



WESTERN AUSTRALIA

ANNO SEXTO

GULIELMI IV. REGIS,

NO. 2.

AN ACT for the Recovery of small Debts in a summary way
in Districts remote from Perth.

[11th April, 1836.

WHEREAS it is expedient to provide an easy and summary mode of recovering small Debts, Dues, and Demands in those Districts which, by reason of their remoteness, are situated at an inconvenient distance from the Civil Court;—Be it therefore enacted by His Excellency the Governor of Western Australia, by and with the advice and consent of the Legislative Council, that from and after the passing of this Act it shall be lawful for the said Governor, by warrant under his hand and seal, from time to time, as occasion may require, to appoint one or more Justice or Justices of the Peace, in any of the remoter districts of this Colony, to hear and determine in a summary way all manner of Disputes or Differences between Party and Party, provided that the Debt, Damages, or other Thing claimed, shall not exceed the Amount of Ten Pounds in value, and provided, also, that no question relating in any way to the Title of Lands shall be entertained or decided in any such proceedings.

Preamble.

Justices in remote districts to hear in a summary way questions of debt not exceeding £10.

II. AND be it further enacted, that it shall be lawful for the said Governor, by and with the advice and consent of the Executive Council of the said Colony, at any time, to alter, suspend, or annul the Appointment, or to limit or extend the Jurisdiction, of such Justice or Justices, if it shall be deemed expedient so to do.

Governor may annul or alter Jurisdiction.

Upon complaint Justice is to issue Summons, &c.

III. AND be it further enacted, that when any such Complaint as aforesaid shall be made to any such Justice so appointed, such Justice shall issue his Summons, wherein shall be expressed the names of the Plaintiff and Defendant, the cause of Complaint, and an appointed Time and Place for hearing such Complaint.

At the hearing Justice is to examine Defendant and Witnesses on oath, and make his decision on the merits, consonant to equity and good conscience.

IV. AND be it further enacted, that at the appointed time, for hearing of the Cause, such Justice or Justices may proceed to inquire into the merit of such Complaint, by an examination of the Defendant himself upon oath, if such Justice or Justices shall so think proper, and by the further examination upon oath of such Witnesses, as either Party may produce, and, after such examination, may proceed to make such decision as shall be agreeable to the merits of the case and consonant to equity and good conscience.

If the Defendant does not appear, proof must be made of the service of the Summons on Defendant a reasonable time before the hearing.

V. PROVIDED always, nevertheless, and be it further enacted, that in case the Defendant shall not have appeared at such hearing, it shall not be lawful to make such decision against the Defendant, unless it shall be satisfactorily proved, upon oath, that the Defendant was personally served with such Summons, or a copy thereof a reasonable time before the day appointed for such hearing, or that such summons or a copy thereof had been left with some member of the family or household of the Defendant, of the age of sixteen years and upwards, at the usual or last place of abode of such Defendant, a reasonable time before the day appointed for such hearing.

Justice to issue his Warrant to levy sums decreed, and Costs, against Plaintiff or Defendant.

VI. AND be it further enacted, that it shall be lawful for the said Justice or Justices to issue his or their Warrant to levy, by distress and sale of goods, all such Sums as may be decreed against the Goods of the Defendant, in case of such a Decree; or against the Goods of the Plaintiff, in case the complaint shall be dismissed with costs.

JAMES STIRLING,
GOVERNOR AND COMMANDER-IN-CHIEF.

*Passed the Legislative Council,
The 11th Day of April, 1836,*
PETER BROWN,
Clerk to the Council.