

T A S M A N I A.



1857.

ANNO VICESIMO-PRIMO

VICTORIÆ REGINÆ,

No. 20.

AN ACT to give further Remedies to Creditors against Debtors removing from any of the other *Australasian* Colonies to the Colony of *Tasmania*. [22 December, 1857.]

WHEREAS the proximity of the several *Australasian* Colonies to each other, and the separation of their respective jurisdictions, greatly facilitate the evasion of the judgments, decrees, rules, and orders of the Supreme Courts of the said Colonies respectively; and it is expedient to provide a remedy in that behalf: Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 It shall be lawful for any person in whose favour any judgment, decree, rule, or order, whereby any sum of money is made payable, has been obtained in the Supreme Court of any of Her Majesty's *Australasian* Colonies, (including the Islands and Colonies of *New Zealand*), to cause a Memorial of the same, containing the particulars hereinafter mentioned, and authenticated by the Seal of the Court wherein such judgment, decree, rule, or order was obtained, to be filed

PREAMBLE.

Memorial of judgment, &c., under Seal of Supreme Court of any other *Australasian* Colony filed in Supreme Court at *Hobart Town* shall be a record

thereof, and execution may issue.

in the office of the Registrar of the Supreme Court of *Tasmania* at *Hobart Town*; and such Memorial, being so filed, shall thenceforth be a record of such judgment, decree, rule, or order, and execution may issue thereon as hereinafter provided: Provided further, that every Seal purporting to be the Seal of any such Court shall be deemed and taken to be the Seal of such Court until the contrary is proved, and the proof that any such Seal is not the Seal of such Court shall lie on the party denying or objecting to the same.

Particulars of Memorial.

2 Every such Memorial shall be on parchment, and signed by the party in whose favour such judgment, decree, rule, or order was obtained, or his Attorney, and shall contain the following particulars, all of which shall be fairly written, without interlineations or erasures, and, with the exception of dates, in words at length, that is to say,—the names and additions of the parties,—the form or nature of the action or suit or other proceeding, and when commenced,—the date of the signing or entering up of the judgment, or of passing the decree, or of making the rule or order,—and the amount recovered, or the decree pronounced, or rule or order made,—and if there was a trial, the date of such trial, and the amount of verdict given.

Mode of obtaining execution.

3 It shall be lawful for the Supreme Court of *Tasmania*, or any Judge thereof, upon the application of the person in whose favour such judgment, decree, rule, or order was obtained, or his Attorney, to grant a rule or issue a summons calling upon the person against whom such judgment, decree, rule, or order was obtained to show cause, within such time after personal or such other service of the rule or summons as such Court or Judge directs, why execution should not issue upon such judgment, decree, rule, or order, and such rule or summons shall give notice that in default of appearance execution may issue accordingly; and if the person served with such rule or summons does not appear, or does not show sufficient cause against such rule or summons, it shall be lawful for the said Court or Judge, on due proof of such service as aforesaid, to make the rule absolute, or to make an order for issuing execution as upon a judgment, decree, rule, or order of the Supreme Court of *Tasmania*, subject to such terms and conditions, if any, as to such Court or Judge may seem fit; and thereupon, and subject thereto, the person entitled to such execution shall have and be entitled to all such process, and to all such rights and remedies for the enforcement thereof, and the person against whom such execution is so authorised shall in like manner be entitled to all such protective rights and advantages, as they would respectively have been entitled to had such judgment, decree, rule, or order of the Supreme Court of any of the said Colonies been obtained in the Supreme Court of *Tasmania*; and all such proceedings may be had or taken for the revival of such judgment, decree, rule, or order, or the enforcement thereof, by and against persons not parties to such judgment, decree, rule, or order, as may be had for the like purposes upon any judgment, decree, rule, or order of the Supreme Court of this Colony.