

WESTERN AUSTRALIA

ANNO VICESIMO QUINTO

VICTORIÆ REGINÆ

No. 8

An Ordinance to facilitate the Recovery of Debts.

[Assented to 2nd December, 1861.]

WHEREAS by 'The Supreme Court Ordinance, 1861,' it is enacted that all process of execution issued out of the Supreme Court shall be directed against property and not against the person, and it is expedient, while debarring the creditor of the power of imprisoning his debtor, that all the property of the debtor, both real and personal, legal and equitable, in possession or otherwise, should be available for the levying and satisfaction of debts: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof:—

Preamble
24 Vic., No. 15

1. That the houses, lands, and other hereditaments and real estates, situate or being within the said Colony of Western Australia or its Dependencies, belonging to any person indebted, shall be liable

Lands, &c., made
assets for pay-
ment of debts

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to and chargeable with all just debts, duties, and demands, of what nature or kind soever, owing by any such person to Her Majesty or any of her subjects, and shall and may be assets for the satisfaction thereof, and shall be subject to the like remedies, proceedings, and process in the Supreme Court of Law or Equity in the said Colony of Western Australia or its Dependencies, for seizing, extending, selling, or disposing of any such houses, lands, and other hereditaments and real estates, towards the satisfaction of such debts, duties and demands, and in like manner as personal estates in the said Colony are seized, extended, sold, or disposed of, for the satisfaction of debts.

Bill of sale by
Sheriff to operate
as a conveyance

2. That a bill of sale under the hand and seal of the Sheriff or of for any lands, tenements, and hereditaments so taken and sold by process of execution shall give unto the plaintiff or other buyer thereof as good and sufficient an estate and title therein and thereunto as the defendant from whom they are taken hath or can or may have of, in, or to the same lands, tenements and hereditaments.

The 5 & 6 Wil.
IV., No. 4, c. 62,
made available
for, and ex-
tended to other
places than
Great Britain
and Ireland

3. And whereas by the fifteenth section of an Act passed by the Imperial Parliament, in the fifth and sixth years of the reign of His late Majesty King William the Fourth, intituled 'An Act to repeal an Act of the present Session of Parliament, intituled "An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of voluntary and extra-judicial Oaths and Affidavits;" and to make other Provisions for the Abolition of unnecessary Oaths,' it is enacted that from and after the commencement of that Act, in any action or suit then depending or thereafter to be brought, or intended to be brought in any Court of Law or Equity within any of the territories, plantations, colonies or dependencies abroad, being within and part of His Majesty's Dominions, for or relating to any debts or account wherein any person residing in Great Britain or Ireland shall be a party, or for or relating to any lands, tenements, or hereditaments or other property, situate, lying, and being in the said places respectively, it shall and may be lawful to and for the plaintiff or defendant, and also to and for any witness to be examined or made use of in such action or suit, to verify or prove any matter or thing relating thereto by solemn declaration or declarations in writing, in the form in the schedule to the said Act annexed, made before any Justice of the Peace, Notary Public or other officer then by law authorised to administer an oath, and certified and transmitted under the signature and seal of any such Justice, Notary Public, duly admitted and practising, or other officer, which declaration, and every declaration relative to such matter or thing as aforesaid, in any foreign Kingdom or State, or to the voyage of any ship or vessel, every such Justice of the Peace, Notary Public or other officer shall be and he is hereby authorised and empowered to administer or receive, and every declaration so made, certified and transmitted shall in all such actions and suits be allowed to be of the same force and effect as if the person or persons making the same had appeared and sworn or affirmed the matters contained in such declaration *viva voce* in open Court, or upon a commission issued for the examination of witnesses, or of any party in such action or suit respectively: Provided that in every such declaration there shall be expressed the addition of the party making

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such declaration, and the particular place of his or her abode; and whereas it is expedient to extend the said recited provisions which by the said fifteenth Section of the said Act are limited and confined to any action or suit for or relating to any debt or account wherein any person residing in Great Britain and Ireland shall be a party: Be it further enacted that the said recited provisions of the said fifteenth Section of the said Act shall extend and be applicable and available in any action or suit to be brought or intended to be brought in any Court of Law or Equity in the said Colony of Western Australia, wherein any person, whether residing in Great Britain or Ireland, or elsewhere out of the said Colony, shall be a party.

A. E. KENNEDY,
GOVERNOR AND COMMANDER-IN-CHIEF.
