

(Hon. Mr. Bathgate.)

Prisons.

ANALYSIS.

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A BILL INTITULED

AN ACT to consolidate and amend the Law relating Title.
to Prisons.

WHEREAS it is expedient to consolidate and amend the law Preamble.
relating to prisons :

No. 11—1.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

PRELIMINARY.

- Short Title.** 1. The Short Title of this Act shall be “The Prisons Act, 1873.”
- Commencement of Act.** 2. This Act shall come into operation on the first day of January, one thousand eight hundred and seventy-four, which day is hereinafter referred to as the commencement of this Act. 5
- Interpretation.** 3. In this Act the expressions in this section after mentioned shall have the meanings in this section attached to them, unless there is something in the context or the tenor of this Act inconsistent with such meaning:—
- “Prison” shall include not only all gaols houses buildings enclosures hulks and places hereby or hereunder declared to be or constituted public prisons, but also the airing grounds or other grounds or buildings occupied by prison officers for the use of the prison and contiguous thereto. 15
- “Criminal prisoners” shall mean any prisoner charged with or convicted of a crime.
- Repeal.** 4. Upon the commencement of this Act there shall be repealed the Ordinance and the Acts specified in the First Schedule hereto to the extent in the said Schedule mentioned. 20
- Saving clause.** 5. No repeal hereby enacted shall affect—
- (1.) Any sentence passed or other act or thing duly done under any Ordinance or Act hereby repealed.
- (2.) Any right acquired or liability incurred under any Ordinance or Act hereby repealed. 25
- (3.) Any penalty forfeiture or other punishment incurred in respect of any offence against any Ordinance or Act hereby repealed, or any regulations made thereunder.
- (4.) Any proclamation appointment rule regulation order or direction made under any Ordinance or Act hereby repealed. Any such proclamation appointment rule regulation order or direction may be rescinded altered or otherwise dealt with as if the same had been made under this Act; and all rules in force in any prison that are inconsistent with this Act, or the regulations in the Second Schedule, shall be repealed from and after the commencement of this Act, but all other rules in force in any prison shall so continue until altered in manner in this Act provided. 30
- Existing prisons to be prisons.** 6. All houses buildings enclosures and places which immediately before the commencement of the Act were public gaols or prisons of the Colony, within the meaning and for the purposes of any Ordinance or Act repealed hereby, shall continue and be public prisons of the Colony notwithstanding such repeal. 35
- Prisons may be proclaimed.** 7. The Governor may from time to time as to him shall seem meet, by Proclamation published in the *New Zealand Gazette*, declare any house building enclosure or place to be a public prison, and from and after the publication of any such Proclamation in the *New Zealand Gazette*, or from any later time specified in the Proclamation, such house building enclosure or place shall be deemed to be a public prison. 45
- Unfit prisons may be discontinued.** 8. As to any public prison which the Governor shall be of opinion has become unfit for the purpose, or unnecessary, or for any other reason ought to cease to be a public prison, the Governor may by Proclamation published in the *New Zealand Gazette* declare that such public prison shall no longer be a public prison, and upon the publication of such Proclamation in the *New Zealand Gazette*, or from and after any later date fixed in such Proclamation for the purpose, such public prison shall cease to be a public prison. 55

9. The Governor may from time to time, by Proclamation published in the *New Zealand Gazette*, appoint any hulk ship or floating prison (hereinafter referred to as "hulk") to be used as and to be a public prison for the reception and safe keeping of prisoners convicted and sentenced for any offences by any Court in New Zealand, and may from time to time define, by Proclamation published as aforesaid, the limits and boundaries around such hulk within which no person shall come, and the place of embarking and landing prisoners to and from such hulk, and any such Proclamation as aforesaid may from time to time be altered or revoked by the Governor.

Hulks may be appointed.

10. The Governor may from time to time, by Proclamation published in the *New Zealand Gazette*, appoint any place or places in New Zealand at which male offenders under any sentence of penal servitude may be kept, and may in like manner revoke any such Proclamation, and every place so appointed shall be deemed to be a public prison, but only for male offenders under such sentence as aforesaid, but whether such place or places shall have been appointed or not, such male offenders may be kept in any public prison.

Places for imprisonment of male prisoners sentenced to penal servitude.

APPOINTMENT OF OFFICERS.

11. From time to time as occasion may require, there shall be appointed to every prison by the Superintendent of the Province within which the same is,—

Appointment of officers of gaols.

A gaoler, a surgeon duly registered under "The Medical Practitioners Registration Act, 1869," and such subordinate officers as may be necessary;

and to every prison in which females are confined—

A matron, and such subordinate female officers as may be necessary:

Provided that in a prison where females only are imprisoned, the matron shall be deemed to be the gaoler, and shall, so far as is practicable, perform all the duties and be subject to all the obligations of a gaoler in relation to such prison.

Provided further that as to places appointed to be prisons under the tenth section of this Act, the appointment of the gaoler, surgeon, and other officers shall be made by the Governor, and not by such Superintendent as aforesaid.

12. Every officer of a public prison under this Act, not being a prison appointed under the tenth section hereof, shall hold his office during the pleasure of the Superintendent of the Province in which the gaol is, and shall be paid such salary as such Superintendent shall direct out of moneys appropriated for the purpose by the Provincial Council of such Province.

Tenure of office of officer.

13. Every officer of a public prison appointed under the tenth section hereof shall hold his office during the pleasure of the Governor, and be paid such salary as the Governor shall direct out of moneys appropriated for the purpose by the General Assembly.

Tenure of office of officer of penal establishment.

