

THE FUGITIVE OFFENDERS ACT OF 1850⁽¹⁾ (QUEENSLAND, ADOPTED) IN ITS AP- PLICATION TO THE TERRITORY OF PAPUA.

An Act for the Better Apprehension of Offenders who shall have escaped to parts within the Territory of New South Wales from any other of the Aus- tralian Colonies.

WHEREAS by a certain Act of Parliament passed in the sixth and seventh years of Her present Majesty intituled "*An Act for the Better Apprehension of certain Offenders*"⁽²⁾ 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.

Preamble.
Imp. 6 & 7 Vic.
c. 34.

And whereas the contiguity of the Australian colonies to each other greatly facilitates the escape of offenders from one to the

(1) *The Fugitive Offenders Act of 1850* of Queensland in its application to the Territory of Papua comprises *The Fugitive Offenders Act of 1850* of Queensland referred to in Part I of the following Table, as amended by the Ordinance of the Territory of Papua referred to in Part II of the following Table:—

TABLE.
PART I.—ACT OF THE STATE OF QUEENSLAND.

Citation of Act.	Ordinance by which adopted.	Date on which adoption took effect.
<i>The Fugitive Offenders Act of 1850</i> (14 Vic. No. 7) ^(a)	<i>The Courts and Laws Adopting Ordinance (Amended) of 1889</i> (No. 6 of 1889)	23.11.1889 (Supplement to British N.G. Govt. Gaz. of 23.11.1889)

(a) Continued in force in the Territory of Papua by Section 6(1) of the *Papua Act 1905*.

PART II.—ORDINANCE OF THE LEGISLATIVE COUNCIL FOR THE TERRITORY OF PAPUA.

Short title, number and year.	Date of reservation by Lieut.-Gov.	Date on which assent of Gov.-Gen. in Council published in Papua Govt. Gaz.	Date on which came into operation.
<i>Ordinances Revision Ordinance, 1913</i> (No. 3 of 1914)	14.8.1913	4.2.1914	4.2.1914 (Papua Govt. Gaz. of 4.2.1914)

(2) Repealed and replaced in the United Kingdom by the *Fugitive Offenders Act, 1881*.

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 indorsed by a judge of the colony to which the 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 jurisdictions of the said colonies respectively

Apprehension of offenders.

Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof that from and after the passing of this Act if any person shall be within the territory of New South Wales who shall be charged with having committed any offence such as is 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 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.

Committal of offender for removal.

Amended by No. 3 of 1914, s. 2.

2. 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 a copy of his warrant and of the depositions upon which the same was granted shall be given to the Governor of this territory or to the Superintendent of Port Phillip in case the supposed offender shall have been committed within the limits of that district.

The Fugitive Offenders Act of 1850 (Queensland, adopted).

3. 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 one calendar month 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

Committal by way of remand.
Amended by No. 3 of 1914, s. 2.

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 given to the said Governor or to the said Superintendent of Port Phillip as hereinbefore provided with respect to final committals.

4. Provided always 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 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 the 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 New South Wales.

Bail allowed.
Amended by No. 3 of 1914, s. 2.

5. In every such 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 Act.

Copies of depositions.
Amended by No. 3 of 1914, s. 2.

CRIMINAL LAW—

Judge's
discharge of
offenders.

Amended by
No. 3 of 1914,
s. 2.

6. The provisions in 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 Act whether final or by way of remand.

Application of
Act.

Amended by
No. 3 of 1914,
s. 2.

7. This Act 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
Australian
colonies.

Amended by
No. 3 of 1914,
s. 2.

8. For the purposes of this Act 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 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 New Holland.