

Establishing Australia's First Legal System

(The following information has been taken from <https://www.foundingdocs.gov.au/area-aid-3.html>
Documenting a Democracy 'Governor Phillip's Instructions 25 April 1787')

The New South Wales Courts Act 1787

Neal, David, *The Rule of Law in a Penal Colony*, Cambridge University Press, Melbourne, 1991.

Many convicts had their death sentence commuted to transportation. They would greatly outnumber the free, and discipline was uppermost in planning for the Colony. This concern was reflected in the Instructions given to Captain Arthur Phillip in 1787.

The foundation Act of the legal system of the Australian colonies, established the first criminal court. It ensured that British law landed with the First Fleet in 1788 and that the convict colony had the basis for law enforcement. The Act also allowed for adapting court procedures to the conditions of the new convict colony.

Charter of Justice 2 April 1787

The [New South Wales Court Act 1787](#) is the authority for the establishment of the first New South Wales Courts of Criminal and Civil Jurisdiction. The Charter of Justice provided for a Deputy Judge-Advocate and six court officers to be appointed by the Governor, and the establishment of a Civil Court. The Governor was required to give his permission to any death sentence imposed by the Court and was empowered to give pardons. The Civil Court had the power to deal with disputes over property and had jurisdiction over wills and estates.



Although the British intended to transport English law and legal proceedings along with the convicts, in practice there were significant departures from English law in the new and distant Colony. Notably, the first civil case heard in Australia, in July 1788, was brought by a convict couple. They successfully sued the captain of the ship in which they had been transported, for the loss of a parcel during the voyage. In Britain, as convicts, they would have had no rights to bring this case.



The image on the first page of the three-page document is of King George III.

What system of order has been established in your school over time, to ensure that all members of the school community stay safe, happy, and productive?

