

No. X.

TRANSPORTATION—
QUARTER SESSIONS—
AND JUSTICES'
JURISDICTION.

An Act to amend an Act intituled “*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.*” [1st September, 1840.]

Preamble.

3 Wm. IV. No. 3.

WHEREAS by an Act of the Governor and Legislative Council of New South Wales passed in the third year of the reign of His late Majesty King William the Fourth intituled “*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*” after reciting that transported felons frequently abscond and absent themselves from service and cannot be apprehended until the term of their transportation has expired it is enacted that every such person shall be liable to be tried in a summary manner although at the time of such trial the sentence of such person may have expired and being convicted thereof shall be liable to serve for such and the like time as such person was absent from the service of his or her employer and be subject to such and the like punishment and to be dealt with in all respects as persons absconding during any subsisting sentence are liable to by the said recited Act and whereas it is expedient and necessary that a similar provision should be made for transported offenders so absconding and absenting themselves from their service who may be apprehended at any time before their respective sentences

Convicts absconding and being apprehended before the expiration of their sentences to serve the time of their absence in addition to the term of their sentence and during such time to be dealt with in all respects as convicts, of transportation shall have expired Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof 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 being convicted thereof shall together with any other punishment authorized by law be liable to serve and is hereby required to serve for such and the like time as such person shall have absconded and been absent from the service of his or her employer and

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and until the expiration of the whole of such time although the same may exceed the term of his or her sentence of transportation such persons shall be subject to such and the like punishment and to be dealt with in all respects as convicts whose sentences of transportation have not expired any thing in any law to the contrary notwithstanding.

2. And be it enacted That every male offender under sentence of transportation as aforesaid who shall be convicted before any two or more Justices in Petty Sessions of absconding a first time and of being absent for any period exceeding one week shall be liable to be punished as in the said recited Act is mentioned for such offence or to be kept to labor in irons on the roads or other public works of the said Colony for any period not exceeding one year nor less than three calendar months or for the term such transported offender shall have been absent.

3. And whereas it is expedient and necessary to alter and amend so much of the said recited Act as relates to punishment for absconding a second time or oftener Be it enacted That every transported male offender who shall abscond from the employment of Government or from the service of his master or mistress a second time or oftener shall be liable at the discretion of any Bench of Magistrates to be kept to labor in irons on the roads or other public works of the said Colony for any time not exceeding two years nor less than three calendar months or for the time such transported offender shall have been so absent.

4. And be it enacted That in case any such transported male offender as aforesaid shall abscond and abandon any property of which he may have charge such abandonment shall be deemed to be an aggravation of the offence and shall render such offender liable to be dealt with in the discretion of the Justices as for a misdemeanor under the provisions of the said recited Act.

5. And whereas by an Act of the said Governor and Council ^{3 Wm. IV. No. 6.} passed in the third year of the reign of His said late Majesty intituled "An Act for the better preservation of the Ports Harbours Havens Roadsteads Channels Navigable Creeks and Rivers in New South Wales and the better regulation of Shipping in the same" it is amongst other things enacted that any convict found on board any ship or vessel about to leave the said Colony with intent to escape therefrom shall be deemed guilty of a misdemeanor and on conviction before any Court of General Quarter Sessions shall be transported to a penal settlement for fourteen years and any convict found on board any ship or vessel without lawful authority shall be liable on conviction before any two or more Justices of the Peace to be kept to labor in irons on the roads or other public works of the said Colony for twelve calendar months and whereas it is expedient to provide also for the punishment of convicts found at large beyond the limits of the said Colony Be it enacted That any convict who may have escaped from the said Colony and who may be found at large anywhere beyond the limits of the same or within any of Her Majesty's Possessions in the Islands of New Zealand shall be guilty of a misdemeanor and on conviction before any Court of General Quarter Sessions shall be transported to a penal settlement for fourteen years.

6. And be it enacted That no action shall lie against any Justice of the Peace Superintendent of Convicts or other person acting under competent authority for any order or any thing done in respect of any such transported offender previously to the passing of this Act who may have absconded and been apprehended previously to the expiration of his sentence unless the same would have been illegal in the case of any such transported offender who had absconded and been apprehended subsequently to the expiration of his sentence.

Customs Duties.

5 Geo. IV. No. 3
repealed.

Penalties imposed
by 3 Win. IV. No. 3
on free persons har-
bouring runaway
convicts increased.

7. And whereas it is expedient that an Act of the Governor and Legislative Council of the said Colony passed in the fifth year of the reign of His late Majesty King George the Fourth intituled "*An Act to prevent the harbouring of Runaway Convicts and the encouraging of Convicts tippling and gambling*" should be repealed. Be it enacted That the same shall be and is hereby repealed accordingly.

8. And whereas by the said first recited Act provision is made for imposing penalties on free persons harbouring or concealing convicts illegally at large and it is expedient to amend and extend the same. Be it enacted That any settler householder or other free person in the Colony of New South Wales or its Dependencies who shall harbour in or about his or her house lands or otherwise or in any manner employ any convict illegally at large on conviction thereof before any one or more Justice or Justices of the Peace shall for every such offence forfeit and pay a sum not less than one pound nor more than fifty pounds. Provided always that if it be proved to the satisfaction of the Justice or Justices before whom such offence shall be tried that the person complained against used due and proper diligence in ascertaining whether such convict so illegally at large was free or not and that such person had reasonable ground for believing that such convict was free it shall not be imperative on such Justice or Justices to impose any penalty on such person.