



ANNO QUINTO

VICTORIÆ REGINÆ,

No. 6.



*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 subject Insolvents' Estates to the Payment of the Expenses of Executions issued against such Estates prior to Declarations of Insolvency.* *See 3 repeals part of Sec 24 of 3 Vict No 1.*

**W**HEREAS by the law in force in this Colony as to Insolvent Debtors or some of such laws where the Sheriff hath taken the goods and lands of Defendants under Writs of Execution in actions at law he is in many cases compelled to delay the sale thereof until certain public notices have been by him given and if any such Defendant be afterwards declared an Insolvent Debtor before his or her goods and lands so taken be sold the Sheriff is by the same laws or some of them compelled to give up the possession of such last-mentioned goods and lands to the Assignee of the Estate and Effects of such Defendant so declared an Insolvent Debtor—

PREAMBLE.

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

Sheriff in cases in which he shall give up property seized by him in consequence of

the Defendant becoming Insolvent may obtain a Certificate from the Master of the amount he is entitled to claim thereon for Poundage and expenses.

The Assignee on the production of such Certificate to pay the amount therein specified.

Proviso not to apply to Writs sued out before this Act takes effect.

So much of the 3 Vict. as allows the plaintiff in an action to prove against the Estate of an Insolvent for the costs of the Writ of Execution repealed.

And after the passing of this Act such Costs are to be allowed in such Certificate.

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Diemen's Land and its Dependencies by and with the advice of the Legislative Council that in every case in which under the said laws or any of them the Sheriff now hath given up or shall hereafter give up possession of the goods or lands so taken by him as aforesaid to the Assignee of the Estate and Effects of any Defendant so declared an Insolvent Debtor the said Sheriff shall upon payment of a fee of Seven Shillings and Sixpence be entitled to receive from the Master of the Supreme Court and the said Master shall grant to him a Certificate under his hand setting forth therein how much money (if any) might lawfully have been levied and made of such goods and lands for the Sheriff's Poundage and for the expenses of Execution if the same goods and lands had been sold thereunder and also how much money shall in the judgment of the said Master be fit to be allowed to the said Sheriff for his costs of applying for such Certificate in addition to and including the said Master's fee and upon production of the said Certificate to the Assignee for the time being of the Estate and Effects of the same Defendant so declared an Insolvent Debtor such Assignee shall out of the monies then in his hands or which shall first come to his hands out of such Estate and Effects pay to the Sheriff the amount of monies specified in such Certificate and what shall be so paid by every such Assignee shall be allowed in his accounts.

II. PROVIDED ALWAYS that nothing shall be allowed by the said Master in any such Certificate for the costs of any such Writ of Execution which hath been or shall be sued out before this Act shall take effect.

III. AND BE IT ENACTED that so much of an Act made and passed in the third year of the reign of Her present Majesty intituled *An Act to make provision for the more effectual Distribution of Insolvent Estates* as authorises the Plaintiff in any action at law to prove against the Estate and Effects of any Defendant declared an Insolvent Debtor after the suing out of any Writ of Execution against the goods and lands of such Defendant the costs of such Writ shall be and the same is hereby repealed in respect of all such of the aforesaid Writs as shall be sued out after this Act shall take effect and in every such case the costs of such Writ shall be allowed for by the Master in the Certificate hereinbefore directed to be given as part of the expenses of the Execution.

JOHN FRANKLIN.

Passed the Legislative Council this thirtieth day of June one thousand eight hundred and forty-one,

W. E. NAIRN, *Clerk of the Council.*