

WESTERN AUSTRALIA

ANNO DUODECIMO

VICTORIÆ REGINÆ

No. 17

An Ordinance to facilitate the recovery of Contributions
in certain cases between Shareholders in Banking
Companies. [Assented to 9th May, 1849.]

WHEREAS it is expedient to facilitate the recovery of contribu-
tions by any member of a banking company upon whose
separate property any judgment against such company shall have been
enforced: 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, that whenever any
judgment, decree, rule or order shall be had or obtained in any action,
suit or proceeding at law or in equity against any public officer of any
banking company or partnership established in this Colony, it shall be
incumbent on the plaintiff, and he is hereby required to cause execution
to be issued first against the property and effects of such company or
partnership, and if such execution shall be ineffectual to obtain satis-
faction of the sums sought to be recovered thereby, then it shall be
lawful for him to have execution in satisfaction of such judgment,
decree, rule or order against any member or members of such company
or partnership.

Preamble

Execution to be
first issued
against property
of company

2. And be it enacted, that when and so soon as the property of any
such member shall have been so seized in execution, or when any such
member shall have voluntarily paid the amount due in order to avoid
such seizure, it shall be lawful for such member to treat the judgment,
decree, rule or order which shall have been obtained against such public
officer as aforesaid as assigned to him, and forthwith to issue in the name
of the party who shall have obtained the same writs of *feri facias*

Individual mem-
ber may treat
judgment, &c.,
as assigned to
him, and levy a
proportion from
other members

Banks and Banking Companies

against each and every member of the said banking company or partnership, who shall refuse or fail to pay on demand the amount of contribution hereinafter mentioned, and by each and every of such writs, the Sheriff shall and may levy a sum in proportion to the number of shares in the capital stock of such company or partnership held by each such member respectively, sufficient to cover the amount of such moneys, costs, and expenses; and the said Sheriff is hereby authorised and required to make such levies at the instance of any member whose property he may have so seized, or who may have voluntarily paid the amount in manner aforesaid, and to pay over to such member the proceeds of such levies.

How to proceed
to enforce full
payment

3. And be it enacted, that if the member against whom any such execution shall have been put in force, or who shall have voluntarily paid as aforesaid, his executors or administrators shall, by reason of the bankruptcy or insolvency of any member or members, or from any other cause, but without any neglect or wilful default on his own part be prevented from recovering any proportion of the moneys, costs or expenses which he shall have so paid, it shall be lawful for him, his executors or administrators, again to divide the amount of all such moneys, costs and expenses as shall not have been recovered by him or them into as many equal parts as there shall then be shares in the capital stock or partnership (not including the shares then under forfeiture) except the shares in respect of which such default shall have happened; and every member for the time being of the company or partnership, and the executors or administrators of every deceased shareholder, except as aforesaid, shall rateably, according to the number of shares which they shall hold in the company or partnership, upon demand, pay one or more such last-mentioned parts to the shareholder against whom such execution shall have been put in force, or who shall have so voluntarily paid, as aforesaid, his executors or administrators, and in default of payment, he or they shall have the same remedy in all respects for the recovery thereof as under the provisions hereinbefore mentioned are given in respect of the original proportion of such moneys, damages, costs and expenses; and if any proportion of the said moneys, damages, costs and expenses shall remain unpaid by reason of any such bankruptcy, insolvency or other cause as aforesaid, such shareholder, his executors or administrators, shall have in like manner from time to time and by way of accumulative remedy, the same powers according to the circumstances of the case, of again dividing and enforcing payment of the amount of such proportion until he or they shall in the end be fully reimbursed the whole of the said moneys, costs, and expenses, excepting the portions belonging to the shares held by him or them.

CHARLES FITZGERALD,

GOVERNOR AND COMMANDER-IN-CHIEF.