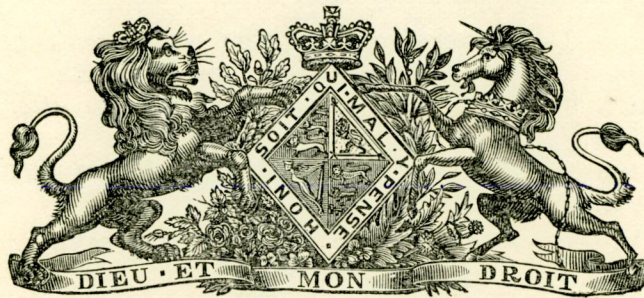


New South Wales.



ANNO SEXAGESIMO TERTIO

VICTORIÆ REGINÆ.

Act No. 27, 1899.

An Act to consolidate the Acts relating to the regulation and control of prisons and the custody of prisoners. [Assented to, 23rd November, 1899.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

PART I.

Repeal and Interpretation.

1. This Act may be cited as the "Prisons Act 1899" and is Short title. divided into Parts as follows:—

PART I.—*Repeal and Interpretation*—ss. 1-3.

PART II.—*Prisons.*

DIVISION 1.—*Establishment of prisons*—s. 4.

DIVISION 2.—*Control of prisons*—ss. 5-11.

DIVISION 3.—*Visiting of prisons*—ss. 12 13.

DIVISION 4.—*Discipline and management of prisons*—ss. 14-19.

A

PART

Prisons.

PART III.—*Penalties, and actions.*DIVISION 1.—*Recovery of penalties—ss. 20–23.*DIVISION 2.—*Actions for things done in pursuance of the Act—s. 24.*PART IV.—*Prisoners.*DIVISION 1.—*Removal from prison for various causes—ss. 25–31.*DIVISION 2.—*Removal of prisoners under sentence to places appointed for service of sentence—ss. 32–33.*DIVISION 3.—*Conveyance of prisoners to prison after sentence—s. 34.*DIVISION 4.—*Carrying out of labour sentences outside walls of prisons—ss. 35–39.*PART V.—*Power of Court to direct place of confinement—s. 40.*PART VI.—*Habeas corpus—s. 41.*

Repeal.

First Schedule.

Officers under Acts
hereby repealed.Regulations under
Acts hereby repealed.Prisons under Acts
hereby repealed.General directions of
Governor under Acts
hereby repealed.

Interpretation.

37 Vic. No. 14 s. 2, 4.

2. (1) The Acts mentioned in the First Schedule to this Act are to the extent therein expressed hereby repealed.

(2) All persons appointed or retained under the Acts hereby repealed and holding office at the time of the passing of this Act shall be deemed to have been appointed hereunder.

(3) All rules or regulations made or continued under the authority of any Act hereby repealed and being in force at the time of the passing of this Act shall be deemed to have been made under the authority of this Act.

(4) All public gaols prisons houses of correction and places of detention used and occupied as such respectively at the commencement of this Act shall be deemed to have been established and proclaimed hereunder.

(5) All general directions given by the Governor under the authority of any Act hereby repealed touching the places at which prisoners to be thereafter sentenced are to be kept shall be deemed to have been given under the authority of this Act.

3. In this Act unless the context or subject matter otherwise indicates or requires—

“Prison” means any public gaol prison house of correction already or to be hereafter established or used within New South Wales.

“Convicted prisoner” means a prisoner committed to prison for any crime offence or misconduct under or in pursuance of any sentence of any Judge Justice or Court.

PART

Prisons.

PART II.

Prisons.

DIVISION 1.—*Establishment of prisons.*

4. (1) The houses buildings enclosures and places specified in the Second Schedule hereto are hereby declared to be respectively the prisons and place of detention of New South Wales and to be subject to the provisions hereinafter made for the regulation care management and discipline of prisons and places of detention and the prisoners and persons therein confined.

Existing prisons.
Second Schedule.
4 Vic. No. 29 s. 1.

(2) The Governor may by proclamation to be published in the Gazette declare any building erection house or premises erected built purchased enlarged or maintained at the public expense as and for a prison to be a prison.

Governor may
proclaim prisons.
4 Vic. No. 29 s. 2.

(3) Every prison so proclaimed shall be the prison of the place or district where it is situated.

(4) Every prison now or hereafter established shall be also a prison for debtors.

Ibid. s. 6.

DIVISION 2.—*Control of prisons.*

5. (1) The Governor may appoint an officer to be called the Comptroller-General of Prisons.

Comptroller-General
of Prisons and
Deputy Comptroller.
37 Vic. No. 14 s. 3.

(2) The Governor may also appoint an officer to be called the Deputy Comptroller of Prisons who shall during the absence sickness or other disability of the Comptroller-General of Prisons have and exercise and be subject to all the powers authorities and obligations which may lawfully be exercised and incurred by the Comptroller-General of Prisons.

6. (1) The Comptroller-General of Prisons shall subject to the exceptions hereinafter contained and to the control of the Governor have the care direction and control of all prisons and the custody of all convicted prisoners.

Control of prisons
and custody of
prisoners.
Ibid. s. 4.

(2) The custody of all persons committed to any prison before or after the commencement of this Act not being prisoners under sentence for an indictable offence or adjudication of imprisonment for some offence punishable on summary conviction shall together with all powers rights obligations and liabilities in respect of such persons whether under the provisions of any Act or at common law continue to be vested in and incident to the Sheriff.

Ibid.

(3) The Comptroller-General and all gaolers and other officers shall hold prisoners who have not been convicted and sentenced as aforesaid for and on behalf of the Sheriff who shall have such access

Ibid.

to

Prisons.

to communication with and all other powers and authorities over or in reference to such prisoners as he would have had if this Act had not been passed.

Prisoners under
sentence of death.
37 Vic. No. 14 s. 5.

7. Nothing in this Act contained shall abridge or otherwise affect the powers authorities and obligations of the Sheriff in respect to prisoners in any prison under sentence of death.

Regulations.
Ibid. s. 8.

8. The Governor may make regulations—

4 Vic. No. 29 s. 5.
37 Vic. No. 14 s. 8.

(a) for enabling the Sheriff to carry out all powers and authorities and fulfil all duties remaining vested in him in relation to prisoners and

(b) for the good management of prisons and for enabling the Comptroller-General of Prisons to exercise all powers and authorities and fulfil all duties vested in or appertaining to him by virtue of this Act.

Regulations to be
laid before
Parliament.
Ibid. s. 9.

9. All regulations framed under the last preceding section shall be laid before both Houses of Parliament within one month if Parliament be then sitting and if Parliament be not then sitting then within one month after the commencement of the next ensuing session thereof and shall be published in the Gazette.

Appointment of
keepers &c.
4 Vic. No. 29 s. 3.

10. All the keepers and under-keepers of prisons and the assistants of such keepers and under-keepers and all other persons required and employed for the safety and care of prisons and of the prisoners confined therein shall be nominated and appointed by the Comptroller-General of Prisons subject to the approbation of the Governor.

Regulations as to
debtors prisons.
Ibid. s. 5.

11. The Judges of the Supreme Court may make rules and regulations for the management of prisons now or hereafter appointed or set apart or used for the imprisonment of debtors and for the control of debtors therein confined.

DIVISION 3.—*Visiting of prisons.*

Appointment of
visiting justices.
Ibid. s. 7.

12. (1) The Governor may appoint some fit and proper person being a magistrate to be the visiting justice of each prison.

(2) Every visiting justice shall visit the prison to which he is appointed at least once in every week unless prevented by illness or other sufficient cause.

(3) Every visiting justice shall from time to time make such reports to the Colonial Secretary as are required by order of the Governor.

Judges of Supreme
Court may visit
prisons.
Ibid. s. 7 proviso.

(4) Nothing herein contained shall be taken to abridge or affect the power of any Judge of the Supreme Court to visit and examine any prison at any time how and when he thinks fit.

Any justice may visit
prisons.
Ibid. s. 8.

13. (1) Any and every justice may as often as he thinks fit enter and examine any prison.

(2)

Prisons.

(2) Any gaoler turnkey or other person employed in a prison who refuses admittance or offers hindrance or obstruction to a justice shall be liable on conviction before any other two justices to a penalty of ten pounds.

DIVISION 4.—Discipline and management.

14. (1) The visiting justice shall have power to hear and determine all complaints—

Breaking prison rules &c.

⁴ Vic. No. 29 s. 12.

(a) touching any of the following offences committed by any description of prisoner whatsoever confined in the prison

(i) disobedience to the rules of the prison

(ii) assaults by one person confined in the prison upon another where no dangerous wound or bruise is given

(iii) profane cursing and swearing

(iv) indecent behaviour

(v) irreverent behaviour at or during divine service or prayer

(b) of idleness or negligence in work or wilful mismanagement of work committed by any prisoner under conviction for any crime

(2) The visiting justice may sentence any prisoner convicted of any of the offences aforesaid to be confined in a solitary cell on bread and water for any term not exceeding seven days.

15. (1) If any prisoner under sentence for any crime is guilty of repeated offences against the rules of the prison or of an offence greater than those mentioned in the last preceding section a complaint thereof may be made to two or more justices.

Repeated and graver offences.

Ibid. s. 13.

(2) Such justices shall inquire into and determine the matter of the complaint upon oath and may order the offender to be punished by close confinement for any term not exceeding one month or by personal correction in case of prisoners convicted of felony or sentenced to hard labour.

(3) The visiting justice may but need not necessarily be one of the justices before whom the complaint is inquired into.

16. (1) The Comptroller-General of Prisons or visiting justice of any prison may order all prisoners under sentence of imprisonment but not sentenced to hard labour except such prisoners as maintain themselves to be set to some work or labour provided the same be not severe.

Persons imprisoned but not sentenced to hard labour.

Ibid. s. 9.

(2) No such prisoner who has the means of maintaining himself shall have any claim to be supplied at the public expense.

17. (1) In order to prevent the contamination arising from the association of prisoners any prisoner may by order of the Comptroller-General of Prisons or visiting justice be separately confined during the whole or any part of his imprisonment.

Separate confinement of prisoners.

Ibid. s. 10.

(2)

Prisons.

(2) Such separate imprisonment shall not be deemed solitary confinement within the meaning of any Act forbidding the continuance of solitary confinement for more than a limited time.

(3) No cell shall be used for the separate confinement of any prisoner which is not of such a size and so ventilated and lighted that a prisoner may be confined therein without injury to health and every prisoner so confined shall have the means of taking air and exercise at such times as the surgeon thinks necessary.

Introducing liquor
into a prison.

4 Vic. No. 29 s. 11.

18. (1) Whosoever brings or attempts to bring into any prison any spirituous or fermented liquor may be apprehended by the gaoler keeper turnkey or any of their assistants and taken before a justice.

(2) The justice before whom any person so apprehended is brought shall hear and determine the offence in a summary way and may on conviction impose a penalty not exceeding twenty nor less than ten pounds and in default of immediate payment of such penalty shall commit the offender to some prison for any term not exceeding three months.

(3) One moiety of such penalty shall be paid to the informer and the other moiety to the Consolidated Revenue Fund.

Aiding and assisting
prisoner to escape.

Ibid. s. 14.

19. (1) Whosoever by any means aids and assists any prisoner to escape or in attempting to escape from any prison shall whether any escape be actually made or not be guilty of felony and liable to penal servitude for any term not exceeding fourteen years.

Conveying disguise
&c. into a prison.

Ibid.

(2) Every person who conveys or causes to be conveyed into any prison any mask visor or other disguise or any instrument or arms proper to facilitate the escape of a prisoner and delivers or causes the same to be delivered to a prisoner in the prison or to any person therein for the use of a prisoner without the consent and privity of the keeper of the prison shall be deemed to have delivered such visor disguise instrument or arms with intent to aid and assist the prisoner to escape or attempt to escape.

PART III.

Penalties and actions.

DIVISION 1.—*Recovery of penalties.*

Fines levied by
distress.

Ibid. s. 18.

20. (1) All penalties imposed by this Act or any rule or regulation hereunder shall be levied by distress and sale of the offender's goods and chattels by warrant under the hand and seal of the convicting justice.

(2)

Prisons.

(2) If there is no sufficient distress the offender shall be committed to prison for such term not exceeding six months as such justice thinks proper.

(3) All such penalties shall unless their application is hereby particularly directed be paid into the Consolidated Revenue Fund.

21. (1) Any person aggrieved by a conviction of a justice in pursuance of this Act may within four months after such conviction appeal to any Court of Quarter Sessions of the district wherein the conviction took place. Appeal from conviction by a justice. 4 Vic. No. 29 s. 20.

(2) The appellant shall give to the convicting justice and to the clerk of the peace of the district ten clear days' notice in writing of his intention to appeal and of the matter thereof.

(3) Within two days after such notice the appellant shall enter into recognizances before some justice of the district with two sufficient sureties conditioned to prosecute the appeal and abide the order of and pay the costs awarded by the Court of Quarter Sessions.

(4) On proof of such notice and recognizances having been given and entered into the Court of Quarter Sessions shall hear and finally determine the matter of the appeal in a summary way and award costs to the appellant or respondent as they think proper.

(5) The determination of the Court of Quarter Sessions shall be final binding and conclusive to all intents and purposes.

22. No order made touching any of the matters in this Act contained nor any conviction of any offender against this Act shall be quashed for want of form or be removed or removable by certiorari or by any other writ or process whatsoever into the Supreme Court. No certiorari. Ibid. s. 21.

23. (1) A distress made for any penalty or sum of money and levied by virtue of this Act shall not be deemed unlawful nor shall the party making the same be deemed a trespasser on account of any defect or want of form in the summons conviction warrant of distress or other proceedings relating thereto nor shall any party be deemed a trespasser ab initio on account of any irregularity which is afterwards done by the party distraining but the party aggrieved by such irregularity may recover full satisfaction for the special damages if any in an action on the case. Distress not unlawful for want of form. Ibid. s. 21.

(2) No plaintiff shall recover in any action for such irregularity if tender of sufficient amends is made by or on behalf of the party distraining before action brought.

DIVISION 2.—Actions for things done in pursuance of the Act.

24. In suits or actions against persons for anything done in pursuance of this Act. Costs in actions against persons acting in pursuance of the Act. Ibid. s. 22.

(1) The defendant shall recover double costs if—
(a) the verdict passes for the defendant or

(b)

Prisons.

