

T A S M A N I A.



1888.

ANNO QUINQUAGESIMO-SECUNDO

VICTORIÆ REGINÆ,

No. 37.

AN ACT to amend "The Debtors Act, 1870." A.D. 1888.
[24 October, 1888.]

WHEREAS it is expedient to amend "The Debtors Act, 1870," PREAMBLE.
for the purpose of making further provision for the abolition of imprisonment for debt: 34 Vict. No. 33.

Be it therefore enacted by His Excellency the Governor of *Tasmania*,
by and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:—

1 In this Act the expression the said Act means "The Debtors Act, 1870." Interpretation.
34 Vict. No. 33.

2 Notwithstanding anything contained in the said Act, no person shall be imprisoned in any of the cases excepted from the operation of the Third Section of the said Act for a longer period than Six calendar months. Amendment of
Section 3 of
34 Vict. No. 33.

3 Any person committed to prison in any of the cases excepted from the operation of the Third Section of the said Act may at any time during imprisonment apply to a Judge of the Supreme Court for a summons calling upon the person to whom is due or payable the sum of money for default in payment of which the debtor has been committed to prison, or the agent or attorney of such person, to show cause why such Debtor should not be released from imprisonment. Debtor may call
upon creditor to
show cause, &c.

(1.) If upon the hearing of such summons it shall not be proved to the satisfaction of the Judge that the debtor had at the date of his

*Debtors Act Amendment.***A.D. 1888.****Judge may order
release of debtor.**

imprisonment the means to pay the sum in respect of which he has made default and had refused or neglected to pay the same, or if in the opinion of the Judge other sufficient reasons shall be shown why the debtor should be discharged from further imprisonment, such Judge may order the release of such debtor from imprisonment; and the Gaoler or other person having the custody of such debtor, upon having delivered to him any order of release made by any Judge under the authority of this Act, shall thereupon discharge and release the debtor therein named from his imprisonment.

(2.) Proof that the debtor had, at the date of his imprisonment, means to pay the sum in respect of which he has made default, may be given in such manner as such Judge shall think just; and for the purposes of such proof the debtor and any witnesses may be summoned and examined on oath in accordance with the prescribed rules.

**Judge may order
debt to be paid
by instalments.**

4 It shall be lawful for any such Judge when ordering the release of any such debtor from imprisonment to direct that the sum in respect of which such debtor has made default shall be paid by such debtor to the person to whom the same is due by such instalments as such Judge shall think proper; and in case of default by the debtor in payment of any one or more of the instalments so ordered to be paid by the Judge as aforesaid, such debtor may again be committed to prison in accordance with the provisions of Section Four of the said Act.

**Penalty for failing
to appear on
summons.**

5 Any debtor or other person summoned under the provisions of the said Act for the purpose of being examined as to the means of such debtor to pay the sum in respect of which he has made default, and who refuses or neglects, without sufficient cause, to attend and be examined before the Court, or Judge, or Commissioner, or Chairman before whom he is summoned to appear for the purpose aforesaid, or who refuses to produce before such Court, or Judge, or Commissioner, or Chairman, any books, papers, or writings which he has been required to produce as aforesaid, shall forfeit and pay such penalty not exceeding Ten Pounds as such Court, or Judge, or Commissioner, or Chairman shall impose upon him; and such Court, or Judge, or Commissioner, or Chairman may commit to prison as for contempt of Court for any period not exceeding One month any debtor or other person who shall have been ordered to pay any such penalty as aforesaid and who shall make default in payment thereof; and the whole or any part of such penalty, in the discretion of the Court, or Judge, or Commissioner, or Chairman, after deducting the costs, shall be applicable towards indemnifying the party injured by such refusal or neglect; and the payment of such fine may be enforced in the same manner as money ordered to be paid by such Court, or Judge, or Commissioner, or Chairman.

**Acts to be read
together.**

6 This Act and the said Act, save as amended by this Act, shall be read and construed together as one Act.

Short title.

7 This Act may be cited as "The Debtors Act Amendment Act, 1888."