



ANNO DECIMO OCTAVO

VICTORIÆ REGINÆ.

By His Excellency SIR CHARLES HOTHAM, Knight Commander of the Most Honorable Military Order of the Bath, Lieutenant Governor of the Colony of Victoria, &c., &c., &c.

No. III.

An Act to prevent the influx of criminals into Victoria. [Assented to 16th November, 1854.]

BE it enacted by His Excellency the Lieutenant Governor of Victoria by and with the advice and consent of the Legislative Council thereof as follows—

I. It shall be lawful for any justice of the peace or any constable at any time after the passing of this Act having reasonable cause to suspect that any person has at any time been found guilty of any capital or transportable felony by a court of competent jurisdiction in the United Kingdom of Great Britain and Ireland or any British possession other than Victoria and has at any time after the passing of this Act come into Victoria forthwith and without any warrant for such purpose to cause such suspected person to be apprehended and taken before any two justices of the peace to be dealt with as herein-after mentioned such person not having been lawfully resident in Victoria at the time of or previous to the passing of this Act Provided that it shall be lawful for any justice of the peace to take bail for the appearance of such suspected person before such justices in such sum and with or without such sureties as such justice may deem expedient Provided also that nothing in this Act contained shall apply or be deemed to apply to any person whose sentence or sentences if more than one shall have expired for a greater period than three years previous to his arrival in Victoria.

Suspected persons may be arrested.

II. It shall be lawful for any two justices of the peace before whom any such suspected person shall have been brought on proof that such person has come into Victoria contrary to the provisions of this Act to convict him thereof and at their discretion either to take bail that such person shall leave the Colony within seven days after his conviction or to cause such person to be conveyed in custody to the country or possession from whence he came or to sentence such person if a male to be kept to hard labor with or without irons on the roads or other public works of the Colony for any period not exceeding three years

Punishment on suspected persons being convicted.

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years or if a female to be imprisoned with or without hard labor in any gaol for any period not exceeding one year.

Forfeiture of property.

III. All property found upon or in the possession of any such suspected person as aforesaid shall upon his apprehension be seized and detained and in the event of his being convicted and sentenced as aforesaid shall at the discretion of the convicting Justices be forfeited and sold.

Additional punishment for convicted persons remaining after expiration of sentence.

IV. Any person sentenced as aforesaid to hard labor or imprisonment who shall remain in Victoria for three months after the termination of such sentence shall be liable to be again similarly apprehended and sentenced and so on from time to time as often as he shall so remain.

Penalty for harboring.

V. Any person who shall harbor or conceal any other person whom he shall know or believe to have come into or remained in Victoria contrary to the provisions of this Act shall be subject to a fine not exceeding one hundred pounds or be imprisoned in any gaol or house of correction in Victoria for any period not exceeding twelve months.

Master liable if persons improperly brought to Victoria.

VI. Any master mariner or other person commanding navigating or sailing any vessel for the trip or voyage when such vessel shall bring to any port or place in Victoria any person having been found guilty as aforesaid shall upon conviction thereof before any two justices of the peace for every such offence be liable to a fine not exceeding one hundred pounds or to imprisonment for any time not exceeding six months or to both at the discretion of the said justices.

Power to grant search warrants.

VII. It shall be lawful for any justice of the peace having information on oath that any person who has arrived in Victoria contrary to the provisions of this Act is harbored in any house or other place within the jurisdiction of such justice to grant a general search warrant to any constable for such person and it shall be lawful for any such constable in virtue of such general search warrant to break enter and search by day or by night any dwelling-house tenement or other place wherein such person may be suspected to be concealed and to apprehend any person whom such constable shall have reasonable cause for suspecting to have arrived or remained in Victoria contrary to the provisions hereof and also to apprehend all persons found in or about such dwelling-house tenement or other place whom such constable shall have reasonable grounds for suspecting and believing to have knowingly harbored and concealed such suspected person and all persons found and apprehended as aforesaid shall be forthwith taken before any justices of the peace to be dealt with as herein provided

Power of search.

