



ANNO DECIMO

GEORGII IV. REGIS.

No. 3.

By His Excellency Colonel GEORGE ARTHUR, Lieutenant-Governor of the Island of Van Diemen's Land, with the advice of the Legislative Council.

AN ACT to institute Courts of Requests.

*Repealed by
6 Vict. No. 9*

WHEREAS by an Act of Parliament passed in the ninth year of the Reign of His present Majesty intituled "An Act to provide for the Administration of Justice in New South Wales and Van Diemen's Land" and for the more effectual government thereof and for other purposes relating thereto provision is made for the institution of Courts of Civil Jurisdiction to be called Courts of Requests within this Colony by laws or ordinances to be from time to time for that purpose made and enacted and for giving and granting to such Courts such power and authority as in the said recited Act is specified—

PREAMBLE.
9 Geo. 4 c. 83
sect. 18.

BE IT THEREFORE ENACTED by His Excellency Colonel GEORGE ARTHUR Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies with the advice of the Legislative Council that Courts of Civil Jurisdiction to be called Courts of Requests shall be holden within this Island and its dependencies in and for the several and respective Police Districts of Hobart-town Launceston New Norfolk Oatlands Campbell-town Richmond and Norfolk Plains the extent and limits of which districts shall be defined and made public by a Pro-

Courts of Requests
to be holden in
certain districts.

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clamation to be issued for that purpose by His Excellency the Lieutenant-Governor and that such Courts shall be holden at such places within the said respective districts as the Commissioner or Commissioners of the said respective Courts shall from time to time direct and appoint—PROVIDED ALWAYS that every such Court shall be holden for dispatch of business on some day in the first week in every calendar month—PROVIDED ALSO that the Commissioner of every such Court may adjourn the sittings of such Court from time to time to such other day or days in the same month as to him may appear necessary or expedient.

Courts to have proper officers.

II. AND BE IT ENACTED that each of the said Courts respectively shall be holden by a Commissioner and shall have such ministerial or other officers as shall be necessary for the administration of Justice in the said Courts respectively and for the execution of the judgments orders and process thereof and the said ministerial or other officers shall from time to time be appointed to and removed from their respective offices in such manner as the Lieutenant-Governor or person for the time being administering the government of this Colony shall direct.

Powers and authorities of such Courts.

III. AND BE IT ENACTED that the said Courts respectively shall have full power and authority to hear and determine in a summary way all actions plaints and suits for the payment or recovery of any debt damages or matter not exceeding ten pounds sterling and to award costs therein.

Where the cause of action exceeds ten pounds the judgment to be final.

IV. AND BE IT ENACTED that if any person shall commence and prosecute any action plaint or suit in any such Court where the cause of such action plaint or suit shall exceed in amount the sum of ten pounds the said Court may proceed therein but in such case the judgment of the said Court shall be a full and complete bar to the whole of such demand or cause of action and be a bar to any action plaint or suit which may be brought thereon in the same or any other Court whatsoever—PROVIDED that in no case shall the sum awarded exclusive of costs exceed the sum of ten pounds.

Exception where future rights are affected.

V. PROVIDED ALWAYS AND BE IT ENACTED that the said Courts shall not have power and authority to hear and determine any such action plaint or suit where the matter in question shall relate to the title to any lands tenements or hereditaments or to the taking or demanding of any duty payable to His Majesty or to any fee of office annual rent or other such matter where rights in future may be bound or to any general right or duty any thing hereinbefore contained to the contrary notwithstanding.

VI. AND BE IT ENACTED that the determination and award of such Courts of Requests in all cases within their respective jurisdictions shall be final and conclusive and may be pleaded in bar to any and every subsequent action or suit for the same cause and such determination or award shall and may at the discretion of any such Court be carried into execution either by attachment and sale of the goods and effects or by corporal arrest of the party or parties against whom such determination or award shall be made—PROVIDED ALWAYS that it shall be lawful at the discretion of the Commissioner of any such Court to stay any such execution or arrest for any time and from time to time as he may think reasonable and just.

Execution of judgment.

