

WESTERN AUSTRALIA

ANNO TRIGESIMO SECUNDO

VICTORIÆ REGINÆ

No. 9

An Ordinance to make better Provision for the Suppression of Violent Crimes committed by Convicts.

[Assented to 3rd August, 1868.]

Preamble

17 Vic., No. 7

WHEREAS by an Ordinance passed in the seventeenth year of the reign of Her present Majesty Queen Victoria, No. 7, of 1854, intituled 'An Ordinance for the Suppression of Violent Crimes committed by Convicts illegally at large,' after reciting that since the Colony became a penal settlement certain robberies of arms, provisions and other articles by force or intimidation had been committed therein by convicts illegally at large, and the lives of Officers of Justice and their assistants while in the execution of their duty in endeavouring to apprehend such offenders had been perilled by resistance with deadly weapons, and that it was expedient, as well for the peace and security of Her Majesty's free subjects resident within the said Colony as for the protection of such Officers of Justice, that such offences should be prevented or suppressed by more stringent laws than then existed, it was by the said Ordinance, amongst other things, enacted and declared that if any convict illegally at large or if any convict kept to labour in the service of Government should unlawfully and maliciously shoot at any person with intent to do some grievous bodily harm to such person, or with intent to resist or prevent the lawful apprehension or detainer, or to effect the forcible escape of himself or of any other person, every such offender and every person aiding or abetting such offender should be guilty of felony, and being convicted thereof should suffer death; and whereas, in consequence of the difficulty that exists in the necessary proof when on the discharge of the firearms the malicious intent is frustrated and no wound is inflicted, such enactment has been found insufficient to deter convicts from resorting to the use of firearms: 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, as follows:—

In prosecutions under the 17 Victoria, No. 7, the fact of levelling and immediately discharging a firearm to be sufficient evidence of malicious shooting, unless the contrary be established

1. In all prosecutions, trials and legal proceedings had and instituted under the provisions of the said Ordinance, 17 Victoria, No. 7, of 1854, for feloniously, unlawfully and maliciously shooting at any person or for aiding or abetting therein, it shall not be necessary to prove that the instrument or arm was loaded with gunpowder, and also with a bullet, ball, slug or other deadly substance, but proof that the instrument or arm was levelled and immediately discharged at the person, shall be held to be sufficient evidence of a malicious shooting at such person, unless it be satisfactorily established that the said instrument or arm was not loaded with any destructive or deadly substance.

J. S. HAMPTON,

GOVERNOR AND COMMANDER-IN-CHIEF.