

VICTORIA.



ANNO DECIMO SEXTO

# VICTORIÆ REGINÆ.

*By His Excellency CHARLES JOSEPH LA TROBE, ESQUIRE, Lieutenant Governor of the Colony of Victoria and its Dependencies, with the advice and consent of the Legislative Council.*

No. XXXII.

## An Act to make provision for the better controul and disposal of Offenders. [Assented to 22nd January, 1853.]

**BE IT ENACTED** by His Excellency the Lieutenant Governor of the Colony of Victoria by and with the advice and consent of the Legislative Council thereof as follows:—

I. An Act of the Governor and Legislative Council of the Colony of New South Wales passed in the fourth year of the reign of Her Majesty Queen Victoria intituled “*An Act for the regulation of Gaols Prisons and Houses of Correction in the Colony of New South Wales and its Dependencies and for other purposes relating thereto*” shall be and the same is hereby repealed.

Repeal of 4 Vic., No. 29.

II. All buildings erections houses and premises hereafter to be erected built purchased enlarged or maintained at the public expense as and for public Gaols Prisons Houses of Correction and Penal Establishments within the said Colony which shall from time to time be proclaimed by the Lieutenant Governor of the said Colony by notice in the *Government Gazette* as such public Gaols Prisons Houses of Correction or Penal Establishments shall from and after the publication of such notice be severally deemed and taken to be the public Gaols Prisons Houses of Correction and Penal Establishments respectively of the place or district where the same are or shall be situated within the said Colony and shall be subject to the several provisions made for the regulation discipline management and care of the public Gaols Prisons Houses of Correction and Penal Establishments already erected in the said Colony and of the prisoners confined within the same Provided that it shall not be necessary to proclaim any building as a Gaol Prison House of Correction or Penal Establishment which has been so proclaimed notified or declared before the passing of this Act.

Lieutenant Governor may, by proclamation, appoint buildings, &c., to be used as Gaols, &c.

III. The several Judges of the Supreme Court of the said Colony shall have full power and authority to order and direct the imprisonment of any offender (whether with or without hard labour) to take effect in any particular Gaol Prison House of Correction or Penal Establishment in the said Colony whatever.

Judges may direct imprisonment in any Gaol, &c.

IV. It shall be lawful for the Lieutenant Governor of the said Colony to proclaim any Hulk or floating Prison to be used as a public Prison

Lieutenant Governor may appoint Hulk to be used as a public prison.

Prison for the reception and safe keeping of all prisoners convicted and sentenced for any offences by any Court of the said Colony and to define the limits and boundaries in and around such Hulk within which no person shall come and the place of embarking and landing prisoners to and from such Hulk and such proclamation and the said limits and boundaries from time to time to vary alter new assign and revoke And also to appoint a Superintendent Overseer and other officers and persons in and for every such Hulk or floating Prison and every such Superintendent and Overseer shall have and exercise on the said Hulk or floating Prison such and the like powers and authorities as are by law incidental to the office of a Sheriff or Gaoler respectively in any Gaol on Land And every prisoner confined in such Hulk or Floating Prison as aforesaid shall be subject to the like rules regulations and discipline as prisoners confined in any public Gaol on land are or shall be subject or liable to.

Sheriff and other Officers to have controul of Gaols, &c.

V. All Buildings already established or used as the public Gaols Prisons and Houses of Correction in the said Colony and also all other public Gaols Prisons or Houses of Correction Stockades Hulks or Penal Establishments which under the provisions of this Act shall hereafter be proclaimed shall be and they are hereby declared to be under the charge care and direction of the Sheriff of the Colony of Victoria and such other officer as the Lieutenant Governor shall appoint for the purpose subject however to the control of the said Lieutenant Governor And all Gaolers and other officers and persons employed for the safe custody of such prisoners shall be appointed by the said Lieutenant Governor.

Lieutenant Governor may make Rules.

VI. It shall be lawful for His Excellency the Lieutenant Governor with the advice of the Executive Council from time to time to make rules and regulations for the safe custody classification hours of labor and mode of employment of any offenders confined in any Gaol Prison House of Correction Stockade Hulk or other Penal Establishment and otherwise for the management and good government of such offenders and establishments and such rules and regulations from time to time to vary alter and revoke as to His Excellency may seem meet Provided that it shall be lawful for the Judges of the Supreme Court of the said Colony to make all such rules and regulations for the control and management of Debtors in any Gaol as to the said Judges shall seem meet.

