

OFFENDERS PUNISH-
MENT AND JUSTICES
SUMMARY JURIS-
DICTION.
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No. III.

An Act to consolidate and amend the Laws for the transportation and punishment of Offenders in New South Wales and for defining the respective powers and authorities of General Quarter Sessions and of Petty Sessions and for determining the places at which the same shall be holden and for better regulating the summary jurisdiction of Justices of the Peace and for repealing certain Laws and Ordinances relating thereto. [24th August, 1832.]

Preamble.

WHEREAS it is expedient to consolidate and amend the laws now in force for the transportation and punishment of offenders convicted of transportable felonies in New South Wales and to define and regulate the respective powers and authorities of the Courts of General Quarter Sessions and of Petty Sessions as well as of one Justice of the Peace exercising a summary jurisdiction in certain cases

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cases and to determine by proper authority the places at which the said Courts shall be respectively holden And whereas for these purposes it is expedient and necessary that certain Laws or Ordinances of the Governor and Council of New South Wales should be repealed Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That a certain Act or Ordinance of the Governor and Council of New South Wales passed in the sixth year of the reign of His late Majesty King George the Fourth intituled “*An Act to facilitate the proceedings of Justices of the Peace in the exercise of their Summary Jurisdiction*” 6th Geo. IV. No. 9. and an Act or Ordinance passed in the seventh year of the same reign intituled “*An Act for the transportation of Offenders to Penal Settlements and for the more effectual punishment and security of the same*” 7th Geo. IV. No. 5. and an Act or Ordinance passed in the eleventh year of the same reign intituled “*An Act for the punishment and transportation of Offenders in New South Wales*” 11th Geo. IV. No. 12. and also another Act or Ordinance passed in the same year of the same reign intituled “*An Act to amend an Act of the Governor and Council intituled ‘An Act for instituting and regulating Courts of General and Quarter Sessions in New South Wales and for better regulating the powers of Justices of the Peace therein’*” 11th Geo. IV. No. 13. shall from and after the commencement of this Act or Repealed. Ordinance be and the same are hereby repealed.

2. And be it further enacted That this Act or Ordinance shall commence and take effect on the first day of October next after the passing thereof and that on and after that day all things remaining to be done touching the transportation removal punishment employment and discipline of persons sentenced or ordered to be transported or to be kept to labor in irons on the roads or public works of the said Colony under any Act or Ordinance of the Governor in Council shall be continued done and completed under the provisions of this Act or Ordinance and that all sentences and orders for transportation and all other orders instructions and directions made issued or given under any such Act or Ordinance of the Governor in Council in force at the commencement of this Act or Ordinance shall continue in force until they shall be revoked or superseded.

3. And be it further enacted That if any person who shall have arrived in the said Colony as a transported felon or offender in pursuance of the sentence or order of any Court or competent authority shall be convicted in the Supreme Court or in any Court of General Quarter Sessions of any offence punishable by the law of England with transportation every such person shall at the discretion of the Court be sentenced either to suffer such punishment as the law of England has awarded to such offence or in lieu thereof if a male to be kept to labor in irons on the roads or public works of the said Colony or if a female to be imprisoned and kept to labor in any gaol or factory appointed by the Governor for the custody of female offenders for a time not exceeding three years.

4. And be it further enacted That every sentence of transportation passed in due course of law upon any offender in New South Wales or its Dependencies and every order made by the Governor for the transportation of any such offender in lieu of capital punishment shall subject such offender to be conveyed to such penal settlement within the said Colony or its Dependencies at such time and in such manner as the Governor for the time-being shall direct and appoint and that every offender shall be detained and kept at such penal settlement until he or she shall have served such sentence or shall be removed therefrom by lawful authority and that every sentence or order passed or made for keeping such offender as aforesaid to labor in irons upon the roads or other public works of the said Colony shall subject

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subject such offender to be placed and kept to labor upon such roads or public works as the Governor for the time-being shall direct and appoint and such offender shall be detained and worked in the manner authorized by this Law or Ordinance upon such roads and public works until he shall have served such sentence or shall be removed from the same by lawful authority.

Natives and persons arriving free to be transported out of the Colony.

6th Geo. IV. c. 69.
11th Nov. 1825.

Proviso.

Governor empowered to remove offenders from one penal settlement to another.

Offenders at penal settlements to be under the management of Commandants.

