



ANNO DECIMO-SEXTO

VICTORIÆ REGINÆ,

No. 6.

*By His Excellency SIR WILLIAM THOMAS DENISON, Knight,
Lieutenant-Governor of the Island of Van Diemen's Land
and its Dependencies, with the Advice and Consent of the
Legislative Council.*

AN ACT for the better Advancement of Justice and for the Appointment of certain Commissioners of the Supreme Court of Van Diemen's Land.

[6th October, 1852.]

WHEREAS it would contribute to the advancement of Justice in this Colony if sufficient power were given to the Judges of the Supreme Court of Van Diemen's Land by any Rule or Order to be by them made from time to time as to them should seem meet of regulating the forms and mode of the practice and proceedings of the said Court both at Law and in Equity and of introducing such alterations and amendments in the process and pleadings in actions at Law and suits in Equity as to the said Judges shall from time to time appear convenient or necessary and doubts may arise as to the power possessed by the said Judges in these respects without the authority of an Act of the Legislative Council of this Island—BE IT THEREFORE ENACTED by His Excellency SIR WILLIAM THOMAS DENISON Knight Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies with the advice of the Legislative Council of the said Island that the Judges of the said Supreme Court shall and may from time to time in term or vacation make such Rules and Orders as to them shall seem expedient touching and concerning the time and place of holding the said Court for the trial of civil and criminal issues and for all other purposes whatsoever within its Common Law Equity and Ecclesiastical Jurisdiction and touching and concerning the process forms and manner of proceeding and the practice and pleadings upon all indictments informations actions at law and suits in equity and

other matters to be therein brought the return of all writs the appointment of Commissioners to take bail and examine witnesses *de bene esse* and allowing such examinations to be taken as evidence and for the voluntary admission upon application for that purpose at a reasonable time before the trial of one party to the other of all such written or printed documents or copies of documents as are intended to be offered in evidence on any trial by the party requiring such admission and touching the inspection thereof before such admission is made and the costs which may be incurred by the proof of such documents or copies on the trial of the cause in case of the omitting to apply for such admission or the not producing of such documents or copies for the purpose of obtaining admission thereof or of the refusal to make such admission as the case may be and for the production and inspection by parties of all deeds and documents whatsoever in all cases in which previous to the passing of this Act a discovery might have been obtained by filing a Bill or by any other proceeding in a Court of Equity at the instance of the party requiring any such production or inspection and for the giving copies thereof by the one party to the other and touching and concerning the delivery by the one party to the other of particulars of the cause of action and grounds of defence intended to be insisted upon in every action and the granting Probate of Wills and Letters of Administration and all matters and things connected therewith the proceedings of the Sheriff and other ministerial Officers the process of Foreign Attachment and all other the process of the said Court and the mode of executing the same the admission of Barristers Attornies Solicitors and Proctors the costs fees perquisites and poundage to be lawfully demanded by any Officer of the said Court Attorney Solicitor or Proctor and touching and concerning the alteration in the form and mode of pleading and practice in the said Court and of entering and transcribing pleadings judgments and other proceedings in actions at law and for the payment by the defendant (in all actions in which by any law now in force or hereafter to be made he is or may be entitled to pay the same) into Court of money and for the payment to the Sheriff of money in lieu of bail and touching and concerning the reference to arbitration of any matter in dispute between parties by submission or otherwise and touching and concerning such alteration from time to time as to such Judges shall seem expedient of the mode of pleading practice and proceedings in all matters in equity and the payment of money into Court and out of Court in regard of any suit or proceeding in equity and for the conduct of business in the said Court at Law and in Equity and the said Judges shall and may alter amend or revoke any such Rules or Orders by any other Rule or Order to be by them for that purpose made as and when it shall to them appear expedient—**PROVIDED ALWAYS** that all such Rules and Orders shall be dated and signed by the said Judges and shall be laid before the Legislative Council of this Island within five days from the making thereof if such Legislative Council be then sitting or if not then within five days from the next meeting thereof—**PROVIDED ALSO** that if the said Legislative Council shall by any Resolution passed before such Legislative Council shall have sat thirty-six days from and after the

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said Rules or Orders shall have been laid before it resolve that the same or any part thereof ought not to continue in force then and in any such case the Rules and Orders affected by such Resolution shall cease to be binding on the said Court—PROVIDED ALSO that no Rules or Orders to be made in pursuance of this Act shall be of any effect unless expressed to be made in pursuance of the power given by this Act nor shall the same continue in effect after the expiration of the time herein provided for laying the same before the said Legislative Council unless they be laid before such Legislative Council accordingly but from and after the expiration of the time aforesaid any Rule or Order so made shall unless affected by any Resolution of the said Legislative Council as aforesaid be binding and obligatory on the said Court and be of the like force and effect as if the provisions therein had been expressly enacted herein any Statute Law or Ordinance to the contrary in any wise notwithstanding.

II. AND WHEREAS it would facilitate the course of business and lessen the expense of suitors and others if Commissioners of the Supreme Court of Van Diemen's Land were appointed for the purposes hereinafter mentioned in places beyond the jurisdiction of the said Court—BE IT THEREFORE ENACTED that it shall be lawful for the Chief Justice of the said Court by any Commission to be made by him under the Seal of the said Court to appoint any person or persons to act as and be a Commissioner or Commissioners of the Supreme Court of Van Diemen's Land in any country or place beyond the jurisdiction of the said Court for the purpose of administering and taking any oath affidavit or affirmation and every oath affidavit or affirmation which shall be taken or made before any such Commissioner shall be of the like effect as if the same had been administered made or taken by or before any Court or person having authority to administer or take the same within Van Diemen's Land and its Dependencies.

RICHARD DRY, *Speaker.*

Passed the Legislative Council this twenty-fourth day of September, one thousand eight hundred and fifty-two.

FR. HARTWELL HENSLOWE,
Clerk of the Council.

In the name and on the behalf of Her Majesty I assent to this Act.

*Government House, Hobart Town,
6th October, 1852.*

W. DENISON,
Lieut.-Governor.