(b) the plaintiff is nonsuited or discontinues his action after issue joined or

(c) upon demurrer or otherwise judgment is given against the plaintiff.

(2) The plaintiff shall not have costs against the defendant unless the judge certifies his approbation of the action and of the verdict.

PART IV.

Prisoners.

DIVISION 1.—*Removal from prison for various causes.*

Removal of prisoners
on Governor's order
for certain reasons.

4 Vic. No. 29 s. 15.

25. (1) Whenever it appears necessary to the Governor that the debtors or other prisoners or any of them confined in any prison should be removed therefrom for any of the following reasons—

(a) that the prison may be improved repaired enlarged or rebuilt or

(b) that a contagious or infectious disease exists therein or

(c) that the prison is overcrowded or

(d) that any of the purposes of this Act make it desirable

the Comptroller-General of Prisons may upon order of the Governor remove the debtors and other prisoners or any of them to such other prison as the Governor appoints and consigns them to during the time such prison is being repaired improved enlarged or rebuilt or during the continuance of the infectious or contagious disease or during such time as may be requisite for any purpose of this Act.

(2) When the prison is made fit for the reception and safe keeping of such debtors and other prisoners the Comptroller-General of Prisons may remove back all such prisoners then in his custody.

(3) Due and sufficient notice in writing of the order of the Governor directing the removal of debtors or prisoners shall be given to the Comptroller-General of Prisons.

Removal in cases of
emergency.

Ibid. s. 16.

26. (1) Whenever the immediate removal of the prisoners or any of them confined in any prison is rendered necessary by any contagious disease or other emergency and it is impossible to previously obtain the order of the Governor for the purpose the visiting justice or the police magistrate of the district may order the keeper of the prison to remove such prisoners or any of them to some other prison or place of confinement within his jurisdiction specified in the order.

(2) Every removal under this section shall be subject to all the restrictions as to duration as are required under the last preceding section in cases of removal by the order of the Governor.

(3) Every such order of a visiting justice or police magistrate shall together with the causes thereof be forthwith notified to the Governor and to the Comptroller-General of Prisons.

Prisons.

27. (1) The Comptroller-General of Prisons may in case of illness remove any prisoner whatever from any prison to any hospital or infirmary as occasion requires.

Removal to a hospital.
4 Vic. No. 29 s. 17.

(2) No such removal shall actually take place without the leave of a judge of the Supreme Court on application made to him for that purpose.

28. Whenever any newly-erected prison or any building previously used for other purposes is proclaimed to be a prison for any particular place or district the Comptroller-General of Prisons may on the day of the publication of the proclamation or at any time thereafter remove thereto all prisoners in his custody in such place or district according to their sentences.

Removal to newly proclaimed prison.
Ibid. s. 15.

29. The Minister of Justice may on the recommendation of the Comptroller-General of Prisons authorise the transfer of any prisoner under sentence of hard labour on the roads or public works of the Colony or imprisonment for any term with or without hard labour or of penal servitude from any prison or place of detention to any other prison or place of detention appointed or proclaimed as such.

Removal from one prison to another.
50 Vic. No. 19 s. 3.

30. Any prisoner under sentence of imprisonment with hard labour or labour on the roads or other public works of the Colony or penal servitude may be taken temporarily by authority of a warrant under the hand of the Minister of Justice from any prison or place of detention appointed or proclaimed as such to any place in the Colony for any purpose in aid of the administration of justice or other purpose which in the opinion of the Minister requires that such temporary removal should in the ends of justice be authorised.

Temporary removal of prisoners.
48 Vic. No. 4 s. 7.

31. No removal under this division of this Act shall be deemed to be an escape and nothing herein contained shall extend to discharge the Comptroller-General of Prisons or other officer from being answerable for the actual escape of any prisoner in his custody.

Removal not deemed to be an escape.
4 Vic. No. 29 s. 16.

DIVISION 2.—Removal of prisoners under sentence to the places appointed for service of such sentences.

32. The Governor may give general directions to the Comptroller-General of Prisons touching the places at which prisoners to be thereafter sentenced to hard labour on the roads or other public works of the Colony shall be kept and all prisoners so sentenced shall forthwith or as soon as convenient be forwarded to such places of detention accordingly.

General directions of Governor.
17 Vic. No. 1 s. 1.

33. (1) The following prisoners namely—

(a) prisoners under sentence to labour on the roads or other public works and liable to be forwarded to such places of detention as aforesaid

Regulation of warrants for removal of prisoners under sentence.

B

(b) *Ibid.* s. 2.

Prisons.

(b) prisoners under sentence of imprisonment in some prison elsewhere than at the place where such sentence was passed may be forwarded to such place of detention or prison under a warrant from any convicting justice in the case of a summary conviction or of the Sheriff or Deputy Sheriff at the Assize Court or Court of Quarter Sessions at which such prisoner was sentenced.

(2) Such warrants shall be sufficient authority for all constables intrusted with the conveyance of such prisoners to keep and convey them accordingly and to all lockup-keepers and gaolers to keep and detain them in custody for so long as convenience may require for the purpose and in the course of such removal.

DIVISION 3.—*Conveyance of prisoners to prison after sentence.*

Able-bodied prisoners
to proceed to prison
on foot if required.
16 Vic. No. 31.
Preamble and s. 1.
Prisoner refusing
may be taken before
a justice.
Ibid.

34. (1) Every able-bodied prisoner duly sentenced to be committed to any prison or lock-up by the order of any competent court or magistrate shall if required proceed to such prison or lock-up on foot.

(2) Every such prisoner so committed who when required by the constable or other person charged with the duty of conveying him to or towards such prison or lock-up refuses to proceed thither on foot or makes any affected delays in proceeding thereto may be taken before a justice.

Punishment for
refusal.
Ibid.

(3) Such justice may upon the oath of the constable or other person in charge of such prisoner make a summary order directing the prisoner to be kept in solitary confinement on bread and water alone for a period not exceeding fourteen days for each offence and the prisoner shall be so kept accordingly.

Original committal.
Ibid.

(4) Such order shall not be deemed to prevent such prisoner from being brought before any justice or court to be dealt with under his original committal.

Powers of constable
preserved.
Ibid.

(5) The powers conferred by this section shall not be deemed to abridge the powers now possessed by constables or other persons charged with the conveyance of prisoners from using such force as they lawfully may to compel such prisoners to proceed on foot to the place of confinement to which they have been committed.

DIVISION 4.—*Carrying out of labour sentences outside walls of Prisons.*

Places of detention
may be proclaimed.
43 Vic. No. 4 s. 6.

35. (1) The Governor may by proclamation to be published in the Gazette proclaim any place to be a place of detention for the purpose of carrying out sentences to imprisonment with hard labour or to hard labour on the roads or public works of the Colony or to penal servitude.

(2) The limits of every place of detention shall be specified in such proclamation.

(3)

Prisons.

(3) Every place of detention so proclaimed shall for all purposes of the law relating to prisons escapes rescues or prison-breach be deemed to be a prison.

Place of detention deemed to be a prison.
48 Vic. No. 4 s. 6.

36. (1) The Comptroller-General of Prisons may direct any prisoner sentenced to imprisonment with hard labour or to labour on the roads or public works of the Colony or to penal servitude to be taken for the purpose of labour outside the walls of the prison in which the prisoner is confined.

Prisoners may be taken to labour outside walls of prison.
Ibid. s. 1.

(2) The Comptroller-General of Prisons may direct any prisoner sentenced to imprisonment with hard labour to be taken and worked outside the walls of any building within the precincts of a place of detention proclaimed as aforesaid.

(3) Every prisoner employed outside the walls of a prison or beyond the precincts of a place of detention proclaimed as aforesaid who escapes or attempts to escape from custody shall be guilty of felony and may be sentenced to penal servitude for any period not exceeding five years in addition to the term of punishment under his original sentence not then actually served.

Punishment for escape.
Ibid. s. 3.

37. (1) Whenever a Justice orders or directs an offender to be imprisoned with hard labour for a period not exceeding fourteen days within any watch-house or lock-up he may by warrant under his hand direct such labour to be performed outside such watch-house or lock-up.

Justices may direct labour to be performed outside watch-house or lock-up.
Ibid. s. 2.

(2) Every offender employed outside a watch-house or lock-up pursuant to the provisions of this section who escapes or attempts to escape from custody shall be guilty of a misdemeanour and may be sentenced to imprisonment with or without hard labour for any term not exceeding six months.

Punishment for escape.
Ibid. s. 3.

38. Every person lawfully in charge of any prisoner removed from any prison under the authority of this Division of this Act who wilfully or negligently permits such prisoner to escape shall be subject to the like pains and penalties to which any constable or police officer is now by law liable for a like offence and shall while in charge of any prisoner so removed have all the power and privileges by law appertaining to a constable lawfully in charge of a prisoner.

Penalty for permitting escape powers of officers.
Ibid. s. 4.

39. (1) Whosoever without lawful authority—

- (a) is found within one hundred yards of the boundaries of any place of detention proclaimed as aforesaid or
- (b) in any manner communicates or attempts to communicate with or loiters near any offender confined or employed in any such place of detention or
- (c) communicates with any prisoner employed outside the walls of a prison

Penalty for being near place of detention.
Ibid. s. 5.

shall be guilty of a misdemeanour and be liable to a fine not exceeding twenty pounds or to imprisonment with or without hard labour for any term not exceeding three months or to both at the discretion of the Court.

(2)

Prisons.

(2) The onus of proving lawful authority shall lie upon the person charged with an offence under this section.

PART V.

Power to direct in what place an offender is to be confined.

Power of Supreme Court.

4 Vic. No. 29 s. 4.

Power of justices.

16 Vic. No. 26 s. 1.

General powers.

50 Vic. No. 19 s. 2.

40. (1) The Supreme Court or any Judge thereof may direct the imprisonment of any offender whether with or without hard labour to take effect in any particular prison whatever.

(2) Whenever a justice in the exercise of his summary jurisdiction awards imprisonment for a period not exceeding fourteen days he may direct such imprisonment to be in the nearest watch-house or lock-up in lieu of any prison.

(3) Notwithstanding anything to the contrary in any Act under which any person is liable to be committed with or without hard labour to the nearest prison or other place of detention the court or justice adjudicating may commit such person to any prison or place of detention which it or he appoints.

PART VI.

Habeas corpus.

As to writs of habeas corpus.

27 Vic. No. 14 s. 6.

41. Where before the first day of June one thousand eight hundred and seventy-four any writ of habeas corpus would in respect of the body of the person therein named have been directed to the Sheriff or to the Sheriff and other persons therein named such writ shall be directed to the Comptroller-General of Prisons and to the other person in such writ named if the custody of the body of such person has been by virtue of this Act vested in him.

Prisons.

SCHEDULES.

FIRST SCHEDULE.

Number of Act.	Title or short title.	Extent of repeal.
4 Vic. No. 29 ...	An Act for the Regulation of Gaols Prisons and Houses of Correction in the Colony of New South Wales and its Dependencies and for other purposes relating thereto.	The whole Act.
11 Vic. No. 34 ...	An Act to substitute other punishments for Transportation beyond the Sea.	The whole unrepealed portion.
16 Vic. No. 26 ...	An Act to authorise lock-up houses or watch-houses to be used as places of imprisonment under summary sentences for short periods.	The whole except section 2.
16 Vic. No. 31 ...	An Act to make it compulsory on persons under committal to prison to proceed thither on foot when required.	The whole Act.
17 Vic. No. 1 ...	An Act to regulate the removal of Prisoners under sentence to the places appointed for the service of such sentences.	The whole Act.
37 Vic. No. 14 ...	The "Prisons Act of 1874" ...	The whole Act except so much of sections 2 and 4 as relates to Reformatories for juvenile offenders.
48 Vic. No. 4 ...	The "Prisoners' Labour Sentences Act, 1884."	The whole Act.
50 Vic. No. 19 ...	The "Places of Detention Act, 1886" ...	The whole Act.

SECOND SCHEDULE.

Public gaols, prisons, and houses of correction.

Albury	Cowra	Narrabri
Armidale	Darlinghurst	Narrandera
Balranald	Deniliquin	Newcastle
Bathurst	Dubbo	Orange
Bega	Forbes	Parramatta
Berrima	Glen Innes	Port Macquarie
Biloela	Goulburn	Singleton
Bingera	Grafton	Tamworth
Bombala	Grenfell	Taree
Bourke	Gundagai	Tenterfield
Braidwood	Gunnedah	Wagga Wagga
Broken Hill	Hay	Walgett
Burrowa	Hillston	Wellington
Casino	Inverell	Wentworth
Cobar	Kempsey (West)	Wilcannia
Cooma	Maitland	Wollongong
Coonabarabran	Moree	Wyalong
Coonamble	Mudgee	Yass
Cootamundra	Murrurundi	Young.

Place of detention.

Trial Bay Prison.

I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Legislative Council Chamber,
Sydney, 15th November, 1899. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO SEXAGESIMO TERTIO

VICTORIÆ REGINÆ.

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PART I.—*Repeal and Interpretation*—ss. 1–3.

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PART

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Repeal.
First Schedule.

2. (1) The Acts mentioned in the First Schedule to this Act are to the extent therein expressed hereby repealed.

Officers under Acts
hereby repealed.

(2) All persons appointed or retained under the Acts hereby repealed and holding office at the time of the passing of this Act shall be deemed to have been appointed hereunder.

Regulations under
Acts hereby repealed.

(3) All rules or regulations made or continued under the authority of any Act hereby repealed and being in force at the time of the passing of this Act shall be deemed to have been made under the authority of this Act.

Prisons under Acts
hereby repealed.

(4) All public gaols prisons houses of correction and places of detention used and occupied as such respectively at the commencement of this Act shall be deemed to have been established and proclaimed hereunder.

General directions of
Governor under Acts
hereby repealed.

(5) All general directions given by the Governor under the authority of any Act hereby repealed touching the places at which prisoners to be thereafter sentenced are to be kept shall be deemed to have been given under the authority of this Act.

Interpretation.

3. In this Act unless the context or subject matter otherwise indicates or requires—

37 Vic. No. 14 s. 2, 4.

“Prison” means any public gaol prison house of correction already or to be hereafter established or used within New South Wales.

“Convicted prisoner” means a prisoner committed to prison for any crime offence or misconduct under or in pursuance of any sentence of any Judge Justice or Court.

PART

Prisons.