5. Provided always and be it further enacted That no person who shall have been born within the said Colony or its Dependencies or who shall have arrived free therein shall be liable upon any sentence of transportation passed for the first time upon any such offender to be conveyed to any such penal settlement as aforesaid or kept to labor in irons on the roads or public works of the said Colony but that every such offender shall for such first offence be liable to be transported to such place beyond the seas within His Majesty's Dominions as shall be duly appointed for such purpose by the Governor for the time-being in pursuance of the directions of the Statute and of His Majesty's Order in Council in such case respectively made and provided and in such manner as such Governor shall order and direct and if any such offender shall after having been ordered to be transported to such place beyond the seas as aforesaid be found at large within the limits of the said Colony or its Dependencies before his or her sentence of transportation shall have expired or shall have been otherwise determined by lawful authority such offender shall upon conviction before the Supreme Court of being unlawfully at large contrary to the provisions of this Act or Ordinance be liable to be transported for the term of his or her natural life to such penal settlement as the Governor for the time-being shall appoint in like manner as other transported felons under the provisions of this Act or Ordinance Provided however that nothing hereinbefore contained shall be deemed or taken to apply to any order made by the Governor for the time-being for the transportation of any offender in lieu of capital punishment but that any such offender may be transported to such place for such term and upon such conditions as such Governor shall appoint and direct.

6. And be it further enacted That it shall be lawful for the Governor for the time-being by order in writing duly made for such purpose to cause any offender who has been or shall hereafter be transported to any penal settlement to be withdrawn from such penal settlement and to be removed or conveyed to some other penal settlement within the said Colony or its Dependencies and there kept for the residue of his or her sentence subject and liable to the same laws rules and regulations as if such offender had been originally transported to such other penal settlement.

7. And be it further enacted That all persons who shall have been or shall be transported or removed as aforesaid to any penal settlement within the said Colony or its Dependencies shall be under the custody and management of a Commandant or Superintendent duly appointed for such purpose by the Governor for the time-being and every such Commandant or Superintendent shall have the same powers over such offenders as are incident to the office of Sheriff or Gaoler and if any offender shall during such custody be guilty of misbehaviour or disorderly conduct such Commandant or Superintendent shall be authorized to inflict such moderate punishment as shall be allowed by any rules and regulations to be made from time to time for the management and discipline of such penal settlement by the Governor with the advice of the Executive Council and subject to such rules shall keep every offender in his custody to labor and duly provided with food and clothing according to a scale to be set forth in the said rules and in case of the absence of any

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any such Commandant or Superintendent or of the vacancy of his office his powers and duties shall be exercised and discharged in all respects by the officer or person upon whom the command of such penal settlement shall devolve.

8. And be it further enacted That it shall be lawful for any such Commandant or Superintendent at every penal settlement as aforesaid and every officer or person upon whom the command of the same may devolve to act in every respect as a Justice of the Peace duly named and qualified as a Justice of the Peace in and for such penal settlement.

9. And whereas by virtue of the provisions of a certain Act of Parliament passed in the sixth year of the reign of His late Majesty and of His Majesty's Order in Council consequent thereon the Governor of New South Wales did by Proclamation bearing date the fifteenth day of August one thousand eight hundred and twenty-six appoint certain places within the said Colony or its Dependencies to which offenders convicted in New South Wales and being under sentence or order of transportation should be sent or transported and whereas it is expedient that no ship or trading vessel should be permitted to enter or touch at or hold intercourse with any such place or places Be it therefore enacted That it shall not be lawful for any master mariner or other person commanding navigating or sailing in any ship vessel or boat to enter touch at or communicate with the penal settlements at Moreton Bay and Norfolk Island respectively or with any other place or places within the said Colony or its Dependencies to be appointed by the Governor for the transportation of any offender or offenders under sentence or order of transportation made or to be made by any Court or competent authority in New South Wales without the license or permission in writing of the Governor being first had and obtained for such purpose and any person or persons who shall enter touch at or communicate with any such place or places as aforesaid shall be guilty of a misdemeanor and upon being thereof duly convicted before the Supreme Court of New South Wales shall for every such offence incur and be liable to a fine not exceeding one hundred pounds or to imprisonment for any time not exceeding one year or to both at the discretion of the said Court.

