

Legislative Council.

47^o VICTORIA, 1883.

A BILL

To amend the Law as to Contempts of Court.

[MR. DALLEY ;—17 October, 1883.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows :—

Contempts.

1. After the commencement of this Act the publisher of defamatory or disparaging words written or spoken of the Supreme Court or of any Judge thereof shall not be punished as for contempt of Court unless upon proceedings instituted by Her Majesty's Attorney-General before the Supreme Court. Procedure by Attorney-General for contempt of Court.

2. The publication of fair comments in respect of any case pending in the Supreme Court shall not be deemed a contempt of Court when such comments are published after the Jury have given their verdict therein nor shall the publication of fair comments in respect of any case pending in the Supreme Court otherwise than before a Jury be deemed a contempt of Court. Provisions as to publication of comments on pending cases. Provided always that no publisher of any such comments shall be entitled to the protection intended to be afforded by this section if he publishes such comments in disobedience of the order of a Judge of the said Court prohibiting the publication thereof.

Contempt and Contumacy.

Imprisonment for contempt or contumacy not to exceed three months.

3. Every sentence or order of any Superior Court pronounced or made after the passing of this Act for the attachment or commitment to prison of any person by reason of any contempt of Court or contumacy within the meaning of this Act shall operate and be in force for such time not exceeding in any case *three* months from the commencement of the imprisonment of such person as may be thereby expressly limited and if no such time shall be so limited the same shall operate and be in force until the expiration of *three* months from the commencement of the imprisonment of such person (unless he shall be sooner discharged by the Court) and no longer.

Fine not to exceed £500.

4. No fine to be imposed after the passing of this Act for any such contempt or contumacy as aforesaid by any Superior Court shall exceed the sum of *five hundred* pounds.

Continuance or repetition of contempt or contumacy.

5. No security shall be required by any Superior Court to be given by any person after the passing of this Act against the continuance or repetition of any such contempt or contumacy but if after any such sentence or order as aforesaid shall have ceased to be in force or after any person imprisoned by virtue thereof shall have been discharged the contempt or contumacy shall be continued or repeated or if the person so imprisoned shall be guilty of any new or further contempt or contumacy the person so offending shall be liable to be again imprisoned by summary order for such continued or repeated or new offence and so from time to time as often as the same shall happen and such Court shall have power if it think fit to impose a fine or further fine for such continued or repeated or new offence.

Commencement of imprisonment.

6. Every imprisonment under any such sentence or order as aforesaid shall be deemed to commence on the day when the order warrant or writ under and by virtue of which any person may be committed to prison shall have been executed by the delivery of the person therein named into the custody of the gaoler or keeper of the prison in which he is to be detained.

Prisoners at the passing of the Act.

7. Any person who at the time of the passing of this Act may be suffering imprisonment for any such contempt of Court or contumacy as aforesaid if and so soon as his imprisonment shall have continued for more than three months shall be entitled to be released from such imprisonment in the same manner as if the sentence or order under which he is imprisoned had been originally for a period limited till the day of the passing of this Act or till the end of three months from the commencement of such imprisonment whichever may be the longest subject nevertheless to the liability hereinbefore mentioned to be again imprisoned for any continuance or repetition of his contempt or contumacy or for any new or further contempt or contumacy.

Power for Court to release.

8. It shall be lawful for any Superior Court under any order or proceeding of which any person shall at any time be suffering imprisonment for any such contempt of Court or contumacy as aforesaid if upon any application by Her Majesty's Attorney-General as the case may be or of any other person whom the Court may consider to have an interest or a public duty entitling him to make such application it shall be made to appear that the ends of justice have been or may be sufficiently accomplished without further detaining such person in prison to order his release either absolutely or upon and subject to such conditions as to the Court may seem fit although any time for which he may have been committed to prison may not have then expired and although such person may not have applied for his own release or otherwise have purged his contempt or submitted himself to the authority of the Court subject nevertheless to his liability to be again imprisoned for any such cause as aforesaid.

9. If in any case any person shall suffer injury by reason of Damages.
 any act or omission constituting a contempt of any Superior Court or
 a contumacy within this Act the person guilty of such contempt or
 contumacy in addition to such punishment (if any) as may be inflicted
 5 upon him for his contempt or contumacy may be ordered upon an
 application to be made to the Court by or on behalf of any person
 thereby aggrieved in a summary way to pay to such person such amount
 as the Court may adjudge to be proper by way of compensation or (if
 the injury be incapable of being so remedied) by way of penalty for
 10 such injury and the amount to be so paid shall be ascertained in such
 manner as the Court may direct and any such compensation or penalty
 shall not be deemed to be a fine within the meaning of this Act and
 every such order may be enforced in the same manner as a final
 judgment of the Court between the parties.