PART II.

Prisons.

DIVISION 1.—*Establishment of prisons.*

4. (1) The houses buildings enclosures and places specified in the Second Schedule hereto are hereby declared to be respectively the prisons and place of detention of New South Wales and to be subject to the provisions hereinafter made for the regulation care management and discipline of prisons and places of detention and the prisoners and persons therein confined. Existing prisons. Second Schedule. 4 Vic. No. 29 s. 1.

(2) The Governor may by proclamation to be published in the Gazette declare any building erection house or premises erected built purchased enlarged or maintained at the public expense as and for a prison to be a prison. Governor may proclaim prisons. 4 Vic. No. 29 s. 2.

(3) Every prison so proclaimed shall be the prison of the place or district where it is situated.

(4) Every prison now or hereafter established shall be also a prison for debtors. Ibid. s. 6.

DIVISION 2.—*Control of prisons.*

5. (1) The Governor may appoint an officer to be called the Comptroller-General of Prisons. Comptroller-General of Prisons and Deputy Comptroller. 37 Vic. No. 14 s. 3.

(2) The Governor may also appoint an officer to be called the Deputy Comptroller of Prisons who shall during the absence sickness or other disability of the Comptroller-General of Prisons have and exercise and be subject to all the powers authorities and obligations which may lawfully be exercised and incurred by the Comptroller-General of Prisons.

6. (1) The Comptroller-General of Prisons shall subject to the exceptions hereinafter contained and to the control of the Governor have the care direction and control of all prisons and the custody of all convicted prisoners. Control of prisons and custody of prisoners. Ibid. s. 4.

(2) The custody of all persons committed to any prison before or after the commencement of this Act not being prisoners under sentence for an indictable offence or adjudication of imprisonment for some offence punishable on summary conviction shall together with all powers rights obligations and liabilities in respect of such persons whether under the provisions of any Act or at common law continue to be vested in and incident to the Sheriff. Ibid.

(3) The Comptroller-General and all gaolers and other officers shall hold prisoners who have not been convicted and sentenced as aforesaid for and on behalf of the Sheriff who shall have such access to

Prisons.

to communication with and all other powers and authorities over or in reference to such prisoners as he would have had if this Act had not been passed.

Prisoners under
sentence of death.
37 Vic. No. 14 s. 5.

7. Nothing in this Act contained shall abridge or otherwise affect the powers authorities and obligations of the Sheriff in respect to prisoners in any prison under sentence of death.

Regulations.
Ibid. s. 8.

8. The Governor may make regulations—

(a) for enabling the Sheriff to carry out all powers and authorities and fulfil all duties remaining vested in him in relation to prisoners and

4 Vic. No. 29 s. 5.
37 Vic. No. 14 s. 8.

(b) for the good management of prisons and for enabling the Comptroller-General of Prisons to exercise all powers and authorities and fulfil all duties vested in or appertaining to him by virtue of this Act.

Regulations to be
laid before
Parliament.
Ibid. s. 9.

9. All regulations framed under the last preceding section shall be laid before both Houses of Parliament within one month if Parliament be then sitting and if Parliament be not then sitting then within one month after the commencement of the next ensuing session thereof and shall be published in the Gazette.

Appointment of
keepers &c.
4 Vic. No. 29 s. 3.

10. All the keepers and under-keepers of prisons and the assistants of such keepers and under-keepers and all other persons required and employed for the safety and care of prisons and of the prisoners confined therein shall be nominated and appointed by the Comptroller-General of Prisons subject to the approbation of the Governor.

Regulations as to
debtors prisons.
Ibid. s. 5.

11. The Judges of the Supreme Court may make rules and regulations for the management of prisons now or hereafter appointed or set apart or used for the imprisonment of debtors and for the control of debtors therein confined.

DIVISION 3.—*Visiting of prisons.*

Appointment of
visiting justices.
Ibid. s. 7.

12. (1) The Governor may appoint some fit and proper person being a magistrate to be the visiting justice of each prison.

(2) Every visiting justice shall visit the prison to which he is appointed at least once in every week unless prevented by illness or other sufficient cause.

(3) Every visiting justice shall from time to time make such reports to the Colonial Secretary as are required by order of the Governor.

Judges of Supreme
Court may visit
prisons.
Ibid. s. 7 proviso.
Any justice may visit
prisons.
Ibid. s. 8.

(4) Nothing herein contained shall be taken to abridge or affect the power of any Judge of the Supreme Court to visit and examine any prison at any time how and when he thinks fit.

13. (1) Any and every justice may as often as he thinks fit enter and examine any prison.

Prisons.

(2) Any gaoler turnkey or other person employed in a prison who refuses admittance or offers hindrance or obstruction to a justice shall be liable on conviction before any other two justices to a penalty of ten pounds.

DIVISION 4.—Discipline and management.

14. (1) The visiting justice shall have power to hear and determine all complaints— Breaking prison rules &c.
4 Vic. No. 29 s. 12.

- (a) touching any of the following offences committed by any description of prisoner whatsoever confined in the prison
 - (i) disobedience to the rules of the prison
 - (ii) assaults by one person confined in the prison upon another where no dangerous wound or bruise is given
 - (iii) profane cursing and swearing
 - (iv) indecent behaviour
 - (v) irreverent behaviour at or during divine service or prayer
- (b) of idleness or negligence in work or wilful mismanagement of work committed by any prisoner under conviction for any crime

(2) The visiting justice may sentence any prisoner convicted of any of the offences aforesaid to be confined in a solitary cell on bread and water for any term not exceeding seven days.

15. (1) If any prisoner under sentence for any crime is guilty of repeated offences against the rules of the prison or of an offence greater than those mentioned in the last preceding section a complaint thereof may be made to two or more justices. Repeated and graver offences.
Ibid. s. 13.

(2) Such justices shall inquire into and determine the matter of the complaint upon oath and may order the offender to be punished by close confinement for any term not exceeding one month or by personal correction in case of prisoners convicted of felony or sentenced to hard labour.

(3) The visiting justice may but need not necessarily be one of the justices before whom the complaint is inquired into.

16. (1) The Comptroller-General of Prisons or visiting justice of any prison may order all prisoners under sentence of imprisonment but not sentenced to hard labour except such prisoners as maintain themselves to be set to some work or labour provided the same be not severe. Persons imprisoned but not sentenced to hard labour.
Ibid. s. 9.

(2) No such prisoner who has the means of maintaining himself shall have any claim to be supplied at the public expense.

17. (1) In order to prevent the contamination arising from the association of prisoners any prisoner may by order of the Comptroller-General of Prisons or visiting justice be separately confined during the whole or any part of his imprisonment. Separate confinement of prisoners.
Ibid. s. 10.

(2)

Prisons.

(2) Such separate imprisonment shall not be deemed solitary confinement within the meaning of any Act forbidding the continuance of solitary confinement for more than a limited time.

(3) No cell shall be used for the separate confinement of any prisoner which is not of such a size and so ventilated and lighted that a prisoner may be confined therein without injury to health and every prisoner so confined shall have the means of taking air and exercise at such times as the surgeon thinks necessary.

Introducing liquor
into a prison.
4 Vic. No. 29 s. 11.

18. (1) Whosoever brings or attempts to bring into any prison any spirituous or fermented liquor may be apprehended by the gaoler keeper turnkey or any of their assistants and taken before a justice.

(2) The justice before whom any person so apprehended is brought shall hear and determine the offence in a summary way and may on conviction impose a penalty not exceeding twenty nor less than ten pounds and in default of immediate payment of such penalty shall commit the offender to some prison for any term not exceeding three months.

(3) One moiety of such penalty shall be paid to the informer and the other moiety to the Consolidated Revenue Fund.

Aiding and assisting
prisoner to escape.
Ibid. s. 14.

19. (1) Whosoever by any means aids and assists any prisoner to escape or in attempting to escape from any prison shall whether any escape be actually made or not be guilty of felony and liable to penal servitude for any term not exceeding fourteen years.

Conveying disguise
&c. into a prison.
Ibid.

(2) Every person who conveys or causes to be conveyed into any prison any mask visor or other disguise or any instrument or arms proper to facilitate the escape of a prisoner and delivers or causes the same to be delivered to a prisoner in the prison or to any person therein for the use of a prisoner without the consent and privity of the keeper of the prison shall be deemed to have delivered such visor disguise instrument or arms with intent to aid and assist the prisoner to escape or attempt to escape.

PART III.

*Penalties and actions.*DIVISION 1.—*Recovery of penalties.*

Fines levied by
distress.
Ibid. s. 18.

20. (1) All penalties imposed by this Act or any rule or regulation hereunder shall be levied by distress and sale of the offender's goods and chattels by warrant under the hand and seal of the convicting justice.

(2)

Prisons.

(2) If there is no sufficient distress the offender shall be committed to prison for such term not exceeding six months as such justice thinks proper.

(3) All such penalties shall unless their application is hereby particularly directed be paid into the Consolidated Revenue Fund.

21. (1) Any person aggrieved by a conviction of a justice in pursuance of this Act may within four months after such conviction appeal to any Court of Quarter Sessions of the district wherein the conviction took place. Appeal from conviction by a justice. 4 Vic. No. 29 s. 20.

(2) The appellant shall give to the convicting justice and to the clerk of the peace of the district ten clear days' notice in writing of his intention to appeal and of the matter thereof.

(3) Within two days after such notice the appellant shall enter into recognizances before some justice of the district with two sufficient sureties conditioned to prosecute the appeal and abide the order of and pay the costs awarded by the Court of Quarter Sessions.

(4) On proof of such notice and recognizances having been given and entered into the Court of Quarter Sessions shall hear and finally determine the matter of the appeal in a summary way and award costs to the appellant or respondent as they think proper.

(5) The determination of the Court of Quarter Sessions shall be final binding and conclusive to all intents and purposes.

22. No order made touching any of the matters in this Act contained nor any conviction of any offender against this Act shall be quashed for want of form or be removed or removable by certiorari or by any other writ or process whatsoever into the Supreme Court. No certiorari. Ibid. s. 21.

23. (1) A distress made for any penalty or sum of money and levied by virtue of this Act shall not be deemed unlawful nor shall the party making the same be deemed a trespasser on account of any defect or want of form in the summons conviction warrant of distress or other proceedings relating thereto nor shall any party be deemed a trespasser ab initio on account of any irregularity which is afterwards done by the party distraining but the party aggrieved by such irregularity may recover full satisfaction for the special damages if any in an action on the case. Distress not unlawful for want of form. Ibid. s. 21.

(2) No plaintiff shall recover in any action for such irregularity if tender of sufficient amends is made by or on behalf of the party distraining before action brought.

DIVISION 2.—Actions for things done in pursuance of the Act.

24. In suits or actions against persons for anything done in pursuance of this Act. Costs in actions against persons acting in pursuance of the Act. Ibid. s. 22.

(1) The defendant shall recover double costs if—
(a) the verdict passes for the defendant or

(b)

Prisons.

(b) the plaintiff is nonsuited or discontinues his action after issue joined or

(c) upon demurrer or otherwise judgment is given against the plaintiff.

(2) The plaintiff shall not have costs against the defendant unless the judge certifies his approbation of the action and of the verdict.

PART IV.

*Prisoners.*DIVISION 1.—*Removal from prison for various causes.*

Removal of prisoners
on Governor's order
for certain reasons.
4 Vic. No. 29 s. 15.

25. (1) Whenever it appears necessary to the Governor that the debtors or other prisoners or any of them confined in any prison should be removed therefrom for any of the following reasons—

(a) that the prison may be improved repaired enlarged or rebuilt or

(b) that a contagious or infectious disease exists therein or

(c) that the prison is overcrowded or

(d) that any of the purposes of this Act make it desirable the Comptroller-General of Prisons may upon order of the Governor remove the debtors and other prisoners or any of them to such other prison as the Governor appoints and consigns them to during the time such prison is being repaired improved enlarged or rebuilt or during the continuance of the infectious or contagious disease or during such time as may be requisite for any purpose of this Act.

(2) When the prison is made fit for the reception and safe keeping of such debtors and other prisoners the Comptroller-General of Prisons may remove back all such prisoners then in his custody.

(3) Due and sufficient notice in writing of the order of the Governor directing the removal of debtors or prisoners shall be given to the Comptroller-General of Prisons.

Removal in cases of
emergency.
Ibid. s. 16.

26. (1) Whenever the immediate removal of the prisoners or any of them confined in any prison is rendered necessary by any contagious disease or other emergency and it is impossible to previously obtain the order of the Governor for the purpose the visiting justice or the police magistrate of the district may order the keeper of the prison to remove such prisoners or any of them to some other prison or place of confinement within his jurisdiction specified in the order.

(2) Every removal under this section shall be subject to all the restrictions as to duration as are required under the last preceding section in cases of removal by the order of the Governor.

(3) Every such order of a visiting justice or police magistrate shall together with the causes thereof be forthwith notified to the Governor and to the Comptroller-General of Prisons.

Prisons.

27. (1) The Comptroller-General of Prisons may in case of illness remove any prisoner whatever from any prison to any hospital or infirmary as occasion requires.

Removal to a hospital.
4 Vic. No. 29 s. 17.

(2) No such removal shall actually take place without the leave of a judge of the Supreme Court on application made to him for that purpose.

28. Whenever any newly-erected prison or any building previously used for other purposes is proclaimed to be a prison for any particular place or district the Comptroller-General of Prisons may on the day of the publication of the proclamation or at any time thereafter remove thereto all prisoners in his custody in such place or district according to their sentences.

Removal to newly proclaimed prison.
Ibid. s. 15.

29. The Minister of Justice may on the recommendation of the Comptroller-General of Prisons authorise the transfer of any prisoner under sentence of hard labour on the roads or public works of the Colony or imprisonment for any term with or without hard labour or of penal servitude from any prison or place of detention to any other prison or place of detention appointed or proclaimed as such.

Removal from one prison to another.
50 Vic. No. 19 s. 3.

30. Any prisoner under sentence of imprisonment with hard labour or labour on the roads or other public works of the Colony or penal servitude may be taken temporarily by authority of a warrant under the hand of the Minister of Justice from any prison or place of detention appointed or proclaimed as such to any place in the Colony for any purpose in aid of the administration of justice or other purpose which in the opinion of the Minister requires that such temporary removal should in the ends of justice be authorised.

Temporary removal of prisoners.
48 Vic. No. 4 s. 7.