Proviso.

Gaols to be also Houses of Correction, unless otherwise appointed.

VII. Unless where it shall be otherwise declared or appointed by the Lieutenant Governor every public Gaol shall be and be taken for all purposes as being equally a House of Correction and a Prison for Debtors and also every House of Correction shall be taken to be a Prison.

Lieutenant Governor may appoint Visiting Justices, their duties not to affect power of Judges and Justices to visit Gaols when they think fit.

VIII. It shall be lawful for the said Lieutenant Governor to nominate and appoint some fit and proper person being a Magistrate to be the Visiting Justice of each Gaol Prison House of Correction Stockade Hulk or Penal Establishment within the said Colony and the said Visiting Justice to remove or displace and to appoint another or others in his stead and every Visiting Justice so appointed shall be required to visit such Gaol Prison House of Correction Stockade Hulk and Penal Establishment at least once in every week unless prevented by illness or other sufficient cause and shall from time to time make such reports to the Colonial Secretary as may be required by the order of the said Lieutenant Governor Provided that nothing herein contained shall be taken to abridge or affect the power of any Judge of the Supreme Court or any Justice of the Peace having jurisdiction in any part of the said Colony to visit and examine any such Gaol House of Correction Prison Stockade Hulk or Penal Establishment at any time when he may think fit.

Prisoners may be set to work, &c.

IX. It shall be lawful for the Sheriff or any person specially appointed for that purpose by the Lieutenant Governor to order all such persons as are sentenced to imprisonment without being sentenced to hard labour (except such prisoners as maintain themselves) to be set to some work or labour provided the same be not severe Provided that no such

such prisoner who has the means of maintaining himself or herself shall have any claim to be supplied at the public expense.

X. It shall be lawful for any Visiting Justice to inquire into in a summary way any charge of idleness insolence refusal to work disobedience of orders use of indecent abusive or improper language or breach or infringement of any such rule or regulation to be made as aforesaid brought against any prisoner and in the discretion of such Visiting Justice to sentence such prisoner upon conviction either to be kept to hard labour with or without irons for any term not exceeding three months for the first offence or six months for any second or subsequent offence or to be subjected to solitary confinement and prison discipline for any period not exceeding twenty days for the first offence or thirty days for any second or subsequent offence Provided that no prisoner shall be subjected to solitary confinement for more than thirty days at any one time or than three months in any one year Provided that unless otherwise specially ordered by such Justice the term of any such sentence shall be added to and not reckoned as part of the period of his original sentence.

Visiting Justice may try summarily any acts of insubordination or infringement of rules.

XI. Any person who shall hold or attempt to hold any communication with any person undergoing sentence or who shall deliver or in any manner whatsoever endeavour or attempt to deliver or cause to be delivered to any such prisoner or shall introduce or attempt or endeavour to introduce or cause to be introduced into any Gaol House of Correction Stockade Hulk or Penal Establishment any money article of clothing letter tobacco or any other article or thing whatsoever not allowed by the rules and regulations aforesaid or who shall lurk or loiter about any Road or other Public Works or any Gaol House of Correction Stockade Penal Establishment or other place in which such prisoners may be confined or employed for any of the purposes aforesaid or shall deliver or cause to be delivered to any other person any such money letter tobacco article or thing for the purpose of being conveyed or introduced as aforesaid or who shall secrete or leave upon or about any place where any such prisoner as aforesaid is usually employed any such money letter tobacco article or thing for the purpose of being found or received by such prisoner or who shall in any other manner convey or cause to be conveyed to any such prisoner any such money letter article or thing shall be liable to be apprehended by any Constable or by any person in whose custody any such prisoner may then be without warrant and be by such Constable or other person detained and kept in safe custody until he can be brought before one or more of Her Majesty's Justices of the Peace who shall have power to hear and determine such offence and upon conviction any such offender shall for any such offence forfeit and pay a penalty not exceeding thirty pounds and in default of payment or in the discretion of such Justice be imprisoned and kept to hard labor for any period not exceeding three months and any person loitering about any such Public Road or Works Gaol House of Correction Stockade Penal Establishment or other place who shall refuse or neglect to depart therefrom upon being duly warned by any Constable or authorized person so to do shall be deemed and taken to be lurking or loitering about such public Road Gaol House of Correction Stockade Penal Establishment or other place for the purposes aforesaid.

