

No. IX.

An Act to facilitate the Apprehension of transported Felons and Offenders illegally at large and of Persons found with Arms and suspected to be Robbers. [5th August, 1834.]

TRANSPORTED
OFFENDERS AND
SUSPECTED ROBBERS
APPREHENSION.

WHEREAS it has been His Majesty's pleasure to appoint the Preamble.

Colony of New South Wales as a place to which felons and other offenders under sentence or order of transportation or banishment shall be conveyed for the purpose of being there employed on the public works or assigned as servants to private persons for their benefit on which account it has been found necessary to establish efficient regulations of police for the control of such transported felons and offenders and to protect His Majesty's free subjects within the said Colony by laws suited to the actual state and condition thereof And whereas a certain Act of the Governor and Council was passed for a limited time in the eleventh year of the reign of His late Majesty King George the Fourth intituled "*An Act to suppress Robbery and Housebreaking and the harbouring of Robbers and Housebreakers*" 11 Geo. IV. No. 10. which Act has been continued by divers enactments of the said Governor and Council and will expire on the thirty-first day of August instant and whereas the provisions of the said recited Act have been found very beneficial in the prevention and suppression of crime and for the protection of the Colonists and it is expedient to continue the same with such modifications as occasion requires Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That it shall be lawful for any constable or other person whatsoever employed in or belonging to the police of the said Colony or for any free person whatever having reasonable cause to suspect any person to be a transported felon or offender unlawfully at large immediately by himself or with the assistance of other persons and without a warrant for such purpose to apprehend or cause to be apprehended every such suspected person and him to take or cause to be taken before the nearest Justice of the Peace for examination as hereinafter provided.

Persons suspected to be transported felons unlawfully at large may be apprehended by any constable or free person whatever.

2. And be it further enacted That every suspected person who shall be taken before any Justice of the Peace as aforesaid shall be obliged to prove to the reasonable satisfaction of such Justice that he is not a felon or offender under sentence of transportation upon which proof he shall be immediately discharged and in default of such proof such Justice of the Peace may cause such person to be detained in safe custody until it be proved as aforesaid whether he be under sentence or free and the proof of being free shall be upon the person alleging himself to be free Provided always that every such Justice of the Peace may in his discretion cause every such suspected person to be securely removed to Sydney to be there examined and dealt with in like manner as aforesaid and every person arrested and taken before a Justice as aforesaid who shall be proved to be unlawfully at large shall be dealt with according to law.

How such person shall be dealt with.

Proviso as to their removal to Sydney.

3. And be it further enacted That every person who shall be found on the roads or in any other part of the said Colony with fire-arms or other weapons in his possession under circumstances affording a reasonable ground for suspecting that such person has committed or intends to commit a robbery or felony shall be liable to be apprehended

Persons found with fire-arms under suspicious circumstances may be apprehended.

Transported Offenders and suspected Robbers Apprehension.

by any constable or other person employed in or belonging to the police of the said Colony or by any free person whatever having such reasonable ground for suspicion as aforesaid and taken before the nearest Justice of the Peace to be dealt with as hereinbefore is provided with respect to persons suspected of being transported felons or offenders unlawfully at large and every person who shall be proved to be a transported felon or offender and found with fire-arms or other weapons in his possession as aforesaid shall be dealt with according to the Act of the Governor and Council in such case made and provided and every person who shall be proved to be free and shall not shew to the satisfaction of such Justice that the fire-arms or other weapons found in his possession were intended for a legal or innocent purpose shall be committed upon a charge of misdemeanor and being thereof lawfully convicted before the Supreme Court or any Court of Quarter Sessions shall be liable to be imprisoned at the discretion of such Court for any time not exceeding three years and in every such case whether previously to committal by the Justice of the Peace or upon trial before the competent Court the proof that such fire-arms or other weapons were intended for a legal or innocent purpose shall be upon the person in whose possession the same shall have been found.

How to be dealt with.

Persons suspected of having fire-arms concealed may be searched.