31. No removal under this division of this Act shall be deemed to be an escape and nothing herein contained shall extend to discharge the Comptroller-General of Prisons or other officer from being answerable for the actual escape of any prisoner in his custody.

Removal not deemed to be an escape.
4 Vic. No. 29 s. 16.

DIVISION 2.—Removal of prisoners under sentence to the places appointed for service of such sentences.

32. The Governor may give general directions to the Comptroller-General of Prisons touching the places at which prisoners to be thereafter sentenced to hard labour on the roads or other public works of the Colony shall be kept and all prisoners so sentenced shall forthwith or as soon as convenient be forwarded to such places of detention accordingly.

General directions of Governor.
17 Vic. No. 1 s. 1.

33. (1) The following prisoners namely—

(a) prisoners under sentence to labour on the roads or other public works and liable to be forwarded to such places of detention as aforesaid

Regulation of warrants for removal of prisoners under sentence.

(b) *Ibid.* s. 2.

Prisons.

(b) prisoners under sentence of imprisonment in some prison elsewhere than at the place where such sentence was passed may be forwarded to such place of detention or prison under a warrant from any convicting justice in the case of a summary conviction or of the Sheriff or Deputy Sheriff at the Assize Court or Court of Quarter Sessions at which such prisoner was sentenced.

(2) Such warrants shall be sufficient authority for all constables intrusted with the conveyance of such prisoners to keep and convey them accordingly and to all lockup-keepers and gaolers to keep and detain them in custody for so long as convenience may require for the purpose and in the course of such removal.

DIVISION 3.—*Conveyance of prisoners to prison after sentence.*

Able-bodied prisoners to proceed to prison on foot if required. 16 Vic. No. 31. Preamble and s. 1. Prisoner refusing may be taken before a justice. *Ibid.*

34. (1) Every able-bodied prisoner duly sentenced to be committed to any prison or lock-up by the order of any competent court or magistrate shall if required proceed to such prison or lock-up on foot.

(2) Every such prisoner so committed who when required by the constable or other person charged with the duty of conveying him to or towards such prison or lock-up refuses to proceed thither on foot or makes any affected delays in proceeding thereto may be taken before a justice.

Punishment for refusal. *Ibid.*

(3) Such justice may upon the oath of the constable or other person in charge of such prisoner make a summary order directing the prisoner to be kept in solitary confinement on bread and water alone for a period not exceeding fourteen days for each offence and the prisoner shall be so kept accordingly.

Original committal. *Ibid.*

(4) Such order shall not be deemed to prevent such prisoner from being brought before any justice or court to be dealt with under his original committal.

Powers of constable preserved. *Ibid.*

(5) The powers conferred by this section shall not be deemed to abridge the powers now possessed by constables or other persons charged with the conveyance of prisoners from using such force as they lawfully may to compel such prisoners to proceed on foot to the place of confinement to which they have been committed.

DIVISION 4.—*Carrying out of labour sentences outside walls of Prisons.*

Places of detention may be proclaimed. 48 Vic. No. 4 s. 6.

35. (1) The Governor may by proclamation to be published in the Gazette proclaim any place to be a place of detention for the purpose of carrying out sentences to imprisonment with hard labour or to hard labour on the roads or public works of the Colony or to penal servitude.

(2) The limits of every place of detention shall be specified in such proclamation.

(3)

Prisons.

(3) Every place of detention so proclaimed shall for all purposes of the law relating to prisons escapes rescues or prison-breach be deemed to be a prison.

Place of detention deemed to be a prison.

48 Vic. No. 4 s. 6.

36. (1) The Comptroller-General of Prisons may direct any prisoner sentenced to imprisonment with hard labour or to labour on the roads or public works of the Colony or to penal servitude to be taken for the purpose of labour outside the walls of the prison in which the prisoner is confined.

Prisoners may be taken to labour outside walls of prison.

Ibid. s. 1.

(2) The Comptroller-General of Prisons may direct any prisoner sentenced to imprisonment with hard labour to be taken and worked outside the walls of any building within the precincts of a place of detention proclaimed as aforesaid.

(3) Every prisoner employed outside the walls of a prison or beyond the precincts of a place of detention proclaimed as aforesaid who escapes or attempts to escape from custody shall be guilty of felony and may be sentenced to penal servitude for any period not exceeding five years in addition to the term of punishment under his original sentence not then actually served.

Punishment for escape.

Ibid. s. 3.

37. (1) Whenever a Justice orders or directs an offender to be imprisoned with hard labour for a period not exceeding fourteen days within any watch-house or lock-up he may by warrant under his hand direct such labour to be performed outside such watch-house or lock-up.

Justices may direct labour to be performed outside watch-house or lock-up.

Ibid. s. 2.

(2) Every offender employed outside a watch-house or lock-up pursuant to the provisions of this section who escapes or attempts to escape from custody shall be guilty of a misdemeanour and may be sentenced to imprisonment with or without hard labour for any term not exceeding six months.

Punishment for escape.

Ibid. s. 3.

38. Every person lawfully in charge of any prisoner removed from any prison under the authority of this Division of this Act who wilfully or negligently permits such prisoner to escape shall be subject to the like pains and penalties to which any constable or police officer is now by law liable for a like offence and shall while in charge of any prisoner so removed have all the power and privileges by law appertaining to a constable lawfully in charge of a prisoner.

Penalty for permitting escape powers of officers.

Ibid. s. 4.

39. (1) Whosoever without lawful authority—
- (a) is found within one hundred yards of the boundaries of any place of detention proclaimed as aforesaid or
 - (b) in any manner communicates or attempts to communicate with or loiters near any offender confined or employed in any such place of detention or
 - (c) communicates with any prisoner employed outside the walls of a prison

Penalty for being near place of detention.

Ibid. s. 5.

shall be guilty of a misdemeanour and be liable to a fine not exceeding twenty pounds or to imprisonment with or without hard labour for any term not exceeding three months or to both at the discretion of the Court.

(2)

Prisons.

(2) The onus of proving lawful authority shall lie upon the person charged with an offence under this section.

PART V.

Power to direct in what place an offender is to be confined.

Power of Supreme Court.

4 Vic. No. 29 s. 4.

Power of justices.

16 Vic. No. 26 s. 1.

General powers.

50 Vic. No. 19 s. 2.

40. (1) The Supreme Court or any Judge thereof may direct the imprisonment of any offender whether with or without hard labour to take effect in any particular prison whatever.

(2) Whenever a justice in the exercise of his summary jurisdiction awards imprisonment for a period not exceeding fourteen days he may direct such imprisonment to be in the nearest watch-house or lock-up in lieu of any prison.

(3) Notwithstanding anything to the contrary in any Act under which any person is liable to be committed with or without hard labour to the nearest prison or other place of detention the court or justice adjudicating may commit such person to any prison or place of detention which it or he appoints.

PART VI.

Habeas corpus.

As to writs of habeas corpus.

37 Vic. No. 14 s. 6.

41. Where before the first day of June one thousand eight hundred and seventy-four any writ of habeas corpus would in respect of the body of the person therein named have been directed to the Sheriff or to the Sheriff and other persons therein named such writ shall be directed to the Comptroller-General of Prisons and to the other person in such writ named if the custody of the body of such person has been by virtue of this Act vested in him.

SCHEDULES.

Prisons.

SCHEDULES.

FIRST SCHEDULE.

Number of Act.	Title or short title.	Extent of repeal.
4 Vic. No. 29 ...	An Act for the Regulation of Gaols Prisons and Houses of Correction in the Colony of New South Wales and its Dependencies and for other purposes relating thereto.	The whole Act.
11 Vic. No. 34 ...	An Act to substitute other punishments for Transportation beyond the Sea.	The whole unrepealed portion.
16 Vic. No. 26 ...	An Act to authorise lock-up houses or watch-houses to be used as places of imprisonment under summary sentences for short periods.	The whole except section 2.
16 Vic. No. 31 ...	An Act to make it compulsory on persons under committal to prison to proceed thither on foot when required.	The whole Act.
17 Vic. No. 1 ...	An Act to regulate the removal of Prisoners under sentence to the places appointed for the service of such sentences.	The whole Act.
37 Vic. No. 14 ...	The "Prisons Act of 1874" ...	The whole Act except so much of sections 2 and 4 as relates to Reformatories for juvenile offenders.
48 Vic. No. 4 ...	The "Prisoners' Labour Sentences Act, 1884."	The whole Act.
50 Vic. No. 19 ...	The "Places of Detention Act, 1886" ...	The whole Act.

SECOND SCHEDULE.

Public gaols, prisons, and houses of correction.

Albury	Cowra	Narrabri
Armidale	Darlinghurst	Narrandera
Balranald	Deniliquin	Newcastle
Bathurst	Dubbo	Orange
Bega	Forbes	Parramatta
Berrima	Glen Innes	Port Macquarie
Biloela	Goulburn	Singleton
Bingera	Grafton	Tamworth
Bombala	Grenfell	Taree
Bourke	Gundagai	Tenterfield
Braidwood	Gunnedah	Wagga Wagga
Broken Hill	Hay	Walgett
Burrowa	Hillston	Wellington
Casino	Inverell	Wentworth
Cobar	Kempsey (West)	Wilcannia
Cooma	Maitland	Wollongong
Coonabarabran	Moree	Wyalong
Coonamble	Mudgee	Yass
Cootamundra	Murrurundi	Young.

Place of detention.

Trial Bay Prison.

In the name and on the behalf of Her Majesty I assent to this Act.

Government House,
Sydney, 23rd November, 1899.

BEAUCHAMP,
Governor.

Memo. and Certificate to accompany the Prisons Bill.

THIS Bill consolidates all or part of the following Acts:—

4 Vic. No. 29;
11 Vic. No. 34;
16 Vic. No. 26;
16 Vic. No. 31;
17 Vic. No. 1;
37 Vic. No. 14;
48 Vic. No. 4;
50 Vic. No. 19.

Clause 14. The words “indecent behaviour” in the original section have been construed as not requiring to be read with the words “at or during Divine service or prayer.”

Clause 31. The second proviso to sec. 16 of 4 Vic. No. 29 has been applied to secs. 15 and 17 of the same Act.

4 Vic. No. 29, sec. 1. The preamble and provision that the laws as to gaols, &c., then in force in England should not be construed to apply to New South Wales, seem to be really a repeal of those laws as to New South Wales, and not a repeal by implication. They are therefore now omitted, as their repeal cannot have any effect of revival.

11 Vic. No. 34, secs. 5 and 6. These sections are repealed. They seem now quite inoperative, and were probably left unrepealed by the Criminal Law Amendment Act to meet the possible case of some unexpired sentences.

Except as to the foregoing matters I certify that this Bill sole'y consolidates and in no way alters, adds to, or amends the law as contained in the Acts thereby consolidated.

CHAS. G. HEYDON,
Commissioner for the Consolidation of the Statute Law.

Prisons Act, 1899.

TABLE showing how the sections of the Acts consolidated have been dealt with.

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
4 VICTORIA No. 29.		
Preamble.	Omitted.	
1	4 (1)	Part exhausted.
2	4 (2), (3)	
3	10	The provision as to the appointment of keepers, &c., is alone consolidated. The earlier part of s. 3 of 4 Vic. No. 9 is impliedly repealed by s. 4 of 37 Vic. No. 14. The proviso as to Carter's barracks and houses of correction is exhausted.
4	41 (1)	
5	8 (b), 11	
6	Omitted.	Provided for in definition of "Prison,"
7	12	
8	13	
9	16	
10	17	
11	18	
12	14	
13	15	
14	19	
15	26, 29	
16	27, 32	
17	28, 30	
18	23	
19	Omitted.	See <i>Ex parte Bennett</i> , 13 L.R., 5; 8 W.N., 18.
20	21	
21	22, 24	
22	25	
23	Omitted.	Obsolete.
24	Omitted.	Obsolete.
Schedule.	Second Schedule	Redrawn so as to embrace all existing prisons and places of detention.
11 VICTORIA No. 34.		
5	Omitted.	{ These sections were left unrepealed when the rest of the Act was repealed by the Criminal Law Amendment Act, 1883. Since the repeal of the rest of the Act the two sections appear to have nothing that they can operate upon, and to be of no effect. They are therefore omitted and specifically repealed.
6	Omitted.	
16 VICTORIA No. 26.		
Preamble.	Omitted.	
1	41 (2)	
2	Omitted.	S. 2 of 16 Vic. No. 26 is not repealed, but is left to be consolidated with the Masters and Servants' Act.

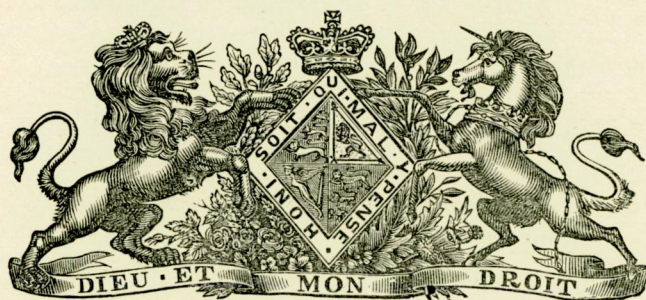
Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
16 VICTORIA No. 31.		
Preamble.	35	The words "able-bodied" have been introduced, from the Preamble of 16 Vic. No. 31, into s. 35.
1	35	
17 VICTORIA No. 1.		
Preamble.	Omitted.	
1	33	
2	34	
37 VICTORIA No. 14.		
Preamble.	Omitted.	Commencement of title of Act.
1	Omitted.	
2	3	Portion relating to Reformatories not repealed. To be dealt with in Act Consolidating the Reformatory Schools Act.
3	5	
4	3, 6	See note to s. 2 above.
5	7	
6	42	Operation exhausted. Unnecessary. The powers referred to are contained in Part II, Division 2 of the Act.
7	Omitted.	
8	8	
9	9	
48 VICTORIA No. 4.		
Preamble.	Omitted.	
1	37	
2	38	37 (3), 38 (2)
3	37 (3), 38 (2)	
4	39	
5	40	
6	36	
7	31	
50 VICTORIA No. 19.		
1	Omitted.	Title.
2	41 (3)	
3	30	

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

*Legislative Council Chamber,
Sydney, 2nd August, 1899. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO SEXAGESIMO TERTIO

VICTORIÆ REGINÆ.

Act No. , 1899.

