

WESTERN AUSTRALIA

ANNO OCTAVO

VICTORIÆ REGINÆ

No. 12

An Ordinance to remove doubts as to the power of Justices of the Peace of the Colony of Western Australia to inflict Penalties under certain Acts of Parliament.

[Assented to 5th June, 1845.]

**W**HEREAS doubts have been suggested as to whether certain Acts or parts of Acts of Parliament inflicting pecuniary penalties in certain cases can be legally applied in the administration of justice in this Colony, because the pecuniary penalties or sums of money so inflicted or leviable under some of the provisions of the said Acts are directed to go and be appropriated to the overseer of the poor of some parish, or to the treasurer of some county, or otherwise in aid of the county rates, or are to be demanded by the churchwardens of some parish, or some other person or persons in particular of or in some county or place or parish, or for some charitable institution or some other local fund or purpose, and it is expedient to remove such doubts :  
Be it therefore enacted by His Excellency the Governor of Western Australia, with the advice and consent of the Legislative Council thereof, that in all cases where any Act of Parliament or section of any Act of Parliament otherwise applicable in the administration of justice in this Colony cannot be strictly complied with, by reason that the fine, forfeiture or penalty inflicted or leviable by the same Act or section is made applicable to some local purposes as aforesaid or is to be demanded by some particular person or persons, such fine, forfeiture or penalty shall be leviable without any such demand and shall be reserved to the use of Her Majesty, her heirs and successors, and shall

Preamble

Fines, &c., under certain Acts of Parliament, how to be applied

*Justices of the Peace, &c.*

be paid to the Collector of Revenue for the public uses of this Colony and the support of the Government thereof.

Justices  
indemnified

2. And whereas Justices of the Peace for the Colony of Western Australia have heretofore exercised a summary jurisdiction under and by virtue of several Acts as hereinbefore mentioned, and whereas the said Justices, or some of them, have made, done and caused to be executed divers judgments, orders, acts and things, and have caused divers penalties to be enforced and sums of money to be levied under the powers of the said Acts; and whereas it is expedient that all persons shall be protected and indemnified from vexatious proceedings for or by reason of any such judgment, sentence, act or thing made, passed, done or executed by them: Be it enacted that no proceedings shall be commenced, prosecuted or maintained by any person whatsoever against any Justice of the Peace for having exercised summary jurisdiction under any such Acts as aforesaid or against any other person whatsoever who may have done any act or thing under and by virtue of any judgment, sentence or order of any Justice of the Peace exercising such jurisdiction; and if any action or suit shall be brought against any Justice of the Peace, constable or other person for any act or thing done or purporting to be done under or by virtue of any such Act of Parliament as aforesaid the defendant in every such action or suit may plead the general issue and may give this Ordinance and the special matter in evidence at any trial to be had thereupon; and if the verdict or judgment shall be for the defendant, or if the plaintiff be nonsuited or discontinue his action or suit, or if upon demurrer judgment shall be given against the plaintiff, the defendant shall have treble costs and shall have like remedy for the same as any other defendant hath in any other case to recover costs by law.

Ordinance may  
be altered

3. And be it enacted that this Ordinance may be altered, amended or repealed by any Ordinance to be passed during the present session.

JOHN HUTT,  
GOVERNOR.