

T A S M A N I A.



1868.

ANNO TRICESIMO-SECUNDO

VICTORIÆ REGINÆ,

No. 11.

AN ACT to consolidate and amend the Law relating to Prisons. [17 September, 1868.]

WHEREAS it is expedient to consolidate and amend the Law relating to Prisons: Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PREAMBLE.

Commencement of Act.

1 This Act shall come into operation on and after the First day of *January*, 1869.

Commencement of Act.

Short Title.

2 In referring to this Act it shall be sufficient to use the expression "The Prison Act, 1868."

Short Title.

Repeal.

3 After the commencement of this Act, the Acts and parts of Acts of the Legislature of this Colony set forth in the Schedule (1) to the extent therein specified shall be hereby repealed, but no repeal hereby enacted shall affect:—

Repeal.

- 1. Any order made, sentence passed, or other act or thing duly done under any Acts hereby repealed :

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2. Any right or privilege acquired, any security given, or other liability incurred under any Act hereby repealed :
3. Any penalty, forfeiture, or other punishment incurred in respect of any offence against any Act hereby repealed :
4. The power of detaining or dealing with any person in lawful custody or with any Ticket-of-Leave holder at the commencement of this Act :
5. The power of committing persons to any gaol or house of correction except in so far as the same may be altered by this Act.

Interpretation.

Interpretation: **4** In this Act the following expressions shall have the meanings hereby assigned to them unless inconsistent with the context; that is to say,—

“Prisoner.” “Prisoner” shall mean every person who now is or shall hereafter be detained in lawful custody in this Colony under any sentence of Transportation, Penal Servitude, or Imprisonment with or without hard labour or solitary confinement, passed upon him either in this Colony or elsewhere, by any Court or by any Justice or Justices of the Peace being thereunto lawfully authorised.

“Imprisonment.” “Imprisonment” shall mean every sentence of Imprisonment, Penal Servitude, or Transportation passed or to be passed.

Gaols, how constituted, &c.

Existing Gaols, &c. to be Gaols within the meaning of this Act. **5** Every Gaol and House of Correction existing and used as such at the time this Act comes into force shall be deemed to be a Gaol within the meaning of this Act; and every Gaol within the meaning of this Act shall be deemed to be a House of Correction and a common Public Gaol.

Power to establish and discontinue Gaols. **6** It shall be lawful for the Governor from time to time, by Proclamation, to appoint and establish Gaols and to define the limits or boundaries thereof; and in like manner to alter the limits or boundaries or to discontinue any Gaol which may be in existence at the time this Act comes into force, or which may at any time thereafter be appointed or established.

Gaols may be for persons of a particular class or sex, or for all persons and both sexes. **7** It shall be lawful for the Governor from time to time, by Proclamation, to declare that any Gaol shall be for the exclusive reception of any specified class or sex of persons; and in case of every Gaol as to which no such declaration is made, or so far as any such declaration shall not extend, such Gaol shall be a common Public Gaol for the reception of all classes and both sexes of persons who may be lawfully imprisoned or detained in a Gaol or House of Correction either by way of punishment, detention, or otherwise.

Gaol Regulations.

Governor may make Gaol Regulations. **8** The Governor in Council may from time to time make Regulations for the management of Gaols, and for the regulation and control of persons confined or detained therein, and as to the diet and clothing of all such persons, and may from time to time alter or rescind any such

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Regulations; and all Regulations relating to any Gaol or House of Correction which are in force when this Act takes effect shall be deemed to have been made by the Governor in Council in accordance with the provisions of this Act.

Officers of Gaols.

9 Every Gaol shall be under the order and control of the Sheriff, and for every Gaol there shall be a Gaoler and such Warders and Officers as may be necessary, and all such Officers shall be appointed by the Governor and shall hold office during pleasure; and all Gaolers, Warders, and Officers of any Gaol or House of Correction who hold any office when this Act comes into force shall be deemed to have been appointed to such office in accordance with this Act. Officers of Gaols.

10 Every person confined in a Gaol shall be deemed to be in the legal custody of the Gaoler, and the Sheriff shall not be liable for the escape from Gaol of any person other than a Debtor. Custody of Prisoners.

