

that it is expedient that a request be made to the Secretary of State for the Colonies to submit a Bill with that object to the Imperial Parliament.

JAMES McCULLOCH,  
Chief Secretary of Victoria.  
HENRY PARKES,  
Colonial Secretary, New South Wales.  
JOHN HALL,  
Postmaster-General, New Zealand.  
A. MACALISTER,  
Colonial Secretary, Queensland.  
WALTER DUFFIELD,  
Treasurer of South Australia.  
THOMAS D. CHAPMAN,  
Colonial Treasurer, Tasmania.

### Sub-Enclosure 2 to Enclosure in No. 28.

Opinion by the ATTORNEY-GENERAL.

THE HON. THE COLONIAL SECRETARY,—

"The Foreign Offenders Apprehension Act, 1863," was passed by the General Assembly for the purpose of enabling the apprehension to be effected in New Zealand of persons charged with felonies or misdemeanours committed in other Australian Colonies. I have attached a copy of the Act together with a copy of the notes on this Act contained in Mr. Justice Johnston's "Justice of the Peace." I have inquired but cannot ascertain that the introduction of this Act was brought about or was followed by any correspondence with other Australasian Colonies.

I think that such legislation as that suggested ought to be obtained from the Imperial Parliament if possible. It has been questioned by a high judicial authority in New Zealand (the Senior Puisne Judge of the Supreme Court) whether the Act passed in 1863 by the General Assembly of New Zealand is valid; it being doubtful whether it is not repugnant, so far as regards felonies, to the Acts referred to in the Memorandum of the Members of the several Australasian Governments, or *ultra vires* as regards both felonies and misdemeanours, inasmuch the offences dealt with are offences committed beyond the limits of the Colony of New Zealand. Perhaps by apt legislation in each Colony the provisions of the Imperial Acts (6 and 7 Victoria, c. XXXIV., and 16 and 17 Victoria, c. CXVIII.) might be extended to indictable misdemeanours, but undoubtedly as the question of the validity of Colonial Legislation at all on the subject has been raised deliberately by Mr. Justice Johnston, and as the Imperial Parliament has already made provisions with respect to felonies, it would be more convenient that it should make whatever further provision is necessary. Perhaps it would be sufficient if certain specific misdemeanours were brought within the Imperial Acts already passed relating to treason and felonies. It may be doubtful perhaps whether in the case of the less grave indictable misdemeanours, as assaults, nuisances, and many others, it would not be too severe a measure to permit the apprehension of a person in a foreign Colony, when charged only with such offences. I think the copy of our Act with the notes of Mr. Justice Johnston should be sent with the Despatch.

J. PRENDERGAST.

13th April, 1867.

### Sub-Enclosure 3 to Enclosure in No. 28.

*An Act for the better Apprehension of Offenders who shall have escaped to parts within the Colony of New Zealand from any other of the Australasian Colonies.* (14th December, 1863.)

WHEREAS by a certain Act of the Imperial 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 the said 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 by another Act of the Imperial Parliament passed in the sixteenth and seventeenth years of the reign of Her said Majesty intituled "An Act to amend an Act of the seventh year of the reign of Her Majesty for the better Apprehension of certain Offenders" the provisions of the first recited Act were extended to other offences.

And whereas the contiguity of the Australasian 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 the original jurisdiction and that such Warrant shall be endorsed 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 Acts of Parliament should be applied to persons charged with other offences than those to which the said recited Acts are limited

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows—

1. The Short Title of this Act shall be "The Foreign Offenders Apprehension Act 1863."\*

\* It seems at least questionable whether this Act of the Colonial Legislature is not *ultra vires*, both as being repugnant to the Imperial Acts which apply to all the Colonies, and as dealing with offences committed out of the Colony and with respect to which the Tribunals of the Colony can have no jurisdiction except what is given to them by the Imperial Parliament.