

WESTERN AUSTRALIA

ANNO NONODECIMO

VICTORIÆ REGINÆ

No. 13

An Ordinance for the Relief of Creditors against Persons
Removing from one Australasian Colony to another.

[Assented to 12th June, 1856.]

Preamble

WHEREAS the proximity of the several Australasian Colonies to each other and the separation of their respective jurisdictions greatly facilitate the evasion of the judgments, decrees, rules and orders of the Supreme Courts of the said Colonies respectively, and it is expedient to provide a remedy in that behalf: 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, as follows :—

Memorial of judgment, &c., under seal of Supreme Court of any other Australasian Colony filed in Civil Court, at Perth, Western Australia, shall be a record thereof, and execution may issue

1. It shall be lawful for any person in whose favour any judgment, decree, rule or order whereby any sum of money is made payable, shall have been obtained in the Supreme Court of any of Her Majesty's Australasian Colonies, including islands and colonies of New Zealand, to cause a memorial of the same, containing the particulars hereinafter mentioned and authenticated by the seal of the Court wherein such judgment, decree, rule or order was obtained, to be filed in the office of the Civil Court of Western Australia at Perth, and such memorial being so filed shall thenceforth be a record of such judgment, decree, rule or order, and execution may issue thereon as hereinafter provided.

Particulars of memorial

2. Every such memorial shall be on parchment or paper and signed by the party in whose favour such judgment, decree, rule or order was obtained or his attorney, and shall contain the following particulars, all of which shall be fairly written, without interlineations

Debtors (Intercolonial Judgments)

or erasures, and (with the exception of dates) in words at length, that is to say:—The names and additions of the parties, the form or nature of the action or suit or other proceeding, and when commenced; the date of the signing or entering up of the judgment, or of passing the decree or of making the rule or order; and the amount recovered, or the decree pronounced or rule or order made; and if there was a trial the date of such trial, and the amount of verdict given.

3. It shall be lawful for the Judge of the Civil Court of this Colony, upon the application of the person in whose favour such judgment, decree, rule or order was obtained or his attorney to issue a summons calling upon the person against whom such judgment, decree, rule or order was obtained, to show cause within such time, after personal or such other service of the summons as such Judge shall direct, why execution should not issue upon such judgment, decree, rule or order; and such summons shall give notice that, in default of appearance, execution may issue accordingly; and if the person so summoned does not appear, or does not show sufficient cause against such summons, it shall be lawful for the Judge of the said Civil Court, on due proof of such service as aforesaid, to order execution to issue as upon a judgment, decree, rule or order of the said Civil Court, subject to such terms and conditions (if any) as to such Judge may seem fit; and thereupon and subject thereto, the person entitled to such execution shall have and be entitled to all such process, and to all such rights and remedies for the enforcement thereof; and the person against whom such execution is ordered shall in like manner be entitled to all such protective rights and advantages as they would respectively have been entitled to, had such judgment, decree, rule or order been obtained in the said Civil Court; and all such proceedings may be had or taken for the revival of such judgment, decree, rule or order, or the enforcement thereof, by and against persons not parties to such judgment, decree, rule or order, as may be had for the like purposes upon any judgment, decree, rule or order of the said Civil Court.

Mode of obtaining execution

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