11 The Gaoler of any Gaol in which Debtors are confined shall give security to the Sheriff for their safe custody to such amount as may be determined by agreement, or in default of agreement may be settled by the Governor; and any such security may be given to the Sheriff and his successors in office, and shall be deemed to enure to the benefit of each succeeding Sheriff in the same manner as if he were individually named therein. Security to Sheriff.

12 Every person acting in the capacity of Warder, Constable, or Overseer, or in any similar capacity in any Gaol or other place of confinement where any person is detained in lawful custody or control, or at any place where any prisoner is directed to labour, or employed in escorting any prisoner or person from any one Gaol or place of confinement to another, or to or from any place of labour, shall, for the purposes of preventing the escape of and otherwise restraining any prisoner or person so detained, exercise and enjoy all the powers, privileges, and immunities which the Sheriff or any Gaoler now has by Law for such purposes. Warders, &c. to have powers, &c. which Sheriff and Gaolers now have by Law.

Justices to visit Gaols.

13 The Justices of the Peace in each District assembled in General or Quarter Sessions which shall be first holden in the month of *April* in each year, shall nominate Two Justices to be Visiting Justices for the ensuing year for every Gaol under the control of the Sheriff within such District, each of whom shall personally visit such Gaols at the least once in every month, or oftener as occasion shall require, for the purpose of examining into the treatment, behaviour, and condition of the persons confined therein, together with the state and condition of the Gaol; and such Justices shall hold office until their successors are appointed. Appointment and power of Visiting Justices.

14 Every Justice of the Peace may, as often as he thinks fit, enter and examine any Gaol within the District in which he usually resides, and may hold intercourse, not being contrary to the Gaol regulations, with any prisoner therein. Every Justice may visit Gaols.

Removal of Prisoners.

15 All persons lawfully detained in any Gaol may from time to time be removed from one Gaol to another by order of the Sheriff. Removal of persons from one Gaol to another.

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How removed.

16 Upon the receipt of any such Order of Removal by the Gaoler having the custody of the person to whom the same applies, such Gaoler shall forthwith deliver such person to such Warders, Constables, or persons as may be empowered to receive the person ordered to be removed, and the receipt in writing of such Warders, Constables, or persons or any of them shall be a discharge to such Gaoler, and every person whilst being so removed shall be deemed to be in lawful custody and control.

Persons removed to be delivered to Gaoler with a Certificate setting forth sentence, &c.

17 Every person removed as aforesaid from one Gaol to another shall be delivered to the Gaoler or Officer in charge of such latter Gaol, together with a Certificate under the hand of the Sheriff setting forth the offence, if any, of which such person has been convicted, the sentence passed upon such person by the Court before which he is convicted, and the date at which such sentence was passed, or other the cause of the detention of such person, and also setting forth the Christian names and surname of such person; and such Certificate shall be receivable in all Courts whatsoever without further proof as evidence that the person therein named was lawfully ordered to be there detained.

Person may be removed from Gaol in case of sickness.

18 In case any person confined in any Gaol is afflicted with any dangerous illness or any infectious distemper, the Sheriff may, if he deems it necessary, cause such person to be removed from Gaol to a public Hospital, or elsewhere, and every person so removed shall nevertheless be deemed to be under lawful custody and control within the meaning of this Act.

Employment of Prisoners.

Labour to be ordered by Sheriff.

19 The Sheriff may from time to time determine the labour at which Prisoners liable to be kept at hard labour shall be employed, and such Prisoners may be employed in or out of Gaol, and when so employed out of the boundaries of any Gaol they shall nevertheless be deemed to be in Gaol and under lawful custody and control within the meaning of this Act.

Setting prisoners to work in certain cases.

20 Every prisoner under sentence of imprisonment without hard labour, or for non-payment of any penalty, and who does not maintain himself, may, by order of a Visiting Justice, be set to some work or labour within the Gaol not of a severe nature, to be specified by such Justice; and no such prisoner who is of ability to contribute by such work or labour towards his own subsistence, and refuses or neglects to do so, shall have any claim to the ordinary prison allowance at the expense of the public, but may be fed on bread and water only.

Offences in relation to Gaols.

Prisoner under sentence exceeding four years escaping, &c., guilty of felony.