Penalty for holding communication, &c.

XII. Any person who shall approach any Hulk or Vessel in which any prisoner may be confined or who shall come within the limit or boundary marked out by any buoys surrounding any such Hulk or vessel in any ship boat or other craft except driven within the same by stress of weather or who shall land or attempt to land upon or embark or attempt to embark from any point of land bay inlet cove or other place which may have been proclaimed as the place of embarking or landing prisoners to or from any such Hulk or vessel or which shall or may be enclosed or marked off in any other manner for any or either of such purposes or for the confinement or employment of any such prisoner shall be liable to be apprehended

No person to approach Hulk.

apprehended by any Constable or by any other person or persons whosoever without warrant and be by him or them detained and kept in safe custody until he can be brought before two or more of Her Majesty's Justices of the Peace and any ship boat or other craft which any such persons may be or may have landed from or embarked in or attempted to land from or embark in shall be liable to be seized and detained by any such Constable or person and every such offender shall upon conviction before any two or more of Her Majesty's Justices of the Peace forfeit a penalty of not less than five pounds nor more than thirty pounds and in default of payment or in the discretion of such Justices be imprisoned and kept to hard labor for any period not exceeding six calendar months and upon any such conviction any ship boat or other craft which may have been so seized as aforesaid shall be forfeited to Her Majesty.

Punishment on persons aiding in escape.

XIII. Any person who shall convey or cause to be conveyed or who shall deliver or cause to be delivered to any person for the purpose of being conveyed into any Gaol House of Correction Stockade Penal Establishment or other place or on board of any Hulk in which any prisoner may be confined or who shall secrete or leave upon or about any Road Public Work Gaol House of Correction Stockade Penal Establishment Hulk or other such place as aforesaid where any such prisoners may be usually employed or confined for the purpose of being found or received by any such prisoner any article of disguise instrument arms weapon or any poisonous or deleterious drug or any other article or thing likely to be used for the purposes of escape shall be deemed and taken to have delivered such article of disguise instrument arms weapon poisonous or deleterious drug or other article or thing to aid and assist the escape of a prisoner from such Gaol House of Correction Stockade Penal Establishment Hulk or other place even though no escape may have been attempted And any such person or any person who shall in any other manner aid abet or assist or attempt to aid abet or assist any prisoner to escape from any such Gaol House of Correction Stockade Hulk Penal Establishment or other place shall be liable to be apprehended by any Constable or other person without warrant and be by him or them detained and kept in safe custody until such offender can be brought before two or more of Her Majesty's Justices of the Peace who shall have power to hear and determine thereon and shall upon conviction thereof or of any of such offences forfeit and pay a penalty of not less than fifty pounds nor more than one hundred pounds and in default of payment or in the discretion of such Justices be imprisoned and kept to hard labor for any period not exceeding two years.

Lieutenant Governor may direct removal of persons.

XIV. It shall be lawful for the Lieutenant Governor of the said Colony by warrant under his hand from time to time when and as he may deem necessary to direct the removal from any Gaol Prison House of Correction Penal Establishment Stockade Hulk or floating Prison of any prisoner confined therein to any other Gaol Prison House of Correction Penal Establishment Stockade Hulk or floating Prison or to any of such establishments within the said Colony and upon every such removal every such offender shall be subject to be kept at such Gaol Prison House of Correction Penal Establishment Stockade Hulk floating Prison or establishment for the residue of his sentence or until removed by legal authority.

Proceedings in a summary way. No *certiorari*.

XV. All proceedings under this Act shall be had and taken in a summary way and no such proceeding shall be removed by *Certiorari* into the Supreme Court of the said Colony.

Application of fines.

XVI. All fines and penalties under this Act shall be appropriated to the police reward Fund.