

CHAPTER 62.

HABEAS CORPUS

AN ORDINANCE RELATING TO WRITS OF HABEAS CORPUS. Ordinance
No. 36.

[19th October, 1841.]

1. This Ordinance may be cited as the Habeas Corpus Short title.
Ordinance.

2. The Imperial Statutes mentioned in the Schedule to this Ordinance relating to the Writ of Habeas Corpus, and every clause, matter, and thing therein contained (so far as the same shall or may be applicable to the Colony) shall be in force within the Colony as fully and effectually, to all intents and purposes in the law whatsoever, as though the Colony had been specially and expressly named and mentioned therein, and as though the said Acts had been passed for the purpose of securing the liberty of His Majesty's subjects within the Colony, so far as the same shall not be repugnant to the enactments of any Ordinance in force for the time being within the Colony.

Application
of Imperial
Statutes to
the Colony.

3. All and singular the powers, jurisdiction, and authority which, under and by virtue of the said Acts, may be exercised by the Lord Chancellor or Keeper of the Great Seal in England, or by any of the Courts there, or by any of the Judges thereof, for or in respect of the said Writ and the granting thereof, and other proceedings thereon, shall and lawfully may in like manner be had and exercised within the Colony by the Supreme Court or any Judge thereof, and every Writ so to be issued as aforesaid, and bearing the signature of the Judge or Judges by whom the same shall be awarded, shall be of equal force and effect as though the same had been issued under seal, in manner and form as by the said Statutes, or either of them, is provided; and the same shall also be in the form of a citation from the Court or officer awarding

Jurisdiction
vested in
Supreme
Court.

the same to the person or persons to whom the same shall be directed, commanding him or them, at a day and place therein to be named, to bring up before such Judge or Court the person by reason of whose alleged illegal imprisonment or detention any such citation shall have been issued.

Power to
award Writs
of Habeas
Corpus.

4. It shall be lawful for the Supreme Court or any Judge thereof, if he shall think fit, to award a Writ or Writs of Habeas Corpus for bringing any prisoner detained in any prison within the Colony before any Court Martial or Court of Justice in the Colony for trial, or to be examined touching any matter depending before such Court; and the like proceedings shall be had upon such Writ or Writs of Habeas Corpus so to be awarded as aforesaid as by law may for the time being be had in England upon Writs of Habeas Corpus awarded by the Judges of the High Court of Justice for bringing persons detained in gaol before Magistrates or Courts of Record for such purpose as aforesaid, any law, custom, or usage to the contrary thereof in any wise notwithstanding.

General
jurisdiction.

5. All and singular the powers, jurisdiction, and authority which may be exercised by the Lord Chancellor or Keeper of the Great Seal of England, or by any of His Majesty's Courts, or by any of the Judges thereof, under and by virtue of the Common Law or under or by virtue of any Statute or Act of Parliament, for or in respect of any Writ of Habeas Corpus, and the granting thereof and other proceedings thereon, shall and lawfully may be had and exercised within the Colony by the Supreme Court or any Judge of such Court in vacation.

SCHEDULE.

An Act for the better securing the liberty of the subject and for prevention of imprisonments beyond the Seas. (31 Charles II., c. 2.)

An Act for more effectually securing the liberty of the subject. (56 George III., c. 100.)