10. And be it further enacted That all persons who have been or shall be ordered to be kept to labor in irons on the roads or other public works of the Colony shall be under the custody and management of Superintendents who shall be appointed for such purpose by the Governor for the time-being and every such Superintendent shall keep every offender in his custody to labor and duly provided with food and clothing in conformity to such rules and regulations as the Governor with the advice of the Executive Council shall from time to time institute in this behalf.

11. And be it further enacted That every female offender who shall be committed by due course of law to any gaol or factory appointed by the Governor for the custody of female offenders shall be under the management of a Matron or Superintendent to be appointed for such purpose by the Governor for the time-being and such Matron or Superintendent shall observe and follow such rules and regulations in respect of the care and keeping of such female offenders as shall be established by the Governor with the advice of the Executive Council.

12. And be it further enacted That it shall not be lawful for any person being under sentence for any felony or transportable offence to carry or have in his possession any fire-arms or other weapon of offence except with the leave and consent in writing and for the protection

If absent his duties to be performed by the officer in command.

Commandants to act as Justices of the Peace.

Vessels touching at any penal settlement without permission of the Governor subject to fine.

Offenders sentenced to the roads to be under the management of Superintendents.

Female offenders to be under the management of a Matron.

Convicts shall not have or carry fire-arms without permission.

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tection of the property of his master employer or overseer and in every such consent as aforesaid the place time occasion in and for which such arms or other weapons are intended to be used shall be truly and specifically stated and if such person as aforesaid shall hold a ticket-of-leave or other partial or temporary remission of sentence except with the like consent in writing of a Justice of the Peace of the district in which he may reside such last-mentioned consent to remain in force for three calendar months and no longer and to be renewed from time to time as occasion may require and if any such person shall be found with any fire-arms or other such weapon as aforesaid in his possession contrary to this Law or Ordinance and without being able to prove that the same was intended to be used for a lawful purpose every such person shall be guilty of felony and being thereof lawfully convicted shall be transported to some penal settlement for the term of his natural life.

Penalties for receiving the spoil of robbers and house-breakers and for harbouring them.

13. And whereas robbers and housebreakers are greatly encouraged to commit felonies by persons who make it their business to receive harbour and conceal such offenders and their spoil Be it therefore enacted That if any person shall conceal or receive any goods chattels money bill note or effects whatsoever that shall have been feloniously stolen by means of force or putting in bodily fear from the person or from the dwelling-house of another person knowing the same to have been so stolen every such person shall be transported for the term of his or her natural life and any person who shall receive harbour or conceal any such robber or housebreaker knowing him to have committed any such felony shall be taken to be an accessory to such felony and being thereof lawfully convicted shall suffer death.

14. And whereas by a certain Act or Ordinance of the Governor in Council passed in the tenth year of the reign of His late Majesty King George the Fourth intituled "*An Act for instituting and regulating Courts of General and Quarter Sessions in New South Wales*" it is amongst other things provided that Courts of General and Quarter Sessions for the Colony of New South Wales shall be holden at the places named in the said Act And whereas it is expedient to amend the same Be it therefore enacted That Courts of General Quarter Sessions for the Colony of New South Wales shall be holden at the following places that is to say at Sydney Parramatta Campbelltown Windsor Maitland and Bathurst and at such other places within the said Colony and at such times respectively as the said Governor for the time-being shall by any Proclamation duly issued for such purpose appoint and at no other place whatsoever and that the said several and respective Courts shall have and exercise such and the like jurisdiction and authority and shall be composed and shall proceed in all respects in such and the like manner as in and by the said Act or Ordinance passed in the tenth year of the reign of His said late Majesty is directed and required.

Appointing places where Courts of General Quarter Sessions shall be held.

Defining punishment of offenders summarily convicted before Quarter Sessions.

15. And be it further enacted That if any person who shall have been transported or removed to New South Wales or any of its Dependencies by any Court or competent authority and whose sentence shall not have expired or been remitted shall be convicted in a summary way before any Court of General Quarter Sessions of any misdemeanor or other offence which if committed in England would subject such offender upon conviction either a first or second time to no higher degree of punishment than imprisonment with hard labor every such offender shall at the discretion of the Court be sentenced either to suffer such punishment as the law of England has awarded to such offence or in lieu thereof to be transported to a penal settlement or if a male to be worked in irons on the roads or public works of the Colony for the term of two years.

