

# WESTERN AUSTRALIAN GOVERNMENT GAZETTE.

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[NUMBER 468

## ACTS OF COUNCIL.

### WESTERN AUSTRALIA.

ANNO NONO,  
VICTORIÆ REGINÆ.

*By His Excellency JOHN HUTT, Esquire, Governor and Commander-in-Chief in and over the Colony of Western Australia and its Dependencies, and Vice-Admiral of the same, with the advice and consent of the Legislative Council thereof.*

#### No. IV.

An Ordinance to make provision for the trial of criminal offences at Albany and other remote districts of the Colony of Western Australia.

Whereas it is expedient to constitute local Courts for the trial of certain criminal offences at Albany and other remote Districts of the Colony, so as to avoid the great expense and inconvenience either of bringing the Prosecutors, Witnesses, and Prisoners from so great a distance to Perth for trial, or of 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.

II. 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 misdemeanors 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 hereafter 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.

III. 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 court—Provided that in order to provide for the case of the illness, temporary incapacity, or absence from the Colony of the chairman of any 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 sessions of the peace for the district then next ensuing, and no longer or otherwise.

IV. 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.

V. 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 chairman 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.

VI. And be it enacted, that with the exception of the alterations introduced by this or any subsequent Ordinance, the powers and authorities, the mode of proceeding in the trial of all crimes and misdemeanors, 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.

VII. 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.

VIII. 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.

IX. And be it enacted, that the person acting as clerk at such sessions shall keep a book ruled and divided into columns headed and intitled according to the form in the schedule hereunto annexed, which shall be called the criminal record book of each district respectively.

X. 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.

XI. And be it enacted, that it shall be lawful for the said Governor, by warrant under his hand, to authorise 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 transportation from this Colony of any prisoner sentenced to transportation.

XII. 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.

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

JOHN HUTT,  
GOVERNOR.

*Passed the Legislative Council  
this 18th day of Aug., 1845.*

WALKINSHAW COWAN,  
Clerk of the Councils.

#### Schedule referred to.

"Criminal Record Book" for the District of		Remarks.	Sentence.	Verdict.	Date of trial.	Day of comm. crime.	Crime or offence charged.	Prisoner or Defendant.	No.
			Three months imprisonment with hard labor. Fined 20s.	Guilty	1845	1845	Stealing at a coat the property of E. F., of the same place.	A. B., of laborer,	1
		Discharged the same day having paid the fine.		Guilty	1845	1845	Assault on G. H., of the same place, Publican.	E. F., of Mason,	2

#### No. V.

An Ordinance to regulate the constitution of Juries for the trial of criminal offences in Albany and other remote Districts of the Colony of Western Australia, and to limit the right of Challenge to some extent in certain cases.

Whereas District Courts of General Sessions of the Peace have been established, or are about to be established in Albany and other remote Districts of the Colony of Western Australia; and whereas by reason of the small number of inhabitants residing in several of such Districts it may be impossible to procure the full complement of individuals required to form a grand and petty jury at a session of the peace in England, and it is expedient to provide some remedy for such a contingency:

Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, with the advice

and consent of the Legislative Council thereof—

That in any court of general sessions of the peace established for a district under the provisions of an Ordinance passed in the ninth year of the reign of Her present Majesty Queen Victoria, intituled "An Ordinance to make provision for the trial of criminal offences at Albany and other remote Districts of the Colony of Western Australia," it shall be lawful for any number of persons not less than five nor more than thirteen to be sworn to act as a grand jury in such court, and that such persons so acting as a grand jury shall have the same powers, and shall be subject to the same rules and forms as any grand jury in the court of general and quarter sessions of the peace for this Colony.

II. And be it enacted, that the chairman or acting chairman of each district as aforesaid shall cause the list of jurors of his district, qualified and returned according to the provisions of an Act passed in the second year of the reign of King William the Fourth, intituled "An Act for regulating the constitution of Juries, and the office of Sheriff," to be transcribed in alphabetical order of surnames in a Book to be kept for that purpose, and to be styled the jurors' book, and that all persons shall be summoned in the order in which their names are successively placed in the said book.

