

Sir J. M. WILSON: To move, That it is desirable to make provision by legislation that probate of wills taken out in one colony may be registered in the Registry of Wills Office in any other colony in cases of testators dying in one colony leaving personal property in other colonies; and that additional facilities should be afforded to suitors for enforcing judgments recovered in the Supreme Court of one colony against the property of judgment debtors in other colonies.

Contingent on the passing of the above resolution, To move, that the following draft Bill, with memoranda annexed, be printed as an Appendix to the Report of the Conference :—

A BILL

To render Judgments, which have been obtained in the Supreme Court of any of the other Australian Colonies, effectual in [*Tasmania*].

BE it enacted, &c. :—

1. The word “judgment” shall include any judgment, decree, rule or order at law or in equity of the Supreme Court of any of the Australian Colonies, other than [*Tasmania*], for the payment of money. Interpretation.

2. Where judgment shall hereafter be obtained in the Supreme Court of any Australian Colony other than [*Tasmania*], the registrar of the Supreme Court of [*Tasmania*] shall on the production to him of a certificate of such judgment in the form or to the effect in the Schedule purporting to be signed by the proper officer of the Court where such judgment has been obtained, register such certificate in a register to be kept in the Supreme Court of [*Tasmania*], and to be called “*The Register for Australian Judgments*.” Certificate of judgment obtained in another colony may be registered in [*Tasmania*].

3. The certificate shall from the date of such registration be of the same force and effect, and all proceedings may be had and taken on such certificate, as if the judgment of which it is a certificate had been a judgment originally obtained on the date of such registration in the Supreme Court of [*Tasmania*], and all the reasonable costs and charges attendant upon obtaining and registering such certificate shall be recovered in like manner as if the same were part of the original judgment. On registration, certificate to have effect of judgment in [*Tasmania*].

4. No certificate of any such judgment shall be registered as aforesaid more than twelve months after the date of such judgment, unless application shall have been first made to and leave obtained from the Supreme Court of [*Tasmania*]. Certificate to be registered within twelve months after judgment.

5. The Supreme Court of [*Tasmania*] shall have and exercise the same control and jurisdiction over any judgment and over any certificate of such judgment registered under this Act as it now has and exercises over any of its own judgments, but in so far only as relates to execution under this Act. Court to have control over certificate so registered.

6. It shall not be necessary for any person resident in any of the other Australian Colonies in any proceeding had and taken on such certificate to find security for costs in respect of such residence, unless, on special grounds, a Judge or the Court shall otherwise order. No security for costs where person registering certificate resides out of [*Tasmania*].

7. In any action brought on any judgment which might be registered under this Act the party bringing such action shall not recover or be entitled to any costs or expenses of suit, unless the Supreme Court or a Judge thereof shall otherwise order. No costs in action on judgments.

8. The Judges of the Supreme Court may make rules and orders to regulate the practice to be observed in the execution of this Act or in any matter relating thereto, including the scale of fees to be charged. Judges to make rules.

9. In citing this Act it shall be sufficient to use the expression “*The Intercolonial Judgments Act 1878*.” Short title.

SCHEDULE.

I, _____, certify that [*insert name of person entitled to judgment, with his title, trade, or profession, and usual or last known place of abode*] on the _____ day of 18____, obtained judgment [*or as the case may be*] before the Supreme Court of [*insert name of Australian Colony*] for payment of the sum of _____ on account of [*here state shortly the nature of claim and amount of costs*].

Memorandum 1.—Probate of Wills :—

In the case of a testator dying in one colony leaving personal property in other colonies, his will must now be proved, or letters of administration (with the will, or with an exemplification of it annexed) must be taken out in each of the colonies.

Where letters of administration are taken out, the executor usually appoints an attorney to take them out, and he has to find sureties for the administration bond.

This all causes expense and delay.

It is proposed, when probate has been taken out by an executor in any one colony, that such executor may cause an exemplification of such probate to be registered in the Registry of Wills Office in any other colony, and that the registering of such exemplification shall be of the same force and effect as if probate had been granted in such last-mentioned colony. An office copy of such exemplification shall have the same effect as evidence as the probate itself would have had if it had been granted in such colony.

For the purposes of collecting revenue, no exemplification shall be registered till such accounts have been prepared and affidavits made as may be required for the purpose of ascertaining and collecting probate or other duty.

Memorandum 2.—Enforcement of Judgments recovered in the Supreme Court of one colony against the property of the judgment debtor in other colonies :—

This can now be effected upon registering the judgment in an adjoining colony, and summoning the judgment debtor before the Supreme Court of such colony to show cause why execution should not issue against the debtor; and the Court can thereupon order execution to issue against him.