



ANNO TERTIO

GEORGII V REGIS.

A.D. 1912.

No. 1090.

An Act to amend the "Prison Act, 1869," and for other purposes.

[Assented to, December 12th, 1912.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited alone as "The Prison Act Amendment Act, 1912." Short title.

(2) The "Prison Act, 1869" (hereinafter called "the principal Act"), "The Police Prisons Act, 1905," and this Act may be cited together as "The Prison Acts, 1869 to 1912." No. 12 of 1869-70.
No. 884 of 1905.

2. This Act is incorporated with the principal Act, and "The Police Prisons Act, 1905," and the said Acts and this Act shall be read together as one Act. Incorporation.

3. Section 3 of the principal Act is amended by inserting the following definition:— Amendment of section 3 of principal Act.

"Prisoner" means any male or female person detained in custody in any prison or police prison, irrespective of the cause of detention, or detained in any police station, watch-house, or lock-up, charged with, or convicted of, an offence against the laws of the State. Definition of "prisoner."

4. (1) Section 17 of the principal Act is hereby amended by substituting the words "not being less than three calendar months" for the words "greater than six calendar months" in the third line thereof. Amendment of section 17.
Removal to labor prison.

(2) The Second Schedule to the principal Act is amended by substituting the words "three months" for the words "six months" in the lines applying to "Yatala Labor Prison." Consequential amendment of Second Schedule.

5. Section

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Provision substituted
for section 20.

5. Section 20 of the principal Act is amended so as to read as follows:—

Sheriff may remove
hard-labor prisoner
beyond prison for
labor.

20. The Sheriff, with the approval of the Minister, may remove any prisoner under sentence of hard labor to any place beyond the precincts of the prison in which he is confined, for the purpose of carrying out the labor portion of any sentence, and may employ such prisoner in any such place; and, notwithstanding such removal or employment, the prisoner shall be deemed to be still within the limits of such prison.

Amendment of
section 32.

6. (1) Section 32 of the principal Act is amended by substituting for the first three lines and the first word in the fourth line thereof, the following provision:—

Time for discharge
of prisoner.

Any prisoner confined in a prison whose term of imprisonment would lawfully expire on a Sunday, Christmas Day, or Good Friday, shall be entitled to his discharge at noon on the day next preceding such Sunday, Christmas Day, or Good Friday; and the Sheriff may, for such reason as he deems sufficient, permit the discharge of any prisoner at any time during the three days next preceding the day on which his term of imprisonment would lawfully expire.

W.A., 14, 1903,
ss. 48 and 49.

(2) The said section 32 is further amended by adding thereto the following proviso, namely:—Provided that whenever any Court, Judge, Magistrate, Justice, or other tribunal or person, in the exercise of any power whether statutory or otherwise, awards or orders, in passing any sentence of imprisonment on any person, that such sentence shall commence at the expiration of any imprisonment to which such person has been previously, or is at the same time, adjudged or sentenced, the sentence shall commence as so awarded or ordered.

Amendments of
section 36.

7. Section 36 of the principal Act is amended—

Punishment for
repeated and other
offences.

i. By inserting after the word “thereof” in the twelfth line thereof, the following words:—

“or the preferring of any false or frivolous complaint, charge, or accusation against any officer of the prison or any prisoner confined therein”;

ii. By substituting the words “and may also forfeit the whole or any number of marks earned by such prisoner, and may also direct that such prisoner be punished by corporal punishment” for the words “or forfeit the whole or any number of marks earned by such prisoners, or that the offender be punished by corporal punishment” in the twentieth, twenty-first, and twenty-second lines thereof; and

iii. By repealing all the words in the said section after the word “punishment” in the twenty-second line thereof.

Provision substituted
for section 41.

8. Section 41 of the principal Act is amended so as to read as follows:—

Removal to another
gaol or to hospital.

41. (1) The Sheriff may remove any prisoner from any prison under his control to any other prison under his control, or, in case of illness, to any hospital, infirmary, or other institution, as occasion may from time to time seem to him to require. (2) Any

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(2) Any prisoner so removed shall, during such removal, and also whilst in any hospital, infirmary, or other institution (so long as his sentence is not completed) and during his removal therefrom to any prison, be deemed to be in the legal custody of the gaoler of the prison from which he was last removed; and the Sheriff may, if he thinks fit, appoint any person to take charge of such prisoner whilst he is in any hospital, infirmary, or other institution.