An Act to consolidate the Acts relating to the regulation and control of prisons and the custody of prisoners.

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

PART I.

Repeal and Interpretation.

1. This Act may be cited as the "Prisons Act 1899" and is Short title. divided into Parts as follows:—

PART I.—*Repeal and Interpretation*—ss. 1-3.

PART II.—*Prisons.*

DIVISION 1.—*Establishment of prisons*—s. 4.

DIVISION 2.—*Control of prisons*—ss. 5-11.

DIVISION 3.—*Visiting of prisons*—ss. 12-13.

DIVISION 4.—*Discipline and management of prisons*—ss. 14-19.

c 22—A

PART

Prisons.

PART III.—*Penalties, and actions.*

DIVISION 1.—*Recovery of penalties—ss. 20-23.*

DIVISION 2.—*Actions for things done in pursuance of the Act—s. 24.*

PART IV.—*Prisoners.*

DIVISION 1.—*Removal from prison for various causes—ss. 25-31.*

DIVISION 2.—*Removal of prisoners under sentence to places appointed for service of sentence—ss. 32 33.*

DIVISION 3.—*Conveyance of prisoners to prison after sentence—s. 34.*

DIVISION 4.—*Carrying out of labour sentences outside walls of prisons—ss. 35-39.*

PART V.—*Power of Court to direct place of confinement—s. 40.*

PART VI.—*Habeas corpus—s. 41.*

2. (1) The Acts mentioned in the First Schedule to this Act are Repeal.
to the extent therein expressed hereby repealed. First Schedule.

(2) All persons appointed or retained under the Acts hereby Officers under Acts
repealed and holding office at the time of the passing of this Act hereby repealed.
shall be deemed to have been appointed hereunder.

(3) All rules or regulations made or continued under the Regulations under
authority of any Act hereby repealed and being in force at the time of Acts hereby repealed.
the passing of this Act shall be deemed to have been made under the
authority of this Act.

(4) All public gaols prisons houses of correction and places Prisons under Act's
of detention used and occupied as such respectively at the commence- hereby rep aled.
ment of this Act shall be deemed to have been established and
proclaimed hereunder.

(5) All general directions given by the Governor under the General directions of
authority of any Act hereby repealed touching the places at which Governor under Acts
prisoners to be thereafter sentenced are to be kept shall be deemed to hereby repealed.
have been given under the authority of this Act.

3. In this Act unless the context or subject matter otherwise Interpretation.
indicates or requires—

“Prison” means any public gaol prison house of correction 37 Vic. No. 14 s. 2, 4.
already or to be hereafter established or used within New
South Wales.

“Convicted prisoner” means a prisoner committed to prison for
any crime offence or misconduct under or in pursuance of any
sentence of any Judge Justice or Court.

PART

Prisons.

PART II.

Prisons.

DIVISION 1.—*Establishment of prisons.*

4. (1) The houses buildings enclosures and places specified in the Second Schedule hereto are hereby declared to be respectively the prisons and place of detention of New South Wales and to be subject to the provisions hereinafter made for the regulation care management and discipline of prisons and places of detention and the prisoners and persons therein confined.

Existing prisons.
Second Schedule.
4 Vic. No. 29 s. 1.

(2) The Governor may by proclamation to be published in the Gazette declare any building erection house or premises erected built purchased enlarged or maintained at the public expense as and for a prison to be a prison.

Governor may
proclaim prisons.
4 Vic. No. 29 s. 2.

(3) Every prison so proclaimed shall be the prison of the place or district where it is situated.

(4) Every prison now or hereafter established shall be also a prison for debtors.

Ibid. s. 6.

DIVISION 2.—*Control of prisons.*

5. (1) The Governor may appoint an officer to be called the Comptroller-General of Prisons.

Comptroller-General
of Prisons and
Deputy Comptroller.
37 Vic. No. 14 s. 3.

(2) The Governor may also appoint an officer to be called the Deputy Comptroller of Prisons who shall during the absence sickness or other disability of the Comptroller-General of Prisons have and exercise and be subject to all the powers authorities and obligations which may lawfully be exercised and incurred by the Comptroller-General of Prisons.

6. (1) The Comptroller-General of Prisons shall subject to the exceptions hereinafter contained and to the control of the Governor have the care direction and control of all prisons and the custody of all convicted prisoners.

Control of prisons
and custody of
prisoners.
Ibid. s. 4.

(2) The custody of all persons committed to any prison before or after the commencement of this Act not being prisoners under sentence for an indictable offence or adjudication of imprisonment for some offence punishable on summary conviction shall together with all powers rights obligations and liabilities in respect of such persons whether under the provisions of any Act or at common law continue to be vested in and incident to the Sheriff.

Ibid.

(3) The Comptroller-General and all gaolers and other officers shall hold prisoners who have not been convicted and sentenced as aforesaid for and on behalf of the Sheriff who shall have such access

Ibid.

to

Prisons.

to communication with and all other powers and authorities over or in reference to such prisoners as he would have had if this Act had not been passed.

7. Nothing in this Act contained shall abridge or otherwise affect the powers authorities and obligations of the Sheriff in respect to prisoners in any prison under sentence of death. Prisoners under sentence of death. 37 Vic. No. 14 s. 5.

8. The Governor may make regulations—

- (a) for enabling the Sheriff to carry out all powers and authorities and fulfil all duties remaining vested in him in relation to prisoners and Regulations. Ibid. s. 8.
- (b) for the good management of prisons and for enabling the Comptroller-General of Prisons to exercise all powers and authorities and fulfil all duties vested in or appertaining to him by virtue of this Act. 4 Vic. No. 29 s. 5. 37 Vic. No. 14 s. 8.

9. All regulations framed under the last preceding section shall be laid before both Houses of Parliament within one month if Parliament be then sitting and if Parliament be not then sitting then within one month after the commencement of the next ensuing session thereof and shall be published in the Gazette. Regulations to be laid before Parliament. Ibid. s. 9.

10. All the keepers and under-keepers of prisons and the assistants of such keepers and under-keepers and all other persons required and employed for the safety and care of prisons and of the prisoners confined therein shall be nominated and appointed by the Comptroller-General of Prisons subject to the approbation of the Governor. Appointment of keepers &c. 4 Vic. No. 29 s. 3.

11. The Judges of the Supreme Court may make rules and regulations for the management of prisons now or hereafter appointed or set apart or used for the imprisonment of debtors and for the control of debtors therein confined. Regulations as to debtors prisons. Ibid. s. 5.

DIVISION 3.—Visiting of prisons.

12. (1) The Governor may appoint some fit and proper person being a magistrate to be the visiting justice of each prison. Appointment of visiting justices. Ibid. s. 7.

(2) Every visiting justice shall visit the prison to which he is appointed at least once in every week unless prevented by illness or other sufficient cause.

(3) Every visiting justice shall from time to time make such reports to the Colonial Secretary as are required by order of the Governor.

(4) Nothing herein contained shall be taken to abridge or affect the power of any Judge of the Supreme Court to visit and examine any prison at any time how and when he thinks fit. Judges of Supreme Court may visit prisons. Ibid. s. 7 proviso.

13. (1) Any and every justice may as often as he thinks fit enter and examine any prison. Any justice may visit prisons. Ibid. s. 8.

(2)

Prisons.

(2) Any gaoler turnkey or other person employed in a prison who refuses admittance or offers hindrance or obstruction to a justice shall be liable on conviction before any other two justices to a penalty of ten pounds.

DIVISION 4.—Discipline and management.

14. (1) The visiting justice shall have power to hear and determine all complaints— Breaking prison rules &c.
4 Vic. No. 29 s. 12.

- (a) touching any of the following offences committed by any description of prisoner whatsoever confined in the prison
 - (i) disobedience to the rules of the prison
 - (ii) assaults by one person confined in the prison upon another where no dangerous wound or bruise is given
 - (iii) profane cursing and swearing
 - (iv) indecent behaviour
 - (v) irreverent behaviour at or during divine service or prayer
- (b) of idleness or negligence in work or wilful mismanagement of work committed by any prisoner under conviction for any crime

(2) The visiting justice may sentence any prisoner convicted of any of the offences aforesaid to be confined in a solitary cell on bread and water for any term not exceeding seven days.

15. (1) If any prisoner under sentence for any crime is guilty of repeated offences against the rules of the prison or of an offence greater than those mentioned in the last preceding section a complaint thereof may be made to two or more justices. Repeated and graver offences.
Ibid. s. 13.

(2) Such justices shall inquire into and determine the matter of the complaint upon oath and may order the offender to be punished by close confinement for any term not exceeding one month or by personal correction in case of prisoners convicted of felony or sentenced to hard labour.

(3) The visiting justice may but need not necessarily be one of the justices before whom the complaint is inquired into.

16. (1) The Comptroller-General of Prisons or visiting justice of any prison may order all prisoners under sentence of imprisonment but not sentenced to hard labour except such prisoners as maintain themselves to be set to some work or labour provided the same be not severe. Persons imprisoned but not sentenced to hard labour.
Ibid. s. 9.

(2) No such prisoner who has the means of maintaining himself shall have any claim to be supplied at the public expense.

17. (1) In order to prevent the contamination arising from the association of prisoners any prisoner may by order of the Comptroller-General of Prisons or visiting justice be separately confined during the whole or any part of his imprisonment. Separate confinement of prisoners.
Ibid. s. 10.

Prisons.

(2) Such separate imprisonment shall not be deemed solitary confinement within the meaning of any Act forbidding the continuance of solitary confinement for more than a limited time.

(3) No cell shall be used for the separate confinement of any prisoner which is not of such a size and so ventilated and lighted that a prisoner may be confined therein without injury to health and every prisoner so confined shall have the means of taking air and exercise at such times as the surgeon thinks necessary.

18. (1) Whosoever brings or attempts to bring into any prison any spirituous or fermented liquor may be apprehended by the gaoler keeper turnkey or any of their assistants and taken before a justice. Introducing liquor into a prison. 4 Vic. No. 29 s. 11.

(2) The justice before whom any person so apprehended is brought shall hear and determine the offence in a summary way and may on conviction impose a penalty not exceeding twenty nor less than ten pounds and in default of immediate payment of such penalty shall commit the offender to some prison for any term not exceeding three months.

(3) One moiety of such penalty shall be paid to the informer and the other moiety to the Consolidated Revenue Fund.

19. (1) Whosoever by any means aids and assists any prisoner to escape or in attempting to escape from any prison shall whether any escape be actually made or not be guilty of felony and liable to penal servitude for any term not exceeding fourteen years. Aiding and assisting prisoner to escape. Ibid. s. 14.

(2) Every person who conveys or causes to be conveyed into any prison any mask visor or other disguise or any instrument or arms proper to facilitate the escape of a prisoner and delivers or causes the same to be delivered to a prisoner in the prison or to any person therein for the use of a prisoner without the consent and privity of the keeper of the prison shall be deemed to have delivered such visor disguise instrument or arms with intent to aid and assist the prisoner to escape or attempt to escape. Conveying disguise &c. into a prison. Ibid.

PART III.

Penalties and actions.

DIVISION 1.—*Recovery of penalties.*

20. (1) All penalties imposed by this Act or any rule or regulation hereunder shall be levied by distress and sale of the offender's goods and chattels by warrant under the hand and seal of the convicting justice. Fines levied by distress. Ibid. s. 18.

(2)

Prisons.

(2) If there is no sufficient distress the offender shall be committed to prison for such term not exceeding six months as such justice thinks proper.

(3) All such penalties shall unless their application is hereby particularly directed be paid into the Consolidated Revenue Fund.

21. (1) Any person aggrieved by a conviction of a justice in pursuance of this Act may within four months after such conviction appeal to any Court of Quarter Sessions of the district wherein the conviction took place. Appeal from conviction by a justice. 4 Vic. No. 29 s. 20.

(2) The appellant shall give to the convicting justice and to the clerk of the peace of the district ten clear days' notice in writing of his intention to appeal and of the matter thereof.

(3) Within two days after such notice the appellant shall enter into recognizances before some justice of the district with two sufficient sureties conditioned to prosecute the appeal and abide the order of and pay the costs awarded by the Court of Quarter Sessions.

(4) On proof of such notice and recognizances having been given and entered into the Court of Quarter Sessions shall hear and finally determine the matter of the appeal in a summary way and award costs to the appellant or respondent as they think proper.

(5) The determination of the Court of Quarter Sessions shall be final binding and conclusive to all intents and purposes.

22. No order made touching any of the matters in this Act contained nor any conviction of any offender against this Act shall be quashed for want of form or be removed or removable by certiorari or by any other writ or process whatsoever into the Supreme Court. No certiorari. Ibid. s. 21.

23. (1) A distress made for any penalty or sum of money and levied by virtue of this Act shall not be deemed unlawful nor shall the party making the same be deemed a trespasser on account of any defect or want of form in the summons conviction warrant of distress or other proceedings relating thereto nor shall any party be deemed a trespasser ab initio on account of any irregularity which is afterwards done by the party distraining but the party aggrieved by such irregularity may recover full satisfaction for the special damages if any in an action on the case. Distress not unlawful for want of form. Ibid. s. 21.

(2) No plaintiff shall recover in any action for such irregularity if tender of sufficient amends is made by or on behalf of the party distraining before action brought.

DIVISION 2.—Actions for things done in pursuance of the Act.

24. In suits or actions against persons for anything done in pursuance of this Act. Costs in actions against persons acting in pursuance of the Act. Ibid. s. 22.

(1) The defendant shall recover double costs if—
(a) the verdict passes for the defendant or

(b)

Prisons.

- (b) the plaintiff is nonsuited or discontinues his action after issue joined or
 (c) upon demurrer or otherwise judgment is given against the plaintiff.
 (2) The plaintiff shall not have costs against the defendant unless the judge certifies his approbation of the action and of the verdict.

PART IV.

Prisoners.

DIVISION 1.—*Removal from prison for various causes.*

25. (1) Whenever it appears necessary to the Governor that the debtors or other prisoners or any of them confined in any prison should be removed therefrom for any of the following reasons—

Removal of prisoners on Governor's order for certain reasons.

4 Vic. No. 29 s. 15.

- (a) that the prison may be improved repaired enlarged or rebuilt or
 (b) that a contagious or infectious disease exists therein or
 (c) that the prison is overcrowded or
 (d) that any of the purposes of this Act make it desirable
 the Comptroller-General of Prisons may upon order of the Governor remove the debtors and other prisoners or any of them to such other prison as the Governor appoints and consigns them to during the time such prison is being repaired improved enlarged or rebuilt or during the continuance of the infectious or contagious disease or during such time as may be requisite for any purpose of this Act.