21 If any Prisoner detained under any sentence of imprisonment for a period of more than Four years, before the expiration thereof, escapes or attempts to escape from lawful custody or control, he shall be guilty of Felony, and being summarily convicted thereof before any Two Justices of the Peace shall be imprisoned for any period not exceeding Five years, and may be ordered to be kept in chains during the whole or any part of such period, and may also be ordered to be kept in solitary confinement for a term not exceeding One month of such period.

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22 If any person under lawful custody and control, other than those specified in the last Section, escapes, or attempts to escape, from such lawful custody or control he shall be guilty of a Misdemeanor, and being summarily convicted thereof before any Two Justices of the Peace shall be imprisoned for any period not exceeding Three years, and may be ordered to be kept in chains during the whole or any part of such period, and may also be ordered to be kept in solitary confinement for a term not exceeding One month of such period.

Persons under lawful custody escaping, &c., guilty of a misdemeanor.

23 If any person in any Gaol, or who is under lawful custody or control, assaults or attempts to assault any Gaoler, Warder, Constable, Overseer, or any other person acting in any similar capacity, with intent to escape from lawful custody or control; or if any such person being armed with any weapon or instrument escapes or attempts to escape from lawful custody or control, he shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Life, or for any term not exceeding Fifteen years.

Persons assaulting Gaoler, &c. or being armed with intent to escape.

24 Every person who aids any person confined in a Gaol, or who is under lawful custody or control, in escaping or attempting to escape therefrom, or rescues or attempts to rescue any such person, or who with intent to facilitate the escape of any such person conveys or causes to be conveyed into any Gaol or to such person any arms, instrument, mask, dress, or other disguise, or any letter or any other article or thing, shall be guilty of Felony, and on conviction shall be liable to imprisonment with hard labour for a term not exceeding Three years.

Aiding to escape.

25 When any Prisoner escapes from lawful custody and control, the sentence under which such prisoner was detained when he so escaped shall not be deemed to have expired during the time he remained unlawfully at large; and when such offender is apprehended he shall serve and fulfil so much of such sentence as was not served and fulfilled when he so escaped, as well as any sentence that may be inflicted for such escape.

When Prisoner escapes his original sentence shall not be deemed to have expired while he is at large.

26 When any Prisoner having escaped from lawful custody and control commits any offence not punishable under this Act, the sentence passed upon him for such offence shall not be deemed or taken to be a portion of any sentence which may be passed upon him under this Act, but shall be cumulative upon any such last-mentioned sentence, and shall commence at the period when such last-mentioned sentence has been fully and completely served and fulfilled.

When Prisoner escapes, the sentence for any offence not punishable by this Act shall be cumulative upon sentence under this Act.

27 Every person who, contrary to the Regulations of the Gaol, brings or attempts by any means whatever to introduce into any Gaol any food, spirituous or fermented liquor or tobacco, and every Officer of a Gaol who suffers any food, spirituous or fermented liquor or tobacco to be introduced, sold, or used therein contrary to the Gaol Regulations, on conviction shall be liable to imprisonment for a term not exceeding Six months, or to a penalty not exceeding Twenty Pounds, or both in the discretion of the Justices; and every Officer of a Gaol convicted under this Section shall, in addition to any other punishment, forfeit his office and all arrears of salary due to him.

Punishment for carrying spirituous liquors or tobacco into Gaol.

28 Every person who contrary to the Regulations of a Gaol conveys or attempts to convey any letter or other document or any article whatever not allowed by such Regulations into or out of any Gaol shall, on conviction, incur a penalty not exceeding Ten Pounds, and if an Officer

Punishment for carrying letters into and out of Gaols.

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of the Gaol shall forfeit his office and all arrears of salary due to him; but this Section shall not apply in cases where the offender is liable to a more severe punishment under any other provision of this Act.

Penalty for
harbouring, &c.
Prisoners.

29 If any person without lawful excuse harbours, conceals, employs, or provides with lodging, food, clothes, money, tobacco, wine, or any spirituous or fermented liquor, or receives or allows to remain upon his premises any prisoner or person who has escaped from lawful custody or control, or any prisoner employed upon any public works, he shall forfeit and pay a penalty of not more than Twenty Pounds.

Persons escaping
to be tried at the
place from which
they escaped.

30 Whenever any person escapes from lawful custody or control, and is apprehended for such offence at any place other than the place from which he escaped, he shall not be tried for such offence at the place at which he is apprehended, but shall forthwith be removed to the place from which he escaped, there to be dealt with according to Law.

