



SUPPLEMENT

TO THE

NEW SOUTH WALES

GOVERNMENT GAZETTE

OF WEDNESDAY, OCTOBER 30, 1839.

Published by Authority.

SATURDAY, NOVEMBER 2, 1839.

ANNO TERTIO
VICTORIÆ REGINÆ.
No. 18.

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 extending the remedies of Creditors against the Property of Debtors in New South Wales, and the Dependencies thereof."

WHEREAS, the existing Law in the Colony of New South Wales is defective in not providing more effectual means for enabling Creditors to obtain satisfaction from the Property of their Debtors, and it is expedient to give more extensive remedies against the Personal Estate of their Debtors than they now possess: Be it enacted, by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, That by virtue of any Writ of *fiery facias* to be sued out of the Supreme Court, or any inferior Court in the said Colony, after the time appointed for the commencement of this Act, or any precept in pursuance thereof, the Sheriff, Sheriff empow- or other Officer having the execution ered to seize thereof may and shall seize and take monies, Bank any Money, or Bank Note, or Notes, Notes, &c. of any Banking Society or Company established in New South Wales or elsewhere, and any Cheques, Bills of Exchange, Promissory Notes, Bonds, Specialties, or other Securities for Money, belonging to the person against whose effects such Writ of *fiery facias*, shall be sued out; and may and shall pay or deliver to the party suing out such execution, any Money, or Bank Notes which shall be so seized, or a sufficient part thereof; and may and shall hold any such Cheques, Bills of Exchange, Promissory Notes, Bonds, Specialties, or other Securities for Money, as a security or securities for the amount by such Writ of *fiery facias* directed to be levied, or so much thereof as shall not have been otherwise levied and raised; and may sue in the name of such Sheriff or other Officer for the recovery of the sum or sums

secured thereby, if and when, the time of payment thereof shall have arrived; and that that the payment to such Sheriff or other Officer by the party liable on any such Cheque, Bill of Exchange, Promissory Note, Bond, Specialty or other Security with or without Suit, or the recovery and levying execution against the party so liable, shall discharge him to the extent of such payment, or of such recovery and levy in execution, as the case may be, from his liability on any such Cheque, Bill of Exchange, Promissory Note, Bond, Specialty or other Security; and such Sheriff and other Officer may and shall pay over to the party suing out such Writ, the Money so to be recovered, or such part thereof as shall be sufficient to discharge the amount by such Writ directed to be levied; and if, after satisfaction of the amount so to be levied, together with Sheriff's poundage and expenses, any surplus shall remain in the hands of such Sheriff or other Officer, the same shall be paid to the party against whom such Writ shall be so issued: Provided that no such Sheriff or other Officer shall be bound to sue any party liable upon any such Cheque, Bill of Exchange, Promissory Note, Bond, Specialty or other Security, unless the party suing out such execution shall enter into a bond with two sufficient sureties, for indemnifying him from all costs and expenses to be incurred in the prosecution of such action, or to which he may become liable in consequence thereof, the expense of such Bond to be deducted out of any money to be recovered in such action.

(Stock and Shares in Public Companies belonging to the Debtor and standing in his own name, to be charged by order of a Judge.)

II. And be it enacted, That if any person against whom any Judgment shall have been entered up in the Supreme Court shall have any Stock or Shares of or in any Public Company, (whether incorporated or not) or any deposit in any Bank of New South Wales or its Dependencies, standing in his name or in his own right, or in the name of any person in trust for him, or

shall have, or be entitled to any equity of redemption, or other equitable interest (which at Law cannot be taken in execution), it shall be lawful for a Judge of the said Court, on the application of any Judgment Creditor, to order that such stock, shares, or deposits, or any such equity of redemption, or equitable interest, or such of them, or such part thereof, respectively, as he shall think fit, shall stand charged with the payment of the amount for which Judgment shall have been so recovered, and interest thereon: and such order shall entitle the Judgment Creditor, to all such remedies as he would have been entitled to if such charge had been made in his favor by the Judgment Debtor: Provided that no proceedings shall be taken to have the benefit of such charge, until after the expiration of Three Calendar Months from the date of such order.

