

*Imprisonment for Debt.*

Collector, Sub-Collector, or person lawfully acting for either, shall give immediate public notice of his having received the said Ordinance.

## TABLE OF DUTIES OF CUSTOMS.

	£	s.	d.
Spirits or strong waters, for every gallon of such spirits or strong waters of any strength not exceeding the strength of proof by Sykes's Hydrometer, and so in proportion for any greater or less strength than the strength of proof, and for any greater or less quantity than a gallon	0	5	0
Wines, for every hundred pounds value	20	0	0
Ale, beer, porter, and other malt liquors, for every hundred pounds value	15	0	0
Tobacco, unmanufactured, per lb.	0	0	9
Ditto, manufactured (except cigars and snuff), per lb.	0	1	0
Cigars and snuff, per lb.	0	2	0
On all guns or weapons of any description, or gunpowder, or any munition of war, for every hundred pounds value	30	0	0
On all other goods, wares, merchandise and property, except personal baggage, living animals, and specie, for every hundred pounds value	5	0	0

## No. VII.

IMPRISONMENT FOR DEBT. AN ORDINANCE for the Relief of Persons Imprisoned for Debt. [25th June, 1844.]

Preamble.

WHEREAS it is desirable that provision be made for the relief of persons imprisoned for debt, who have become indebted without any fraud or gross or culpable negligence, by releasing the persons of such debtors from imprisonment, so as nevertheless their estates may still remain liable for satisfaction of their debts:

BE IT ENACTED by the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

Debtors who have been two months in gaol may petition a Judge of Supreme Court for discharge.

1. It shall be lawful for any person who shall have been taken in execution under process of the Supreme Court for any debt or sum of money, and who shall have remained in prison for two calendar months or upwards, to apply by petition to a Judge of the Supreme Court for discharge from custody, according to the provisions of this Ordinance.

Nature of the petition.

2. The petition shall state the time of the petitioner's commitment to prison, and the names of the persons at whose suit he shall be detained in custody, and the debts or sum of money for which he shall be so detained, and that he hath caused notice in writing of his intention to present such petition to be personally served on such detaining creditors as aforesaid or on their agents. The petition shall also be subscribed by the petitioner, and be forthwith filed with the Registrar or Deputy Registrar (as the case may be) of the Supreme Court for the district within which such prisoner shall be confined.

To be signed by prisoner and filed with Registrar of Supreme Court.

Sittings of the Court.

3. The Court shall sit for the hearing of applications for relief and for the despatch of all business arising under the provisions of this Ordinance at the places and times following, that is to say,—At Auckland and Wellington in the months of March June September and December in every year, or at such other periods and on such days as the Judge or Judges of the Supreme Court exercising jurisdiction in the district may appoint, and at any place where a Circuit Court shall be holden on such day during the sitting of such Court as the Judge of Assize shall for that purpose appoint.

4. Every

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4. Every prisoner who shall have filed such petition as aforesaid twenty-eight days at least before any day so appointed for the despatch of business arising under this Ordinance, shall be brought up on such day accordingly; and after the hearing of the prisoner's application for relief, it shall be lawful for the Court, on being satisfied of the truth of the matters contained in such petition, to adjudge that such prisoner shall be entitled to the benefit of this Ordinance immediately, or at such time as the Court shall direct, in pursuance of the provisions hereinafter contained, and to cause such prisoner to be discharged accordingly.

The hearing and discharge.

5. Where any prisoner shall be discharged from custody under the provisions of this Ordinance, he shall not be liable at any time thereafter to be taken in execution for any debt or sum of money with respect to which he shall have so become entitled to the benefit of this Ordinance: Provided that, as against the estate and effects of such prisoner whatsoever and wheresoever, the judgment under which he shall have been so imprisoned as aforesaid shall be of as full force and effect as if the body of such prisoner had never been taken in execution by virtue thereof.

Prisoner discharged not again liable to be taken in execution, but estate to remain liable.