Justices may
grant warrants to
search houses for
escaped Prisoners.

31 Upon information on oath being made before any Justice of the Peace by any person that he believes that some escaped Prisoner or person is in or on any particular house or place, it shall be lawful for such Justice (if he thinks it expedient so to do) to grant his warrant to any constable to enter and search such house or place; and such constable may, under such warrant, break open any doors if not opened within reasonable time after demand, and may apprehend any escaped prisoner found there, who shall be dealt with according to law: Provided that no house or place shall be searched or entered under any such warrant in the night time, unless by or in the presence of some superior Officer of Police not of a lower rank than a Sergeant.

Apprehension of
persons suspected
to be escaped
prisoners.

32 If any person has reasonable cause to suspect that any person is a prisoner or person who has escaped from lawful custody and control, it shall be lawful for such first-mentioned person immediately (either alone or by any other person in his aid or authorised by him), without a warrant, to apprehend such suspected person and to take him, or cause him to be taken so soon as conveniently may be, before any Justice of the Peace to be dealt with according to law; and such Justice may cause such apprehended person to be detained in custody for such reasonable period as is necessary for the purpose of ascertaining whether in fact such person is a prisoner or person who has escaped from lawful custody and control or not.

Punishment of
offences in Gaol.

33 A Justice of the Peace shall have power to hear complaints respecting any of the offences following; that is to say,—

1. Disobedience of the Regulations of the prison, or of the lawful orders of any person having lawful authority over such person, by any person confined or detained therein:
2. Common assaults by one such person on another:
3. Profane cursing and swearing or indecent language by any such person:
4. Indecent behaviour by any such person:
5. Insulting or threatening language by any such person to any other person, or riotous or disorderly conduct.
6. Idleness or negligence at work by any prisoner:
7. Wilful mismanagement of work by any prisoner:

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8. Absence without leave from the appointed station or place of work of any prisoner :
9. Larceny, feloniously receiving or embezzling by any such person any chattel of a value not exceeding Five Pounds.
10. Drunkenness or other misconduct by any such person.

and may punish any offender by extending for any period not exceeding One year any then existing sentence of such offender, or by solitary confinement for any period not exceeding One month; and the proceedings may be in the form or to the effect in the Schedule (2). Proceedings.

34 The Keepers of the Gaols for Males and Females at *Hobart Town* and *Launceston* respectively shall severally have power to hear complaints respecting any of the offences following; that is to say,— Powers of Gaolers in *Hobart Town* and *Launceston*.

1. Disobedience of the Regulations of the Gaol by any person confined or detained therein :
2. Common assaults by one such person on another :
3. Profane cursing and swearing or indecent language by any such person :
4. Riotous or disorderly conduct or indecent behaviour by any such person :

and may punish any offender—

1. By keeping him in close solitary confinement, and fed on bread and water only :
2. If a male, by placing him in chains :
3. Or, if a male, by both of the punishments before mentioned :

Provided, that no such punishment shall exceed in duration the term of Three days, and every such punishment shall be reported to the Visiting Justices upon their next visiting the Gaol.

35 Every sentence passed upon any person under the provisions of this Act shall take effect forthwith; and the period passed under such sentence shall not be deemed or taken as part of the term of the sentence under which such person if a prisoner is then detained, but the last-mentioned sentence shall be extended for the period of every sentence passed under this Act. Sentences under this Act to take effect forthwith, and original sentence extended accordingly.

36 When any prisoner under a sentence of imprisonment for any term exceeding three years commits any felony or misdemeanor not punishable by death, or punishable by imprisonment for any period exceeding Six years, any two Justices of the Peace sitting in Petty Sessions may take cognizance of the same in a summary way, and may extend the sentence of the offender for any period not exceeding Three years; and the proceedings may be in the form or to the effect in the Schedule (3.); and shall be signed by the Justices who hear and determine the charge or complaint. Summary punishment of prisoners committing certain offences. Proceedings.

Tasman's Peninsula.

37 All buildings and enclosures now used or which may hereafter be used on *Tasman's Peninsula* for the confinement or detention of prisoners shall be deemed to be Gaols, and all prisoners who are lawfully on *Tasman's Peninsula* at the time this Act comes into force, Buildings on *Tasman's Peninsula* to be deemed Gaols, and prisoners there to

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be deemed in custody of Commandant.

