

6 V. of N. of 17th Mar. 1844
Repealed by 6 V. of 17th Mar. 1848



ANNO SEXTO

VICTORIÆ REGINÆ,

No. 17.



By His Excellency SIR JOHN FRANKLIN, Knight Commander of the Royal Hanoverian Guelphic Order, Knight of the Greek Order of the Redeemer, and a Captain in Her Majesty's Royal Navy, Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies, with the advice of the Legislative Council.

AN ACT to enable the Lieutenant-Governor of Van Diemen's Land to nominate and appoint a Sheriff for the Colony of Van Diemen's Land and its Dependencies for the Remainder of the Year One thousand eight hundred and forty-three and until the first Monday in the Month of January One thousand eight hundred and forty-four and to confirm and render valid certain Acts of Persons heretofore nominated and appointed Sheriffs for Van Diemen's Land and its Dependencies and for other Purposes relating thereto.

WHEREAS by Letters Patent under the Great Seal of the United Kingdom of Great Britain and Ireland bearing date at Westminster the Fourth day of March in the First year of the reign of His late Majesty King William the Fourth His said Majesty did amongst other things ordain and declare that the Governor or acting Governor for the time being of the Colony of Van Diemen's Land should yearly on the first Monday in the month of January in each year by warrant under his hand and seal nominate and appoint some fit and proper person to

PREAMBLE.
Recites Letters Patent of 1 W. 4 enabling the Lieutenant-Governor to appoint a Sheriff annually.

act as and be the Sheriff for the said Colony of Van Diemen's Land and its Dependencies for the year ensuing which Sheriff when appointed should as soon as conveniently might be and before he should enter upon his said office take an oath faithfully to execute his office and the oath of allegiance before the Governor or acting Governor who are thereby authorised to administer the same and such Sheriff should continue in such his office during the space of one whole year to be computed from the said first Monday in the month of January and until another should be appointed and sworn into the said office and in case such Sheriff should die in his office or depart from the said Colony of Van Diemen's Land then another person should as soon as conveniently might be after the death or departure of such Sheriff be in like manner appointed and sworn in as aforesaid and should continue in his office for the remainder of the year and until another Sheriff should be duly appointed and sworn in to the said office—AND WHEREAS divers persons have been from time to time nominated and appointed to act as and be Sheriffs of the Colony of Van Diemen's Land and its Dependencies by warrants under the hand of the acting Governor for the time being of the said Colony of Van Diemen's Land but such warrants have not been sealed with the seal of the Governor or the acting Governor for the time being of Van Diemen's Land according to the provisions of the said Letters Patent and such nominations and appointments have therefore not been made in accordance with the provisions of the said Letters Patent in that behalf and the same are illegal and void—AND WHEREAS it is expedient that every person who hath heretofore acted or who is now acting as Sheriff of the Colony of Van Diemen's Land and its Dependencies under and by virtue of any nomination and appointment so made as aforesaid and also that all and every person and persons who shall have in any manner acted or are now acting under the authority of any such person or persons so nominated and appointed as aforesaid to act as and be the Sheriff or Sheriffs of Van Diemen's Land and its Dependencies by the acting Governor for the time being of the said Colony of Van Diemen's Land should be indemnified and kept harmless in respect of all matters and things whatsoever by him them or any of them done or performed under and by virtue of such nominations and appointments as aforesaid or under the authority of such person or persons so nominated and appointed as aforesaid as also that all writs process matters and proceedings whatsoever executed done or performed by such person or persons so nominated and appointed as aforesaid or by any other person or persons acting under or in obedience to the authority of such person or persons so nominated and appointed as aforesaid should be made valid and be henceforth deemed and taken to be of the like force and effect as if the person or persons so nominated and appointed as aforesaid had been duly nominated and appointed Sheriff or Sheriffs of Van Diemen's Land and its Dependencies according to the terms and provisions of the said recited Letters Patent—AND WHEREAS it is expedient that a fit and proper person should be appointed by the Governor or acting Governor for the time being of the Colony of Van Diemen's Land by warrant under his hand and seal to act as and be the Sheriff of the said Colony of Van Diemen's Land and its Dependencies until the first Monday in the month of January which will be in the year one thousand eight hundred and forty-four and until another shall be appointed and sworn into the said office in pursuance of and in conformity with the said recited Letters Patent—

Defect in those appointments disclosed.