6. At such hearing as aforesaid the prisoner shall deliver to the Court a full and true statement in writing subscribed by such prisoner of all debts then due or growing due to such prisoner or to any person in trust for him, and the names and places of abode of the several persons from whom such debts shall be due or growing due, and of the witnesses who can prove such debts, so far as such prisoner can set forth the same.

Prisoner at the hearing to make statement in writing of all debts due to him.

7. The prisoner shall likewise, on the application of any detaining creditor, execute a power of attorney in favour of such creditor, or such one of the detaining creditors as the Court may name, enabling such creditor to sue in his own name for the debts set forth in such statement as aforesaid, and for all other debts which shall appear at such hearing to be due or growing due to such prisoner. And no prisoner shall be entitled in any case to the benefit of this Ordinance until he shall have executed such power of attorney as aforesaid, whenever application shall have been duly made for the same.

And to execute power of attorney in favour of one of the detaining creditors for their recovery.

8. All moneys which shall be received by virtue of such power of attorney as last mentioned shall be paid into Court immediately after the receipt thereof, and after deducting the expense of such power of attorney as aforesaid shall be divided among the creditors at whose suit the prisoner shall have been detained at the time of such hearing as aforesaid, in proportion to the judgment debts in respect whereof he shall have been so detained. And in case such moneys shall not have been so paid into Court by the creditors who shall have received the same, it shall be lawful for the Judge who shall have presided at such hearing as aforesaid, upon the application of any other of the detaining creditors last mentioned, to make order for the due payment of the same.

Moneys so received to be paid into Court for benefit of all detaining creditors.

9. In case any detaining creditor shall intend to oppose such prisoner's discharge, it shall be lawful for such creditor to put questions to the prisoner, and to examine such witnesses as to the Court shall seem meet, touching such matters as the Court shall think proper to inquire into in order to the due execution of this Ordinance; and in case the Court shall entertain any doubt respecting any matter alleged against such prisoner at the hearing to prevent his discharge, or in case such prisoner shall not answer upon oath to the satisfaction of the Court, it shall be lawful for the Court to adjourn the hearing and examination of such prisoner to some future sitting of the Court, and so on from time to time as occasion may require.

The opposition to prisoner's discharge.

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For contracting debts fraudulently &c., debtor may be imprisoned two years.

**10.** In case it shall appear to the said Court that such prisoner shall have contracted any of his debts for which he shall be so detained in custody fraudulently, or by means of a breach of trust, or by means of false pretences, or without having had any reasonable or probable expectation at the time when contracted of paying the same, or shall have fraudulently or by means of false pretences obtained the forbearance of any such debts by any of his detaining creditors, or shall have put any of such creditors to unnecessary expense by any vexatious or frivolous defence or delay to any suit for recovering any such debts, or shall be imprisoned for damages recovered in any action for criminal conversation with the wife or for seducing the daughter or servant of the plaintiff in such action, or for breach of promise of marriage made to the plaintiff in such action, or for damages recovered in any action for a malicious prosecution, or for a libel, or for slander, or in any other action for a malicious injury done to the plaintiff therein, or in any action of tort or trespass to the person or property of the plaintiff therein, then it shall be lawful for such Court to adjudge that such prisoner shall be discharged and entitled to the benefit of this Ordinance so soon as he shall have been in custody at the suit of the person who shall be creditor for such debts sums of money or damages as aforesaid for a period not exceeding two years in the whole, as the said Court shall direct.

For fraudulent disposition of property &c., debtor may be imprisoned for three years.

**11.** In case it shall appear to the Court at any such hearing as aforesaid that the prisoner has fraudulently concealed or misrepresented the state of his affairs, or that with intent to diminish his means of paying and satisfying any of his detaining creditors he has fraudulently discharged or concealed any debt due or growing due to him or to any person in trust for him, or made away with or assigned transferred charged delivered or made over any of his estate or effects before or after the commencement of his imprisonment, then it shall be lawful for the Court to adjudge that such prisoner shall be discharged and entitled as aforesaid so soon as he shall have been in custody at the suit of some one of his detaining creditors for such period not exceeding three years in the whole as the Court shall direct.