Powers of Commandant.

As to Regulations.

or who shall at any time thereafter be lawfully sent there, shall be deemed to be in the custody and under the control of the Commandant or other Officer in charge, and of all other officers, constables, and other persons under him; and such Commandant and other persons shall, with respect to all prisoners who may at any time be on *Tasman's Peninsula*, have all the powers incident to the offices of Sheriff and Gaoler; and nothing in this Act shall affect any Regulations now in force as to prisoners on *Tasman's Peninsula*, and the Governor is hereby empowered from time to time, anything in this Act to the contrary notwithstanding, to make and at pleasure to vary or rescind such regulations as he deems necessary for the control and management of such prisoners as may from time to time be detained in custody on *Tasman's Peninsula*.

Escape from *Tasman's Peninsula*.

38 Every person who in any way aids or assists or attempts to aid or assist any prisoner in escaping or attempting to escape from *Tasman's Peninsula* shall be deemed to assist such prisoner's escape from Gaol, and shall be liable to be punished accordingly.

Punishment of persons who without lawful cause are in any ship, &c., communicating with *Tasman's Peninsula*.

39 If any ship, vessel, or boat of any description enters, touches at, or communicates with any part of *Tasman's Peninsula* or with *Slopen Island*, and if any ship, vessel, or boat of any description is found or discovered within One mile of any part of *Tasman's Peninsula*, every person found in or upon any such ship, vessel, or boat shall, unless the person in command of any such ship or vessel, or sailing any such boat, is the holder of a licence from the Governor, or is in the employment of Her Majesty the Queen, or unless such person was obliged from stress of weather or other case of unavoidable necessity, (the proof of which shall be on the person accused) to enter, touch at, or communicate with any part of *Tasman's Peninsula* or with *Slopen Island*, or to be within One mile of any part of *Tasman's Peninsula*, forfeit and pay a penalty not exceeding One hundred Pounds nor less than Ten Pounds; and any person who sees any such offence committed may lawfully forthwith, and without warrant, arrest any such person, and take him before the Commandant or any Justice of the Peace, and it shall be lawful for such Commandant or Justice of the Peace to imprison any such person as aforesaid until such person can be conveniently sent to *Hobart Town*, and to commit such person to the Gaol at *Hobart Town* until the case is there enquired into and determined; and any such ship, vessel or boat as aforesaid, may lawfully be seized and detained until such case has been so enquired into and determined as aforesaid.

Punishment of persons found at *Tasman's Peninsula* without lawful cause.

40 If any person is found in or upon any part of *Tasman's Peninsula* without lawful cause, (the proof of which shall be on the person accused), he shall forfeit and pay a penalty not exceeding One hundred Pounds, nor less than Ten Pounds; and any other person may lawfully forthwith, and without warrant, arrest any such person and take him before the Commandant or any Justice of the Peace, and it shall be lawful for such Commandant or Justice of the Peace to imprison any such person as aforesaid until such person can be conveniently sent to *Hobart Town*, and to commit such person to the Gaol at *Hobart Town* until the case is there enquired into and determined.

Persons may be licensed to proceed to *Tasman's Peninsula*.

41 It shall be lawful for the Governor by an instrument under his hand to license any person named therein to proceed to any part of *Tasman's Peninsula* or *Slopen Island*, either by land or in any ship, vessel, or boat of any description, for any purpose to be named in such licence.

*Prison Act, 1868.**Legal Procedure.*

42 In any proceedings whether summary or otherwise against any person for any offence under the provisions of this Act, it shall be sufficient to charge and allege that the person by or in respect of whom such offence was committed was at the time a prisoner or person in lawful custody within the meaning of this Act, without charging or alleging any proceedings, or any information, trial, conviction, judgment or sentence, or any pardon or intention of mercy, or signification thereof, of or against or in any manner relating to such person.

Allegation in proceedings on trial of offences under this Act.

