or other offenders who had been or should be transported to the said Colony and whose sentences had not expired or had not been remitted and also to give and grant to such Courts power and authority to take cognizance of all matters and things cognizable in Courts of General and Quarter Sessions in England so far as the circumstances and condition of the said Colony should require and admit Provided always that all crimes misdemeanors and offences not committed by such felons and other offenders as aforesaid shall be prosecuted and tried before the said Courts of General and Quarter Sessions in such and the same manner and subject to all such and the same rules and regulations in every respect as are thereinbefore made and prescribed with respect to trials before the said Supreme Court and whereas in pursuance of the said Act of Parliament Courts of General and Quarter Sessions have been instituted in and for certain districts and places in said Colony and it is expedient and necessary to regulate and to provide for the trial of crimes misdemeanors and offences cognizable in the said Courts of General and Quarter Sessions respectively by petit juries of twelve inhabitants of the said Colony in like manner as is hereinbefore directed with respect to the trial of issues joined on criminal informations in the Supreme Court Be it therefore enacted That from and after the thirty-first day of October next ensuing all crimes misdemeanors and offences which shall be prosecuted in the said Courts of General and Quarter Sessions respectively shall be tried only

Savings' Bank.

only by a jury of twelve inhabitants of the said Colony who shall be subject to such and the like rules regulations and provisions as to their qualifications exemptions and disqualifications as are hereinbefore made and provided with respect to petit juries for trial of issues joined on informations in the Supreme Court and that the trial of Jury of Commissioned Officers to cease. offences by a jury of seven Commissioned Officers of Her Majesty's sea or land forces shall cease and determine Provided always that nothing herein contained shall restrain or in any manner interfere with the power and authority by law vested in the said Courts of General and Quarter Sessions to take cognizance in a summary way of crimes misdemeanors and other offences not punishable with death which have been or shall be committed by transported felons or other offenders whose sentences have not expired or been remitted.

Proviso—not to interfere with summary jurisdiction of said Courts.