(3) Any prisoner who escapes or attempts to escape from any hospital, infirmary, or other institution shall be deemed to have escaped, or attempted to escape (according to the nature of the case), from a gaol, and shall be dealt with accordingly.

9. (1) When a Special Magistrate or Justice or Justices of the Peace, in the exercise of any jurisdiction vested in him or them awards or award imprisonment for a term not exceeding seven days, he or they—

Magistrates may order imprisonment in nearest police station, &c.
N.S.W. Prisons Act 27, 1899, s. 40 (2).

(a) May direct that such imprisonment shall be in the nearest police station, watch-house, or lock-up instead of in any prison or police prison, and,

(b) If such imprisonment is awarded with hard labor, may direct by warrant under his or their hand or hands, that such labor shall be performed outside such police station, watch-house, or lock-up.

Ibid., s. 37 (1).
Cf. principal Act, s. 20.

(2) Any person employed outside a police station, watch-house, or lock-up, pursuant to a warrant issued under this section, who escapes or attempts to escape from custody shall be guilty of a misdemeanor, and may be sentenced to be imprisoned, with or without hard labor, for any term not exceeding twelve months, and such term shall be in addition to any term of imprisonment current at the time of such escape or attempt to escape.

N.S.W. 27, 1899, s. 37 (2).
Cf. principal Act, s. 22.

10. (1) Any term of punishment imposed upon any prisoner under section 35 or section 36 of the principal Act, shall, unless otherwise directed by the Sheriff or Visiting Justice or the Visiting Justice and other Justice of the Peace imposing the same, be cumulative upon all sentences (including any other sentence imposed under either of the said sections) which such prisoner is then serving.

Punishments under sections 35 & 36 to be cumulative unless otherwise directed.

Vic. Gaols Act, 1096, 1890, s. 44.

(2) If when any such term is imposed the prisoner is serving any such term previously imposed, the first-mentioned term shall take effect immediately upon the completion of the said term previously imposed, but otherwise shall take effect immediately upon being imposed.

Ibid., s. 45.

(3) Subject to subsection (2) of this section, every such term shall have the effect of suspending the service of all previous sentences of the prisoner incompleting at the time it takes effect; and every such suspended sentence shall, at the expiration of such suspending term, become again in force, so that no such suspending term shall be computed as a portion of the time served under the suspended sentence.

Ibid., s. 46.

11. When

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Prisoner may be brought before Courts without writ of *habeas corpus*.

W.A. 14, 1903, s. 52.

11. When a prisoner is charged with an offence, not being the offence or cause for which he is in custody, the Sheriff or any Judge of the Supreme Court or any Justice of the Peace may, by order in writing, direct the gaoler of the prison where such prisoner is in custody, to bring him before any Court or such Judge or Justice, or such Judge or Justice as shall be present, to be dealt with according to law; and the gaoler shall obey such order and bring up such prisoner accordingly; and after such prisoner has been so dealt with he shall be restored to his former custody, without any further process or authority, and without prejudice to any cause or matter for which he was originally in custody.

Temporary removal of prisoners in interests of justice.

N.S.W. 27, 1899, s. 30.

W.A. 14, 1903, s. 55.

12. Any prisoner may, by leave of a Judge of the Supreme Court granted on application made by the Sheriff for that purpose, be taken temporarily from any prison or place of detention to any place in the said State for any purpose in aid of the administration of justice or any other purpose which, in the opinion of the Judge, requires that such temporary removal should, in the interests of justice, be authorised.

On removal, Sheriff's order sufficient warrant to convey and detain.

13. The order of the Sheriff for the removal of a prisoner, who is removed under the provisions of section 40, 41, 42, or 43 of the principal Act, or section 12 of this Act, shall be sufficient authority for all constables and other persons entrusted with the conveyance of such prisoner to keep and convey him accordingly, and to all police prison, police station, watch-house, and lock-up keepers, gaolers, and others to keep and detain such prisoner for so long as convenience may require, for the purpose and in the course of such removal and for the purposes for which the removal takes place.

Legal custody of prisoner outside prison walls.

W.A., 14, 1903, s. 47.

14. (1) Every prisoner shall be deemed to be in legal custody whenever he is being taken to or from any prison, or whenever he is working outside, or is otherwise beyond the walls of any prison in custody or under the control of a prison or police officer.

(2) Any police or other officer, acting under the warrant of any Justice having power to commit a person to prison, may convey such person to or from any prison to or from which he is committed or removed under such warrant, and during such conveyance such person shall be deemed to be a prisoner in legal custody.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

DAY H. BOSANQUET, Governor.