



ANNO DECIMO-SEXTO

VICTORIÆ REGINÆ,

No. 3.

By His Excellency SIR WILLIAM THOMAS DENISON, Knight,
Lieutenant-Governor of the Island of Van Diemen's Land
and its Dependencies, with the Advice and Consent of the
Legislative Council.

*AN ACT for the better Protection of Purchasers against
Judgments Crown Debts and Lis pendens.*

[22nd September, 1852.]

WHEREAS it is desirable that further protection should be afforded **PREAMBLE.**
to purchasers and others against Judgments Crown Debts and *Lis*
pendens—BE IT THEREFORE ENACTED by His Excellency Sir
WILLIAM THOMAS DENISON Knight Lieutenant-Governor of the Island
of Van Diemen's Land and its Dependencies by and with the advice of
the Legislative Council of the said Island that all Judgments which
have been heretofore registered under the provisions of the Act of
Council passed in the eighth year of the reign of His late Majesty King
George the Fourth intituled *An Act to provide for the Registration*
of Deeds Wills Judgments and Conveyances affecting Real Property and
of the Act of Council passed in the sixth year of the reign of His late
Majesty King William the Fourth intituled *An Act to amend the Act*
for the Registration of Deeds shall from and after the expiration of
five years from the passing of this Act be null and void against lands
tenements and other hereditaments in Van Diemen's Land and its De-
pendencies as to Purchasers Mortgagees or Creditors unless a like
Memorial as was required in the first instance under the provisions of
the said Acts of Council is again delivered into the Office of the
Registrar of Deeds and duly verified within five years before the execu-
tion of the conveyance settlement mortgage lease or other deed or
instrument vesting or transferring the legal or equitable right title or
interest in or to any such Purchaser or Mortgagee for valuable con-
sideration or as to Creditors within five years before the right of such
Creditors accrued and so *toties quoties* at the expiration of every
succeeding five years and the said Registrar of Deeds shall forthwith
re-number re-register and re-index the same in like manner as the same
was originally numbered registered and indexed and that all Judgments
which shall hereafter be registered under the provisions of the said
recited Acts of Council shall after the expiration of five years from the
date of the registration thereof be null and void against lands tenements

Judgments to be
registered every
five years.

and other hereditaments in Van Diemen's Land and its Dependencies as to Purchasers Mortgagees or Creditors unless a like Memorial as was required in the first instance is again delivered into the Office of the said Registrar of Deeds and duly verified within five years before the execution of the conveyance settlement mortgage lease or other deed or instrument vesting or transferring the legal or equitable right title estate or interest in or to any such Purchaser or Mortgagee for valuable consideration or as to Creditors within five years before the right of such Creditors accrued and so *toties quoties* at the expiration of every succeeding five years—and the said Registrar shall forthwith re-number re-register and re-index the same in like manner as the same was originally numbered registered and indexed—and such Registrar shall be entitled for every such re-numbering re-registering and re-indexing as aforesaid to the sum of Ten Shillings—PROVIDED ALWAYS AND BE IT ENACTED that nothing in this Act contained shall extend to revive or restore any Judgment which shall be extinguished or barred nor shall the same extend to affect or prejudice any Judgment as between the parties thereto or their representatives or those deriving as volunteers under them.

Not to revive judgments already barred or extinguished.

Purchasers not to be affected by *Lis pendens* unless such suit is duly registered as directed by this Act.

II. AND BE IT ENACTED that no *Lis pendens* shall bind a Purchaser or Mortgagee without express notice thereof unless and until a Memorandum or Minute written on parchment signed by the Plaintiffs or Plaintiff or their his or her authorised agent containing the name and the usual or last known place of abode or business and the title trade or profession of the person whose estate is intended to be affected thereby and the nature and situation of the property or estate intended to be affected thereby and the Court of Equity and the title of the cause or information and the day when the bill or information was filed shall be left with the said Registrar of Deeds who shall forthwith enter the same particulars in a book in alphabetical order by the name of the person whose estate is intended to be affected by such *Lis pendens* together with the year and the day of the month when every such Memorandum or Minute is so left with him and such Registrar shall be entitled for any such entry to the sum of Ten Shillings and the provisions hereinbefore contained in regard to the re-numbering re-registering and re-indexing of judgments every five years and the fee payable to the said Registrar thereon shall extend to every case of *Lis pendens* which shall be registered under the provisions of this Act.

Recognizances not to affect purchasers unless duly registered as required by this Act.

III. AND BE IT ENACTED that no Judgment Statute or Recognizance heretofore obtained or entered into or which shall hereafter be obtained or entered into in the name or upon the proper account of Her Majesty Her Heirs or Successors or Inquisition by which any debt hath heretofore been or shall hereafter be found due to Her Majesty Her Heirs or Successors or Obligation or Specialty which hath been heretofore made or which shall hereafter be made to Her Majesty Her Heirs or Successors or any acceptance of Office which hath been heretofore accepted or shall hereafter be accepted by Officers whose lands tenements or hereditaments in Van Diemen's Land or its Dependencies have or shall thereby become liable for the payment and satisfaction of arrearages under the provisions of the Act passed in the thirteenth year of the reign