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16. And be it further enacted That any two or more of His Majesty's Justices assigned to keep the Peace assembled and sitting in open Court at any place within the said Colony or its Dependencies appointed in manner hereinafter mentioned (such Court not being a Court of General Quarter Sessions as aforesaid) shall be deemed to be and shall be a Court of Petty Sessions and every such Court of Petty Sessions shall have power and authority to take cognizance in a summary way of all misdemeanors pilferings from a master or mistress and simple larcenies to the value of any sum under five pounds which have been or shall be committed by any felon or offender transported or removed to the said Colony or its Dependencies whose sentence hath not expired or been remitted at the time of committing such offence and also of all complaints made against such felon or offender for drunkenness disobedience of orders neglect of work absconding from the employment of Government or from the service of his or her master abusive language to his or her master or overseer or other disorderly or dishonest conduct and the said offences respectively to punish as hereinafter directed.

17. And be it further enacted That it shall and may be lawful for the Governor for the time-being by any notice published in the *Government Gazette* to appoint places at which Petty Sessions shall be holden and to nominate one fit and proper person to be Clerk to every such Petty Sessions who shall attend to discharge the duties of his office at the place for which he shall be nominated and at no other place whatever.

18. And be it further enacted That every such offender under sentence of transportation as aforesaid who shall be duly convicted in a summary manner before any two or more Justices in Petty Sessions assembled of any misdemeanor pilfering from a master or mistress or of any larceny as aforesaid shall for a first offence be liable if a male to be whipped by the infliction of any number of lashes not exceeding fifty or to be kept to labor in irons on the roads or public works of the said Colony for any time not less than six nor more than twelve calendar months or if a female to be imprisoned for a like time and kept to labor in any gaol or factory appointed by the Governor from time to time for the custody of female offenders and every such offender who shall be duly convicted as aforesaid of drunkenness disobedience of orders neglect of work absconding from the employment of Government or from the service of his or her master abusive language to his or her master or overseer or other disorderly or dishonest conduct shall for a first offence be liable if a male to be whipped by the infliction of any number of lashes not exceeding fifty or to be worked on the tread mill or imprisoned and kept to hard labor for any time not exceeding two calendar months or to be kept in solitary confinement on bread and water for any time not exceeding fourteen days or if a female to be imprisoned and kept to labor in any gaol or factory as aforesaid for any time not exceeding two calendar months or to be kept in solitary confinement on bread and water for any time not exceeding fourteen days according to the several kinds and degrees of such offences respectively and every such offender as aforesaid who shall be convicted before such Justices as aforesaid a second time or oftener of any such misdemeanor pilfering larceny drunkenness disobedience neglect abusive language or other disorderly or dishonest conduct as aforesaid shall be liable to have his or her punishment increased by the infliction of any additional number of lashes or by augmenting the time of working in irons or on the tread mill or of confinement solitary or otherwise according to the sex of the offender and the degree of the offence and as such Justices shall adjudge Provided always that such additional punishment shall in no one case be more than double the amount

Jurisdiction of
Courts of Petty
Sessions.

Governor to appoint
places where Petty
Sessions shall be held
and to nominate
Clerk.

Defining punish-
ments of offenders
summarily convicted
before Justices in
Petty Sessions.

Punishments for
second offence may
be doubled.

Proviso.

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amount of punishment for which any such first offence is liable to be punished as aforesaid.

Punishment for absconding a second time or oftener.

19. And be it further enacted That every offender under sentence of transportation as aforesaid who shall be convicted before such Justices in Petty Sessions a second time or oftener of absconding from the employment of Government or from the service of his or her master or mistress shall be liable if a male to be kept to labor in irons on the roads or public works of the said Colony for twelve calendar months.

Convicts absconding to serve the time of their absence and be punished though their sentence may have expired.

20. And whereas it frequently happens that transported felons abscond and absent themselves from service and cannot be apprehended until the term of their transportation has expired Be it therefore enacted That as often as any person being under sentence of transportation or order of removal shall abscond or absent himself or herself from the service of his or her master or employer every such person shall be liable to be tried in a summary manner by or before any Court or Tribunal authorized by law to take cognizance of offences committed by transported offenders although at the time of such trial such sentence may have expired and being lawfully convicted of such absconding shall be liable to serve for such and the like time as such person absconded and was absent from the service of his or her master or employer and shall be subject and liable to all such and the like punishments and to be dealt with in all respects as persons absconding during any subsisting sentence are liable to by this Law or Ordinance.

