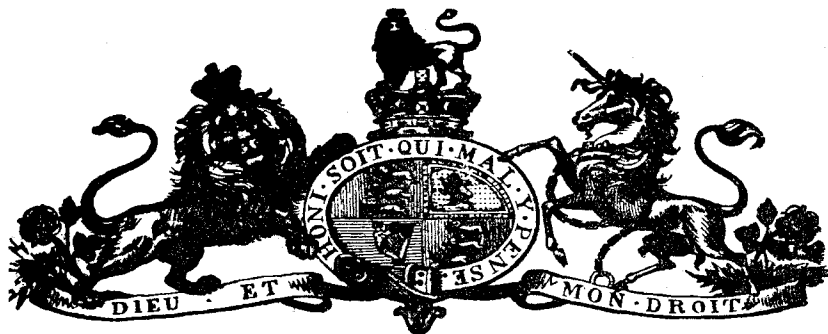


TASMANIA.

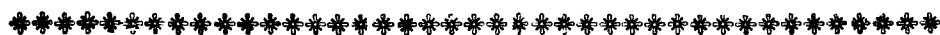


1884.

ANNO QUADRAGESIMO-OCTAVO

VICTORIÆ REGINÆ,

No. 22.



AN ACT to further amend "The Small Debts Act." A.D. 1884.
[24 November, 1884.]

BE it 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—

Interpretation.

The said Act means "The Small Debts Act" and every Act amending the same. 31 Vict. No. 15.

2 In all actions brought in a Court held under the said Act before a Judge of the Supreme Court the Judge shall alone determine all questions as well of fact as of law, and his decision shall be the judgment of the Court, unless a Jury be required as hereinafter provided. Judge of Supreme Court to try actions brought before him.

3 In any such action it shall be lawful for the plaintiff or defendant to require a Jury to try the action, and when the plaintiff requires a Jury to try the action he shall insert in the summons the words "For trial by a Jury," and no further notice shall be necessary; and when the defendant requires a Jury to try the action he shall insert in the notice of defence the words "For trial by a Jury," and no further notice shall be necessary. Actions may be tried by a Jury when parties require it.

4 In any such action where no demand of a Jury has been made, a Judge may, notwithstanding the provisions of Section 2, not later than Judge may order action to be tried by a Jury.

Small Debts Act Amendment.

A.D. 1884.

Five days before the return day of the summons, by an Order in writing direct the cause to be placed in the list of Jury cases, and it shall be tried by a Jury accordingly.

Court may administer both legal and equitable remedies.

5 If in any such action both legal and equitable rights are involved, the Court may adjudicate upon and determine both classes of rights, and in every such case the equitable rights shall prevail.

When no defence filed judgment to be entered forthwith.

33 Vict. No. 9.

6 Section Three of "The Small Debts Act Amendment Act, 1869," is hereby repealed, and in lieu thereof it is enacted as follows:—In any action in a Court held under the said Act for a debt or liquidated money demand when the summons has been served upon the defendant in manner prescribed by the Rules in force for the time being, if no notice of defence shall have been given to the Registrar within the time required by such Rules for giving such notice, the plaintiff shall have judgment entered up by the Registrar, whether the Court be then sitting or not, against the defendant, for the amount of his claim and costs to be taxed by the Registrar, and such judgment shall be for payment forthwith: Provided that a Judge may at any time, upon the application of the defendant, make an Order for a stay of execution upon payment of the amount of the judgment debt and costs within such time, either in one sum or by instalments, as he may think fit; and also may set aside any judgment so entered up, and may give leave to defend upon such terms as he deems just.

Small Debts Jurisdiction of Supreme Court extended to £100 in all actions.

7 At the Sittings of the Supreme Court held for hearing and determining cases in accordance with the provisions of the said Act, such Court shall, notwithstanding anything in the said Act contained, exercise such jurisdiction in all actions where the sum claimed shall exceed Ten Pounds and shall not exceed One hundred Pounds; and none of the exceptions in the Eighteenth Section of the said Act to the jurisdiction cognisable under the said Act shall apply to the jurisdiction of the Supreme Court under the said Act, or under this Act.

Appointment of Officers.

31 Vict. No. 15.

8 For every Court held under the said Act there shall be, in addition to the Registrar, such other Ministerial Officers as the Governor from time to time deems necessary, who shall serve all the summonses and orders, and execute all the warrants, precepts, and writs issued out of the Court, and who shall generally perform all the duties and exercise all the functions that are now performed and exercised by any Bailiff appointed under the said Act; and every such Officer shall be appointed and removable by the Governor at pleasure.

Court fees may be fixed by Judges of Supreme Court.

9 The Proviso to Section Eighty-eight of the said Act is hereby repealed; and it shall be lawful for the Judges of the Supreme Court from time to time to frame a Scale of Fees to be payable on every proceeding in the Courts held under the said Act, in substitution for the Schedule of Fees mentioned and set forth in Schedule (2.) thereto, which Scale shall be published in the same manner as the Rules of Practice, and such Scale shall, from and after a day to be named by the Judges, be in force in every Court held under the said Act.

Any Scale of Fees made and published under this Section shall for all the purposes of the said Act be deemed to be the Schedule of Fees mentioned or referred to in the said Section Eighty-eight of the said Act or in the Schedule thereto.

Small Debts Act Amendment.

10 Notwithstanding anything to the contrary contained in Section **A.D. 1884.**
 Ninety-one of the said Act, the Fees to be taken by Attorneys practising **Amendment in**
 in the said Courts for appearing or acting in open Court on behalf of **Section 91 of**
 any party shall be fixed by the Judges of the Supreme Court from time **31 Vict. No. 15.**
 to time in the Rules of Practice.

11 The Act of Council of the Fifth *Victoria*, No 1, is hereby **Repeal of 5 Vict.**
 repealed; and after the commencement of this Act the Act of the **No. 1.**
 Imperial Parliament of the 3rd and 4th *Victoria*, Chapter 24, shall not
 be applied in the administration of Justice in this Colony.

12 So much of Section Ten of the said Act as provides for the **Repeal.**
 appointment of a Bailiff for every such Court is hereby repealed; but
 this repeal shall not affect any Bailiff already appointed under the said
 Section and in office when this Act takes effect, who shall continue in
 office notwithstanding such repeal.

13 The said Act, save as altered or amended by this Act, and this **Acts to be read**
 Act, shall be read and construed together as one Act. **together.**

14 This Act may be cited as "The Small Debts Act Amendment **Short title.**
 Act, 1884."