43 Whenever it becomes necessary to prove that any person summarily complained of or charged with any offence under this Act before a Justice or Justices has been previously convicted, either under this Act or otherwise, it shall be sufficient to produce a Certificate or writing in that behalf purporting to be under the hand of the Sheriff and containing the following particulars; that is to say,—the name of the offender; the crime or offence for which such offender is then under sentence; the dates of such sentences, if more than one; and the nature and term or duration of such sentences: And every such Certificate or writing may be produced as aforesaid either before or after the trial of the offender, and the same shall be received as sufficient evidence, without proof of the signature or official character of the person appearing to have signed the same.

Proof in summary proceedings that offender has been previously convicted.

44 Whenever upon the trial of any person or any offender for any offence not punishable summarily under this Act it becomes necessary to prove the conviction of any person, the Registrar or Clerk of the Court, or other Officer having the custody of the Records of the Court where such person was convicted, shall make out and give a Certificate in writing, signed by him, containing the effect and substance only (omitting the formal part) of every information and conviction for the offence of which such person has been convicted, and of his sentence, which Certificate shall be sufficient evidence of the conviction and sentence, and the Court shall take judicial notice of the signature of such Registrar, Clerk, or Officer.

Proof of offender's conviction and sentence, in proceedings for offences not punishable summarily.

45 Whenever in any case, whether under this Act or otherwise, any question arises whether any person is, or was, at any particular time, a prisoner within the meaning of this Act, it shall be sufficient to prove that such person is, or at the time in question was, a person in fact ordinarily dealt with as a prisoner under this Act without any further or other proof, and the *onus* of proving the contrary shall be on the opposite party.

Proof of person being a prisoner in any proceedings whatsoever, whether under this Act or otherwise.

46 No conviction, order, warrant, or other proceeding made or purporting to be made under the provisions of this Act shall be quashed for want of form, or be removed by *Certiorari* or otherwise into the Supreme Court, and no warrant of commitment shall be held void by reason of any defect therein: Provided, that it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

Convictions not to be quashed for want of form, &c.

47 All proceedings for the recovery of any penalty or sum of money made payable by this Act shall be had by and before any Two Justices of the Peace in the mode directed by *The Magistrates Summary Procedure Act*.

Procedure for penalties.
19 Vict. No. 8.

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Appropriation of penalties.

48 All penalties made payable by this Act shall be paid into the Colonial Treasury and form part of the General Revenue.

Sentences.

Governor empowered to pardon prisoners.

49 It shall be lawful for the Governor, by an Instrument in writing under his hand and the seal of the Colony, to pardon either absolutely or conditionally any prisoner convicted in this Colony.

When Governor extends mercy to a person sentenced to suffer death, the Judge shall make an Order for the imprisonment of such person.

50 Whenever the Governor is pleased to extend mercy to any person convicted of any offence for which he is liable to suffer Death as a Felon, on condition of his being imprisoned for a term, such intention of mercy shall be signified by the Colonial Secretary to a Judge of the Supreme Court, who shall allow to such person the benefit of a conditional pardon, and shall, by an Order in writing under his hand, direct such person to be imprisoned for such term, and such Order shall be entered upon the records of the Court, and such person shall undergo the sentence of imprisonment therein set forth.

Governor may grant remission of sentences.

51 It shall be lawful for the Governor to grant to every prisoner such remission of sentence, not exceeding the proportion of such sentence in the Schedule (4) specified, as the Governor, upon review of the conduct and behaviour of such person whilst undergoing such sentence, deems right.

Persons liable to be sentenced to Transportation to be sentenced to be imprisoned.

52 When any person is convicted before any Court of competent jurisdiction of any offence for which such person is liable to be transported, it shall be lawful for such Court, or any subsequent Session of such Court, to order and adjudge that such person so convicted as aforesaid shall be imprisoned for such term as under this Act may be awarded instead of such transportation.

Terms of imprisonment to be awarded instead of the present terms of transportation.

53 The terms of imprisonment to be awarded instead of the transportation to which any offender would have been liable if this Act had not been passed shall be as follows; that is to say,—

Instead of transportation for Seven years or for a term not exceeding Seven years, imprisonment for any term not exceeding Four years :

Instead of any term of transportation exceeding Seven years and not exceeding Ten years, imprisonment for any term not exceeding Six years :

Instead of any term of transportation exceeding Ten years and not exceeding Fifteen years, imprisonment for any term not exceeding Eight years :

Instead of any term of transportation exceeding Fifteen years, imprisonment for any term not exceeding Ten years :

Instead of transportation for the term of Life, imprisonment for Life, or for any term not exceeding Twenty-one years.