Twenty-four hours absence without leave to be deemed an absconding.

21. And be it further enacted That twenty-four hours absence from the employment of Government or from private service without due leave having been first obtained for such purpose shall be deemed an absconding and shall render every transported felon or offender so absent liable to the penalties thereof and if any master superintendent or overseer shall fail or neglect to report to the Principal Superintendent of Convicts and to the nearest Justice of the Peace the absenting or absconding of any such person from his or her service or superintendence within three days after such absconding as aforesaid such master employer superintendent or overseer shall for every such failure or neglect forfeit and pay a sum of not less than five pounds nor more than ten pounds to be recovered in a summary way before any two Justices of the Peace one moiety of such fine to be for the use of the King and the other moiety to the person or persons informing or suing for the same.

Superintendents or masters neglecting to report such absence within three days to be fined.

22. And be it further enacted That if any offender who shall have been or who shall be transported or removed to any penal settlement or put to labor in irons on the roads or other public works of the said Colony or imprisoned in any gaol or factory appointed by the Governor for the custody of female offenders as aforesaid shall escape from such penal settlement or from such roads or public works or from such gaol or factory every such offender shall upon summary conviction before any two or more Justices in Petty Sessions be liable if a male to be publicly whipped by the infliction of any number of lashes not exceeding one hundred and to be forthwith transported or sent back to the penal settlement roads or place of work from which he escaped there to receive the punishment to which he shall have been sentenced or if a female to be returned to the place of confinement from which she escaped and kept in solitary confinement on bread and water for any time not exceeding one calendar month and every such offender shall be detained until he or she shall have served the full measure of his or her sentences as well as of the time during which he or she shall have escaped or been absent Provided always that nothing herein contained shall be construed to

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exempt any such offender so escaping from any other punishment to which he or she may be liable by law.

23. And whereas it frequently happens that persons under sentence of transportation and persons sentenced to labor on the roads or other public works of the said Colony either wilfully disable themselves from working or designedly prevent or protract the cure of any disease or complaint which they have contracted in order to evade servitude Be it therefore further enacted That in case any person being under any such sentence as aforesaid shall wilfully disable himself or herself or shall designedly prevent or protract the cure of any disease or complaint which he or she may have contracted in order to evade servitude every such offender being summarily convicted of such offence before any one or more Justice or Justices of the Peace shall be liable to serve for such further time as such person shall have been absent at hospital or otherwise disabled from serving his or her master or employer as aforesaid and in every such case a certificate under the hand of the principal or other surgeon of the hospital or district who shall have the care of and be attending upon such person that he or she had so wilfully disabled himself or herself or designedly prevented or protracted his or her cure of any such disease or complaint as aforesaid shall be deemed sufficient proof of such offence.

24. And be it further enacted That whenever any offender shall be convicted before the Justices in Petty Sessions as aforesaid and sentenced to labor in irons on the roads or public works it shall and may be lawful for any two or more of such Justices to order if they shall think fit every such offender to be immediately put in irons and such Justices by warrant under their hands shall direct that he be conveyed to the nearest iron-gang and be there delivered over to the Superintendent to be kept at labor in irons for the time for which he shall have been sentenced and every such Superintendent shall under the authority of such warrant receive every offender so committed to his charge and keep him to labor in irons for the time specified therein unless sooner released by due course of law Provided always that every such warrant shall be signed by at least two Justices who tried and sentenced the offender and that whenever any such offender not being in irons shall be delivered over to any Superintendent he shall forthwith put such offender in irons and keep him to labor as herein-before directed.

25. And be it further enacted That if any person shall harbour or conceal any transported felon or offender who may be illegally at large or shall seduce or excite any such person to abscond from the employment of Government or the service of his or her master or mistress every such person so offending shall forfeit and pay for every such offence a penalty or sum not less than five nor more than ten pounds to be recovered in a summary way before any two Justices of the Peace one moiety to be appropriated to the King and the other moiety to the person who may first inform or sue for the same and if such offender shall be a convict under sentence of transportation he shall be liable if a male to be whipped by the infliction of not more than one hundred lashes or to be worked in irons upon the roads or public works of the Colony for twelve calendar months or if a female to be imprisoned and kept to labor in any gaol or factory appointed by the Governor for the custody of female offenders for twelve calendar months.