Necessity for indemnifying the appointees and validating their acts.

Expediency of appointing a Sheriff until the commencement of 1844.

I. BE IT THEREFORE ENACTED by His Excellency SIR JOHN FRANKLIN Knight Commander of the Royal Hanoverian Guelphic Order

Knight of the Greek Order of the Redeemer and a Captain in Her Majesty's Royal Navy Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies by and with the advice of the Legislative Council that it shall be lawful for the Governor or acting Governor for the time being of the Colony of Van Diemen's Land by warrant under his hand and seal to nominate and appoint some fit and proper person to act as and be the Sheriff for Van Diemen's Land and its Dependencies from and after the time of such appointment until the first Monday in the month of January which will be in the year one thousand eight hundred and forty-four and until another Sheriff shall be appointed and sworn in to the said office and that such person when so appointed shall as soon as conveniently may be and before he shall enter upon his said office take an oath faithfully to execute his office and the oath of allegiance before such Governor or acting Governor as aforesaid who is hereby authorised to administer the same and in case such person so to be appointed Sheriff as aforesaid shall die in his office or depart from Van Diemen's Land then another person shall as soon as conveniently may be after the death or departure of such Sheriff be in like manner appointed and sworn in as aforesaid and shall continue in his office until the said first Monday in January which will be in the year one thousand eight hundred and forty-four and until another Sheriff shall be duly appointed and sworn into the said office under the provisions of the said recited Letters Patent of His late Majesty King William the Fourth.

Governor empowered to make such appointment.

II. AND BE IT ENACTED that the person who shall be so appointed Sheriff of Van Diemen's Land and its Dependencies by such Governor or acting Governor for the time being as aforesaid under and by virtue of this Act shall by himself or his sufficient deputies to be by him appointed and duly authorised under his hand and seal and for whom he shall be responsible during his continuing in such office execute and such Sheriff and his said Deputies are hereby authorised to execute all Writs Summonses Rules Orders Warrants Commands and Processes of the Supreme Court of Van Diemen's Land and make return of the same together with the manner of the execution thereof to the said Supreme Court of Van Diemen's Land and to receive and detain in prison all such persons as shall be committed to the custody of such Sheriff by the said Supreme Court of Van Diemen's Land or by the Chief Justice or a Puisne Judge of the same Court and shall have exercise and enjoy all such and the same rights powers privileges and immunities and shall be in all respects subject and liable to all such and the same laws duties process and provisions in such and the same manner in all respects as if such person had been duly appointed to act as and be Sheriff under and by virtue of the said recited Letters Patent of His said late Majesty.

Duties powers and privileges of the Sheriff so appointed.

III. AND BE IT ENACTED that all Writs Summonses Rules Orders Warrants Commands and Processes of the Supreme Court of Van Diemen's Land and all other acts matters and things heretofore executed done and performed by any person or persons acting as Sheriff or Sheriffs of Van Diemen's Land and its Dependencies under and by virtue of any such illegal and void warrant of the Governor or acting Governor for the time being of Van Diemen's Land as aforesaid or by any deputy or deputies or other person or persons acting under his or their authority and which might and would have been legally executed done or performed by such person or persons or by his or their deputy or deputies or other person or persons acting under his or their authority or appointment if the said persons respectively acting as such Sheriff or Sheriffs had been duly appointed Sheriff or Sheriffs for Van Diemen's Land and its Dependencies

Renders valid all acts heretofore done by the Sheriff.

under and by virtue of the said recited Letters Patent of His said late Majesty shall be and the same shall henceforth be deemed and taken to be and to have been of the like force and effect in all respects to all intents and purposes whatsoever as if the same respectively had been executed done and performed by any Sheriff duly appointed under and by virtue of the said recited Letters Patent or by his deputy or deputies or other person or persons acting under or by virtue of his appointment or authority.

And those to be done by the person acting as Sheriff until this Act shall operate.

