

BEGIN TRANSCRIPTION

GEORGE THE THIRD BY THE GRACE OF GOD King of Great Britain France and Ireland defender of the Faith TO ALL to whom these presents shall come *Greeting* WHEREAS by virtue of An Act of Parliament passed in the twenty fourth year of our Reign Wee have judged fit by and with the advice of our Privy Council by two several Orders bearing date respectively on the sixth day of December one thousand seven hundred and eighty six to declare and appoint the place to which certain Offenders should be transported for the time or terms in their several Sentences mentioned to be the Eastern Coast of New South Wales or some one or other of the Islands adjacent AND WHEREAS *Wee* find it necessary that a Colony and Civil Government should be established in the Place to which such Convicts shall be transported and that sufficient Provision should be made for the recovery of Debts and determining of private Causes between party and party in the place aforesaid WEE taking the same into our Royal Consideration and being desirous that Justice may be administered to all our Subjects have of our especial Grace certain knowledge and mere motion thought fit to grant ordain direct and appoint and by these presents do for Us our Heirs and Successors will grant ordain direct and appoint that there shall be within the place aforesaid a Court to be called the Court of Civil Jurisdiction and that such Court shall consist of the Judge Advocate for the time being together with two fit and proper persons inhabiting the said place to be appointed from time to time by our Governor or in case of his Death or Absence by Our Lieutenant Governor for the time being or of any two of them (whereof the Judge Advocate to be one) to which Court *Wee* do hereby give full power and Authority to hold plea of and to hear and determine in a summary way all pleas concerning Lands Houses Tenements and Hereditaments and all manner of interests therein and all pleas of Debt Account or other Contracts Trespasses and all manner of other personal pleas whatsoever AND WEE do further Will ordain and grant to the said Court full power and Authority to Grant probates of Wills and Administration of the personal Estates of Intestates dying within the place or Settlement aforesaid AND our further Will and pleasure is and Wee do by these presents for us our Heirs and Successors direct ordain and appoint that upon Complaint to be made in writing to the said Court by any person or persons against any other person or persons residing or being within said place of any Cause of Suit the said Court shall or may issue a Warrant in Writing under the Hand and Seal of the said Judge Advocate for the time being to be directed to the provost Marshall or such other Officer as shall be appointed by our Governor to Execute the process thereof which Warrant shall contain shortly the Substance of the Complaint and shall either command such Officer to Summon the Defendant or Defendants to appear or in case the Value of the Demand be ten pounds or upwards (of which Oath shall first be made) Command him to bring his her or their Body or Bodies or take Bail for his or their Appearance before the said Court at a certain time and place therein to be named to answer to the said Complaint and to find sufficient Security for his her or their Performance of such Judgment Sentence or Decree as shall be pronounced thereupon or finally given upon an Appeal and upon Appearance Arrest or Non Appearance or Return by the Officer that the Defendant or Defendants cannot be found *Wee* do hereby for us Our Heirs and Successors ordain direct and authorize the said Court to proceed to the Examination of the Matter and Cause of such Complaint and upon due proof made thereof either upon the oath or oaths of any Witness or Witnesses in writing to be by him her or them subscribed (for which purpose *Wee* do by these presents empower and require the said Court to administer an Oath to such Witnesses as shall be produced by either party plaintiff or Defendant) or by the voluntary Confession of such Defendant or Defendants to give Judgment and Sentence according to Justice and Right and to award and issue out a Warrant or Warrants of Execution under the Hand

and Seal of the said Judge Advocate for the time being for levying the Duty adjudged or decreed to the party or parties Complainant together with Costs of Suit upon the Goods and Chattles of such Defendant or Defendants and to cause Sale to be made of the said Goods and Chattles rendering to the party the Overplus if any be and for want of sufficient Distress *Wee* do hereby for us Our Heirs and Successors give full power and authority to the said Court to imprison the Defendant or Defendants untill Satisfaction be made by him her or them to the plaintiff or plaintiffs of the Duty decreed together with the Costs and in Case Judgment should be given for the Defendant or Defendants *Wee* do hereby likewise give full power and Authority to the said Court to award Costs to the said Defendant or Defendants and to issue the like process of Execution for the same as in Cases where Costs are awarded to any plaintiff or plaintiffs and if either party shall find him or themselves aggrieved by any Judgment or Decree to be given or pronounced by the said Court *OUR WILL and Pleasure* is that he she or they shall and may appeal to the Governor of the Eastern Coast of New South Wales and the parts adjacent or in Case of his Death or Absence to the Lieutenant Governor for the time being whom *Wee* do hereby empower and authorize to hear and determine the same and to issue process of Summons to answer to such Appeal and the like process

