



ANNO SEXTO ET SEPTIMO

VICTORIÆ REGINÆ.

No. 5.—1843.

By His Excellency GEORGE GREY Esquire Governor and Commander-in-Chief of Her Majesty's Province of South Australia and its Dependencies and Vice-Admiral of the same by and with the advice and consent of the Legislative Council.

AN ORDINANCE to avoid Trifling and Frivolous Suits at Law.

WHEREAS an Act of Parliament was passed in the 3rd and 4th year of Her present Majesty's reign intituled "An Act to repeal part of an Act of the forty-third year of the reign of Queen Elizabeth intituled 'An Act to avoid trifling and frivolous suits in law in Her Majesty's Courts in Westminster,'" and of an Act of the twenty-second and twenty-third year of the reign of King Charles the Second intituled "An Act for laying impositions on proceedings at Law and to make further provisions in lieu thereof." And whereas it is expedient that the provisions of the said recited Act should be applied in the administration of justice in this Province :

BE IT THEREFORE ENACTED by His Excellency the Governor of South Australia with the advice and consent of the Legislative Council thereof: That in accordance with the provisions of the recited Act if the Plaintiff in any action of trespass or of trespass on the case brought or to be brought in any of Her Majesty's Courts of Record of this Province shall re-

Costs not to be recovered in actions of trespass or trespass on the case where damages recovered are less than 40s., unless upon Judge's certificate, &c.

COVER

cover by verdict less damages than Forty Shillings such Plaintiff shall not be entitled to recover or obtain from the Defendant in respect of such verdict any costs whatever whether it shall be given upon any issue or issues tried or judgment shall have passed by default unless the Judge or presiding officer before whom such verdict shall be obtained shall immediately afterwards certify on the back of the record or on the writ of trial or writ of inquiry that the action was really brought to try a right besides the mere right to recover damages for the trespass or grievance for which the action shall have been brought or that the trespass or grievance in respect of which the action was brought was wilful and malicious.

Act not to extend to
deprive Plaintiffs of
costs where notice
served not to tres-
pass.

II. Provided always and be it enacted that nothing herein contained shall extend to or be construed to extend to deprive any Plaintiff of costs in any action brought for a trespass over any lands commons wastes closes woods plantations or enclosures or for entering into any dwellings out-buildings or premises in respect of which any notice not to trespass thereon or therein shall have been previously served by or on behalf of the owner or occupier of the land trespassed over upon or left at the last reputed or known place of abode of the defendant in such action.

III. And be it further enacted that this Ordinance shall commence and take effect from and after the passing thereof.

GEORGE GREY,
Governor and Commander-in-Chief.

*Passed in the Legislative Council, this Twentieth
day of October, 1843.*

W. L. O'HALLORAN,
Clerk of Council.

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