IV. AND BE IT ENACTED that from and after the passing of this Act and until the same shall come into operation and take effect and until a Sheriff shall be appointed and sworn into his office under the provisions of this Act all Writs Summonses Rules Orders Warrants Commands and Processes of the Supreme Court of Van Diemen's Land and all other acts matters and things whatsoever which shall be executed done or performed by Adam Turnbull Esquire the person now acting as Sheriff of Van Diemen's Land and its Dependencies or by his deputy or deputies or by any person or persons acting under his authority or appointment and which might legally be executed done or performed by any Sheriff duly appointed under and by virtue of the said recited Letters Patent of His said late Majesty William the Fourth or by any person acting under his authority or by his appointment shall be and be deemed and taken to be and to have been of the like force and effect to all intents and purposes whatsoever as if the said Adam Turnbull had been duly appointed Sheriff of Van Diemen's Land and its Dependencies under and by virtue of the said recited Letters Patent.

Conveys indemnity for those acts.

V. AND BE IT ENACTED that no action prosecution or other proceeding at law shall be commenced had or prosecuted against any person or persons his or their executors or administrators who shall have acted as Sheriff for Van Diemen's Land and its Dependencies under and by virtue of any warrant of the Governor or acting Governor for the time being of the Colony of Van Diemen's Land and its Dependencies signed by any such Governor or acting Governor for the time being although such warrant may not have been sealed with the seal of such Governor or acting Governor as aforesaid nor against any deputy or deputies or other person or persons acting under the appointment or authority of any such person who shall have so acted as Sheriff as aforesaid in respect of any matter or thing whatsoever by him them or any of them executed done or performed and which might legally have been executed done or performed in case such person so acting as Sheriff had been duly appointed Sheriff by warrant under the hand and seal of the Governor or acting Governor for the time being of the Colony of Van Diemen's Land in accordance with the provisions of the said recited Letters Patent of His said late Majesty and no action suit prosecution or other proceeding at law shall be commenced had or prosecuted against the said Adam Turnbull Esquire his executors or administrators or against any deputy or deputies or other person acting under his appointment or authority in respect of any act matter or thing whatsoever which shall hereafter and until a person shall be appointed to act as and be Sheriff of Van Diemen's Land and its Dependencies be executed done or performed by the said Adam Turnbull as Sheriff of Van Diemen's Land and its Dependencies or by any deputy or other person acting under his appointment or authority under the provisions of this Act and which might be legally executed done or performed in case the said Adam Turnbull had been duly appointed to act as and be Sheriff of Van Diemen's Land and its Dependencies by warrant under the hand and

seal of the Governor or acting Governor for the time being of Van Diemen's Land and in case any such action as aforesaid shall be commenced the Defendant may plead the general issue and give this act and the special matter in evidence at any trial to be had thereon and if a verdict pass for the Defendant or the Plaintiff become nonsuit or discontinue any such action after issue joined or if upon Demurrer or otherwise judgment shall be given against the Plaintiff the Defendant shall recover double costs.

VI. AND BE IT ENACTED that the Sheriffs so to be appointed as aforesaid under the authority of this Act lawfully may and shall by themselves respectively and their respective deputies execute all such writs summonses rules orders warrants commands and process directed to the said Adam Turnbull or any of the persons who have so as aforesaid acted as Sheriffs of Van Diemen's Land and its Dependencies as shall remain unexecuted at the time when any such Sheriff shall be appointed and sworn into office in all such cases and in such and the same manner as they respectively might and ought to do if the said Adam Turnbull and the said other persons and the said Sheriffs so appointed had been respectively duly appointed under and by virtue of the said recited Letters Patent and the said Adam Turnbull so having been duly appointed had died after any such writ summons rule order warrant command or process had come to his hands and before the same was executed and shall make return of the same together with the manner of the execution thereof and shall and may detain and keep in their custody respectively all such persons as at the time aforesaid would have been legally in the custody of the said Adam Turnbull if the said Adam Turnbull and the said other persons who have so acted as Sheriff as aforesaid had been respectively duly appointed to the office of Sheriff of Van Diemen's Land and its Dependencies under and by virtue of the said recited Letters Patent and the said Adam Turnbull so having been duly appointed had died in such his office.

Sheriff to be appointed under this Act to execute the unfinished business of the office.

JOHN FRANKLIN.

Passed the Legislative Council this twenty-first day of January, one thousand eight hundred and forty-three,

FR. HARTWELL HENSLowe, *Clerk of the Council.*

