

Foreign Offenders

WESTERN AUSTRALIA

ANNO QUARTODECIMO

VICTORIÆ REGINÆ

No. 18

An Ordinance for the better Apprehension of Offenders who shall have escaped to parts within the Territory of Western Australia from any other of the Australian Colonies. [Assented to 21st May, 1851.]

Preamble

6 & 7 Vic, c. 34

Alleged offender from any of the Australian Colonies may be apprehended order of a Magistrate of this Colony

WHEREAS by a certain Act of Parliament passed in the sixth and seventh years of the reign of Her present Majesty, intituled 'An Act for the better Apprehension of Certain Offenders,' provision is made for the apprehension in any part of Her Majesty's dominions of persons charged with committing in any other part of Her Majesty's dominions certain offences in that Act mentioned, and against whom a warrant shall have been issued by any person or persons having lawful authority to issue the same, and for the imprisonment of such offenders, and for their removal to that part of Her Majesty's dominions in which they were charged with having committed the offence; and whereas the contiguity of the Australian Colonies to each other greatly facilitates the escape of offenders from one to the other of such Colonies, which said offenders may in many instances elude the pursuit of justice unless provision be made for their apprehension in the Colony to which they shall have escaped without requiring that a warrant be obtained from a Magistrate of the Colony having original jurisdiction, and that such warrant shall be endorsed by a Judge of the Colony in which offender shall have withdrawn himself; and whereas it is expedient that the provisions of the said recited Act of Parliament should be applied to persons charged with other offences than those to which the said recited Act is limited, so that the course of justice may in a less degree be impeded by the separation and independence of the judicial jurisdiction of the said Colonies respectively: Be it therefore enacted by His Excellency the Governor of Western Australia, by and with the advice and consent of the Legislative Council thereof, that from and after the passing of this Ordinance, if any person shall be within the Territory of Western Australia who shall be charged with having committed any offence such as hereinafter mentioned within any other of the Australian Colonies, it shall be lawful for any Justice of the Peace of this Territory, or of any limited jurisdiction therein where such person shall then be, to issue his warrant for the apprehension of such supposed offender in the same manner and upon the like grounds as if the said offence was charged to have been committed within the ordinary jurisdiction of such Justice; and thereupon it shall be lawful for all peace officers within the said Territory, and they are hereby required to execute

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such warrant by apprehending the person against whom it is directed, and to convey him before the same or any other Magistrate having authority to examine and commit offenders for trial in the part of the said Territory in which he shall have been apprehended.

2. And be it enacted that it shall be lawful for any such Magistrate as last aforesaid, before whom any such supposed offender shall be brought as aforesaid, upon such evidence of criminality as would justify his committal for trial if the offence had been committed within the ordinary jurisdiction of the said Magistrate, to commit such supposed offender to prison, there to remain until he can be sent back to the Colony in which the offence is alleged to have been committed, and delivered to the proper authorities therein in the manner mentioned in the said recited Act of Parliament; and immediately upon the committal of such person, information thereof in writing, under the hand of the committing Magistrate, accompanied by copy of his warrant and of the depositions upon which the same was granted, shall be transmitted to the Governor of this Colony.

Committal for removal to the Colony in which the offence is alleged to have been committed

3. And be it enacted that it shall be lawful for any such Magistrate as last aforesaid, before whom any such supposed offender shall be brought, upon any such evidence of criminality as would justify the remand of any person for further examination, in cases where evidence is expected to be obtained from remote parts, if the offence had been committed within the ordinary jurisdiction of such Magistrate, to commit such supposed offender to prison, by way of remand, for such reasonable time, not exceeding two calendar months, until copies of depositions, taken certified and attested as hereinafter mentioned, shall have been received from the Colony in which the offence is alleged to have been committed, and submitted to the same or some other Magistrate; and upon such copies of depositions being so submitted, it shall be lawful for the Magistrate to whom the same shall be submitted either to discharge such supposed offender or to commit him finally under and in pursuance of the authority hereinbefore given in that behalf: Provided always that immediately upon the committal by way of remand, information thereof in writing, under the hand of the committing Magistrate, accompanied by a copy of the depositions upon which the remand was ordered, shall be transmitted to the said Governor, as hereinbefore provided with respect to final committal.

Committal by way of remand

4. Provided always and be it enacted, that it shall be lawful for any such Magistrate who shall so, as aforesaid, commit any such supposed offender, either finally or by way of remand, to allow bail to be taken by any one or two Justices, as the case may require, for the surrender of the party committed, at a day and place to be specified in the recognizance of bail, if the nature of the offence charged and the character of the evidence of criminality shall be such as would justify the allowance of bail in a similar case occurring within the ordinary jurisdiction of the Magistrate; and thereupon recognizance of bail shall be of the same force and effect in all respects as if the same had been entered into for the appearance of an accused party to take his trial, or for further examination upon a charge of an offence committed within the Territory of Western Australia.

Authority to take bail

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Certified copies
of depositions
may be received
in evidence

5. And be it enacted that in every case, as hereinbefore mentioned, copies of depositions upon the charge made against the said supposed offender, taken by a person having lawful authority to take the same, in the Colony in which the offence is alleged to have been committed, if duly certified under the hand of the person taking such depositions, and attested on oath by the party producing the same, to be true copies of the original depositions, may be received in evidence of the criminality of the person apprehended under the provisions of this Ordinance.

Supposed offender
may be discharged
by Judge if not
conveyed away
within two
months after the
committal

6. And be it enacted that the provisions of the said recited Act of Parliament touching the discharge of any person committed as therein provided, if he shall not have been conveyed away within two months after his committal, shall be applied to all committals under this Ordinance, whether final or by way of remand.

7. And be it enacted that this Ordinance shall apply to all charges of treason and felony and to all indictable misdemeanours committed or charged to have been committed in any of the Australian Colonies.

Definition of the
words 'Australian
Colonies.'

8. And be it enacted that for the purposes of this Ordinance and the said recited Act of Parliament, the words 'Australian Colonies' shall be deemed and taken to describe and include the Colonies of New South Wales, Victoria, Van Diemen's Land, South Australia, Western Australia, and New Zealand, with their respective Dependencies, as such Colonies are now or may hereafter be defined and limited, and also any other Colony which may hereafter be established within the existing limits of any of the said Colonies or within any portion of Her Majesty's possessions in Australasia.

14 Vic., No. 13,
repealed

9. And be it enacted that the Ordinance 14th Victoria, No. 13, for the apprehension of offenders, be and the same is hereby repealed.

CHARLES FITZGERALD,
GOVERNOR AND COMMANDER-IN-CHIEF.