



1845.

No. 14.

By His Excellency GEORGE GREY, Esquire, Governor and Commander-in-Chief of Her Majesty's Province of South Australia and its Dependencies, and Vice-Admiral of the same, by and with the advice and consent of the Legislative Council.

AN ORDINANCE to provide for the Performance of certain matters in the Supreme Court, during the occasional absence of the Judge, at a distance from Adelaide.

WHEREAS there is at the present only one Judge of the Supreme Court: And whereas divers matters and things arising out of actions and suits therein, are from time to time required to be performed when the Judge may be occasionally absent; and it is considered that the performance of such of the said matters and things as are hereinafter particularly specified may, during the occasional absence of the Judge, be safely entrusted to the Master of the Supreme Court, or to some other person to be appointed by the Governor, for the time being in that behalf:

Preamble
Recital.
Inconvenience felt if Judge occasionally absent in the country at any considerable distance from Adelaide.

BE IT THEREFORE ENACTED BY HIS EXCELLENCY THE GOVERNOR of South Australia, by and with the advice and consent of the Legislative Council thereof: That during the absence of the Judge from Adelaide, it shall from time to time be lawful for the Master of the Supreme Court, or for any person to be appointed by the Governor for the time being in that behalf, to do and perform the several matters and things hereinafter mentioned, that is to say—

During the occasional absence of the Judge from Adelaide the Master of the Supreme Court or other person to be appointed by the Governor to do the several things aftermentioned.

To

To issue writs for the arrest of persons about to leave the Province.

To order the delivery of the particulars of plaintiff's demand, and the particulars of defendant's set off.

To allow a defendant further time to plead. To give leave to defendant to plead several matters of defence.

To give parties leave to amend their pleadings, &c.

To stay proceedings on payment of debt and costs.

To order the taxation of an attorney's or solicitor's bill.

To permit the payment of money into Court by defendant.

In case of any adverse claim made to goods taken in execution, to order the parties, plaintiff and claimant, to appear before the Judge for the adjustment of such claim on a certain day, and to stay the proceedings and to provide for the safe custody of the goods in the meantime.

Masters, &c., by consent of parties may

To issue writs for the arrest of and for holding to bail persons about to quit the Province, in like manner as the Judge, if present, might do, under and by virtue of an Ordinance of the Governor and Council of this Province, passed on the tenth day of July, one thousand eight hundred and forty-five, and intituled "An Ordinance for adopting in South Australia certain parts of an Act made and passed in the Imperial Parliament which was held in the third and fourth years of the reign of Her present Majesty, intituled 'An Act for abolishing arrest on mesne process in civil action, except in certain cases; for extending the remedies of creditors against the property of debtors; and for amending the Laws for the relief of Insolvent Debtors in England;'" and to make such orders in matters arising out of such arrest as the Judge, if personally present, might make: And also, upon the application of any defendant, to order the delivery to him by the plaintiff of the particulars of the plaintiff's demand; and in like manner, upon the application of any plaintiff, to order the delivery by the defendant to the plaintiff of particulars of any sum or sums of money claimed to be set off by the defendant: And also to allow to a defendant further time to plead in any case where such allowance may be proper: And also to give to any defendant leave to plead several matters of defence: And also to give leave to parties, whether plaintiffs or defendants, to amend their pleadings or other proceedings: And also to order the staying of proceedings in actions on payment of the debt and costs therein: And also to order the taxation of an Attorney's or Solicitor's bill, on the undertaking of the party applying for such order to pay what may be found to be due in respect thereof: And also to permit the payment of money into Court by the defendant in any action at the request of such defendant: And also when any claim may be made to any goods or chattels taken or intended to be taken in execution under any process by the Sheriff or any officer, issued out of the Supreme Court, or to the proceeds or value thereof, then, upon the application of the Sheriff or other officer during such absence of the Judge, to order that, as well the party making the claim, as the party issuing such process, shall appear before the said Judge, on a day to be named in such order, for the adjustment of such claim, and the relief and protection of such Sheriff or other officer, and to make such order respecting the stay of the proceedings in the meantime, and the safe custody of the goods or chattels in question as may appear to be necessary, and upon the day mentioned in such order for the appearance of the parties, or upon any subsequent day, it shall be lawful for the said Judge to exercise for the adjustment of such claim, and the relief and protection of the Sheriff or other officer, the same powers and authorities, and to make such order or decision as he might have done if the order calling the said parties before him had been made and issued by himself by virtue of the Ordinance passed in this Province, in the year one thousand eight hundred and forty-two, to regulate the appointment and the duties of the Sheriff thereof: Provided that it shall be lawful for the Master

or

or such other person as aforesaid, with the consent of the claimant and of the plaintiff, to make a final order for the adjustment of such claim. make final order in the matter.

II. And be it also enacted that it shall be lawful for the said Master, or other person to be appointed as aforesaid, to issue such summonses and make such orders as may be necessary for giving effect to the several matters and things which the said Master, or other person to be appointed as aforesaid, is hereby authorized to do and perform, all which summonses and orders shall be of the same force and effect as if issued by the said Judge: Provided always that, on the return of the said Judge to Adelaide, it shall be lawful for him, on the application of any party feeling himself aggrieved by any order made by the said Master, or such other person as aforesaid, to review such order, and either to rescind or confirm the same, and upon such terms as the said Judge shall see fit. The Master or other person to have power to issue summonses, and make orders for giving effect to the several matters authorized to be done by him.

G. GREY,
Governor and Commander-in-Chief.

*Passed the Legislative Council this Twenty-
third day of July, One Thousand Eight
Hundred and Forty-five.* }

W. L. O'HALLORAN,
Clerk of Council.