

No. VII.

AN ORDINANCE for the Regulation of Prisons.

[15th October, 1846.]

PRISONS.

Preamble.

WHEREAS it is expedient to make provision for the government and good management of prisons throughout the Colony :

BE IT ENACTED by the Lieutenant-Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows :—

Buildings now used
as gaols to be public
gaols.

1. All houses buildings enclosures or places now used as public gaols shall be and the same are hereby declared to be public gaols of the Colony.

Power to Governor
to declare other
buildings to be gaols.

2. It shall be lawful for His Excellency the Governor from time to time as to him shall seem meet, by Proclamation, to declare any other house building enclosure or place to be a public gaol, and from and after the publication of any such Proclamation such house building enclosure or place shall be deemed and taken to be a public gaol.

3. It

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3. It shall be lawful for any Judge of the Supreme Court to sentence any offender to be imprisoned, whether with or without hard labour, in any particular gaol in the Colony as to him shall seem meet.

Judges may imprison in any gaol.

4. Every public gaol within the Colony, unless otherwise provided, shall be taken for all purposes as being also a house of correction and a prison for debtors.

Gaols to be also houses of correction.

5. It shall be lawful for His Excellency the Governor from time to time to make such Rules and Regulations as to him shall seem fit touching the duties of the officers of every such public gaol, the classification diet instruction treatment and correction of the prisoners therein, and generally to prescribe all such rules as may be necessary for the good discipline of any public gaol and the safe custody of the prisoners therein.

Power to Governor to make regulations.

6. It shall be lawful for the Judges of the Supreme Court from time to time to make Rules and Regulations for the management of such gaols as now are or may hereafter be used for the imprisonment of debtors and for the control of the debtors therein.

Like power to Judges for the management of debtors.

7. All such Rules and Regulations as shall be made under the authority hereof shall be binding upon the officers of the gaol, and upon the prisoners and the debtors confined therein, as fully as if the same had been expressly enacted and set forth in this Ordinance.

Regulations to be binding.

8. For the purpose of giving effect to the Rules and Regulations hereby authorized to be made by the Governor or the Judges of the Supreme Court, it shall be lawful for such Governor and Judges, by any such Regulations, to enforce any penalty not exceeding twenty pounds for any offence against such Rules and Regulations, to be recovered in a summary way.

Penalty for breach of Regulations.

9. It shall be lawful for His Excellency the Governor to nominate and appoint one or more Justices of the Peace, who shall consent thereto, to be Visitors of each gaol within the Colony, who shall personally visit such gaol at least once a month, and oftener if occasion shall require.

Governor may appoint Visiting Justices.

10. It shall be lawful for the Sheriff of the district or the Visiting Justice of any public gaol to order any person who may have been sentenced to imprisonment without being sentenced to hard labour, and who shall not maintain himself, to be set to some work or labour the same being not severe: Provided that no such prisoner who has the means of maintaining himself shall have any claim to be supported at the public expense.

Prisoners may be set to work.

11. Any Visiting Justice shall have power to hear and determine all complaints touching any of the following offences, that is to say,— Disobedience of the Rules and Regulations of the prison, assaults by one person confined in such gaol upon another where no dangerous wound or bruise is given, profane cursing and swearing, any indecent behaviour and any irreverent behaviour at or during divine service or prayer, all which are hereby declared to be offences under this Act if committed by any description of prisoners whatsoever confined within any such gaol prison or house of correction; and the said Visiting Justice shall also hear and determine all complaints of idleness or negligence in work or wilful mismanagement of work, which are also hereby declared to be offences under this Act if committed by any prisoner under conviction for any crime; and if the party complained of shall be convicted of any of the offences aforesaid, it shall be lawful for the said Visiting Justice to sentence such party to be confined in a solitary cell on bread and water for any term not exceeding seven days.

Powers of Visiting Justices to punish parties offending in prison.

12. In

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Punishment for repeated offences, or offences not mentioned in previous clause.

12. In case any prisoner under sentence for any crime shall be guilty of repeated offences against the rules of the prison, or shall be guilty of any greater offence than hereinbefore mentioned, upon complaint thereof to two or more Justices of the Peace, of whom the Visiting Justice may or may not be one, such Justices shall have power upon oath to inquire into and to determine the matter of such complaint, and to order the offender on conviction to be punished by close confinement for any term not exceeding one calendar month, or by personal correction in case of prisoners convicted of felony or sentenced to hard labour.