26. And whereas by certain Acts or Ordinances of the Governor of New South Wales with the advice of the Legislative Council certain duties are required to be performed by Benches of Magistrates and Clerks of the Bench It is hereby enacted and declared that the said duties

Convicts wilfully
disabling themselves
to serve the time of
their disability.

What shall be
deemed proof.

Persons sentenced in
Petty Sessions to
work in irons may
be immediately
ironed and forwarded
to a gang.

Proviso.
Penalty for persons
harbouring run-
aways.

Certain duties
hitherto performed
by Benches of
Magistrates to be
transferred to
Justices in Petty
Sessions.

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duties shall henceforth be performed by the said Justices in Petty Sessions assembled and by the Clerks of Petty Sessions respectively.

Jurisdiction of one Justice of the Peace.

27. And be it further enacted That any one of His Majesty's Justices assigned to keep the Peace within the said Colony and its Dependencies shall within the county district or place wherein he shall reside or in any other county district or place adjacent thereto wherein there shall be no Justice of the Peace residing have power and authority to take cognizance in a summary way of all complaints made against any such transported felon or offender as aforesaid whose sentence shall not have expired or been remitted as aforesaid for drunkenness disobedience of orders neglect of work absconding from the employment of Government or the service of his or her master abusive language to his or her master or overseer or other disorderly or dishonest conduct and the said offences respectively to punish in such and the like manner according to the kind and degree of the offence as in and by this Law or Ordinance is provided and limited for the punishment of transported felons or offenders convicted of a first offence before any two or more Justices sitting in Petty Sessions.

Surveyor of Roads or Justice of the Peace to have power summarily to punish offenders in iron-gangs and convicts in road-parties.

28. And for the better ordering of offenders sentenced to work in irons as aforesaid and of transported felons and offenders employed to work upon the roads or other public works of the Colony whose stations are frequently remote from the places where Petty Sessions are appointed to be holden or where Magistrates reside it is hereby further enacted and declared That any Surveyor or Assistant Surveyor of Roads being an Officer in the Surveyor General's Department and duly appointed by writing under the hand of the Governor for the time-being in this behalf as well as any Justice of the Peace for the said Colony shall have power and authority to hold a Court from time to time at the place where any iron-gang or road-party shall be stationed and to hear in a summary any complaint on oath brought by the Superintendent Overseer or Assistant Overseer of such iron-gang or road-party against any transported felon or offender in his charge for refusing or neglecting to work drunkenness disobedience of orders or such other disorderly or dishonest conduct and upon conviction then and there to punish the offender by whipping not exceeding fifty lashes to be inflicted by a Constable or other person appointed for such purpose Provided always that a full and sufficient record of every such conviction and punishment shall be made and transmitted to the proper officer as hereinafter directed.

Proviso.

Magistrates not to have jurisdiction over their own servants.

Proviso not to interfere with jurisdiction vested in Justices by any other Act or Ordinance.

Constables to inflict punishment when ordered by Justices.

Penalty for neglect.

29. And be it further enacted and declared That nothing herein contained shall be deemed to authorize any Justice or Justices to exercise any such jurisdiction as aforesaid in any case of any such felon or offender as aforesaid who shall be in the service of any such Justice.

30. Provided always and be it further enacted and declared That nothing herein contained shall be deemed or taken to interfere with the summary jurisdiction vested in any Justice or Justices of the Peace by any other Act or Ordinance which may now or at any time hereafter be in force in the said Colony.

31. And be it further enacted That in every case in which any whipping shall be ordered by the sentence of any two or more Justices in Petty Sessions assembled or of any one Justice as aforesaid it shall be the duty of the Chief or any other Constable of the district in which such sentence shall be passed duly and sufficiently the same to inflict or cause to be inflicted upon pain of forfeiting forty shillings over and above any other punishment to which he may be liable for neglect of duty to be recovered in a summary way before any one Justice of the Peace and levied by distress and sale of the offender's goods.

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32. And be it further enacted That such and the like records of the names of all such felons or offenders as aforesaid who may be convicted in a summary way before any two or more Justices of the Peace sitting in Petty Sessions or before any one Justice Surveyor or Assistant Surveyor of Roads as aforesaid shall be kept in books to be provided for that purpose in such and the like form and returns thereof shall be transmitted in like manner as in and by the said Law or Ordinance passed in the tenth year of the reign of his said late Majesty is directed and required.