15 10. If any contempt of a Superior Court or contumacy within Breach of
 this Act by which any such injury as aforesaid may have been suffered injunction.
 shall have been committed by wilful breach of an injunction the
 Court shall have power to deal with the breach of such injunction
 as a contempt or contumacy continued within the meaning of this Act
 20 after the time when any sentence or order for the attachment or com-
 mitment to prison of the person guilty thereof shall have ceased to be
 in force or after such person shall have been released or discharged
 from such imprisonment unless and until the damage so caused shall
 have been made good to the satisfaction of the Court or such amount
 25 as the Court may adjudge to be paid by way of compensation or
 penalty for such injury shall have been fully paid and satisfied.

11. In any case of disobedience to an order of a Superior Court Order for payment
 for the payment of money into Court or otherwise on which no person of money.
 interested in such payment is entitled to issue execution compliance
 30 with such order may be enforced by sequestration of the estate of the
 person so offending or any part thereof or by proceedings in and the
 Court by which such order was made may (if necessary) appoint some
 person to apply for an order of sequestration and the person so
 appointed shall be deemed for all purposes in insolvency to be a judg-
 35 ment creditor of the person so offending for the amount so payable.

12. In any case of disobedience to an order of any Superior Order for execution
 Court for the execution of any deed conveyance release assurance or of a deed.
 instrument in writing for which provision is not made by any Act
 relating to trustees in force for the time being the Court may make a
 40 vesting order as to any estate or interest of the person so offending to
 which the order disobeyed may relate which shall have the same effect
 as if such person had duly executed such deed conveyance release
 assurance or instrument in writing or the Court may by order declare
 any interest claim or demand of such person to which the order
 45 disobeyed may relate to be thenceforth absolutely released and
 extinguished and the same shall thereupon by virtue of such order be
 released and extinguished accordingly or the Court may by order
 appoint any person to convey transfer release or dispose of any estate
 or interest to which the order disobeyed may relate of the person so
 50 offending and the conveyance transfer release or disposition of such
 person if made in conformity with the terms of the order by which he
 is appointed shall have the same effect as if it had been made by deed
 duly executed by and under the hand and seal of the person so offend-
 ing Provided that such vesting or other order shall not unless the
 55 Court shall think fit so to direct discharge such person so offending
 from any punishment to which he may be liable by reason of such
 disobedience as aforesaid.

13. Every vesting or other order to be made under the last Stamp duty.
 preceding section which shall have the effect of a conveyance release
 60 or assurance of any real or personal estate or whereby any interest
 claim

claim or demand of any person in or to any property shall be released or extinguished shall be chargeable with the like amount of stamp duty as it would have been chargeable with if it had been a deed executed by the person so offending as aforesaid and every such order shall be duly stamped for denoting the payment of such duty. 5

Order for production of documents.

14. In any case of disobedience to any order of any Superior Court for the delivery up or the production for any purpose of discovery or of evidence of any deed or document or for the delivery up or deposit in Court of any chattel or thing the Court may order a receiver to be appointed or a sequestration to issue against the estate and effects of the person so offending for the purpose of obtaining possession of all such deeds or documents chattels or things whether the same shall be in the possession or custody of the person so offending or of any other person as his agent or trustee or otherwise in his right and it shall be the duty of the receiver or sequestrator under any such order to take possession of all such deeds or documents chattels or things and to comply in all respects with the order so made for the delivery up or the production thereof as aforesaid. Provided that no person shall be discharged from any punishment which he may be liable to by reason of such disobedience until by means of such receivership or sequestration or otherwise such order shall have been duly complied with. 10 15 20

Order for interrogatories.

15. In any case in which it is the duty of any party to an action or other proceeding in any Superior Court to answer interrogatories as to any matter concerning his own interest as a plaintiff or defendant or otherwise as a party thereto the Court in case of his not duly answering the same may order that the case made against him by the party exhibiting such interrogatories so far as such interrogatories may be material thereto shall be for the purposes of such action or proceeding taken as admitted by him. Provided that such order shall not unless the Court shall think fit so to direct discharge such party from any punishment to which he may be liable for not answering such interrogatories. 25 30

Appeal.

16. Every order made by a Judge of the Supreme Court under the provisions of this Act shall be subject to appeal in the same manner as other orders of such Judge. 35

Interpretation of terms.

17. The word "Superior Court" in this Act means the Supreme Court of the Colony sitting or exercising jurisdiction whether at Common Law or in Equity or Insolvency or as a Court of Divorce and Matrimonial Causes or exercising any civil or ecclesiastical or criminal jurisdiction whatsoever and includes the Vice-Admiralty Court. The word "contumacy" includes any disobedience of the order or direction of a or breach of injunction by a Superior Court. The word "contempt" includes every act or omission other than an act of contumacy which at the time of the passing of this Act would have constituted in law a contempt of Court. 40 45

Short title.

18. This Act may be cited as the "Contempts of Court Act 1883."