

No. XXII.

An Act to abolish the Transportation of Female Convicts and to provide for the more effectual Punishment of Female Offenders within the Colony of New South Wales. [19th November, 1839.]

FEMALE TRANSPORTATION ABOLITION.

WHEREAS by divers Statutes of the Imperial Parliament of Great Britain and Ireland and also by divers Acts of the Governor and Legislative Council of New South Wales transportation is authorized and directed for various offences And whereas it is expedient to abolish the punishment of transportation from this Colony in all cases where female convicts who have been or shall be transported or removed to New South Wales shall be again convicted before the Supreme Court of the said Colony or before any of the Courts of General Quarter Sessions holden therein of any offence subject or liable to the punishment of transportation by any of the said Statutes or Acts of the Governor and Legislative Council of New South Wales aforesaid And whereas by an Act of the Governor and Legislative Council aforesaid passed in the third year of the reign of His late Majesty King William the Fourth it was enacted that every female offender who should be committed by due course of law to any gaol or factory appointed by the Governor for the custody of female offenders should be under the management of a matron or superintendent to be appointed by the Governor for the time being and such matron or superintendent should observe and follow such rules and regulations in respect of the care and keeping of such female offenders as should be established by the Governor with the advice of the Executive Council And whereas by the law now in force in the said Colony female offenders under sentence of transportation duly convicted in a summary way are liable to certain punishments ordered and adjudged by one or more of the Justices of the Peace of the said Colony And whereas it is expedient that measures should be adopted and arrangements made in the female gaols or factories at Parramatta or elsewhere not only to provide for the safe custody but to preserve the health and improve the morals of the prisoners therein confined and also to ensure the due punishment of female offenders in the said Colony Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That from and after the passing of this Act the punishment of transportation from this Colony in each and every case where a female convict or female convicts who shall have been transported or removed to New South Wales shall be again convicted before the Supreme Court of the said Colony or before any of the Courts of General Quarter Sessions holden therein of any offence now punishable by law with transportation shall be and the same is hereby abolished any thing in any Statute or Law to the contrary notwithstanding.

3 Gal. IV. No. 3.

Transportation of females to penal settlements abolished.

2. And be it enacted That from and after the passing of this Act every female convict aforesaid convicted in the Supreme Court aforesaid or in any Court of General Quarter Sessions aforesaid of any offence heretofore punishable with transportation or who shall be convicted before either of the said Courts of any misdemeanor or other offence shall be liable at the discretion of such Court to be

Punishment substituted for transportation to be imprisonment with labor for any term not exceeding five years.

Female Transportation Abolition.

imprisoned and put to labor in any gaol or factory duly appointed for the custody of female offenders for any term not exceeding five years.

Solitary imprisonment in dark cells and on bread and water may be added at the discretion of the Court.

3. And be it enacted That in awarding the punishment of imprisonment for any offence punishable under this Act it shall be lawful for the Court to direct that such female offender shall be kept in solitary confinement for any portion or portions of such imprisonment in the dark cells of any of the said female gaols or factories and on bread and water for any period not exceeding twenty days at any one time and not exceeding sixty days in the space of any one year as to the Court in its discretion shall seem meet Provided always that no second nor other subsequent period of solitary confinement shall be imposed until a period at least equal to the same shall have elapsed.

Justices in Petty Sessions may award solitary confinement in dark cells and on bread and water during the whole or any portion of the time for which offenders may be sentenced to imprisonment provided such solitary confinement shall not exceed twenty days at any one time nor sixty days in any year.

4. And be it enacted That from and after the passing of this Act it shall and may be lawful for any two or more of Her Majesty's Justices assigned to keep the Peace within and for the said Colony in Petty Sessions assembled before whom any female under sentence of transportation shall be convicted in a summary way of any offence for which under the laws now in force imprisonment may be awarded to direct that such female offender shall be kept in confinement in solitary or dark cells at any female factory or gaol as aforesaid for any portion or portions of such imprisonment not exceeding twenty days at any one time and not exceeding sixty days in any one year as to the said Justices in their discretion shall seem meet Provided always that no second nor other subsequent period of solitary confinement shall be imposed until a period at least equal to the same shall have elapsed.

Female convicts absconding a second time or oftener to be imprisoned for any time not exceeding four calendar months or kept in solitary confinement for any time not exceeding twenty days.