(Order of Judge to be made in the first instance *ex parte*, and on notice to the Bank or Company, &c. to operate as a *distringas*.)

III. And in order to prevent any person against whom judgment shall have been obtained, from transferring, receiving, or disposing of any stocks, shares, or deposits hereby authorised to be charged for the benefit of the Judgment Creditor, under an order of a Judge, as aforesaid; Be it enacted, That every order of a Judge charging any stock or shares in any such Public Company or any deposit in any such Bank under this Act, may be made in the first instance *ex parte*, and without any notice to the Judgment Debtor, and shall be an order to shew cause only; and such order, if any stock, or shares, or deposits, standing in the name of the Judgment Debtor in his own right, or in the name of any person in trust for him, is to be affected by such order, shall restrain such Public Company, and the Accountant and Cashier of every such Bank, from permitting the transfer or disposal thereof; and if, after notice of such order to the person or persons to be restrained thereby, or in case of Corporations, to any authorised Agent of such Corporation, and before the same order shall be discharged or made absolute, such Corporation, or person or persons, shall permit any such transfer or disposal to be made, then, and in such case, the Corporation or person or persons so permitting such transfer or disposal, shall be liable to the Judgment Creditor for the value or amount of the property so charged or so transferred or disposed of, or such part thereof as may be sufficient to satisfy his Judgment; and that no disposition of the Judgment Debtor in the mean time shall be valid or effectual as against the Judgment Creditor; and further, that unless the Judgment Debtor shall within a time to be mentioned in such order, shew to a Judge of the said Court, sufficient cause to the contrary, the said order shall, after proof of notice thereof to the Judgment Debtor, his Attorney or Agent, be made absolute: Provided that any such Judge shall, upon application of the Judgment Debtor, or any person interested, have full power to discharge or

vary such order, and to award such costs upon such application as he may think fit.
(Securities not realised, to be relinquished, if the person taken in execution).

IV. And be it enacted, That if any Judgment Creditor, who under the powers of this Act, shall have obtained any such charge, or be entitled to the benefit of any security whatsoever, shall afterwards, and before the property so charged or secured shall have been converted into money, or realised, and the produce thereof applied towards payment of the Judgment Debt, cause the person of the Judgment Debtor to be taken or charged in execution upon such Judgment, then, and in such case, such Judgment Creditor shall be deemed and taken to have relinquished all right and title to the benefit of such charge or security, and shall forfeit the same accordingly.

(Decrees and orders of Courts of Equity, &c. to have effect of Judgments.)

V. And be it enacted, That all remedies hereby given to Judgment Creditors, are likewise given to any persons to whom any Monies or Costs, Charges or Expenses are, by any decree or order in Equity, or any rule or order at Common Law by the Supreme Court, respectively directed to be paid.

(Commencement of Act.)

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

"GEORGE GIPPS."

Passed the Legislative Council } GOVERNOR.
this fifteenth day of October, One }
thousand eight hundred and thirty- }
nine.

WM. MACPHERSON,
Clerk of Councils.

Colonial Secretary's Office,

Sydney, 31st October, 1839.

GOVERNMENT SALE OF WHEAT.

NOTICE is hereby given that on Tuesday next, the 5th of November, at Twelve o'clock, Mr. Blackman will expose for sale, on board the ship *Susan*, lying at the Dock-yard Wharf, the Cargo of Wheat imported by that vessel, consisting of about sixteen thousand bushels, in lots to suit purchasers.

Terms made known at the time of sale.

By His Excellency's Command,
E. DEAS THOMSON.

Colonial Secretary's Office,

Sydney, 2nd November, 1839.

FLOUR.

GOOD Twenty-per-cent Flour, the produce of Wheat imported from India by the *Susan*, is on sale, in any quantity, at the House of Correction, Carters' Barracks, at eighteen shillings (18s.) per 100 lbs.

By His Excellency's Command,
E. DEAS THOMSON.