Costs of successful opposition to be allowed to creditor.

**12.** Whenever any detaining creditor opposing the discharge of any such prisoner shall prove to the satisfaction of the Court that such prisoner has done any act for which, upon such adjudication as aforesaid, he may be detained in custody for any period not exceeding two or three years as aforesaid, it shall be lawful for the Court to allow to such opposing creditor such costs of opposition as to the Court shall seem reasonable. The costs so to be allowed shall be added to and deemed to form a part of the judgment debt in respect of which such prisoner shall have been taken or charged in execution at the suit of such opposing creditor.

If prisoner be discharged at the hearing, creditor to pay costs of his maintenance in prison.

**13.** Where any prisoner shall be found at any such hearing or adjourned hearing to be entitled to be immediately discharged under the provisions of this Ordinance, the Court shall, on the application of the keeper of the prison in which such prisoner shall have been confined, and upon proof that such prisoner has been maintained during his imprisonment or any part thereof at the public expense, order the creditor or creditors at whose suit he shall have been so imprisoned forthwith to pay to such keeper such sum or sums of money after a rate not exceeding in the whole the rate of four shillings by the week for the period during which the prisoner shall have been so maintained, in such proportions as the Court shall direct. Every order so made shall have the effect of a judgment of the Court in favour of such keeper as aforesaid.

14. This

*Courts of Requests.*

14. This Ordinance shall not extend to discharge any prisoner with respect to any debt due to Her Majesty or her successors, or to any debt or penalty with which he shall stand charged at the suit of the Crown or of any person for any offence committed against any Act of Parliament or Ordinance of this Colony relative to any branch of the public revenue, or at the suit of any Sheriff or other public officer upon any bail bond entered into for the appearance of any person prosecuted for any such offence, unless His Excellency the Governor shall certify under his hand his consent that such person may apply to take the benefit of this Ordinance.

Ordinance not to extend to Crown debts &c.

**No. VIII.**

AN ORDINANCE to establish Courts of Requests for the more easy and speedy recovery of Small Debts.

COURTS OF REQUESTS

[27th June, 1844.]

WHEREAS by an Ordinance made by the Governor of New Zealand, with the advice and consent of the Legislative Council, Session II., No. 2, and intituled "*An Ordinance for establishing County Courts of Civil and Criminal Jurisdiction, and for repealing an Ordinance for instituting Courts of Requests, Session I., No. 6, and for repealing part of an Ordinance for establishing Courts of Quarter Sessions, Session I., No. 4,*" it was enacted that there should be within the Colony of New Zealand County Courts of Record, possessing civil and criminal jurisdiction, in manner in the said Ordinance provided: And whereas by the appointment of an additional Judge of the Supreme Court it hath become practicable that all crimes and offences committed within the Colony may be tried before a Judge of the said Court: And whereas it is desirable that provision should be made for the recovery of small debts in a more easy and speedy manner than by the said Ordinance was provided:

Preamble.

BE IT THEREFORE ENACTED by His Excellency the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

1. The said recited Ordinance is hereby repealed, except so far as any prior Ordinance or part of any Ordinance was repealed thereby.

County Court Ordinance repealed.

## I.—CREATION OF COURTS.

2. There shall be within the Colony of New Zealand Courts for the recovery of small debts, which shall be called Courts of Requests.

Courts to be created.

3. His Excellency the Governor shall, with the advice of the Executive Council, by Proclamation, from time to time appoint fit places for the holding of such Courts, and define the district within which the jurisdiction of each of such Courts shall be exercised, and the limits of such districts from time to time shall alter as occasion may require.

And districts defined.

## II.—CONSTITUTION OF COURTS.

4. Every such Court shall be holden by and before a fit person, being a barrister or solicitor of the Supreme Court, who shall be and be called the Commissioner of the Court of Requests.

To be holden before a Commissioner.

5. Every