Visiting Justices to make reports.

13. Such Visiting Justices shall once at least in every quarter of a year make a report in writing to His Excellency the Governor, or to such officer as he may appoint for such purpose, as the case may be, of the state and condition of the prison and of what repairs additions or alterations shall have been made or may be required, and of any abuse which they may have observed or of which they may have received information in the management of the prison, as well as of the general state of the prisoners as to morals discipline employment hard labour and observance of the rules in force for the time being for the government of the prison: Provided always that nothing herein contained shall affect the power of any Judge of the Supreme Court to visit and examine any such gaol at such times as he may think fit.

Power to all Justices to visit gaols.

14. It shall also be lawful for any Justice of the Peace for the Colony, whenever he shall think fit, to enter and examine any such gaol, and every gaoler turnkey or other person employed therein who shall refuse admittance to any such Justice of the Peace or offer to him any hindrance or obstruction shall, on conviction thereof before any other two Justices, forfeit and pay any sum not exceeding ten pounds, to be recovered in a summary way.

Penalty for introducing spirits &c. into gaols.

15. If any person shall bring or attempt to bring any wine or spirituous or fermented liquor into any gaol, it shall be lawful for the gaoler, turnkey, or any of their assistants to apprehend the offender, who upon conviction shall forfeit and pay any sum not exceeding twenty pounds, to be recovered in a summary way.

Aiding prisoners to escape.

16. If any person shall convey or cause to be conveyed into any gaol any mask or other disguise or any instrument or arms proper to facilitate the escape of any prisoner, and the same shall deliver or cause to be delivered to any prisoner in such gaol or to any other person therein for the use of such prisoner without the consent or privity of the keeper of the gaol, every such person shall be deemed to have delivered such mask or disguise instrument or arms with intent to aid and assist such prisoner to escape or attempt to escape; and if any person shall by any means whatsoever aid and assist any prisoner to escape from any gaol, every person so offending, whether an escape be actually made or not, shall be guilty of felony, and being convicted thereof shall be transported beyond the seas for any term not exceeding fourteen years.

Prisoners &c. may be removed from one gaol to another in certain cases.

17. Whenever it shall appear to the Governor to be necessary that the debtors or other prisoners or any of them confined in any gaol within the Colony should be removed from such gaol in order that the same may be repaired enlarged or rebuilt, or on account of any disease therein, or on account of the over-crowded state of such gaol, or for any of the purposes of this Ordinance, and due notice thereof in writing shall by order of the Governor be given to the Sheriff of the district, it shall be lawful for such Sheriff to remove such debtors and other prisoners or any of them to such other gaol or place of confinement within his jurisdiction as the Governor shall appoint.

18. When

Customs Amendment, No. 2.

18. When any such gaol as aforesaid shall be made fit for the reception and safe keeping of such debtors and other prisoners, it shall be lawful for the said Sheriff to remove back thereto all such debtors and other prisoners as shall then be in his custody.

And to be removed back.

19. Whenever the removal of debtors or other prisoners shall become necessary for any of the reasons aforesaid or from any other emergency, and it shall be impossible previous thereto to obtain such order as aforesaid, it shall be lawful for the Visiting Justices to issue an order to the keeper of such gaol to remove such debtors or other prisoners to such other gaol or place of confinement within his jurisdiction as shall be specified in such order: Provided that such removal shall be subject to such restrictions as to its duration as are hereby required and directed in similar cases of removal by order of the Governor, and that any such order of the Visiting Justices, together with a report of the causes thereof, shall be forthwith notified to the Governor and also to the Sheriff of the district: Provided also that no such removal shall be deemed or taken to be an escape.

In cases of emergency may be removed by order of Visiting Justices.

20. It shall be lawful for the Sheriff of any district to remove any prisoner whatever from any gaol under his control and management to any other gaol under his control or management, or in case of the illness of such prisoner to any hospital or infirmary, as occasion may require; and also for the purpose of transportation may remove any prisoner to any gaol whatsoever within the limits of the Colony: Provided that no such removal except as first above mentioned shall actually take place without the leave of a Judge of the Supreme Court on application made to him for that purpose.

Sheriff may remove prisoners from one gaol to another within his jurisdiction.

21. For the purpose of this Ordinance the word "Governor" shall be taken to include the Lieutenant-Governor or the Officer Administering the Government of the Colony for the time being, and the word "Gaol" shall be taken to include any prison for debtors and any house of correction.

Interpretation.