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of Execution as the said Court is hereby directed and empowered to Issue And if either party shall find him her or themselves aggrieved by the Judgment or Determination of the said Governor in any Case where the Debt or thing in Demand shall exceed the value of three hundred pounds and not otherwise *Our Will* and pleasure also is that such party so aggrieved may Appeal to Us or Our Heirs and Successors in Council *And Wee* do further Will and ordain that no appeal shall be admitted from the Judgment of the said Court unless the same shall be interposed within Eight Days after the said Judgment nor from the Judgment of the Superior Court unless the same shall be interposed within fourteen days after the Judgment of such Superior Court and further that the said Court may proceed in a Summary Way by foreign attachment of Goods Debts and Effects of Debtors in the hands or possession of other persons residing in the place aforesaid AND *WEE* further will and ordain that all Complainants at whose Suit any persons shall be imprisoned shall make an Allowance to each of such Defendants after such rate for every day so long as such Defendants shall be kept in prison as the said Court shall direct and in default of payment thereof for one week such person shall be discharged out of prison and such discharge out of prison shall be a Discharge of the Debt unless the Complainant shall before any new proceeding against such Defendants pay or tender to them all the arrears of such allowance from the time of the last payment to the time of such new proceeding *Provided always* that such Defendants do make oath before the Judge Advocate to his Satisfaction that he bath not any Estate or Effects sufficient to maintain himself with necessaries in the prison otherwise that such Allowance be not made to him AND WHEREAS it is necessary that a Court of Criminal Jurisdiction should also be established within the Colony or Settlement aforesaid with authority to proceed in a more Summary way than is used within this Realm according to the known and Established Laws thereof AND WHEREAS by An act of parliament passed in this present Year of our Reign IT IS ENACTED that his Majesty may by his Commission under the Great Seal authorize the person to be appointed Governor or the Lieutenant Governor in the absence of the Governor of such place as aforesaid to convene from time to time as occasion may require a Court of Judicature for the Trial and Punishment of all such Outrages and Misbehaviours as if committed within this Realm would be deemed and taken according to the Laws of this Realm to be Treason or Misprision thereof felony or Misdemeanour which Court shall consist of the Judge Advocate to be appointed in and for such places together with six Officers of His Majesty's Forces by Sea or Land which Court shall proceed to try such offenders by calling such Offenders respectively before that Court and causing the Charge against him her or them respectively to be read over which Charge shall always be reduced into writing and shall be exhibited to the said Court by the Judge Advocate and by examining witnesses upon oath to be

administered by such Court as well for as against such Offenders respectively; and afterwards adjudging by the opinion of the major part of the persons composing such Court that the party accused is or is not (as the Case shall appear to them) guilty of the Charge and by pronouncing Judgment therein (as upon a Conviction by Verdict) of Death if the offence be Capital or of such corporal punishment not extending to Capital punishment as to the said Court shall seem meet and in Cases not Capital by pronouncing Judgment of such Corporal punishment not extending to Life or Limb as to the said Court shall seem meet And that the provost Marshall or other officer to be for that purpose appointed by such Governor or Lieutenant Governor shall cause due Execution of such Judgment to be had and made under and according to the Warrant of such Governor or Lieutenant Governor in the absence of the Governor under his hand and Seal and not otherwise PROVIDED *always* that Execution shall not be had or done on any Capital Convict or Convicts unless five persons present in such Court shall concur in adjudging him her or them so accused and tried as aforesaid to be respectively guilty until the proceedings shall have been transmitted to His Majesty and by him approved *And* that the said Court shall be a Court of Record and shall have all such powers as by the Laws of England are incident and belonging to a Court of Record NOW KNOW YE that Wee upon full Consideration of the promises and of our special Grace certain knowledge and mere motion have thought fit to grant direct and appoint and by these presents We do accordingly for Us Our Heirs and Successors grant direct ordain and appoint that there shall be within the Settlement and Colony aforesaid a Court which shall be called the Court of Criminal Jurisdiction and Wee do hereby create direct and constitute the said Court of Criminal Jurisdiction to be a Court of Record and that our said Court of Criminal Jurisdiction shall have all such powers as are incident to a Court of Record by the Laws of that part of Our Kingdom of Great Britain called England AND WEE further will ordain and appoint that the said Court of Criminal Jurisdiction shall consist of our Judge Advocate for the time being together with six officers of our Sea and Land Service as our Governor or in case of his Death or Absence our Lieutenant Governor shall by precept issued under his Hand and Seal convene from time to time for that purpose and that the said Court of Criminal Jurisdiction shall have power to enquire of bear determine and punish all Treasons