of Her late Majesty Queen Elizabeth intituled *An Act to make the Lands Tenements Goods and Chattels of Tellers Receivers et cætera liable to the Payment of their Debts* or otherwise shall affect any lands tenements or hereditaments in Van Diemen's Land or its Dependencies as to Purchasers or Mortgagees unless and until a Memorandum or Minute written on parchment containing the name and the usual or last known place of abode or business and the title trade or profession of the person whose estate is intended to be affected thereby and also in the case of any Judgment the Court and the title of the cause in which such Judgment shall have been obtained and the date of such Judgment and the amount of the debt damages and costs thereby recovered and also in the case of a Statute or Recognizance the sum for which the same was acknowledged and before whom the same was acknowledged and the date of the same and also in the case of an Inquisition the sum thereby found to be due and the date of the same and also in the case of an Obligation or Specialty the sum in which the Obligor shall be bound or for which the Obligation or Specialty shall be made and the date of the same and also in the case of acceptance of Office the name of the Office and the time of the Officer accepting the same shall be delivered into the office of the said Registrar of Deeds who shall forthwith enter the same particulars in a book to be intituled "The Index to Debtors and Accountants to the Crown" in alphabetical order by the name of the person whose estate is intended to be affected by such Judgment Statute or Recognizance Inquisition Obligation or Specialty or the acceptance of any Office and the said Registrar shall be entitled for any such entry to the sum of Ten Shillings and all persons shall be at liberty to search the same book on payment of the sum of Two Shillings and Sixpence and the provisions hereinbefore contained in regard to the re-numbering re-registering and re-indexing of Judgments every five years and the fee payable to the Registrar thereon shall extend to every Judgment Statute Recognizance Debt found upon Inquisition Obligation Specialty and acceptance of Office which shall be registered under the provisions of this Act—PROVIDED ALWAYS that as to Judgments Statutes and Recognizances heretofore obtained or entered into debts heretofore found upon Inquisition and Obligations and Specialties heretofore made and Offices heretofore accepted twelve calendar months from the passing of this Act shall be allowed for the delivery of such Memorandum or Minute as last aforesaid.

Registry to be open to inspection.

IV. AND BE IT ENACTED that whenever a quietus shall be obtained by a Debtor or Accountant to the Crown and an office or examined copy thereof shall be left with the said Registrar of Deeds together with a certificate signed by the Attorney-General of this Colony for the time being that the same may be registered the said Registrar shall forthwith enter the same in the said Book of Debtors and Accountants to the Crown in alphabetical order by the name of the person whose estate is intended to be discharged by such quietus with the date and shall for any such entry be entitled to a fee of Five Shillings.

Quietus to Debtors or Accountants to the Crown to be registered.

V. AND WHEREAS it is expedient to make further provision for the discharge of an estate belonging to a Debtor or Accountant to the Crown from the claim of the Crown in the hands of a Purchaser or

For discharge of the estates of Debtors or Accountants to the

Crown in certain cases.

Mortgagee although the debt or liability shall not be fully discharged—**BE IT THEREFORE ENACTED** that it shall be lawful for the Lieutenant-Governor of this Colony by writing under his hand upon payment of such sum or sums of money as he may require into the Colonial Treasury to be applied in liquidation of the debt or liability of any Debtor or Accountant to the Crown or upon such other terms as he may think proper to certify that any lands tenements or hereditaments in Van Diemen's Land or its Dependencies of any such Crown Debtor or Accountant shall be held by the Purchaser or Mortgagee or intended Purchaser or Mortgagee thereof his her or their heirs executors administrators and assigns wholly exonerated and discharged from all further claims of Her Majesty Her Heirs or Successors for or in respect of any debt claim or liability present or future of the Debtor or Accountant to whom such lands tenements or hereditaments belonged or in cases of Leases for fines or premiums to certify that the Lessees their heirs executors administrators or assigns shall hold so exonerated and discharged without prejudice to the rights and remedies of the Crown against the reversion of the lands tenements or hereditaments comprised in any such Leases and the rents and covenants reserved and contained by and in the same and thereupon the same lands tenements or hereditaments shall respectively be held accordingly wholly exonerated and discharged as aforesaid but in the cases of Leases without prejudice as aforesaid—**PROVIDED ALSO AND BE IT ENACTED** that any such certificate or the discharge of any such lands tenements or other hereditaments by virtue of this Act shall in no wise impeach lessen or affect the right or power of Her Majesty Her Heirs or Successors to levy the whole of any debt or demand which may at any time be due from any such Debtor or Accountant to the Crown out of or from any other lands tenements or hereditaments which would have been liable thereto in case no such Certificate had been granted and no such discharge had been obtained.

Discharge of part of the estate of a Debtor or Creditor to the Crown not to affect claim on the Crown on other lands liable.

Fees received by Registrar to be paid into the Colonial Treasury.

VI. AND BE IT ENACTED that all fees and sums of money received under the authority of this Act shall be paid into the Colonial Treasury of this Island for the public uses of this Island in such manner as by any Act passed in this Island for the appropriation of the Revenue thereof shall be directed.

Interpretation of the term Lieutenant-Governor

VII. AND BE IT ENACTED that the term Lieutenant-Governor used in this Act shall be deemed and taken to intend and mean the person for the time being lawfully administering the Government of this Colony.

Act may be amended during the present Session.

VIII. AND BE IT ENACTED that this Act may be amended altered or repealed during this Session of the Legislative Council aforesaid.

RICHARD DRY, *Speaker.*

Passed the Legislative Council this seventh day of September, one thousand eight hundred and fifty-two.

FR. HARTWELL HENSLOWE,
Clerk of the Council.

In the name and on the behalf of Her Majesty I assent to this Act.

Government House, Hobart Town,
22nd September, 1852.

W. DENISON,
Lieut.-Governor.