And in every case where, at the discretion of the Court, one of any two or more of the terms of transportation herein-before mentioned might have been awarded, the Court shall have the like discretion to award one of the two or more terms of imprisonment herein-before mentioned in relation to such terms of transportation.

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54 When any person is convicted before any Court of competent jurisdiction of any offence for which such person is liable to be sentenced to penal servitude, it shall be lawful for such Court, or any subsequent Session of such Court, to order and adjudge that such person so convicted as aforesaid shall be imprisoned for any term not exceeding the term for which such person might have been sentenced to penal servitude.

Persons liable to be sentenced to penal servitude to be imprisoned.

55 Nothing in this Act contained shall interfere with or affect the authority or discretion of any Court in respect of any punishment which such Court may now by law award or pass on any person other than transportation or penal servitude, but where such other punishment may be awarded at the discretion of the Court instead of transportation or penal servitude, or in addition thereto, the same may be awarded instead of or (as the case may be) in addition to the punishment substituted for transportation or penal servitude under this Act.

Discretion of Courts as to alternative punishment not to be affected.

56 When any person is sentenced to imprisonment for any period not exceeding Two years, it shall be lawful for the Court, Justices, or other Tribunal awarding such sentence to order that the same shall be carried out without hard labour, and the same shall be so carried out accordingly, anything in this Act to the contrary notwithstanding, and in every other case every sentence of imprisonment shall be carried out as a sentence of imprisonment with hard labour.

Imprisonment for Two years and under may be without hard labour.

57 Every prisoner who at the time this Act comes into force is undergoing any sentence or sentences of transportation, penal servitude, or imprisonment, shall be dealt with during the residue of the term of his sentence or sentences as if he had been sentenced to imprisonment under the provisions of this Act, and shall be subject to the same laws, regulations, and penalties as if he had been so sentenced, save and except that no such person shall be kept at hard labour who is not liable to hard labour at the commencement of this Act.

Persons sentenced to transportation or penal servitude, &c. to be dealt with under this Act.

58 Nothing in this Act contained shall in any manner affect Her Majesty's Royal Prerogative of Mercy, or any Prerogative of Mercy vested in the Governor.

Not to affect Royal Prerogative.

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SCHEDULE.

(1.)

Sect. 3.

ACTS TO BE REPEALED.

<i>Date and Number of Act.</i>	<i>Title.</i>	<i>Extent of Repeal.</i>
8 Geo. 4, No. 4.	An Act for the Transportation of Offenders from <i>Van Diemen's Land</i> .	The whole Act.
9 Geo. 4, No. 1.	An Act for vesting subject to the Regulations and Restrictions hereinafter mentioned in the Principal Superintendent of Convicts for the time being certain of the Powers Authorities and Jurisdictions given to the several Justices of the Peace of this Island in and by an Act of Parliament passed in the Sixth Year of the Reign of His present Majesty intituled <i>An Act for punishing Offences committed by Transports kept to Labour in the Colonies and better regulating the Powers of Justices of the Peace in New South Wales</i> and for extending the Powers Authorities and Jurisdictions so to be vested as aforesaid.	The whole Act.
11 Geo. 4, No. 9.	An Act to facilitate the Prosecution of Servants for Larceny and Embezzlement, and of Persons aiding the Escape of Felons or Offenders under Sentence of Transportation.	Sections 1, 2, and 4.
2 Vict. No. 7.	An Act for regulating Marriages in <i>Van Diemen's Land</i> and its Dependencies.	So much of Section 29 as relates to the Marriage of any person being a Prisoner of the Crown.
7 Vict. No. 7.	An Act to regulate the Hiring of Convicts holding Probation Passes and for other Purposes connected therewith.	The whole Act.
8 Vict. No. 13.	An Act to consolidate and amend the Laws in respect to the Constitution of Courts of General and Quarter Sessions to define the Jurisdiction Powers and Authorities of such Courts and of Justices of the Peace in certain Cases relating to Transported and other Offenders and for other Purposes connected therewith.	Sections 12, 13, 14, 15, 18, 19, 20, 21, 22, 23, 24, 25, 27, 29, 30, 32.
8 Vict. No. 14.	An Act for the Control of Transported Offenders and for other Purposes relating thereto.	The whole Act.
8 Vict. No. 16.	An Act for the Regulation of Prisons.	The whole Act.
8 Vict. No. 19.	An Act to render more effectual the Punishment of Hard Labour.	Sections 1 and 4.
11 Vict. No. 5.	An Act to amend the Act of this Island, intituled <i>An Act for the Regulation of Prisons</i> .	The whole Act.
11 Vict. No. 6.	An Act to amend the Act of this Island, intituled <i>An Act to consolidate and amend the Laws in respect to the Constitution of Courts of General and Quarter Sessions to define the Jurisdiction Powers and Authorities of such Courts and of Justices of the Peace in certain Cases relating to Transported and other Offenders and for other Purposes connected therewith</i> .	The whole Act.
16 Vict. No. 20.	An Act to empower the Lieutenant-Governor of this Island to discontinue certain existing Gaols and Houses of Correction.	The whole Act.