4. And be it further enacted That it shall be lawful for any constable or other person employed in or belonging to the police of the Colony or for any free person whatever having reasonable cause for suspecting that any person may have fire-arms or other weapons concealed about him to search or cause to be searched any such suspected person and in case of discovering any such fire-arms or other weapons to take him before the nearest Justice of the Peace to be dealt with in all respects as hereinbefore is provided in reference to persons found with fire-arms or other weapons in their possession.

Justices may grant warrants to search dwelling-houses &c. where robbers or convicts are suspected to be harboured.

5. And be it further enacted That it shall be lawful for any Justice of the Peace having credible information that any transported felon or offender unlawfully at large or any robber or housebreaker is concealed or harboured in any dwelling-house tenement or other place within or reputed to be within the county or district wherein such Justice shall be or reside to grant a search warrant to any one or more constable or constables to search any one or more of such dwelling-houses tenements or other places which shall be or reputed to be within such county or district and it shall be lawful for any such constable or constables in virtue of such warrant by day and by night to demand admission into all and every such dwelling-houses tenements and other places for the purpose of executing the same and in case of refusal or neglect to comply therewith it shall be lawful for such constable or constables to break and enter any such dwelling-house tenement or other place within or reputed to be within such county or district as aforesaid and to apprehend every person whom such constable or constables shall have strong grounds for suspecting to be a transported felon or offender unlawfully at large or a robber or housebreaker and also to seize and detain all fire-arms and other weapons which shall be found in any such house or place wherein any such transported felon or offender unlawfully at large or robber or housebreaker shall be so found and all goods whatsoever which such constable or constables shall have reasonable ground for suspecting and believing to be stolen and also to apprehend all persons found in or about any such dwelling-house tenement or other place whom such constable or constables shall have good and reasonable grounds for suspecting and believing to have concealed or harboured any such robber or housebreaker and all persons arms and goods so apprehended found and seized as aforesaid shall by such constable or constables be forthwith

Transported Offenders and suspected Robbers Apprehension.

forthwith taken before such Justice of the Peace as aforesaid for examination and to be further dealt with according to law.

6. And whereas it is expedient that robbers and housebreakers should be tried and punished as speedily as may be consistent with the ends of justice Be it further enacted That all persons who shall be fully committed for the crime of robbery or of entering and plundering any dwelling-house with arms and violence shall be brought to trial as soon as possible and being lawfully convicted of any such crime and sentenced to suffer death shall be executed according to law on the day next but two after sentence passed unless the same shall happen to be Sunday and in that case on the Monday following and such sentence shall be passed immediately after the conviction of such offender unless the Court or Judge shall see reasonable cause for postponing the same.

Robbers and housebreakers shall be speedily tried and punished.

7. And for the more effectually enforcing this Law or Ordinance Be it further enacted That all His Majesty's subjects shall be liable to be called upon to aid and assist any constable or other person in executing and enforcing the several provisions thereof And every person who shall be so called upon to aid and assist and shall refuse or neglect so to do shall be liable to a fine not exceeding five pounds to be recovered and levied in a summary manner before any Justice of the Peace over and above any other punishment to which such person shall be liable by law.

All persons shall be liable to assist in executing the provisions hereof.

Penalty.

8. And be it further enacted That if any action or suit shall be brought against any Justice of the Peace constable or other person or persons for any act or thing during the continuance of this Act done in furtherance of the objects or in pursuance of the provisions of this Law or Ordinance the defendant or defendants in every such action or suit 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 defendants in any such action or suit or if the plaintiff in any such action or suit shall be nonsuited or discontinue his her or their action or suit after the defendant or defendants shall have appeared or if upon demurrer judgment shall be given against the plaintiff or plaintiffs the defendant or defendants shall have treble costs and shall have the like remedy for the same as any other defendant or defendants hath or have in any other case to recover costs by law.

Indemnifying Justices &c. for any thing done in furtherance of the objects hereof.

9. And be it further enacted That this Law or Ordinance shall commence and take effect from and after the said thirty-first day of August one thousand eight hundred and thirty-four and continue in force for two years.

Commencement and continuance of Act.