



S U P P L E M E N T
TO THE
NEW SOUTH WALES
GOVERNMENT GAZETTE
OF WEDNESDAY, OCTOBER 16, 1839.
Published by Authority.

SATURDAY, OCTOBER 19, 1839.

ANNO TERTIO
VICTORIÆ REGINÆ.

No. 14.

By His Excellency Sir George Gipps, Knight Captain General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, with the advice of the Legislative Council.

"An Act Further to amend An Act passed in the Eighth year of the Reign of His late Majesty, King William the Fourth, intituled, 'An Act for regulating Building and Party Walls, and for preventing mischiefs by Fire in the Town of Sydney.'"

WHEREAS a certain Act was passed by the Governor and Council of New South Wales, in the Eighth year of the Reign of His late Majesty, King William the Fourth, intituled "An Act for regulating Buildings and Party Walls, and for preventing mischiefs by Fire in the Town of Sydney:" And whereas another Act was passed by the said Governor and Council, 2 Victoria, in the Second year of the Reign of Her present Majesty, Queen Victoria, intituled "An Act to Amend An Act intituled 'An Act for regulating Buildings and Party Walls, and for preventing mischiefs by Fire in the Town of Sydney:'" And whereas it is expedient further to amend the said first recited Act, and to confine the operation of the same to certain parts of the Town of Sydney: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, that from and after the first day of November next, the said Act passed in the eighth year of the Reign of His late Majesty King William the Fourth, as amended by the Act passed in the second year of the Reign of Her present Majesty Queen Victoria, shall be in force, and have effect only, within that part of the Town of Sydney which is comprised within the following boundary;

that is to say, within a line drawn due north and south, through the centre of the gateway of Fort Macquarie, and extending from low water mark in Sydney Cove, to the boundary Fence of the Government Domain; thence westward and southward along the said boundary fence, to the centre of the gateway in the same, which is situate in rear of the Prisoners' Barrack, known by the name of Hyde Park Barrack; thence along the centre of the road, which passes from the said gateway, in front of the Roman Catholic Church of St. Mary, and in front of the Sydney College, and along the prolongation of the same line to a point distant one hundred yards beyond the point where the centre line of the said Road is crossed by the centre line of the road leading from Liverpool-street to the New Goal; thence to a point in the centre of Elizabeth-street, distant one hundred yards to the south of the point where the centre line of Elizabeth-street is crossed by the centre line of Liverpool-street; thence southward along the centre of Elizabeth-street, to the point where it is met by the centre line of Campbell-street; thence along the centre line of Campbell-street, and the prolongation thereof to the water of Darling Harbour; and thence by the line of low water mark to Fort Macquarie.

(Mode of recovering Fees, &c.)

II. And whereas by the said recited Act it is provided, That before any Building or Wall within the limits of the said Act shall be begun to be built the Master Workman or other person causing such Building or Wall to be built, shall give notice thereof to the Surveyor or Supervisor of the District, and such Surveyor or Supervisor shall, for viewing such Building or Wall, be paid after certain rates in said Act specified; And whereas it is expedient and necessary that the mode of recovering the amount of said rates in case of non-payment thereof, should be better defined and expressed: Be it therefore enacted, That any Surveyor or Surveyor's Supervisor or Supervisors duly appointed to carry into effect the provisions of the said recited Act, shall and may recover any Fees which now are, or any Fees, Forfeitures, or Penalties which may hereafter become due to him

or them, according to the several rates and sums therein mentioned, for viewing any such Building or Wall or otherwise howsoever, upon complaint on Oath before one or more Justice or Justices of the Peace, who is and are hereby authorised and required to hear and determine the same, and such Justice or Justices is and are hereby empowered to summon any witness or witnesses to appear before him or them, and to examine such witness or witnesses on Oath touching such complaint, and to make such order and adjudication therein, as to such Justice or Justices shall seem meet, and in case such adjudication shall be for payment of any of the said sums of money, according to the rates as aforesaid respectively, and in case the same, together with the costs shall not be immediately paid, such Justice or Justices shall and may issue forth his or their warrant to levy the same by distress and sale of the Goods and Chattels of the person so complained against and in default, rendering the overplus (if any) to the said person after payment of the charges of such distress and sale: Provided nevertheless that no Fees shall be so recovered, due, or claimed to be due, in respect of any Buildings situate beyond and outside of the boundary hereinbefore described.

(Fees &c. received by Surveyor to be paid to the Colonial Treasurer, and to be appropriated by any Law or Ordinance to be passed by the Governor with the advice of the Legislative Council.)

III. And be it enacted, that all Fines, Fees, or Forfeitures levied and received by any District Surveyor or Supervisor under the said Act, passed in the Eighth year of the Reign of His late Majesty King William the Fourth, or under the present Act, to be paid to the Colonial Treasurer, for the Public uses of the said Colony, and in support of the Government thereof, to be appropriated by any Law or Ordinance to be passed by the Governor, with the advice of the Legislative Council.