III. And be it enacted, that all grand and petty jurors for the trial of any issues in the court of general sessions for the district shall be summoned by virtue of a precept under the hands of two Justices (one of whom shall be the chairman or acting chairman of the said court) directed to some Bailiff or Constable of the district, and in the form (No. 1) in the schedule hereunto annexed, and upon receipt thereof the said Bailiff or Constable shall summon and return not less than five nor more than thirteen persons to serve as grand jurors, and not less than twelve nor more than eighteen to serve as petty jurors, and that the summons for any such grand or petty jury shall be in the form (No. 2) in the said schedule, and shall be served by leaving the same at the usual place of abode of the party to be summoned at least three days before his attendance shall be required.

IV. And be it enacted, that if any person so summoned as a juror as aforesaid shall fail to appear at the time and place appointed in the said summons every such person (upon proof of his having been duly summoned) shall forfeit and pay any sum not exceeding ten pounds.

V. And be it enacted, that if on an issue being called on for trial there shall be a deficiency of jurors, it shall be competent to the court to command the Bailiff or Constable in attendance to summon as

many good and lawful men of the bystanders as shall be sufficient to make a full jury for the trial of any such issue as aforesaid.

VI. Provided always and be it enacted, that it shall not be lawful to challenge or object to any person as a juror unless for some reasonable cause exhibited to the satisfaction of the court.

VII. And be it enacted, that every juror who shall attend such court in pursuance of any such summons as aforesaid shall be entitled to receive for each day during his attendance at such court such compensation for his loss of time and expenses as the said court shall from time to time order and allow, provided that such expenses shall in no case exceed the scale approved of by the Governor.

VIII. 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.

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

JOHN HUTT,  
GOVERNOR.

Passed the Legislative Council }  
this 18th day of Aug., 1845. }

WALKINSHAW COWAN,  
Clerk of the Councils.

Schedules referred to by the annexed Ordinance.

No. 1.

Form of Precept for summoning a Grand and Petty Jury.

Colony of } We A.B. and C.D.  
Western Australia } Esquires, two of the  
to wit. } Justices of our Sovereign Lady the Queen assigned to keep the peace in the said Colony, and also to hear and determine divers Felonies, Trespasses, and other Misdemeanors committed therein, to the [Bailiff or Constable] of the District of

, we command you that you cause to come before us, or other our fellow Justices, on the day of next, at the hour of in the forenoon of the same day

good and lawful men of the District aforesaid, then and there to enquire, present, do, and perform all and singular such things which on the behalf of our said Sovereign Lady the Queen shall be enjoined to them, and have you then there as well the names of the Jurors as this precept.

Given under our hands and seals at  
the day of

No. 2.

Form of Summons for Grand or Petty Jurymen.

Mr. A. B.,

You are hereby summoned to appear as a [Grand] or [Petty] Juror at the Court of General Sessions of the Peace for the District of to be held at on the day of next, and there to attend from day to day until you shall be discharged by the said Court.

(Signed) C. D.

Colonial Secretary's Office, Perth,  
August 15, 1845.

GOVERNMENT DEBENTURES.

His Excellency the Governor directs it to be notified, that tenders will be received at this Office until noon on Tuesday, the 7th October next, for the purchase of Government Debentures to the extent of £2,000.

Payment will be required to be made in cash on fourteen days' notice from this Office; and the tender may include the whole of the above amount, or any part thereof.

The Debentures will be issued for the sum of £10 each, under the signature of His Excellency the Governor, under the authority of the Act of Council 9th Victoria No. 3; and they will bear interest at a rate not exceeding seven per cent. per annum, payable quarterly at the Colonial Treasury in Perth. The tenders will specify at what rate of interest the money will be lent.

These Debentures will continue out for a period of ten years, but the Government reserve to itself the right of calling them in at an earlier date, on giving six months' notice in the Government Gazette, after the expiration of which time all interest will cease.

By His Excellency's command,  
PETER BROWN.

GENERAL ROAD TRUST.

A QUARTERLY MEETING of the Trustees of the General Road Trust will be held at the Court-house, Perth, on Wednesday, the 1st October next, at 12 for 1 o'clock.

By order of the Chairman,  
EDWARD PICKING,  
Clerk to the Trusts.  
Perth, Sept. 10, 1845.

In consequence of the Quarter Sessions being held on the same day, the Meeting advertised as above is adjourned until Wednesday, the 15th October, at the same time and place.

By order of the Chairman,  
EDWARD PICKING.

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