

WESTERN AUSTRALIA

ANNO NONO

VICTORIÆ REGINÆ

No. 4

An Ordinance to make provision for the Trial of Criminal  
Offences at Albany and other remote Districts of the  
Colony of Western Australia.

*[Assented to 18th August, 1845.]*

**W**HEREAS it is expedient to constitute Local Courts for the trial Preamble  
of certain criminal offences at Albany and other remote dis-  
tricts of this Colony, so as to avoid the great expense and inconvenience

*Justices of the Peace, &c.*

either of bringing the prosecutors, witnesses and prisoners from so great a distance to Perth for trial, or sending the Chairman (who is also the Commissioner of the Civil Court), the Advocate-General and the Officers of the Court of Quarter Sessions to so great a distance from Perth to the serious interruption of public business: Be it therefore enacted by His Excellency the Governor of Western Australia, with the advice and consent of the Legislative Council thereof: That Courts of General Sessions of the Peace for the various districts of this Colony may be holden under and by virtue of the provisions of this Ordinance, at such times and in such places as the Governor shall by proclamation from time to time appoint: Provided that such Courts may be appointed to be held more or less frequently than four times a year, as convenience may require, and that each of such Courts shall have power to adjourn its sittings from time to time if necessary.

Governor to proclaim Courts of General Sessions

Authority of such Courts

2. And be it enacted that the said Courts of General Sessions of the Peace so appointed for such districts shall be Courts of Record, and shall be held before any two or more Justices of the Peace of the said Colony, whereof the Chairman or Deputy-Chairman, as hereinafter mentioned, shall be one, and shall have power to hear and determine all felonies whatsoever not punishable with death, including forgery and perjury at common law and all other misdemeanours whatsoever committed in any part of the said Colony, and whether the same shall have been committed before or after the passing of this Ordinance, and all such appeals and other matters and things as may be assigned to General or Quarter Sessions of the Peace by any Ordinance heretofore or hereinafter to be passed: Provided that nothing herein contained shall be construed to give the said Courts jurisdiction over any offence which by the laws of England is exclusively cognizable by Courts of Admiralty.

Chairman of Courts

3. And be it enacted that it shall be lawful for the Governor from time to time to nominate and appoint during pleasure any Justice of the Peace to be Chairman of any such Courts: Provided that in order to provide for the case of the illness, temporary incapacity or absence from the Colony of the Chairman of such Court, the Governor may appoint any other Justice to be Deputy-Chairman of such Court, who, during such illness, temporary incapacity or absence, and no longer, shall be deemed and taken to be the Chairman of such Court for the time being to all intents and purposes: Provided also that in case of sickness or unavoidable absence the acting Chairman shall be empowered, under his hand and seal, to appoint a Deputy-Chairman, being a Justice of the Peace, to act for him at the Court of General Quarter Sessions of the Peace for the district then next ensuing, and no longer or otherwise.

Clerks and other officers

4. And be it enacted that it shall be lawful for the Governor from time to time to nominate and appoint Clerks and all Ministerial and other proper officers of the said Courts, and the same at any time to remove and appoint others, and in case of the absence of any such officer from any sitting the Chairman for the time being may appoint some fit and proper person to act in his stead at such sitting.

One Justice may adjourn

5. And be it enacted that if in any case the required number of Justices shall not be present at the time and place appointed for the holding of any such Court, any one Justice (whether he be the Chair-

*Justices of the Peace, &c.*

man or not) shall be a lawfully constituted Court for the purpose of opening such Court and of adjourning the same, and respiting all recognizances until such further day as such Justice shall then and there cause to be proclaimed.

6. And be it enacted that with the exception of alterations introduced by this or any subsequent Ordinance, the powers and authorities, the mode of proceeding in the trial of all crimes and misdemeanours, the forms, rules and regulations of any Court established under this Ordinance in any particular district shall be the same as in the Court of General Sessions of the Peace for the said Colony (usually held in Perth), as far as the circumstances and the situation for the time being of the district shall admit.

Constitution of the Court

7. And be it enacted that no sentence of transportation beyond seas passed by such Court shall appoint the place to which the offender so sentenced shall be transported, but that such place shall be left to the appointment of the Governor.

Court not to appoint place of transportation

8. Provided always and be it enacted that whensoever it shall appear that any crime or offence, from its nature or magnitude, ought to be tried by the Court of General Quarter Sessions of the Peace for the Colony it shall be lawful for any Court so appointed for any such district as aforesaid to remit such case for trial before the Court of General Quarter Sessions, and to take proper recognizances for the appearance of all parties and witnesses thereat, which recognizances shall be returned to the said Court of General Quarter Sessions aforesaid at the next sitting thereof.

Court may remit certain cases to the Court of General Quarter Sessions

9. And be it enacted that the person acting as Clerk at such Sessions shall keep a book, ruled and divided into columns, headed and intituled according to the form in the Schedule hereunto annexed, which shall be called the Criminal Record Book of each district respectively.

Record book to be kept

10. And be it enacted that an abstract of the said Criminal Record Book, certified by the Chairman of each Court respectively to be correct, shall be transmitted by the Chairman to the Governor, as soon as conveniently may be after each session, together with a copy of the depositions in each case in which there has been a conviction, and a short report on each of such cases.

Abstract to be sent to the Governor

11. And be it enacted that it shall be lawful for the said Governor, by warrant under his hand, to authorize the removal of any prisoner confined under sentence of any such District Court in any district prison, from such prison to any other prison within the said Colony, either for the purpose of undergoing any sentence of imprisonment or for the more convenient deportation from this Colony of any prisoner sentenced to transportation.

12. And be it enacted that this Ordinance shall be and continue in force only for the space of three years from the date of its passing the Legislative Council.

Duration of Ordinance

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

Ordinance may be altered

JOHN HUTT,  
GOVERNOR.

## SCHEDULE ABOVE REFERRED TO

'Criminal Record Book' for the district of

| No. | Prisoner or Defendant    | Crime or Offence charged                                      | Day of Commitment | Date of Trial | Verdict | Sentence                                     | Remarks  |
|-----|--------------------------|---|-------------------|---------------|---------|--|--|
| 1   | A. B., of ,<br>labourer. | Stealing at a coat, the property of E. F., of the same place. | 1845              | 1845          | Guilty. | Three months' imprisonment with hard labour. |  |
| 2   | E. F., of ,<br>mason.    | Assault on G. H., of the same place, Publican.                | 1845              | 1845          | Guilty. | Fined twenty shillings.                      | Discharged the same day, having paid the fine. |