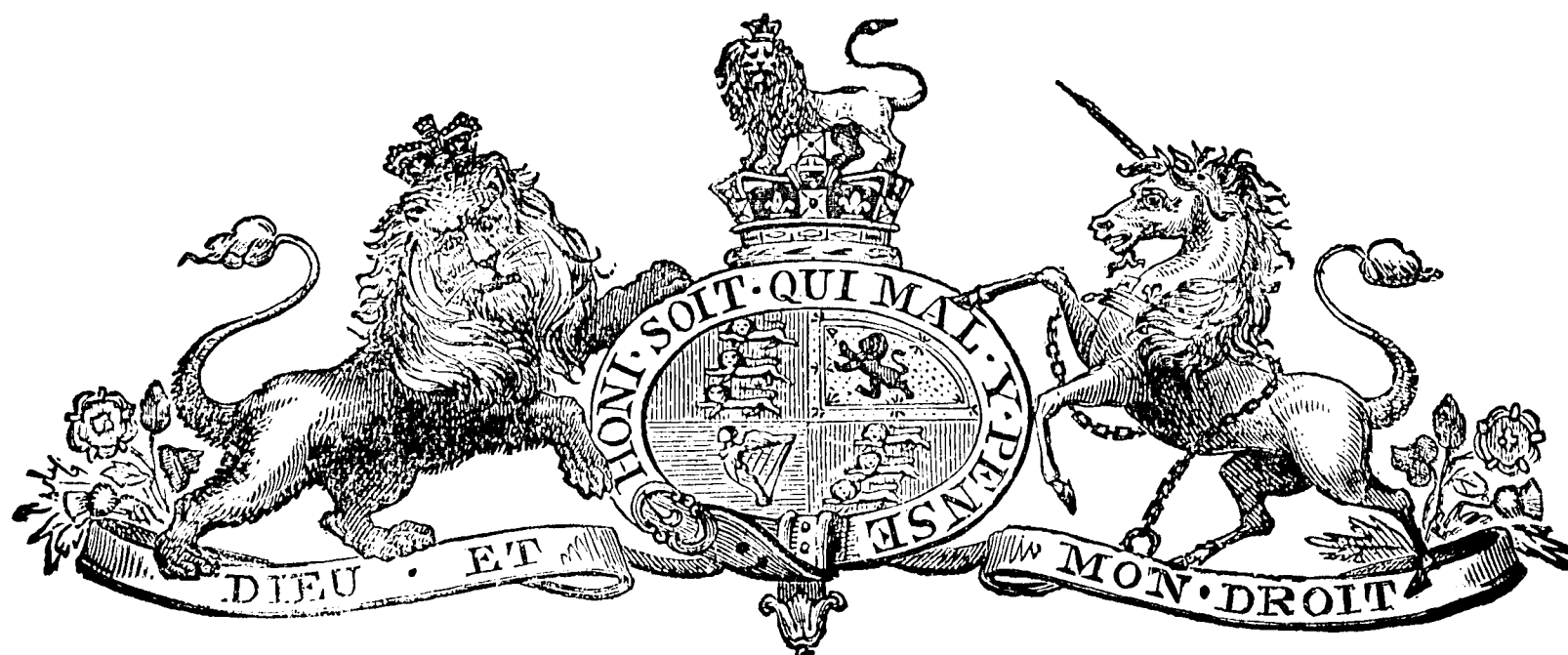


VICTORIA.



ANNO QUINQUAGESIMO PRIMO

VICTORIÆ REGINÆ.

No. DCCCCXXI.

An Act to further amend the Law relating to Gaols
and to persons confined therein.

[3rd October 1887.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

1. This Act may for all purposes be cited as "*The Gaols Act* Short title. 1887."

2. The Acts mentioned in the First Schedule hereto are hereby Repeals. repealed to the extent specified in the third column of the said Schedule, First Schedule. but such repeal shall not affect any proclamation sentence rule regulation order proceeding warrant direction offence or other thing heretofore passed made done or committed under the said repealed Acts or either of them, but any such proclamation sentence rule regulation order proceeding warrant offence or other thing heretofore passed made done or committed may be rescinded altered or otherwise dealt with as if the same had been passed or made under this Act, and all things lawfully done and all offences committed and penalties incurred under any of the said repealed parts of Acts before the passing of this Act shall be continued and be preserved and may be prosecuted and enforced as if this Act had not been passed.

3. Where

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30th September 1887.*

Interpretation.

See sec. 7 of No. 219.

See sec. 4 of No. 219.

Governor in Council may proclaim and revoke proclamation constituting "police gaols."

Governor in Council to have power to revoke proclamation notifying particular places as gaols &c.

