

## No. XVII.

### An Act for the better prevention of Offences. [19th August, 1852.]

#### Preamble.

WHEREAS it is expedient to make further provision for the prevention of Burglary and other Offences Be it enacted by His Excellency the Governor of New South Wales by and with the advice and consent of the Legislative Council thereof as follows:—

Any person found by night with intent to break into any house and commit any felony therein guilty of a misdemeanor 1. If any person shall be found by night armed with any dangerous or offensive weapon or instrument whatsoever with intent to break or enter into any dwelling-house or other building whatsoever and to commit any felony therein or if any person shall be found by night

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night having in his possession without lawful excuse (the proof of which excuse shall lie on such person) any picklock key crow jack bit or other implement of housebreaking or if any person shall be found by night having his face blackened or otherwise disguised with intent to commit any felony or if any person shall be found by night in any dwelling-house or other building whatsoever with intent to commit any felony therein every such offender shall be guilty of a misdemeanor and being convicted thereof shall be liable at the discretion of the Court to be imprisoned with or without hard labor for any term not exceeding three years.

2. If any person shall be convicted of any such misdemeanor as aforesaid committed after a previous conviction either for felony or such misdemeanor as aforesaid such person shall on such subsequent conviction be liable at the discretion of the Court to be transported beyond the seas for any term not less than seven years and not exceeding ten years or imprisoned with or without hard labor for any term not exceeding three years and in any indictment for such misdemeanor committed after a previous conviction as aforesaid it shall be sufficient to state that the offender was at a certain time and place convicted of felony or misdemeanor (as the case may be) against "*The Act for the better prevention of Offences 1852*" (as the case may be) without otherwise describing the previous felony or misdemeanor.

3. If any person shall unlawfully apply or administer or attempt to apply or administer to any other person any chloroform laudanum or other stupefying or overpowering vapour drug matter or thing with intent thereby to enable such offender or any other person to commit or with intent to assist such offender or other person in committing any felony every such offender shall be guilty of felony and being convicted thereof shall be liable at the discretion of the Court to be transported for life or for any term not less than seven years or to be imprisoned with or without hard labor for any term not exceeding three years.

4. If any person shall unlawfully and maliciously inflict upon any other person either with or without any weapon or instrument any grievous bodily harm or unlawfully or maliciously cut stab or wound any other person every such offender shall be guilty of a misdemeanor and being convicted thereof shall be liable at the discretion of the Court to be imprisoned with or without hard labor for any term not exceeding three years.

5. If upon the trial of any information for any felony except murder or manslaughter where the information shall allege that the defendant did cut stab or wound any person the jury shall be satisfied that the defendant is guilty of the cutting stabbing or wounding charged in such information but are not satisfied that the defendant is guilty of the felony charged in such information then and in every such case the jury may acquit the defendant of such felony and find him guilty of unlawfully cutting stabbing or wounding and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an information for the misdemeanor of cutting stabbing or wounding.

6. If any person shall wilfully and maliciously set fire to any station engine-house warehouse or other building belonging or appertaining to any railway dock canal or other navigation every such person shall be guilty of felony and being convicted thereof shall be liable at the discretion of the Court to be transported beyond the seas for the term of his natural life or for any term not less than seven years or to be imprisoned with or without hard labor for any term not exceeding three years and if any person shall wilfully and maliciously set fire to any goods or chattels being in any building the setting fire to

Punishment on conviction after a previous conviction.

Form of indictment.

Persons using chloroform &c. in order to commit a felony.

Persons inflicting grievous bodily harm.

On trial for feloniously cutting &c. jury may acquit of felony and convict of misdemeanor.

Setting fire to any railway station &c.

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to which is made felony by this or any other Act of Council or any Act of Parliament every such offender shall be guilty of felony and being convicted thereof shall be liable at the discretion of the Court to be transported beyond the seas for any term not exceeding ten years nor less than seven years or to be imprisoned with or without hard labor for any term not exceeding three years.

Persons refusing or neglecting to supply necessary food &c. to apprentices or servants or unlawfully assaulting them guilty of a misdemeanor.

7. Where the master or mistress of any person shall be legally liable to provide for such person as an apprentice or as a servant necessary food clothing or lodging and shall wilfully and without lawful excuse refuse or neglect to provide the same or where the master or mistress of any such person shall unlawfully and maliciously assault such person whereby the life of such person shall be endangered or the health of such person shall have been or shall be likely to be permanently injured such master or mistress shall be guilty of a misdemeanor and being convicted thereof shall be liable to be imprisoned with or without hard labor in the common gaol or house of correction for any term not exceeding three years.

Punishing for procuring.

8. If any person shall by false pretences false representations or other fraudulent means procure any woman or child under the age of twenty-one years to have illicit carnal connection with any man such person shall be guilty of a misdemeanor and shall being duly convicted thereof suffer imprisonment for a term not exceeding two years with or without hard labor.

Apprehension of offenders against this Act.

9. It shall be lawful for any person whatsoever to apprehend any person who shall be found committing any offence against the provisions of this Act and to convey him or deliver him to some constable or other peace officer in order to his being conveyed as soon as conveniently may be before a Justice of the Peace to be dealt with according to law.

Apprehension of persons committing any indictable offences in the night.

10. And whereas doubts have been entertained as to the authority to apprehend persons found committing indictable offences in the night for remedy thereof be it enacted That it shall be lawful for any person whatsoever to apprehend any person who shall be found committing any indictable offence in the night and to convey him or deliver him to some constable or other peace officer in order to his being conveyed as soon as conveniently may be before a Justice of the Peace to be dealt with according to law.

Persons assaulting a person entitled to apprehend.

11. If any person liable to be apprehended under the provisions of this Act shall assault or offer any violence to any person by law authorized to apprehend or detain him or to any person acting in his aid and assistance every such offender shall be guilty of a misdemeanor and being convicted thereof shall be liable to be imprisoned with or without hard labor for any term not exceeding three years.

The night in offences against this Act to be as in burglary.

12. The time at which the night shall commence and conclude in any offence against the provisions of this Act shall be the same as in cases of burglary.

Vagrancy Act (15 Vic. No. 4) not repealed.

13. Nothing in this Act contained shall be deemed to repeal wholly or in part the Act of Council passed in the fifteenth year of Her present Majesty's reign numbered four.