



ANNO TERTIO

VICTORIÆ REGINÆ,

No. 4.

*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 give further Powers to the Sheriff of the Island of Van Diemen's Land.*

WHEREAS an Act was passed in the sixth year of the reign of His late Majesty intituled "An Act to provide for the distribution of Insolvent Estates and for the amendment in other respects of the Law of Debtor and Creditor"—AND WHEREAS that Act hath been repealed by an act passed on the twenty-second day of this present June and certain powers which were thereby conferred upon the Sheriff have for purposes of more convenient arrangement been omitted from the provisions of the said last-mentioned Act—AND WHEREAS great grievance would arise to the public by being deprived of the advantages given to them under the provisions of the said repealed Act—BE IT THEREFORE ENACTED by His Excellency SIR JOHN FRANKLIN Knight Commander of the Royal Hanoverian Guelphic Order Knight of the Greek Order of the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 from and after the first day of August next it shall be lawful for the Sheriff

PREAMBLE.

Extending Sheriff's powers under writs of fi. fa.

Proviso.

or other officer to whom any writ of fieri facias against lands and chattels shall be issued to seize attach or take in execution under such writ property both real and personal of every nature and kind and every right title or interest of any kind whatsoever in or to the same or any part thereof in whose hands soever any such property shall then be and whether such property title or interest shall be legal or equitable or the same or any part thereof shall be monies or bank shares or other such interest or shall be of the nature of a "chose in action" only and to cause all such property to be sold under such writ as in ordinary cases—**PROVIDED ALWAYS** that in the case of any such "chose in action" no actual seizure shall be essential but the same may be attached by notice given to the parties or party therein interested and every person liable upon or under such "chose in action" shall after receipt of any such notice become liable in the same manner and to the same extent to the Sheriff by virtue of such attachment under such writ—**PROVIDED ALSO** that nothing in this section shall be construed to authorize the Sheriff's taking in execution any implement of trade or any deed or writing not being in fact in its nature saleable or convertible into money or given as a security for money or to authorize any search which is not now by law authorized whether of the person or otherwise.

As to disposal of  
"choses in ac-  
tion."

II. AND BE IT ENACTED that no debt shall be liable to be so attached or taken in execution unless the same be of some certain and liquidated amount and be secured by some bond or other deed in the possession or power of the party against whom the execution issued or some promissory note or bill of exchange of which such party shall then be the holder and no such debt or other mere "chose in action" after being so attached or taken in execution shall be actually sold or be otherwise disposed of by the Sheriff except by order of one of the Judges of the Supreme Court which order may at any time be made on the application in a summary way either of the plaintiff or defendant in such writ or of the Sheriff and such Judge shall in all such cases in a summary way give such directions to the Sheriff and to all parties interested therein as he shall from time to time think proper—AND it shall be lawful for such Judge at any time in a summary manner either to authorize an action for the amount of any such debt so taken in execution to be brought in the name of the party suing forth the writ of execution or to cause the debtor to be summoned to attend such Judge to show cause why he should not forthwith pay the same amount to such party and if no sufficient cause be shown to order such payment accordingly and to enforce such order together with all costs attending the same by an attachment for a contempt as in other cases.

By Sheriff's sale  
all a defendant's

III. AND BE IT ENACTED that in every case of sale of any property so attached or taken in execution by the Sheriff under any writ

of fieri facias it shall be sufficient for such Sheriff or his deputy to put up for sale and to sell and dispose of all the right title and interest of the party against whom such writ issued in and to such property and the assignment by such Sheriff of such right title and interest to the purchaser thereof at such sale by writing under his hand in a short form of words attested by one witness reciting the issue of such writ of fieri facias and stating the time and place of such sale and that the same was in pursuance of such writ shall have the effect of immediately and absolutely vesting in such purchaser all such right title and interest from the time when the property was taken in execution as fully and effectually to all intents and purposes as the same then were vested in such party and such purchaser shall have and exercise thereafter in his own name and to his own use the same means of enforcing such right and interest and of recovering and possessing the property to which the same shall relate together with every title-deed conveyance document power matter right or thing incident thereto as such party himself at the time of such taking in execution might have had and exercised in case no such writ had issued—PROVIDED that where any such assignment relates to real estate the same shall be registered in like manner as is provided with respect to deeds and conveyances by other persons affecting real property.

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.*