VIII. It shall be lawful for any justice of the peace or constable to enter on board any vessel and having reasonable cause to suspect that any person having been found guilty as aforesaid is on board such vessel to search any and every part thereof and apprehend any person found therein contrary to the provisions of this Act.

Summary jurisdiction.

IX. It shall be lawful for any two or more justices assembled at petty sessions to hear and determine in a summary way all cases arising under this Act and at their discretion to fix and determine all the fines penalties punishments and forfeitures hereby imposed and no complaint conviction order for confiscation punishment or forfeiture or other proceeding before or by any justices under this Act shall be quashed or set aside or deemed void or insufficient for want of form only or be removed or removable by *certiorari* or any other writ or process whatsoever into the Supreme Court.

Words of Act sufficient statement of offence.

X. Every summons information conviction and warrant of commitment under the provisions of this Act shall be deemed valid in which the offence charged or alleged in the same respectively shall be set forth in the words of this Act.

XI. Oral

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XI. Oral proof that any person was in any country known to have been or commonly deemed or reputed to have been found guilty of any felony in the United Kingdom or any British possession other than Victoria or to have been serving any sentence of transportation or imprisonment for such offence or the production of any paper purporting to be a *Government Gazette* published in any of the Australian Colonies and containing the name of any person charged with offending against any of the provisions of this Act described in such paper as a convicted prisoner of the Crown or transported felon shall for the purposes of this Act be taken as good *prima facie* evidence that such person was found guilty of felony as aforesaid and proof that any person so found guilty was apprehended in Victoria at any time after the passing of this Act not having a fixed and known place of residence shall be deemed good *prima facie* evidence that such person arrived in Victoria after the passing hereof unless the contrary be proved. Oral proof.

XII. Whenever any pecuniary penalty shall have been imposed under the provisions of this Act and the person convicted shall not forthwith pay the same into the hands of the convicting justices it shall be lawful for such justices to direct that such person be imprisoned with or without hard labor as they shall think fit for a period not exceeding two calendar months if the penalty be not above twenty pounds and for a period not exceeding four calendar months if the penalty be above twenty pounds and not above fifty pounds and for a period not exceeding twelve calendar months if the penalty be above fifty pounds and such person shall be detained and kept to hard labor unless such respective penalties shall be sooner paid. Recovery of penalties.

XIII. All pecuniary fines and penalties and the proceeds of all forfeitures received under this Act shall be paid into the Police Reward Fund except such portion thereof not exceeding one-half as the convicting justices may award to the informer and such informer shall be in all cases a competent witness. Application.

XIV. If any suit or action shall be brought against any justice of the peace constable or other person for any act or thing done in furtherance of the provisions of this Act the defendant in every such action may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon and if the verdict shall be for the defendant or if the plaintiff in any such action or suit shall be nonsuited or discontinue his action or suit or if upon demurrer judgment shall be given against the plaintiff the defendant shall have treble costs and shall have the like remedy for the same as any other defendant hath in any other case to recover costs by law and although a verdict shall be given for the plaintiff in any such action he shall not be entitled to recover any costs against the defendant unless the judge before whom such action shall be tried shall certify at the trial and in open court under his hand on the back of the record his approbation of the action and of the verdict thereupon. Indemnifying justices.

XV. Any person who shall feel himself aggrieved by the judgment of the justices adjudicating under this Act may appeal from their order or adjudication to the next Court of General Sessions of the Peace which shall be held nearest to the place where such order or adjudication shall have been given or made and the execution of every such order or adjudication so appealed from and the forfeiture and sale of any property as aforesaid may at the discretion of such justices be suspended in case such person shall with one or more sufficient surety or sureties before such justices enter into a recognizance to Her Majesty Her Heirs and Appeal.

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and Successors in such sum as to such justices shall seem fit which recognizance such justices are hereby authorized to take conditioned to prosecute such appeal with effect and to be forthcoming to abide the determination of such court of General Sessions and pay such costs as the said court shall award and such court is hereby authorized finally to hear and determine the matter of such appeal.

Duration of Act.

XVI. This Act shall continue in force for one year from the passing thereof and thence to the end of the then next Session of the Legislative Council of Victoria.