(2) When the prison is made fit for the reception and safe keeping of such debtors and other prisoners the Comptroller-General of Prisons may remove back all such prisoners then in his custody.

(3) Due and sufficient notice in writing of the order of the Governor directing the removal of debtors or prisoners shall be given to the Comptroller-General of Prisons.

26. (1) Whenever the immediate removal of the prisoners or any of them confined in any prison is rendered necessary by any contagious disease or other emergency and it is impossible to previously obtain the order of the Governor for the purpose the visiting justice or the police magistrate of the district may order the keeper of the prison to remove such prisoners or any of them to some other prison or place of confinement within his jurisdiction specified in the order.

Removal in cases of emergency.

Ibid. s. 16.

(2) Every removal under this section shall be subject to all the restrictions as to duration as are required under the last preceding section in cases of removal by the order of the Governor.

(3) Every such order of a visiting justice or police magistrate shall together with the causes thereof be forthwith notified to the Governor and to the Comptroller-General of Prisons.

Prisons.

27. (1) The Comptroller-General of Prisons may in case of illness remove any prisoner whatever from any prison to any hospital or infirmary as occasion requires. Removal to a hospital. 4 Vic. No. 29 s. 17.

(2) No such removal shall actually take place without the leave of a judge of the Supreme Court on application made to him for that purpose.

28. Whenever any newly-erected prison or any building previously used for other purposes is proclaimed to be a prison for any particular place or district the Comptroller-General of Prisons may on the day of the publication of the proclamation or at any time thereafter remove thereto all prisoners in his custody in such place or district according to their sentences. Removal to newly proclaimed prison. Ibid. s. 15.

29. The Minister of Justice may on the recommendation of the Comptroller-General of Prisons authorise the transfer of any prisoner under sentence of hard labour on the roads or public works of the Colony or imprisonment for any term with or without hard labour or of penal servitude from any prison or place of detention to any other prison or place of detention appointed or proclaimed as such. Removal from one prison to another. 50 Vic. No. 19 s. 3.

30. Any prisoner under sentence of imprisonment with hard labour or labour on the roads or other public works of the Colony or penal servitude may be taken temporarily by authority of a warrant under the hand of the Minister of Justice from any prison or place of detention appointed or proclaimed as such to any place in the Colony for any purpose in aid of the administration of justice or other purpose which in the opinion of the Minister requires that such temporary removal should in the ends of justice be authorised. Temporary removal of prisoners. 48 Vic. No. 4 s. 7.

31. No removal under this division of this Act shall be deemed to be an escape and nothing herein contained shall extend to discharge the Comptroller-General of Prisons or other officer from being answerable for the actual escape of any prisoner in his custody. Removal not deemed to be an escape. 4 Vic. No. 29 s. 16.

DIVISION 2.—Removal of prisoners under sentence to the places appointed for service of such sentences.

32. The Governor may give general directions to the Comptroller-General of Prisons touching the places at which prisoners to be thereafter sentenced to hard labour on the roads or other public works of the Colony shall be kept and all prisoners so sentenced shall forthwith or as soon as convenient be forwarded to such places of detention accordingly. General directions of Governor. 17 Vic. No. 1 s. 1.

33. (1) The following prisoners namely—

- (a) prisoners under sentence to labour on the roads or other public works and liable to be forwarded to such places of detention as aforesaid Regulation of warrants for removal of prisoners under sentence.

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(b) *Ibid.* s. 2.

Prisons.

(b) prisoners under sentence of imprisonment in some prison elsewhere than at the place where such sentence was passed may be forwarded to such place of detention or prison under a warrant from any convicting justice in the case of a summary conviction or of the Sheriff or Deputy Sheriff at the Assize Court or Court of Quarter Sessions at which such prisoner was sentenced.

(2) Such warrants shall be sufficient authority for all constables intrusted with the conveyance of such prisoners to keep and convey them accordingly and to all lockup-keepers and gaolers to keep and detain them in custody for so long as convenience may require for the purpose and in the course of such removal.

DIVISION 3.—*Conveyance of prisoners to prison after sentence.*

34. (1) Every able-bodied prisoner duly sentenced to be committed to any prison or lock-up by the order of any competent court or magistrate shall if required proceed to such prison or lock-up on foot.

Able-bodied prisoners to proceed to prison on foot if required. 16 Vic. No. 31. Preamble and s. 1.

(2) Every such prisoner so committed who when required by the constable or other person charged with the duty of conveying him to or towards such prison or lock-up refuses to proceed thither on foot or makes any affected delays in proceeding thereto may be taken before a justice.

Prisoner refusing may be taken before a justice. *Ibid.*

(3) Such justice may upon the oath of the constable or other person in charge of such prisoner make a summary order directing the prisoner to be kept in solitary confinement on bread and water alone for a period not exceeding fourteen days for each offence and the prisoner shall be so kept accordingly.

Punishment for refusal. *Ibid.*

(4) Such order shall not be deemed to prevent such prisoner from being brought before any justice or court to be dealt with under his original committal.

Original committal. *Ibid.*

(5) The powers conferred by this section shall not be deemed to abridge the powers now possessed by constables or other persons charged with the conveyance of prisoners from using such force as they lawfully may to compel such prisoners to proceed on foot to the place of confinement to which they have been committed.

Powers of constable preserved. *Ibid.*

DIVISION 4.—*Carrying out of labour sentences outside walls of Prisons.*

35. (1) The Governor may by proclamation to be published in the Gazette proclaim any place to be a place of detention for the purpose of carrying out sentences to imprisonment with hard labour or to hard labour on the roads or public works of the Colony or to penal servitude.

Places of detention may be proclaimed. 48 Vic. No. 4 s. 6.

(2) The limits of every place of detention shall be specified in such proclamation.

(3)

Prisons.

(3) Every place of detention so proclaimed shall for all purposes of the law relating to prisons escapes rescues or prison-breach be deemed to be a prison.

Place of detention deemed to be a prison.
43 Vic. No. 4 s. 6.

36. (1) The Comptroller-General of Prisons may direct any prisoner sentenced to imprisonment with hard labour or to labour on the roads or public works of the Colony or to penal servitude to be taken for the purpose of labour outside the walls of the prison in which the prisoner is confined.

Prisoners may be taken to labour outside walls of prison.
Ibid. s. 1.

(2) The Comptroller-General of Prisons may direct any prisoner sentenced to imprisonment with hard labour to be taken and worked outside the walls of any building within the precincts of a place of detention proclaimed as aforesaid.

(3) Every prisoner employed outside the walls of a prison or beyond the precincts of a place of detention proclaimed as aforesaid who escapes or attempts to escape from custody shall be guilty of felony and may be sentenced to penal servitude for any period not exceeding five years in addition to the term of punishment under his original sentence not then actually served.

Punishment for escape.
Ibid. s. 3.

37. (1) Whenever a Justice orders or directs an offender to be imprisoned with hard labour for a period not exceeding fourteen days within any watch-house or lock-up he may by warrant under his hand direct such labour to be performed outside such watch-house or lock-up.

Justices may direct labour to be performed outside watch-house or lock-up.
Ibid. s. 2.

(2) Every offender employed outside a watch-house or lock-up pursuant to the provisions of this section who escapes or attempts to escape from custody shall be guilty of a misdemeanour and may be sentenced to imprisonment with or without hard labour for any term not exceeding six months.

Punishment for escape.
Ibid. s. 3.

38. Every person lawfully in charge of any prisoner removed from any prison under the authority of this Division of this Act who wilfully or negligently permits such prisoner to escape shall be subject to the like pains and penalties to which any constable or police officer is now by law liable for a like offence and shall while in charge of any prisoner so removed have all the power and privileges by law appertaining to a constable lawfully in charge of a prisoner.

Penalty for permitting escape powers of officers.
Ibid. s. 4.

- 39.** (1) Whosoever without lawful authority—
- (a) is found within one hundred yards of the boundaries of any place of detention proclaimed as aforesaid or
 - (b) in any manner communicates or attempts to communicate with or loiters near any offender confined or employed in any such place of detention or
 - (c) communicates with any prisoner employed outside the walls of a prison

Penalty for being near place of detention.
Ibid. s. 5.

shall be guilty of a misdemeanour and be liable to a fine not exceeding twenty pounds or to imprisonment with or without hard labour for any term not exceeding three months or to both at the discretion of the Court.

(2)

Prisons.

(2) The onus of proving lawful authority shall lie upon the person charged with an offence under this section.

PART V.

Power to direct in what place an offender is to be confined.

40. (1) The Supreme Court or any Judge thereof may direct the imprisonment of any offender whether with or without hard labour to take effect in any particular prison whatever.

Power of Supreme Court.

4 Vic. No. 29 s. 4.

(2) Whenever a justice in the exercise of his summary jurisdiction awards imprisonment for a period not exceeding fourteen days he may direct such imprisonment to be in the nearest watch-house or lock-up in lieu of any prison.

Power of justices.

16 Vic. No. 26 s. 1.

(3) Notwithstanding anything to the contrary in any Act under which any person is liable to be committed with or without hard labour to the nearest prison or other place of detention the court or justice adjudicating may commit such person to any prison or place of detention which it or he appoints.

General powers.

50 Vic. No. 19 s. 2.

PART VI.

Habeas corpus.

41. Where before the first day of June one thousand eight hundred and seventy-four any writ of habeas corpus would in respect of the body of the person therein named have been directed to the Sheriff or to the Sheriff and other persons therein named such writ shall be directed to the Comptroller-General of Prisons and to the other person in such writ named if the custody of the body of such person has been by virtue of this Act vested in him.

As to writs of habeas corpus.

37 Vic. No. 14 s. 6.

SCHEDULES.

Prisons.

SCHEDULES.

FIRST SCHEDULE.

Number of Act.	Title or short title.	Extent of repeal.
4 Vic. No. 29	... An Act for the Regulation of Gaols Prisons and Houses of Correction in the Colony of New South Wales and its Dependencies and for other purposes relating thereto.	The whole Act.
11 Vic. No. 34	... An Act to substitute other punishments for Transportation beyond the Sea.	The whole unrepealed portion.
16 Vic. No. 26	... An Act to authorise lock-up houses or watch-houses to be used as places of imprisonment under summary sentences for short periods.	The whole except section 2.
16 Vic. No. 31	... An Act to make it compulsory on persons under committal to prison to proceed thither on foot when required.	The whole Act.
17 Vic. No. 1	... An Act to regulate the removal of Prisoners under sentence to the places appointed for the service of such sentences.	The whole Act.
37 Vic. No. 14	... The "Prisons Act of 1874" ...	The whole Act except so much of sections 2 and 4 as relates to Reformatories for juvenile offenders.
48 Vic. No. 4	... The "Prisoners' Labour Sentences Act, 1884."	The whole Act.
50 Vic. No. 19	... The "Places of Detention Act, 1886" ...	The whole Act.

SECOND SCHEDULE.

Public gaols, prisons, and houses of correction.

Albury	Cowra	Narrabri
Armidale	Darlinghurst	Narrandera
Balranald	Deniliquin	Newcastle
Bathurst	Dubbo	Orange
Bega	Forbes	Parramatta
Berrima	Glen Innes	Port Macquarie
Biloela	Goulburn	Singleton
Bingera	Grafton	Tamworth
Bombala	Grenfell	Taree
Bourke	Gundagai	Tenterfield
Braidwood	Gunnedah	Wagga Wagga
Broken Hill	Hay	Walgett
Burrowa	Hillston	Wellington
Casino	Inverell	Wentworth
Cobar	Kempsey (West)	Wilcannia
Cooma	Maitland	Wollongong
Coonabarabran	Moree	Wyalong
Coonamble	Mudgee	Yass
Cootamundra	Murrumbidgee	Young.

Place of detention.

Trial Bay Prison.

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Memo. and Certificate to accompany the Prisons Bill.

THIS Bill consolidates all or part of the following Acts:—

4 Vic. No. 29;
11 Vic. No. 34;
16 Vic. No. 26;
16 Vic. No. 31;
17 Vic. No. 1;
37 Vic. No. 14;
48 Vic. No. 4;
50 Vic. No. 19.

Clause 14. The words “indecent behaviour” in the original section have been construed as not requiring to be read with the words “at or during Divine service or prayer.”

Clause 31. The second proviso to sec. 16 of 4 Vic. No. 29 has been applied to secs. 15 and 17 of the same Act.

4 Vic. No. 29, sec. 1. The preamble and provision that the laws as to gaols, &c., then in force in England should not be construed to apply to New South Wales, seem to be really a repeal of those laws as to New South Wales, and not a repeal by implication. They are therefore now omitted, as their repeal cannot have any effect of revival.

11 Vic. No. 34, secs. 5 and 6. These sections are repealed. They seem now quite inoperative, and were probably left unrepealed by the Criminal Law Amendment Act to meet the possible case of some unexpired sentences.

Except as to the foregoing matters I certify that this Bill solely consolidates and in no way alters, adds to, or amends the law as contained in the Acts thereby consolidated.

CHAS. G. HEYDON,
Commissioner for the Consolidation of the Statute Law.

Prisons Act, 1899.

TABLE showing how the sections of the Acts consolidated have been dealt with.

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
4 VICTORIA No. 29.		
Preamble.	Omitted.	
1	4 (1)	Part exhausted.
2	4 (2), (3)	
3	10	The provision as to the appointment of keepers, &c., is alone consolidated. The earlier part of s. 3 of 4 Vic. No. 9 is impliedly repealed by s. 4 of 37 Vic. No. 14. The proviso as to Carter's barracks and houses of correction is exhausted.
4	41 (1)	
5	8 (b), 11	
6	Omitted.	Provided for in definition of "Prison."
7	12	
8	13	
9	16	
10	17	
11	18	
12	14	
13	15	
14	19	
15	26, 29	
16	27, 32	
17	28, 30	
18	23	
19	Omitted.	See <i>Ex parte Bennett</i> , 13 L.R., 5; 8 W.N., 18.
20	21	
21	22, 24	
22	25	
23	Omitted.	Obsolete.
24	Omitted.	Obsolete.
Schedule.	Second Schedule	Redrawn so as to embrace all existing prisons and places of detention.
11 VICTORIA No. 34.		
5	Omitted.	{ These sections were left unrepealed when the rest of the Act was repealed by the Criminal Law Amendment Act, 1883. Since the repeal of the rest of the Act the two sections appear to have nothing that they can operate upon, and to be of no effect. They are therefore omitted and specifically repealed.
6	Omitted.	
16 VICTORIA No. 26.		
Preamble.	Omitted.	
1	41 (2)	
2	Omitted.	S. 2 of 16 Vic. No. 26 is not repealed, but is left to be consolidated with the Masters and Servants' Act.