Amends sec. 3 of No. 219.

Governor in Council to make, vary, revoke, &c., regulations for classification, &c., of all prisoners whatever the cause of detention in custody.

3. Where used in any Act relating to gaols "Gaoler" shall mean Governor of gaol and the term "Governor of gaol" shall be taken to include the keeper or officer in charge of any gaol (other than the keeper or officer in charge of a police gaol) prison hulk penal establishment or person acting in such capacity. "Inspector-General" shall mean Inspector-General of Penal Establishments. "Prisoner" shall mean and include any person detained in custody in any gaol police gaol prison hulk or penal establishment irrespective of the cause of such detention.

4. The Governor in Council upon a certificate from the Inspector-General that any lock-up is fit for the reception of prisoners whose sentences do not exceed thirty days may from time to time by notice in the *Government Gazette* proclaim any police lock-up so certified to be a "police gaol," and thereupon the provisions of the Acts then in force relating to gaols and the rules and regulations made thereunder shall apply to such "police gaols" as far as applicable. Provided always that prisoners whose sentences exceed thirty days' imprisonment shall not be detained therein except for such period as may elapse before they can be conveyed to a gaol. The Governor in Council shall have power from time to time to vary or revoke any such proclamation by notice in the *Government Gazette*, whereupon such proclamation of variation or revocation shall take effect accordingly.

5. The Governor in Council shall have power from time to time by notice in the *Government Gazette* to revoke any proclamation heretofore made or which hereafter may be made under section three of "*The Statute of Gaols 1864*" or under any other authority in that behalf which shall have notified any building erection house enclosed place or premises to be a public gaol prison and house of correction or penal establishment, and thereupon the building erection house enclosed place and premises referred to in such notice shall cease to be a public gaol prison house of correction or penal establishment accordingly.

6. The Governor in Council may from time to time make vary alter or revoke rules and regulations—

- (a) For the management and good government of gaols prisons hulks and penal establishments ;
- (b) For the safe custody hours of labour and mode of employment of prisoners and for the different classification of prisoners of each sex in such gaols prisons hulks and penal establishments and for the individual separation of all or any of the prisoners confined therein ;
- (c) And otherwise for the management and good government of prisoners.

And all rules and regulations by the Governor in Council heretofore made or purporting to have been made under or by virtue of "*The Gaols Statute 1864*" or of any Act amending the same and which have not been revoked by any subsequent rules and regulations made by the Governor

Governor in Council are hereby declared to have been and shall be deemed to have been valid and effectual from the time of the making of the same; and such rules and regulations are and shall continue to be in force and of valid effect until the same shall be repealed by an order of the Governor in Council made under this Act.

7. The Inspector-General may cause any male person undergoing imprisonment for any criminal offence or misdemeanour by the sentence of any court of competent jurisdiction whether sentenced to imprisonment with hard labour or to imprisonment only to be during the whole or any period of his sentence employed at such work or labour and in such place as the Inspector-General directs, but such work or labour in the case of prisoners sentenced to imprisonment only shall not be severe. Provided that any court of competent jurisdiction in passing sentence upon any prisoner may exempt such prisoner from the operation of this section.

Inspector-General may order labour not severe at such place as he may think fit to be performed by prisoners for felonies or misdemeanours although not sentenced to hard labour.

See sec. 13 of No. 219.

8. The Governor of the gaol may hear and determine all charges against any prisoner for any such minor breach of the rules and regulations as by the rules and regulations made by the Governor in Council under this Act are directed to be submitted to the decision of the Governor of the gaol, and may punish such prisoner by solitary confinement for any term not exceeding two days or by close confinement in a cell on half rations for any term not exceeding four days, such punishment to be concurrent with any sentence the prisoner may be then undergoing, or by stopping any gratuity which would otherwise be accruing to such prisoner for any period not exceeding one month, or by postponing the discharge of such prisoner under the regulations for any period not exceeding seven days. Provided always that a record of all such punishments shall be kept and forwarded every month to the Inspector-General; and no prisoner shall be punishable upon a second charge for the same offence before the visiting justice made under section twenty-one of "*The Statute of Gaols 1864.*"

Governor of gaol may hear and determine minor charges to be enumerated in rules and regulations.

New.

9. The Inspector-General shall have power to make inquiry and to take evidence on oath or otherwise as to the conduct of any Governor of a gaol or any other gaol official, and as to the treatment and conduct of the prisoners, and as to any alleged abuse within the gaol prison hulk or penal establishment or in connection therewith.

Inspector-General empowered to make inquiries and to take evidence on oath.

New.

10. The Governor in Council may order the removal of any prisoner from any one gaol prison or police gaol to any other gaol prison or police gaol, whether the gaol or police gaol to which such prisoner is removed be in the same or in a different bailiwick.