"GEORGE GIPPS,"
GOVERNOR.

Passed the Legislative Council this third day of October, one thousand eight hundred and thirty-nine.

WM. MACPHERSON.
Clerk of Councils.

ANNO TERTIO
VICTORIÆ REGINÆ.
No. 15.

By His Excellency Sir George Gipps, Knight Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, with the Advice of the Legislative Council.

"An Act for abolishing Arrest on Mesne Process in Civil actions except in certain cases, in New South Wales, and the Dependencies thereof."

WHEREAS, the present power of Arrest upon Mesne Process within the Colony of New South Wales and its Dependencies, is unnecessarily extensive and severe, and ought to be

relaxed: Be it therefore enacted, by His Excellency the Governor, with the advice of the Legislative Council, That from the commencement of this Act, no person shall be Arrested upon Mesne Process in any Civil Action in any Court within the said Colony, or the Dependencies thereof, except in the cases and in the manner hereinafter provided.

(No person to be Arrested or held to bail unless on proof to the satisfaction of a Judge, that he is about to remove out of the jurisdiction of the Supreme Court, or to abscond to remote parts within the Colony.)

II. And be it enacted, That if a Plaintiff in any Action in which the Defendant is now liable to Arrest, whether upon the order of a Judge or without such order, shall, by the affidavit of himself, or some other person or persons, shew to the satisfaction of a Judge of the Supreme Court that such Plaintiff has a cause of action against the Defendant or Defendants, to the amount of Twenty Pounds or upwards, or has sustained damage to that amount, and that the Defendant or any one or more of the Defendants, is about to remove, or is making preparations to remove out of the jurisdiction of the Supreme Court of New South Wales, or otherwise to abscond to remote parts within the said Colony (by which is intended parts beyond the limits which now are, or hereafter may be prescribed, for location within the same) and that such action will be defeated, unless he, or she, or they be forthwith apprehended, it shall be lawful for such Judge by a special order to direct that such Defendant or Defendants so about to remove or abscond, shall be held to bail for such sum as such Judge shall think fit, not exceeding the amount of the debt or damages, and thereupon it shall be lawful for such Plaintiff, within the time which shall be expressed in such order, but not afterwards, to sue out one or more Writ or Writs of Capias against any such Defendant or Defendants so directed to be held to bail, which Writ of Capias shall be in the form to be prescribed by the Judges of the Supreme Court.

(Sheriff may proceed to Arrest Defendant.)

III. And be it enacted, That the Sheriff or other Officer to whom any such Writ of Capias shall be directed, shall, before the return of the said Writ, but not afterwards, proceed to Arrest the Defendant thereupon; and such Defendant when so Arrested, shall remain in custody until he shall have given a Bail Bond to the Sheriff or other Officer, or shall have made deposit of the sum endorsed on such Writ of Capias, together with Ten Pounds Costs, and all subsequent proceedings as to putting in and perfecting Special Bail, shall be subject to the rules made, or hereafter to be made by the Judges of the said Court, for the practice of the Court in such cases.

(Order may be made at any stage of the proceedings before final judgment.)

IV. And be it enacted, That any such special order may be made, and the Defendant arrested in pursuance thereof, at any time after the commencement of such Action, and before final Judgment shall have been obtained therein.

(Defendant may apply for his discharge forthwith. Judge may discharge Defendant or not.)

V. And be it enacted, That it shall be lawful

for any person arrested upon any such Writ of Capias, to apply at any time after such Arrest to a Judge of the Supreme Court, for an Order or Rule on the Plaintiff in such Action to shew cause why the person arrested should not be discharged out of custody; and that it shall be lawful for such Judge to make absolute, or discharge such order or rule, and to direct the costs of the application to be paid by either party, or to make such other order therein as to such Judge shall seem fit; provided that any such order made by a Judge, may be discharged or varied by the Court, on application made thereto by either party dissatisfied with such order.

(Prisoners in custody on Mesne Process at passing of act to be discharged, and detained again by special order.)

VI. And be it enacted, That every prisoner who, at the time appointed for the commencement of this Act, shall be in custody on Mesne Process

for any debt or demand, shall be entitled to his discharge upon entering a common appearance to the Action; provided nevertheless, that every such prisoner shall be liable to be detained, or after such discharge to be again arrested, by virtue of any such special order as aforesaid, at the suit of the Plaintiff, at whose suit he was previously arrested, or of any other Plaintiff.

(Commencement of Act.)

VII. And be it enacted, That this Act shall commence and take effect from and after passing and publication thereof.

"GEORGE GIPPS."

GOVERNOR.

*Passed the Legislative Council
this third day of October, One
thousand eight hundred and thirty-
nine.*

WM. MACPHERSON,

Clerk of Council.

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