33. And be it further enacted That if any Clerk of the Peace or Clerk of Petty Sessions whose duty it is and is hereby declared to be to keep such records and make such returns as aforesaid or if any Justice or Justices Surveyor or Assistant Surveyor of Roads where there shall be no such Clerk shall fail to keep or cause to be kept such and the like records as by the said last-mentioned Law or Ordinance are required or to make or cause to be made such and the like returns as therein are directed he or they shall respectively forfeit for every such failure a penalty or sum of five pounds to be sued for and recovered in the Supreme Court and appropriated in like manner as other fines and penalties.

34. And be it further enacted That as often as any person or persons being under sentence for any felony or transportable offence shall be subsequently convicted of any felony or offence and shall be adjudged and ordered to be punished in pursuance of this Law or Ordinance the term or time of enduring such subsequent sentence shall not be concurrent with such first sentence but shall be in addition to the same and every such offender shall be further detained until he or she shall have served the full term or time of both sentences and so on as often as he or she shall be convicted as aforesaid and shall also be liable to be dealt with in all respects as a transported felon.

35. And whereas it is expedient to define the degree of proof which shall be deemed sufficient to establish the fact of persons having been transported as convicts Be it therefore enacted That as often as any question shall arise in any Court in the said Colony whether any person is or hath been a transported felon or offender the indent or instrument in writing commonly called an indent purporting to contain the name offence and sentence or order of transportation of any such person to New South Wales or its Dependencies or an examined copy of so much thereof as may be necessary for the occasion shall upon the production thereof before such Court together with due proof that such indent or instrument in writing hath been deposited and kept in the office of the Colonial Secretary for the said Colony or other proper office for such purpose as an authentic instrument and that such offender or person therein named arrived in the said Colony or its Dependencies as a transported felon or offender and was reputed to be and dealt with as the person described in such indent or instrument in writing be received and admitted as sufficient evidence in such Court of every such person as aforesaid touching whom such questions shall arise being or having been a transported felon or offender for the term or time in such indent mentioned And as often as any such question shall arise whether any person shall have been transported to Van Diemen's Land or its Dependencies then the production of the order of removal or written document under and by virtue of which such person shall have been removed or sent from Van Diemen's Land or its Dependencies to New South Wales or its Dependencies or an examined copy of so much thereof as may be necessary together with due proof that such written order or document hath been kept in the proper office for such purpose

Weights and Measures.

purpose and that such person arrived in New South Wales or its Dependencies as a transported felon or offender and was reputed to be and dealt with as the person described in such written order or document be in like manner received and admitted as sufficient evidence of such person having been transported to Van Diemen's Land or its Dependencies for the term or time in such written order or document mentioned and if any clerk or other person shall alter any such indent or instrument in writing written order or document as aforesaid or produce in such Court as aforesaid any false or counterfeit indent or instrument in writing written order or document as aforesaid or copy thereof knowing the same to be false or counterfeit every such offender shall be guilty of felony and being lawfully convicted thereof shall be liable at the discretion of the Court to be transported for seven years or to be imprisoned for any term not exceeding two years and to be once twice or thrice publicly whipped if the Court shall think fit in addition to such imprisonment.

For protecting transported convicts holding remissions of sentences in the enjoyment of property.

36. And whereas it is expedient to extend the protection afforded by law to transported felons or offenders holding remissions of the whole or part of their term of transportation to such felons or offenders under sentence of transportation to New South Wales as shall hold any temporary or revocable remission of such sentence Be it therefore enacted That every felon or offender under sentence of transportation to New South Wales who shall hold any temporary or partial remission of such sentence either by ticket-of-leave or of exemption or in any other form from the Governor of the said Colony for the time-being shall and may maintain any action or suit in any Court of the said Colony for the recovery of any property real personal or mixed acquired by such felon since his or her remission and for any damage or injury sustained by such felon since his or her remission and if the defendant in any such action or suit shall plead or allege in his defence the plaintiff's or complainant's conviction of felony and the plaintiff or complainant shall allege and prove that he or she hath received and doth hold such remission as aforesaid a verdict shall pass and judgment shall be given for the plaintiff or complainant.