

WESTERN AUSTRALIA

ANNO QUADRAGESIMO TERTIO

VICTORIÆ REGINÆ

No. 13

An Act to regulate the Forfeiture of Recognisances to keep the Peace and to obtain the Attendance of Prisoners as Witnesses in any Cause or Matter.

[Assented to 2nd September, 1879.]

Preamble

WHEREAS provision is made by the 25th Vic., No. 5. for the more speedy levying of forfeited recognisances, but no provision exists for declaring a recognisance to keep the peace or to be of good behaviour to be forfeited; And whereas also provision is made by 16 Vic., No. 18, whereby the attendance of any prisoner may be obtained as a witness in any case civil or criminal depending in the Supreme Court, but no provision exists whereby such attendance can be enforced before any other court, judge, or justices without the issuing of a writ of *habeas corpus*: Be it therefore enacted by His

*Forfeited Recognisances—Prisoners as Witnesses*

Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

1. Where any recognisance to keep the peace or to be of good behaviour is entered into by any person, as principal or surety, before any court of sessions of the peace, or before any justice or justices of the peace, it shall be lawful for any such court as aforesaid, upon application made to such court, to declare such recognisance to be forfeited upon proof of a conviction of the party bound by such recognisance of any offence which is in law a breach of the condition of the same, and upon further proof that a notice in writing signed by the person seeking to put such recognisance in force has, seven clear days before the commencement of such sessions, been personally served upon or left at the usual place of abode of the party or each of the parties (if more than one) who entered into such recognisances, that an application will be made to the sessions that the said recognisance shall be declared to be forfeited; and if such recognisance shall be declared forfeited, all such proceedings shall be had thereon as in the case of a recognisance forfeited at such court of sessions; and all the provisions of the aforesaid Ordinance 25 Vic. No. 5, applicable to a recognisance so forfeited at such court shall apply to a recognisance which shall upon such application and proof as hereinbefore mentioned be declared to be forfeited; and upon notice in writing of such intended application to the said sessions being given to any justice or justices before whom any such recognisance shall have been taken four clear days before the commencement of the said sessions, the said justice or justices shall transmit the said recognisance to the Registrar of the Supreme Court, with a certificate that the said recognisance is sent to him by word of such last-mentioned notice having been given as aforesaid.

16 & 17 Vic.,  
c. 30, s. 2  
Court of Session may upon proof of conviction and notice to parties, declare recognisances to keep the peace or to be of good behaviour, entered into before such court or before justices, to be forfeited

2. No person committed to prison under any warrant or order of one Justice of the Peace for or on account of not entering into recognisances or finding sureties to keep the peace, or to be of good behaviour, shall be detained under such warrant or order for more than twelve calendar months from the time of such commitment.

Ibid., s. 3  
Limit of detention of persons committed for not entering into recognisance

3. It shall be lawful for any Judge of the Supreme Court, or Police Magistrate, in any case where he may see fit to do so, upon application by affidavit, to issue a warrant or order under his hand for bringing up any prisoner or person confined in any gaol, prison, or place, under any sentence or under commitment for trial, or otherwise before any court, judge, justice, or other judicature, to be examined as a witness in any cause or matter, civil or criminal, depending or to be inquired of, or determined in or before such court, judge, justice, or judicature; and the person required by any such warrant or order to be so brought before such court, judge, justice, or other judicature, shall be so brought under the same care and custody, and be dealt with in like manner in all respects as a prisoner required by any writ of *habeas corpus* awarded by the Supreme Court to be brought before such court to be examined as a witness in any case or matter depending before such court is now by law required to be dealt with.

Judge of Supreme Court may issue warrant for bringing up a prisoner to give evidence, &c.

Ibid., s. 9

H. ST. GEORGE ORD,  
GOVERNOR.