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OR Misprision thereof Murders Felonies Forgeries Perjuries Trespasses and other Crimes whatsoever committed in the place or places aforesaid such punishment so to be inflicted being according to the Laws of that part of our Kingdom of Great Britain called England as nearly as may be considering and allowing for the Circumstances and Situation of the place and Settlement aforesaid and the Inhabitants thereof *And* it is our further will and pleasure that Our said Court of Criminal Jurisdiction shall proceed to try all offenders by calling them respectively before such Court and causing the Charge or Charges against him her or them respectively when reduced into writing and exhibited by our Judge Advocate to be read over to such offender or offenders respectively and by examining Witnesses upon oath to be administered by the said Court of Criminal Jurisdiction as well for as against such offenders respectively and that the said Court shall adjudge by the Opinion of the Major part of the persons composing the same as aforesaid that the party accused is guilty or not guilty of the Charges so exhibited as aforesaid and if adjudged guilty that the Court shall proceed to pronounce Judgment of Death if the Offence be Capital in like manner as if the prisoner had been found guilty by verdict of a Jury in that part of Our Kingdom of Great Britain called England or by pronouncing Judgment of such Corporal punishment not extending to Capital punishment as to the said Court or the major part of the persons composing the same shall seem meet AND in Cases not Capital by the Laws aforesaid by pronouncing Judgment of such Corporal Punishment not extending to Life or Limb as the said Court or the Major part of the persons composing the same shall seem meet AND it is our further will and pleasure *and Wee* do hereby ordain direct and appoint that Our provost Marshall or such other officer as shall be

appointed for that purpose by our Governor or in case of his Death or Absence by Our Lieutenant Governor for the time being shall cause due Execution to be had and made of such Judgments as aforesaid according to the Warrant of our Governor or in his absence of our Lieutenant Governor for the time being under their Hands and Seals respectively and not otherwise AND WEE do hereby ordain and direct that Execution of any Judgment of Death shall not be had or done on any offender or offenders unless five persons present sitting in Judgment in our said Court of Criminal Jurisdiction shall concur in adjudging such offender or offenders so accused and tried as aforesaid to be respectively guilty until the proceedings in the Trial of such offender or offenders shall have been transmitted to us our Heirs and Successors and our or their pleasure shall have been signified thereupon and that Execution be not done in any Capital Case whatever without the Consent of Our said Governor or in Case of his Deaf or Absence of our Lieutenant Governor and in Case Execution shall be suspended that the said Governor or Lieutenant Governor shall apply to us our Heirs or Successors for our or their direction therein AND our further will and pleasure is that all and every the Members of our said Court of Civil Jurisdiction respectively shall before they proceed to sit in Judgment severally make Oath well and truly to try the several Issues brought before them and to give true Judgment according to the Evidence and that all and even the Members of Our said Court of Criminal Jurisdiction shall in like manner make Oath to make true Deliverance between us our Heirs and Successors and the several prisoners who shall by them be tried and to give a true Judgment according to the Evidence AND WEE do hereby give full power and authority to our Judge Advocate for the time being to administer such oaths to the respective Members of our said several Courts AND further know Ye that Wee for preserving the peace of our said Settlement and the Islands thereunto adjacent of our especial Grace certain knowledge and mere motion have granted ordained directed and appointed and by these presents do grant ordain direct and appoint that our present and all our future Governors and Lieutenant Governors and our Judge Advocate for the time being shall be Justices of the peace within the said place or Settlement and that all and every such Justice and Justices of the peace shall have the same power to keep the peace arrest take Bail bind to good Behaviour suppress and punish Riots and to do all other Matters and Things with respect to the Inhabitants residing or being in the place or Settlement aforesaid as Justices of the peace have within that part of the Great Britain called England within their respective Jurisdictions *And these* our Letters patent or the Enrollment or Exemplification thereof shall be as well unto the said Courts respectively as unto all and every person or persons whomsoever a sufficient Warrant and discharge from time to time for all and whatever they shall do or execute in pursuance of our Royal will and pleasure herein before declared AND LASTLY our will and pleasure is and Wee do hereby declare that this Our Charter shall be and remain in force only and untill Wee shall be pleased to revoke and determine the same IN WITNESS whereof we have raised these our Letters to be made patent Witness ourself at Westminster this second day of April in the Twenty Seventh Year of Our Reign

BY WRIT OF PRIVY SEAL

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END TRANSCRIPTION