5. And whereas it is expedient that further provision should be made for the punishment of female offenders absconding a second time or oftener Be it enacted That every female offender under sentence of transportation who shall be convicted before any two or more Justices of the Peace in Petty Sessions assembled a second time or oftener of absconding from the service of Government or from the service of her master or mistress shall be liable to be imprisoned or kept to labor in any gaol or factory as aforesaid for any time not exceeding four calendar months or to be kept in solitary confinement on bread and water for any time not exceeding twenty days according to the degree of the offence.

Female convicts already under sentence of transportation may be imprisoned in any gaol or factory for half the unexpired term of their sentence provided it does not exceed four years.

6. And whereas there are certain female convicts who have been transported to Moreton Bay but who by reason of the intended abandonment of that place as a penal settlement can no longer be continued there and whereas there are other female convicts who having arrived as such in the Colony of New South Wales have since been sentenced to transportation from the said Colony but who by reason of the intended abandonment of Moreton Bay as aforesaid cannot be so transported and whereas it is expedient to provide some other means of punishing the said female convicts Be it therefore enacted That it shall and may be lawful for the Governor of the said Colony to cause the said female convicts to be imprisoned and worked in any gaol or factory in the said Colony for half the unexpired term of their respective sentences Provided nevertheless that no female convict shall be so imprisoned for a longer period than four years.

Matron or superintendent may for breach of the rules of the factory or gaol put offenders into solitary confinement in dark cells for any period not exceeding three days.

7. And be it enacted That the matron or superintendent of any female factory or gaol as aforesaid shall have power to hear all complaints touching any of the following offences committed by a female convict or female convicts within the said factory or gaol or during her or their imprisonment therein that is to say disobedience of any of the rules and regulations in respect of the care and keeping of such female offenders already or at any time hereafter to be

Female Transportation Abolition.

be established under and by virtue of the law now in force—assaults by one female offender confined in such factory or gaol upon another—profane cursing or swearing—any indecent behaviour—irreverent or indecent conduct at or absence from Divine Service—idleness or negligence in work—wilful mismanagement in work or any damage destruction or improper use of the materials given in work—all of which are declared to be offences under and by virtue of this Act if committed by any description of female prisoners and the said matron or superintendent may examine any persons touching such offences and may determine thereupon and may punish all such offences by ordering any offender to close confinement in the dark or solitary cells and by keeping such offenders upon bread and water for any term not exceeding three days.

8. And be it enacted That in case any female offender imprisoned in any female factory or gaol shall be guilty of any repeated offence against the rules and regulations of the said factory or gaol or shall be guilty of any greater offence than the matron or superintendent is by this Act empowered to punish the said matron or superintendent shall forthwith report the same to one or more of Her Majesty's Justices of the Peace of the said Colony and any one such Justice shall have power to inquire upon oath and to determine concerning any such matter so reported and to order the offender to be punished by close confinement in the dark or solitary cells aforesaid upon bread and water for any term not exceeding twenty-one days.

Visiting Justice may sentence to confinement in the dark or solitary cells for any term not exceeding twenty-one days.

9. And be it enacted That if any person in contravention of the rules and regulations shall carry or bring clandestinely or convey or attempt or endeavour to carry bring or convey into any gaol or factory duly appointed for the custody of female offenders or the cells thereto belonging any spirituous or fermented liquor it shall be lawful for the matron or superintendent storekeeper or any turnkey or assistant to the said matron or superintendent or storekeeper to apprehend or cause to be apprehended such offender and to carry him or her before a Justice of the Peace who is hereby empowered to hear and determine such offence in a summary way And if he shall lawfully convict such person of such offence he shall forthwith commit such offender to any common gaol within the said Colony there to be kept for any term not exceeding three months without bail unless such offender shall immediately upon such conviction pay down such sum of money not exceeding twenty pounds and not less than ten pounds as the Justice shall impose upon such offender to be paid one moiety in the discretion of the said Justice to such person or persons as shall be aiding and assisting in such conviction and the other moiety to the Colonial Treasurer to be appropriated to the use of Her Majesty Her Heirs and Successors for the public uses of the said Colony and the support of the Government thereof.

Punishment of persons bringing spirituous or fermented liquors into any gaol or factory.