Governor in Council may order removal of any prisoner from one gaol or police gaol to another although in a different bailiwick.

New.

See sec. 7 of No. 397, and sec. 27 of No. 219.

The provisions of this section shall not be deemed to render the order of the Governor in Council necessary for the removal of prisoners in those cases in which prisoners may under the existing laws be removed without such order, and such prisoners shall be removable as heretofore or may be removed by order under the hand of the Governor.

11. The

Time enlarged for Inspector-General's report of removal of prisoners.

11. The time within which the Inspector-General of Penal Establishments is required to report to the Chief Secretary the removal of prisoners under section seven of "*The Statute of Gaols Amendment Act 1871*" shall henceforth be seven days instead of three days as provided in the said section.

Visiting justices' sentences to be cumulative upon court sentences but may be made concurrent or cumulative upon prison sentences. See sec. 3 of No. 431.

12. Every sentence of punishment by visiting justices shall unless otherwise directed by the justice at the time of pronouncing the sentence be cumulative upon the substantive sentence or sentences under which the prisoner is detained, but shall be concurrent with or cumulative upon any previous incompleting sentence of punishment by visiting justices under any Act relating to gaols as shall in each case be determined by the justice imposing a second or subsequent sentence at the time of imposing such sentence.

Inspector-General may discharge prisoner at any time within seven days next before the termination of prisoner's sentence. New.

13. The Inspector-General shall have power to order the release from custody of any prisoner at any time within the seven days next immediately before the date at which such prisoner would have been entitled to be released under the regulations applicable to the detention of such prisoner.

Prisoner may be brought before court on fresh charge without writ of *habeas*. Second Schedule.

14. Any prisoner charged with any offence not being the offence for which he is then in custody may upon an order which may be in the form or to the effect in the Second Schedule hereto made by the judge of the court or by the justices before whom such charge is to be tried or heard be brought up to answer such charge without a writ of *habeas corpus*; and every prisoner brought up under any such order shall be deemed to be in the legal custody of the police constable local gaoler or other officer having the temporary custody of such prisoner and acting under such order, who shall in due course return the prisoner into the custody from which the prisoner shall have been so brought up.

Sentences to date from first day of sittings &c.

15. All sentences of imprisonment or of imprisonment with hard labour on any offenders at any sittings of the Supreme Court or any Court of General Sessions shall date from the first day of holding such sitting, and all other sentences of imprisonment from the date of signing any warrant of commitment under which any offender is detained in custody unless such offender was at large at the date of the signing of such warrant, in which case the sentence shall date from the time of the arrest.

Where sentence of death "recorded" prisoner may be kept to hard labour pending consideration by Executive. New.

16. Any prisoner against whom sentence of death is recorded may be subjected to hard labour pending the determination of the Executive as to the disposition of the prisoner or the commutation of the sentence; and in the event of the sentence being commuted the term of imprisonment shall date from the first day of the sittings of the court at which such prisoner has been convicted.

SCHEDULES.

SCHEDULES.

FIRST SCHEDULE.

Sec. 2.

Date of Act.	Title of Act.	Extent of Repeal.
27 Vict. No. 219...	" <i>The Statute of Gaols 1864</i> "	Section 9. Section 10. Section 13.
36 Vict. No. 431...	" <i>The Statute of Gaols Further " Amendment Act 1872 "</i>	Section 3.

SECOND SCHEDULE.

Sec. 14.

To the Governor of the Gaol at [*insert name of place of detention*] and to all members of the police force of the colony of Victoria.

It is hereby ordered under the provisions of Section fifteen of "*The Gaols Act 1887*" that [*here insert name of prisoner*] a prisoner now in custody at the gaol at [*here insert name of place of detention*] be brought up before the [*here insert whether Supreme Court Court of General Sessions or Petty Sessions*] Court to be held at [*insert place where court to be holden*] on the ^a day of to answer a charge of [*here insert nature of offence with which prisoner is charged before the court or justices making the order*], and the said [*here repeat name of prisoner*] is to remain in the custody of the officers local gaolers and constables acting under this order until the said [*here repeat name of prisoner*] is in due course returned to the custody of the Governor of the Gaol at [*here insert name of place of detention*].

(a) *Insert date fixed for court before which charge is to be heard or tried.*

Dated the ^b day of

(b) *Insert date of order.*

A.B. Judge of the Supreme Court *or*
C.D. Chairman of Court of General Sessions at *or*

E.F. } Justices of the Peace acting in the district of [*place*
G.H. } *where charge is to be heard or tried*].

MELBOURNE:

By Authority: ROBT. S. BRAIN, Government Printer.