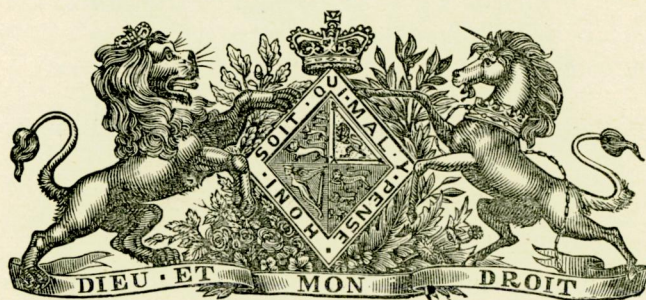
Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
16 VICTORIA No. 31.		
Preamble.	35	The words "able-bodied" have been introduced, from the Preamble of 16 Vic. No. 31, into s. 35.
1	35	
17 VICTORIA No. 1.		
Preamble.	Omitted.	
1	33	
2	34	
37 VICTORIA No. 14.		
Preamble.	Omitted.	Commencement of title of Act.
1	Omitted.	
2	3	Portion relating to Reformatories not repealed. To be dealt with in Act Consolidating the Reformatory Schools Act.
3	5	
4	3, 6	See note to s. 2 above.
5	7	
6	42	Operation exhausted. Unnecessary. The powers referred to are contained in Part II, Division 2 of the Act.
7	Omitted.	
8	8	
9	9	
48 VICTORIA No. 4.		
Preamble.	Omitted.	
1	37	
2	38	37 (3), 38 (2)
3	39	
4	40	
5	36	
6	31	
7		
50 VICTORIA No. 19.		
1	Omitted.	Title.
2	41 (3)	
3	30	

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

*Legislative Council Chamber,
Sydney, 2nd August, 1899. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO SEXAGESIMO TERTIO

VICTORIÆ REGINÆ.

Act No. , 1899.

An Act to consolidate the Acts relating to the regulation and control of prisons and the custody of prisoners.

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

PART I.

Repeal and Interpretation.

1. This Act may be cited as the "Prisons Act 1899" and is Short title. divided into Parts as follows:—

PART I.—*Repeal and Interpretation*—ss. 1-3.

PART II.—*Prisons.*

DIVISION 1.—*Establishment of prisons*—s. 4.

DIVISION 2.—*Control of prisons*—ss. 5-11.

DIVISION 3.—*Visiting of prisons*—ss. 12-13.

DIVISION 4.—*Discipline and management of prisons*—ss. 14-19.

c 22—A

PART

PART III.—*Penalties, and actions.*DIVISION 1.—*Recovery of penalties—ss. 20–23.*DIVISION 2.—*Actions for things done in pursuance of the Act—s. 24.*PART IV.—*Prisoners.*DIVISION 1.—*Removal from prison for various causes—ss. 25–31.*DIVISION 2.—*Removal of prisoners under sentence to places appointed for service of sentence—ss. 32–33.*DIVISION 3.—*Conveyance of prisoners to prison after sentence—s. 34.*DIVISION 4.—*Carrying out of labour sentences outside walls of prisons—ss. 35–39.*PART V.—*Power of Court to direct place of confinement—s. 40.*PART VI.—*Habeas corpus—s. 41.*

Repeal.

First Schedule.

Officers under Acts
hereby repealed.Regulations under
Acts hereby repealed.Prisons under Acts
hereby repealed.General directions of
Governor under Acts
hereby repealed.

Interpretation.

37 Vic. No. 14 s. 2, 4.

2. (1) The Acts mentioned in the First Schedule to this Act are to the extent therein expressed hereby repealed.

(2) All persons appointed or retained under the Acts hereby repealed and holding office at the time of the passing of this Act shall be deemed to have been appointed hereunder.

(3) All rules or regulations made or continued under the authority of any Act hereby repealed and being in force at the time of the passing of this Act shall be deemed to have been made under the authority of this Act.

(4) All public gaols prisons houses of correction and places of detention used and occupied as such respectively at the commencement of this Act shall be deemed to have been established and proclaimed hereunder.

(5) All general directions given by the Governor under the authority of any Act hereby repealed touching the places at which prisoners to be thereafter sentenced are to be kept shall be deemed to have been given under the authority of this Act.

3. In this Act unless the context or subject matter otherwise indicates or requires—

“Prison” means any public gaol prison house of correction already or to be hereafter established or used within New South Wales.

“Convicted prisoner” means a prisoner committed to prison for any crime offence or misconduct under or in pursuance of any sentence of any Judge Justice or Court.

PART

PART II.

Prisons.

DIVISION 1.—*Establishment of prisons.*

4. (1) The houses buildings enclosures and places specified in the Second Schedule hereto are hereby declared to be respectively the prisons and place of detention of New South Wales and to be subject to the provisions hereinafter made for the regulation care management and discipline of prisons and places of detention and the prisoners and persons therein confined.

Existing prisons.
Second Schedule.
4 Vic. No. 29 s. 1.

(2) The Governor may by proclamation to be published in the Gazette declare any building erection house or premises erected built purchased enlarged or maintained at the public expense as and for a prison to be a prison.

Governor may
proclaim prisons.
4 Vic. No. 29 s. 2.

(3) Every prison so proclaimed shall be the prison of the place or district where it is situated.

(4) Every prison now or hereafter established shall be also a prison for debtors.

Ibid. s. 6.

DIVISION 2.—*Control of prisons.*

5. (1) The Governor may appoint an officer to be called the Comptroller-General of Prisons.

Comptroller-General
of Prisons and
Deputy Comptroller.
37 Vic. No. 14 s. 3.

(2) The Governor may also appoint an officer to be called the Deputy Comptroller of Prisons who shall during the absence sickness or other disability of the Comptroller-General of Prisons have and exercise and be subject to all the powers authorities and obligations which may lawfully be exercised and incurred by the Comptroller-General of Prisons.

6. (1) The Comptroller-General of Prisons shall subject to the exceptions hereinafter contained and to the control of the Governor have the care direction and control of all prisons and the custody of all convicted prisoners.

Control of prisons
and custody of
prisoners.
Ibid. s. 4.

(2) The custody of all persons committed to any prison before or after the commencement of this Act not being prisoners under sentence for an indictable offence or adjudication of imprisonment for some offence punishable on summary conviction shall together with all powers rights obligations and liabilities in respect of such persons whether under the provisions of any Act or at common law continue to be vested in and incident to the Sheriff.

Ibid.

(3) The Comptroller-General and all gaolers and other officers shall hold prisoners who have not been convicted and sentenced as aforesaid for and on behalf of the Sheriff who shall have such access to

Ibid.

to

to communication with and all other powers and authorities over or in reference to such prisoners as he would have had if this Act had not been passed.

Prisoners under
sentence of death.
37 Vic. No. 14 s. 5.

7. Nothing in this Act contained shall abridge or otherwise affect the powers authorities and obligations of the Sheriff in respect to prisoners in any prison under sentence of death.

Regulations.
Ibid. s. 8.

8. The Governor may make regulations—

(a) for enabling the Sheriff to carry out all powers and authorities and fulfil all duties remaining vested in him in relation to prisoners and

4 Vic. No. 29 s. 5.
37 Vic. No. 14 s. 8.

(b) for the good management of prisons and for enabling the Comptroller-General of Prisons to exercise all powers and authorities and fulfil all duties vested in or appertaining to him by virtue of this Act.

Regulations to be
laid before
Parliament.
Ibid. s. 9.

9. All regulations framed under the last preceding section shall be laid before both Houses of Parliament within one month if Parliament be then sitting and if Parliament be not then sitting then within one month after the commencement of the next ensuing session thereof and shall be published in the Gazette.

Appointment of
keepers &c.
4 Vic. No. 29 s. 3.

10. All the keepers and under-keepers of prisons and the assistants of such keepers and under-keepers and all other persons required and employed for the safety and care of prisons and of the prisoners confined therein shall be nominated and appointed by the Comptroller-General of Prisons subject to the approbation of the Governor.

Regulations as to
debtors prisons.
Ibid. s. 5.

11. The Judges of the Supreme Court may make rules and regulations for the management of prisons now or hereafter appointed or set apart or used for the imprisonment of debtors and for the control of debtors therein confined.

DIVISION 3.—*Visiting of prisons.*

Appointment of
visiting justices.
Ibid. s. 7.

12. (1) The Governor may appoint some fit and proper person being a magistrate to be the visiting justice of each prison.

(2) Every visiting justice shall visit the prison to which he is appointed at least once in every week unless prevented by illness or other sufficient cause.

(3) Every visiting justice shall from time to time make such reports to the Colonial Secretary as are required by order of the Governor.

Judges of Supreme
Court may visit
prisons.
Ibid. s. 7 proviso.

(4) Nothing herein contained shall be taken to abridge or affect the power of any Judge of the Supreme Court to visit and examine any prison at any time how and when he thinks fit.

Any justice may visit
prisons.
Ibid. s. 8.

13. (1) Any and every justice may as often as he thinks fit enter and examine any prison.

(2)

(2) Any gaoler turnkey or other person employed in a prison who refuses admittance or offers hindrance or obstruction to a justice shall be liable on conviction before any other two justices to a penalty of ten pounds.

DIVISION 4.—*Discipline and management.*

14. (1) The visiting justice shall have power to hear and determine all complaints— Breaking prison rules, &c.
4 Vic. No. 29 s. 12.

- (a) touching any of the following offences committed by any description of prisoner whatsoever confined in the prison
- (i) disobedience to the rules of the prison
 - (ii) assaults by one person confined in the prison upon another where no dangerous wound or bruise is given
 - (iii) profane cursing and swearing
 - (iv) indecent behaviour
 - (v) irreverent behaviour at or during divine service or prayer
- (b) of idleness or negligence in work or wilful mismanagement of work committed by any prisoner under conviction for any crime

(2) The visiting justice may sentence any prisoner convicted of any of the offences aforesaid to be confined in a solitary cell on bread and water for any term not exceeding seven days.

15. (1) If any prisoner under sentence for any crime is guilty of repeated offences against the rules of the prison or of an offence greater than those mentioned in the last preceding section a complaint thereof may be made to two or more justices. Repeated and graver offences.
Ibid. s. 13.

(2) Such justices shall inquire into and determine the matter of the complaint upon oath and may order the offender to be punished by close confinement for any term not exceeding one month or by personal correction in case of prisoners convicted of felony or sentenced to hard labour.

(3) The visiting justice may but need not necessarily be one of the justices before whom the complaint is inquired into.

16. (1) The Comptroller-General of Prisons or visiting justice of any prison may order all prisoners under sentence of imprisonment but not sentenced to hard labour except such prisoners as maintain themselves to be set to some work or labour provided the same be not severe. Persons imprisoned but not sentenced to hard labour.
Ibid. s. 9.

(2) No such prisoner who has the means of maintaining himself shall have any claim to be supplied at the public expense.

17. (1) In order to prevent the contamination arising from the association of prisoners any prisoner may by order of the Comptroller-General of Prisons or visiting justice be separately confined during the whole or any part of his imprisonment. Separate confinement of prisoners.
Ibid. s. 10.

(2) Such separate imprisonment shall not be deemed solitary confinement within the meaning of any Act forbidding the continuance of solitary confinement for more than a limited time.

(3) No cell shall be used for the separate confinement of any prisoner which is not of such a size and so ventilated and lighted that a prisoner may be confined therein without injury to health and every prisoner so confined shall have the means of taking air and exercise at such times as the surgeon thinks necessary.

Introducing liquor
into a prison.

4 Vic. No. 29 s. 11.

18. (1) Whosoever brings or attempts to bring into any prison any spirituous or fermented liquor may be apprehended by the gaoler keeper turnkey or any of their assistants and taken before a justice.

(2) The justice before whom any person so apprehended is brought shall hear and determine the offence in a summary way and may on conviction impose a penalty not exceeding twenty nor less than ten pounds and in default of immediate payment of such penalty shall commit the offender to some prison for any term not exceeding three months.

(3) One moiety of such penalty shall be paid to the informer and the other moiety to the Consolidated Revenue Fund.

Aiding and assisting
prisoner to escape.

Ibid. s. 14.

19. (1) Whosoever by any means aids and assists any prisoner to escape or in attempting to escape from any prison shall whether any escape be actually made or not be guilty of felony and liable to penal servitude for any term not exceeding fourteen years.

Conveying disguise
&c. into a prison.

Ibid.

(2) Every person who conveys or causes to be conveyed into any prison any mask visor or other disguise or any instrument or arms proper to facilitate the escape of a prisoner and delivers or causes the same to be delivered to a prisoner in the prison or to any person therein for the use of a prisoner without the consent and privity of the keeper of the prison shall be deemed to have delivered such visor disguise instrument or arms with intent to aid and assist the prisoner to escape or attempt to escape.

PART III.

Penalties and actions.

DIVISION 1.—*Recovery of penalties.*

Fines levied by
distress.

Ibid. s. 18.

20. (1) All penalties imposed by this Act or any rule or regulation hereunder shall be levied by distress and sale of the offender's goods and chattels by warrant under the hand and seal of the convicting justice.

(2)

(2) If there is no sufficient distress the offender shall be committed to prison for such term not exceeding six months as such justice thinks proper.

(3) All such penalties shall unless their application is hereby particularly directed be paid into the Consolidated Revenue Fund.

21. (1) Any person aggrieved by a conviction of a justice in pursuance of this Act may within four months after such conviction appeal to any Court of Quarter Sessions of the district wherein the conviction took place. Appeal from conviction by a justice. 4 Vic. No. 29 s. 20.

(2) The appellant shall give to the convicting justice and to the clerk of the peace of the district ten clear days' notice in writing of his intention to appeal and of the matter thereof.

(3) Within two days after such notice the appellant shall enter into recognizances before some justice of the district with two sufficient sureties conditioned to prosecute the appeal and abide the order of and pay the costs awarded by the Court of Quarter Sessions.

