



ANNO TERTIO

VICTORIÆ REGINÆ,

No. 3.

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 enforce by a summary method the Payment of Bills and Notes against the Acceptor.

WHEREAS persons in a state of insolvency or with doubtful or uncertain means occasionally accept of bills of exchange or give promissory notes which are afterwards put into circulation and obtain credit but are dishonoured when at maturity to the inconvenience and injury not only of the holders but of all persons having become parties to them—AND WHEREAS it is expedient for the protection of such holders and other parties and for avoiding the delays and accumulated expenses in such cases of the ordinary proceedings by an action or actions at law that as against every such acceptor or maker a cheaper and more summary remedy should be provided—BE IT 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 from and after the first day of August next it shall at any time within three months

PREAMBLE.

Enforcing bills and notes against the acceptor or maker.

after the dishonour of any bill of exchange or promissory note be lawful for the holder thereof upon filing an affidavit of his cause or action in the usual form to cause a writ of summons to be issued out of the Supreme Court against the acceptor of such bill or maker of such note which said summons shall be made returnable not as in ordinary cases on a day certain but within thirty days or if the defendant reside at any distance from Hobart Town exceeding seventy miles then within forty days whether in or out of term next after the day of the service thereof on such defendant.

A summons and notice to issue.

II. PROVIDED ALWAYS that under or annexed to every such writ of summons there shall be written a copy of the bill or note on which such writ is issued and of the several endorsements thereon together with a notice to the defendant signed by the plaintiff or his attorney of the place of abode of such plaintiff and that unless the said defendant shall within the time limited by such writ as aforesaid cause the amount of such bill or note together with interest thereon and the costs of that writ to be paid to the said plaintiff or his attorney or cause an affidavit made by him the said defendant to be filed that he the said defendant hath a good and substantial defence to the action on such bill or note then execution will forthwith issue against the said defendant for the amount of such bill or note and interest with costs of suit the same as if such defendant had appeared and confessed the action and judgment had been given against him accordingly.

How proceedings thereon to execution to be regulated.

III. AND BE IT ENACTED that every such summons and notice shall be served upon the defendant by the sheriff or his deputy by delivering a copy thereof to such defendant and such sheriff or deputy shall within fourteen days after such service thereof return the same summons and notice into the proper office of the Court and shall therewith file an affidavit setting forth the fact of such service and the particular date and mode thereof—AND if after the filing of such last-mentioned affidavit and after the expiration of the time in that behalf limited by such summons it shall appear that no such affidavit as is mentioned in the preceding section in that behalf hath been filed by the defendant (specifying therein also the particular ground or grounds of his intended defence and which grounds respectively shall be substantial only and to the merits) then upon leaving with the registrar the original of the bill or note of which a copy shall have been so made as aforesaid the plaintiff shall be at liberty forthwith to issue execution against such defendant for the principal and interest then due by him upon such bill or note without any reference to compute such interest together with the costs of suit the same as if judgment had been actually entered up or given in such action for the same—EXCEPTING ALWAYS that no such actual judgment shall at any time be necessary and that no costs for any such judgment shall therefore be allowed.

IV. AND BE IT ENACTED that if within the time so in that behalf limited as aforesaid any such affidavit by the defendant as aforesaid shall be made and filed then upon an appearance to the action being entered by him or in his default by the plaintiff for him such action shall proceed as in any ordinary case. Where defence made.

JOHN FRANKLIN.

Passed the Legislative Council this twenty-ninth day of June one thousand eight hundred and thirty-nine,

ADAM TURNBULL, *Clerk of the Councils.*

JAMES BARNARD, GOVERNMENT PRINTER, HOBART TOWN. 1839.

