No. XIII.

FELONS APPREHENSION ACT AMENDMENT.

An Act to amend the "Felons Apprehension Act of 1879." [*2nd April*, 1879.]

Preamble.

WHEREAS doubts might arise upon the construction of sections three and four of an Act passed during this present Session of Parliament intituled "*An Act to facilitate the taking or apprehending of Persons charged with certain felonies and the punishment of those by whom they are harboured*" whether an adjudication and declaration of outlawry and other the proceedings powers and provisions consequent thereupon contained in the said Act could lawfully be made taken exercised and carried out in the case of persons outlawed in some other Colony than New South Wales and for whose apprehension in this Colony a Bench Warrant shall have been issued but who have not been charged by information of the Attorney General in pursuance of the provisions of the second section of the said Act with the commission of any capital felony in this Colony And whereas it is expedient to prevent such doubts from arising and to give clearer expression to the meaning and intention of the Legislature in reference to such persons than is now conveyed by the said sections Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

Repeal of sections 3 and 4 of 42 Vic. No. 9.

1. From and after the commencement of this Act the sections numbered three and four of the Act forty-second Victoria number nine being the "Felons Apprehension Act of 1879" shall be repealed and the sections hereinafter set forth shall be substituted in lieu thereof to the intent that the said substituted sections shall be so incorporated with form part of and be numbered respectively as sections three and four of the said Act as if they had been originally enacted therein.

2.

2. The following section shall stand in lieu of section three of the said Act viz. :— Substitution of sections.

III. If upon an application by or on behalf of the Attorney General to any Judge of the Supreme Court it shall be proved to the satisfaction of such Judge by affidavit that any person has been duly adjudged an outlaw in accordance with the law in force for the time being in any Australian Colony other than New South Wales after the alleged commission by him in such first-mentioned Colony of any crime punishable by the law of that Colony with death it shall be lawful for such Judge if satisfied that such person has been or is then at large in this Colony and will probably resist all attempts by the ordinary legal means to apprehend him to issue a Bench Warrant under the hand and seal of such Judge for the apprehension of such person in order to his being remitted to the proper authority in the Colony where such person was so adjudged an outlaw to be there dealt with in due course of law and such Judge may thereupon either immediately or at any time afterwards before the apprehension or surrender or after any escape from custody of such person order a summons to be inserted in the *Gazette* requiring such person to surrender himself on or before a day and at a place specified to be so remitted as aforesaid Provided that the Judge shall further direct the publication of such summons at such places and in such newspapers and generally in such manner and form as shall appear to him to be best calculated to bring such summons to the knowledge of the accused. Procedure in the case of an extra-territorial outlaw.

And the following section shall stand as section four of the said Act viz. :—

IV. If the person so summoned and whether for surrender under the second section hereof or for the purpose of being remitted under the third section hereof shall not surrender himself pursuant to such summons or shall not be apprehended or being apprehended or having surrendered shall escape so that he shall not be in custody on the day specified in such summons he shall upon proof thereof by affidavit to the satisfaction of any Judge of the Supreme Court and of the due publication of the summons be deemed outlawed and shall and may thereupon be adjudged and declared to be an outlaw accordingly by such Judge by a declaration to that effect under his hand filed in the said Court of Record And if after Proclamation by the Governor with the advice of the Executive Council of the fact of such adjudication shall have been published in the *Gazette* and in one or more Sydney and one or more country newspapers such outlaw shall afterwards be found at large armed or under circumstances which afford reasonable ground to believe that he is armed it shall be lawful for any of Her Majesty's subjects whether a constable or not and without being accountable for using of any deadly weapon in aid of such apprehension whether its use be preceded by a demand to surrender or not to apprehend or take such outlaw alive or dead. Effect of not surrendering where the accused remains at large.

3. This Act shall be taken to be included under the expression "Felons Apprehension Act of 1879" being the short title of the Act hereby amended. Act how cited.