Prison Act, 1868.

<i>Date and Number of Act.</i>	<i>Title.</i>	<i>Extent of Repeal.</i>
17 Vict. No. 3.	An Act to make temporary provision for the better Confinement and Classification of Prisoners imprisoned in the Gaols at <i>Hobart Town</i> and <i>Launceston</i> .	The whole Act.
19 Vict. No. 1.	An Act to enable the Governor to establish Houses of Correction under the Control of the Sheriff.	The whole Act.
19 Vict. No. 3.	An Act to substitute other Punishment in lieu of Transportation.	The whole Act.
19 Vict. No. 6.	An Act to make provision for the better Control and Disposal of Offenders under Sentence of Imprisonment.	The whole Act.
25 Vict. No. 7.	An Act to regulate the Punishment of Offences.	Sections 3, 4, 5, and Schedule.
26 Vict. Sess. 2, No. 3.	An Act to make permanent <i>An Act to make temporary provision for the better Confinement and Classification of Prisoners imprisoned in the Gaols at Hobart Town and Launceston.</i>	The whole Act.

(2.)

Sect. 33.

A. B., a Prisoner under sentence of Imprisonment for Felony, (or as the case may be), is charged under the provisions of "The Prison Act, 1868," before me, one of Her Majesty's Justices of the Peace, upon the complaint of *C. D.*, with [here state shortly the offence charged.]

The prisoner pleads [Guilty or Not Guilty].

Now I the said Justice, having inquired into the said charge, do find that the said *A. B.* is [Guilty or Not Guilty]. [If guilty proceed as follows.]

And I do sentence the said *A. B.* for such offence to [here state the sentence.]

Dated at this day of 186 .

J. P.

[To be signed by the Justice adjudicating.]

Prison Act, 1868.

Sect. 36.

(3.)

M. N., a Prisoner under sentence of Imprisonment for a period exceeding Three years, is charged before us, Two of Her Majesty's Justices of the Peace, under the provisions of "The Prison Act, 1868," upon the complaint of A. B. with [*state shortly in substance the offence charged.*]

The prisoner pleads [*Guilty or Not Guilty.*]

Now we, the said Justices, having enquired into the said charge, do find that the said M. N. is [*Guilty or Not Guilty.*] [*If Guilty, proceed as follows.*] And we do sentence the said M. N. for such offence to [*here state the sentence.*]

Remarks [*add any remarks the case may appear to call for.*]

Dated at this day of 18

J. K.

L. M.

Justices of the Peace.

Sect. 51.

(4.)

<i>Sentence— Penal Servitude.</i>	<i>Proportion to be undergone.</i>	<i>Proportion which may be remitted in case of Good Conduct.</i>
3 years.....	Five-sixths—2 years 6 months.....	One-sixth.
4 ".....	Four-fifths—3 years 3 months.....	One-fifth.
5 ".....	Ditto—4 years.....	Ditto.
6 ".....	Three-fourths—4 years 6 months....	One-fourth.
7 ".....	Ditto—5 years 3 months.....	Ditto.
8 ".....	Ditto—6 years.....	Ditto.
10 ".....	Ditto—7 years 6 months.....	Ditto.
12 ".....	Ditto—9 years.....	Ditto.
15 " and upwards ..	Two-thirds.....	One-third.