VII. AND BE IT ENACTED that if any action or suit for any debt or sum certain recoverable in any Court of Requests so instituted (not being the balance on any accounts or account originally exceeding fifty pounds) shall be commenced in the Supreme Court of Van Diemen's Land the plaintiff in such action or suit shall not have or be entitled to any costs whatsoever—AND if the Judge before whom the same action or suit shall have been tried or heard shall certify that such debt or sum ought to have been sued for in one of the said Courts of Requests then the defendant notwithstanding any verdict or judgment passed or given for the plaintiff shall have and be entitled to his costs and to execution for the same in like manner as if the verdict or judgment had been passed or given in favour of such defendant or if the verdict shall have been in favour of such defendant then he or she shall have and be entitled to double costs.

No costs in the Supreme Court in certain cases.

VIII. AND BE IT ENACTED that no order judgment or proceeding in any such Court of Requests shall be quashed or vacated for want of form only nor shall any action plaint or suit or any proceeding therein be removed into the Supreme Court of Van Diemen's Land by any writ or process whatsoever.

No proceedings to be quashed for want of form.

IX. AND BE IT ENACTED that all writs or process issued by any such Court of Requests shall be executed by the proper Officer of such Court in any part or place of this Island or its dependencies and in the same way and manner in all respects as writs or process of a similar nature issuing out of the Supreme Court of Van Diemen's Land are or may be executed by the Sheriff and every such Officer shall for the purpose of enabling him to perform the duties of such his office have the same powers and authorities and also be subject to the same liabilities as a Sheriff in the exercise of the duties of his office.

Process to be executed by the proper officer.

X. AND BE IT ENACTED that defendants shall in general be

Defendants only

to be summoned who reside within the district.

summoned only to the Courts which shall be held for the districts where they or some of them reside, excepting in cases where the cause of action has occurred in another district wherein the plaintiff resides in which last-mentioned cases it shall be lawful for the plaintiff if he shall think proper so to do to commence and prosecute his suit in the Court which shall be held for the district where he himself resides.

Execution to be over the Colony.

XI. AND BE IT ENACTED that the judgment of any of the said Courts may and shall be carried into execution in any district or place whatsoever within the said Colony or any of its dependencies where the defendant or any of his goods and chattels may be met with.

Attendance of witnesses.

XII. AND BE IT ENACTED that each of the said Courts shall have such like and the same powers of compelling the attendance of witnesses before such Court and of requiring and compelling the production of books and writings as are now possessed by the Supreme Court of Van Diemen's Land and to order any prisoner who shall be a necessary and material witness in any matter pending in such Court to be brought before such Court and also that it shall be lawful for any of the said Courts to punish in a summary way by fine or imprisonment any person or persons guilty of any contempt before any such Court.

The Court may order the creditors to pay a prisoner in execution an allowance.

XIII. AND BE IT ENACTED that in all cases where any defendant shall be charged in execution by any such Court of Requests it shall be lawful at any time and from time to time for the Commissioner of such Court on the application by or on behalf of such prisoner if it shall appear to be necessary for his or her support or if his or her imprisonment shall appear to be oppressive to order the creditor or creditors at whose suit he or she shall be so imprisoned to pay to such prisoner such weekly sum or sums of money at such times and in such manner and in such proportions as the said Commissioner shall direct and on failure of payment thereof as directed the said Commissioner shall order such prisoner to be forthwith discharged from custody at the suit of the creditor or creditors so failing to pay the same.

Sheriffs and other persons indemnified for obeying the orders of the Court.

XIV. AND BE IT ENACTED that every Sheriff gaoler keeper or other officer of any prison or any person whatsoever who shall do any thing in obedience to any legal order of any such Court shall be and is and are hereby indemnified for whatsoever shall be done by them respectively in obedience thereto and that if any action of escape or any suit or action be brought against any Commissioner Sheriff Gaoler Keeper of any Prison or any person for performing the duty of his office in pursuance of this Act such Commissioner Sheriff Gaoler Keeper of Prison and other person may plead the general issue and give this Act

If action for escape &c. brought general issue may be pleaded and this Act given in evidence.

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and the special matter in evidence and if the plaintiff be nonsuited or discontinue his or her action or a verdict shall pass against him or her or judgment shall be had for the defendant upon demurrer the defendant shall have treble costs.

GEORGE ARTHUR.

Passed the Legislative Council this
twentieth day of January one
thousand eight hundred and thirty,

W. T. PARRAMORE, *Clerk of the Councils.*

JAMES BARNARD, GOVERNMENT PRINTER, HOBART TOWN. 1839.