(4) On proof of such notice and recognizances having been given and entered into the Court of Quarter Sessions shall hear and finally determine the matter of the appeal in a summary way and award costs to the appellant or respondent as they think proper.

(5) The determination of the Court of Quarter Sessions shall be final binding and conclusive to all intents and purposes.

22. No order made touching any of the matters in this Act contained nor any conviction of any offender against this Act shall be quashed for want of form or be removed or removable by certiorari or by any other writ or process whatsoever into the Supreme Court. No certiorari. Ibid. s. 21.

23. (1) A distress made for any penalty or sum of money and levied by virtue of this Act shall not be deemed unlawful nor shall the party making the same be deemed a trespasser on account of any defect or want of form in the summons conviction warrant of distress or other proceedings relating thereto nor shall any party be deemed a trespasser ab initio on account of any irregularity which is afterwards done by the party distraining but the party aggrieved by such irregularity may recover full satisfaction for the special damages if any in an action on the case. Distress not unlawful for want of form. Ibid. s. 21.

(2) No plaintiff shall recover in any action for such irregularity if tender of sufficient amends is made by or on behalf of the party distraining before action brought.

DIVISION 2.—*Actions for things done in pursuance of the Act.*

24. In suits or actions against persons for anything done in pursuance of this Act. Costs in actions against persons acting in pursuance of the Act. Ibid. s. 22.

(1) The defendant shall recover double costs if—

(a) the verdict passes for the defendant or

(b)

- (b) the plaintiff is nonsuited or discontinues his action after issue joined or
 - (c) upon demurrer or otherwise judgment is given against the plaintiff.
- (2) The plaintiff shall not have costs against the defendant unless the judge certifies his approbation of the action and of the verdict.

PART IV.

*Prisoners.*DIVISION 1.—*Removal from prison for various causes.*

Removal of prisoners
on Governor's order
for certain reasons.
4 Vic. No. 29 s. 15.

25. (1) Whenever it appears necessary to the Governor that the debtors or other prisoners or any of them confined in any prison should be removed therefrom for any of the following reasons—

- (a) that the prison may be improved repaired enlarged or rebuilt or
 - (b) that a contagious or infectious disease exists therein or
 - (c) that the prison is overcrowded or
 - (d) that any of the purposes of this Act make it desirable
- the Comptroller-General of Prisons may upon order of the Governor remove the debtors and other prisoners or any of them to such other prison as the Governor appoints and consigns them to during the time such prison is being repaired improved enlarged or rebuilt or during the continuance of the infectious or contagious disease or during such time as may be requisite for any purpose of this Act.

(2) When the prison is made fit for the reception and safe keeping of such debtors and other prisoners the Comptroller-General of Prisons may remove back all such prisoners then in his custody.

(3) Due and sufficient notice in writing of the order of the Governor directing the removal of debtors or prisoners shall be given to the Comptroller-General of Prisons.

Removal in cases of
emergency.
Ibid. s. 16.

26. (1) Whenever the immediate removal of the prisoners or any of them confined in any prison is rendered necessary by any contagious disease or other emergency and it is impossible to previously obtain the order of the Governor for the purpose the visiting justice or the police magistrate of the district may order the keeper of the prison to remove such prisoners or any of them to some other prison or place of confinement within his jurisdiction specified in the order.

(2) Every removal under this section shall be subject to all the restrictions as to duration as are required under the last preceding section in cases of removal by the order of the Governor.

(3) Every such order of a visiting justice or police magistrate shall together with the causes thereof be forthwith notified to the Governor and to the Comptroller-General of Prisons.

27. (1) The Comptroller-General of Prisons may in case of illness remove any prisoner whatever from any prison to any hospital or infirmary as occasion requires. Removal to a hospital. 4 Vic. No. 23 s. 17.

(2) No such removal shall actually take place without the leave of a judge of the Supreme Court on application made to him for that purpose.

28. Whenever any newly-erected prison or any building previously used for other purposes is proclaimed to be a prison for any particular place or district the Comptroller-General of Prisons may on the day of the publication of the proclamation or at any time thereafter remove thereto all prisoners in his custody in such place or district according to their sentences. Removal to newly proclaimed prison. Ibid. s. 15.

29. The Minister of Justice may on the recommendation of the Comptroller-General of Prisons authorise the transfer of any prisoner under sentence of hard labour on the roads or public works of the Colony or imprisonment for any term with or without hard labour or of penal servitude from any prison or place of detention to any other prison or place of detention appointed or proclaimed as such. Removal from one prison to another. 50 Vic. No. 19 s. 3.

30. Any prisoner under sentence of imprisonment with hard labour or labour on the roads or other public works of the Colony or penal servitude may be taken temporarily by authority of a warrant under the hand of the Minister of Justice from any prison or place of detention appointed or proclaimed as such to any place in the Colony for any purpose in aid of the administration of justice or other purpose which in the opinion of the Minister requires that such temporary removal should in the ends of justice be authorised. Temporary removal of prisoners. 48 Vic. No. 4 s. 7.

31. No removal under this division of this Act shall be deemed to be an escape and nothing herein contained shall extend to discharge the Comptroller-General of Prisons or other officer from being answerable for the actual escape of any prisoner in his custody. Removal not deemed to be an escape. 4 Vic. No. 29 s. 16.

DIVISION 2.—Removal of prisoners under sentence to the places appointed for service of such sentences.

32. The Governor may give general directions to the Comptroller-General of Prisons touching the places at which prisoners to be thereafter sentenced to hard labour on the roads or other public works of the Colony shall be kept and all prisoners so sentenced shall forthwith or as soon as convenient be forwarded to such places of detention accordingly. General directions of Governor. 17 Vic. No. 1 s. 1.

33. (1) The following prisoners namely—

- (a) prisoners under sentence to labour on the roads or other public works and liable to be forwarded to such places of detention as aforesaid Regulation of warrants for removal of prisoners under sentence.

c 22—B

(b) *Ibid.* s. 2.

(b) prisoners under sentence of imprisonment in some prison elsewhere than at the place where such sentence was passed may be forwarded to such place of detention or prison under a warrant from any convicting justice in the case of a summary conviction or of the Sheriff or Deputy Sheriff at the Assize Court or Court of Quarter Sessions at which such prisoner was sentenced.

(2) Such warrants shall be sufficient authority for all constables intrusted with the conveyance of such prisoners to keep and convey them accordingly and to all lockup-keepers and gaolers to keep and detain them in custody for so long as convenience may require for the purpose and in the course of such removal.

DIVISION 3.—*Conveyance of prisoners to prison after sentence.*

Able-bodied prisoners to proceed to prison on foot if required. 16 Vic. No. 31. Preamble and s. 1. Prisoner refusing may be taken before a justice. *Ibid.*

34. (1) Every able-bodied prisoner duly sentenced to be committed to any prison or lock-up by the order of any competent court or magistrate shall if required proceed to such prison or lock-up on foot.

(2) Every such prisoner so committed who when required by the constable or other person charged with the duty of conveying him to or towards such prison or lock-up refuses to proceed thither on foot or makes any affected delays in proceeding thereto may be taken before a justice.

Punishment for refusal. *Ibid.*

(3) Such justice may upon the oath of the constable or other person in charge of such prisoner make a summary order directing the prisoner to be kept in solitary confinement on bread and water alone for a period not exceeding fourteen days for each offence and the prisoner shall be so kept accordingly.

Original committal. *Ibid.*

(4) Such order shall not be deemed to prevent such prisoner from being brought before any justice or court to be dealt with under his original committal.

Powers of constable preserved. *Ibid.*

(5) The powers conferred by this section shall not be deemed to abridge the powers now possessed by constables or other persons charged with the conveyance of prisoners from using such force as they lawfully may to compel such prisoners to proceed on foot to the place of confinement to which they have been committed.

DIVISION 4.—*Carrying out of labour sentences outside walls of Prisons.*

Places of detention may be proclaimed. 48 Vic. No. 4 s. 6.

35. (1) The Governor may by proclamation to be published in the Gazette proclaim any place to be a place of detention for the purpose of carrying out sentences to imprisonment with hard labour or to hard labour on the roads or public works of the Colony or to penal servitude.

(2) The limits of every place of detention shall be specified in such proclamation.

(3)

(3) Every place of detention so proclaimed shall for all purposes of the law relating to prisons escapes rescues or prison-breach be deemed to be a prison.

Place of detention deemed to be a prison.
48 Vic. No. 4 s. 6.

36. (1) The Comptroller-General of Prisons may direct any prisoner sentenced to imprisonment with hard labour or to labour on the roads or public works of the Colony or to penal servitude to be taken for the purpose of labour outside the walls of the prison in which the prisoner is confined.

Prisoners may be taken to labour outside walls of prison.
Ibid. s. 1.

(2) The Comptroller-General of Prisons may direct any prisoner sentenced to imprisonment with hard labour to be taken and worked outside the walls of any building within the precincts of a place of detention proclaimed as aforesaid.

(3) Every prisoner employed outside the walls of a prison or beyond the precincts of a place of detention proclaimed as aforesaid who escapes or attempts to escape from custody shall be guilty of felony and may be sentenced to penal servitude for any period not exceeding five years in addition to the term of punishment under his original sentence not then actually served.

Punishment for escape.
Ibid. s. 3.

37. (1) Whenever a Justice orders or directs an offender to be imprisoned with hard labour for a period not exceeding fourteen days within any watch-house or lock-up he may by warrant under his hand direct such labour to be performed outside such watch-house or lock-up.

Justices may direct labour to be performed outside watch-house or lock-up.
Ibid. s. 2.

(2) Every offender employed outside a watch-house or lock-up pursuant to the provisions of this section who escapes or attempts to escape from custody shall be guilty of a misdemeanour and may be sentenced to imprisonment with or without hard labour for any term not exceeding six months.

Punishment for escape.
Ibid. s. 3.

38. Every person lawfully in charge of any prisoner removed from any prison under the authority of this Division of this Act who wilfully or negligently permits such prisoner to escape shall be subject to the like pains and penalties to which any constable or police officer is now by law liable for a like offence and shall while in charge of any prisoner so removed have all the power and privileges by law appertaining to a constable lawfully in charge of a prisoner.

Penalty for permitting escape powers of officers.
Ibid. s. 4.

39. (1) Whosoever without lawful authority—
- (a) is found within one hundred yards of the boundaries of any place of detention proclaimed as aforesaid or
 - (b) in any manner communicates or attempts to communicate with or loiters near any offender confined or employed in any such place of detention or
 - (c) communicates with any prisoner employed outside the walls of a prison

Penalty for being near place of detention.
Ibid. s. 5.

shall be guilty of a misdemeanour and be liable to a fine not exceeding twenty pounds or to imprisonment with or without hard labour for any term not exceeding three months or to both at the discretion of the Court.

(2)

(2) The onus of proving lawful authority shall lie upon the person charged with an offence under this section.

PART V.

Power to direct in what place an offender is to be confined.

Power of Supreme Court.

4 Vic. No. 29 s. 4.

Power of justices.

16 Vic. No. 26 s. 1.

General powers.

50 Vic. No. 19 s. 2.

40. (1) The Supreme Court or any Judge thereof may direct the imprisonment of any offender whether with or without hard labour to take effect in any particular prison whatever.

(2) Whenever a justice in the exercise of his summary jurisdiction awards imprisonment for a period not exceeding fourteen days he may direct such imprisonment to be in the nearest watch-house or lock-up in lieu of any prison.

(3) Notwithstanding anything to the contrary in any Act under which any person is liable to be committed with or without hard labour to the nearest prison or other place of detention the court or justice adjudicating may commit such person to any prison or place of detention which it or he appoints.

PART VI.

Habeas corpus.

As to writs of habeas corpus.

37 Vic. No. 14 s. 6.

41. Where before the first day of June one thousand eight hundred and seventy-four any writ of habeas corpus would in respect of the body of the person therein named have been directed to the Sheriff or to the Sheriff and other persons therein named such writ shall be directed to the Comptroller-General of Prisons and to the other person in such writ named if the custody of the body of such person has been by virtue of this Act vested in him.

SCHEDULES.

SCHEDULES.

FIRST SCHEDULE.

Number of Act.	Title or short title.	Extent of repeal.
4 Vic. No. 29 ...	An Act for the Regulation of Gaols Prisons and Houses of Correction in the Colony of New South Wales and its Dependencies and for other purposes relating thereto.	The whole Act.
11 Vic. No. 34 ...	An Act to substitute other punishments for Transportation beyond the Sea.	The whole unrepealed portion.
16 Vic. No. 26 ...	An Act to authorise lock-up houses or watch-houses to be used as places of imprisonment under summary sentences for short periods.	The whole except section 2.
16 Vic. No. 31 ...	An Act to make it compulsory on persons under committal to prison to proceed thither on foot when required.	The whole Act.
17 Vic. No. 1 ...	An Act to regulate the removal of Prisoners under sentence to the places appointed for the service of such sentences.	The whole Act.
37 Vic. No. 14 ...	The "Prisons Act of 1874" ...	The whole Act except so much of sections 2 and 4 as relates to Reformatories for juvenile offenders.
48 Vic. No. 4 ...	The "Prisoners' Labour Sentences Act, 1884."	The whole Act.
50 Vic. No. 19 ...	The "Places of Detention Act, 1886" ...	The whole Act.

SECOND SCHEDULE.

Public gaols, prisons, and houses of correction.

Albury	Cowra	Narrabri
Armidale	Darlinghurst	Narrandera
Balranald	Deniliquin	Newcastle
Bathurst	Dubbo	Orange
Bega	Forbes	Parramatta
Berrima	Glen Innes	Port Macquarie
Biloela	Goulburn	Singleton
Bingera	Grafton	Tamworth
Bombala	Grenfell	Taree
Bourke	Gundagai	Tenterfield
Braidwood	Gunnedah	Wagga Wagga
Broken Hill	Hay	Walgett
Burrowa	Hillston	Wellington
Casino	Inverell	Wentworth
Cobar	Kempsey (West)	Wilcannia
Cooma	Maitland	Wollongong
Coonabarabran	Moree	Wyalong
Coonamble	Mudgee	Yass
Cootamundra	Murrurundi	Young.

Place of detention.

Trial Bay Prison.

Sydney: William Applegate Gullick, Government Printer.—1899.