14. Whenever any officer of a prison is suspended or removed from or resigns his office or dies, the officer so suspended removed or resigning, and his family and the family of every such deceased officer, shall quit the possession of the house or apartments in which he or they have previously resided by virtue of such office, when required so to do by notice under the hands of two or more of the Visiting Justices; and if he or they neglect to give such possession for forty-eight hours after such notice as aforesaid has been given to him or them, any two Justices, upon proof made to them of such suspension removal resignation or death, and of the service of such notice, and of such neglect or refusal to comply therewith, may, by warrant under their hands, direct any constable, within a period therein named, to enter by force, if necessary, into such house or apartments, and deliver

Officer of prison on ceasing to hold office to give up possession.

possession thereof to the Superintendent of the Province in which the prison is, or if the prison be appointed under the tenth section of this Act, then to some person appointed by the Colonial Secretary to receive such possession.

DISCIPLINE.

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Regulations in
Second Schedule.

15. The regulations contained in the Second Schedule hereto shall apply to all public prisons, and the same shall be binding on all persons in the same manner as if they were enacted in the body of this Act: Provided, however, that the Governor may from time to time, by Proclamation published in the *New Zealand Gazette*, declare that 10 such of the said rules contained in the said Second Schedule hereto as he shall deem inapplicable and be specified in such Proclamation shall not apply to any public prison named therein, and the Governor may from time to time alter or revoke any such Proclamation.

Additional regula-
tions.

16. The Governor may from time to time, by Proclamation 15 published in the *New Zealand Gazette*, make rules as to him shall seem fit touching the duties of the officers of public prisons, the construction and description of cells for separate confinement or punishment of persons confined in public prisons and the certifying the same as fit for the purpose, and the safe custody, the classification, 20 hours of labour, mode of employment, separation, diet, instruction, treatment and correction of the prisoners confined in public prisons; and for regulating what labour or employment shall be deemed hard labour of the first class and what labour shall be deemed hard labour of the second class for the purpose of the regulations in the Second 25 Schedule hereto or to be made hereunder, and for any of the matters or purposes regulated by the rules contained in the Second Schedule hereto, and generally to prescribe all such rules as may be necessary for the good management and government of such prisons, and the discipline and safe custody of the prisoners therein, and not only while 30 therein but also while employed at labour beyond the limits of the prison; and such rules may be made to apply generally to all prisons or to any one or more prisons specified in any such Proclamation, as the Governor may think fit; and the Governor may from time to time alter or revoke any such rules as aforesaid, or any rules regulations 35 orders or directions in force in any prison at the commencement of this Act.

Regulations as to
diet.

17. In the making of such rules as to diet, regard shall be had, so far as relates to convicted criminal prisoners, to the nature of the labour required from or performed by such prisoners, so that the 40 allowance of food may be duly apportioned thereto.

Female prisoners to
be kept separate.

18. In every prison containing female prisoners as well as males, the women shall be imprisoned in separate buildings or separate parts of the same buildings, in such manner as to prevent their seeing 45 conversing or holding any intercourse with the men.

Debtors to be kept
separate.

19. In a prison where debtors are confined, means shall be provided for separating them altogether from the criminal prisoners.

Convicts under sen-
tence of imprison-
ment may be em-
ployed outside the
prison.

20. Any person in custody under sentence of imprisonment with hard labour or penal servitude may be employed at hard labour beyond the precincts of the prison in which he may be lodged, and 50 every such person, notwithstanding such employment, shall, as respects the provisions of this Act, be deemed to be within the limits of the prison in which he shall be lodged.

SPECIAL RULES AS TO PRISONERS SENTENCED TO PENAL SERVITUDE. 55

Penal servitude
what.

21. Every person who shall be kept in penal servitude shall, during the term of his servitude, be employed at hard labour in some public prison, or on the roads or public works, or otherwise be kept to hard labour in such part of New Zealand as the Governor shall in that behalf direct, and either in irons or under such other restraint and 60 subject to such correction as may appear to the Governor to be necessary for his safe custody and strict discipline.

For the purpose of being so employed as aforesaid, every such convict may be removed from place to place, either by sea or land, and may be confined in such public prison at such penal establishment or in such place of confinement, or otherwise be kept in custody

5 as the Governor shall from time to time direct.

The Governor may, by any instrument under his hand, delegate to the Superintendent of any Province, on such terms and conditions and subject to such limitations and restrictions as may be prescribed in that behalf, all or any of the powers in this section conferred on

10 the Governor.

Governor may delegate certain powers to Superintendent of a Province.

Nothing herein contained shall authorize the Governor to issue any directions or regulations which shall permit the assignment to any person or persons whatsoever of any prisoner so sentenced as aforesaid.

Convicts not to be assigned.

15 22. The Governor may, in addition to the regulations in the Second Schedule, and to any regulations made under the *sixteenth* section hereof, from time to time make any such rules as to him shall seem fit specially applying to prisoners under sentence of penal servitude, touching the employment safe custody management and

20 discipline of the convicts under sentence of penal servitude.

Governor to make regulations for management, &c., of convicts.

OFFENCES IN RELATION TO PRISONS.

23. The Gaoler or any Visiting or other Justice of the Peace shall have power to hear complaints respecting any such offences by any

25 prisoner against any rules made under either the *sixteenth* or the *twenty-second* sections of this Act, as in such rules shall be declared to be offences against prison discipline which may be heard by the Gaoler. The Gaoler or any Visiting or other Justice may examine any person touching such offences and determine thereupon, and may punish

30 such offences by ordering any offender to be kept in close or other confinement in a light or dark cell, or to be fed upon bread and water only, during any time not exceeding three days, or by ordering both such punishments, or by ordering such offender to forfeit in addition a number of marks earned under rules for remission of portions of

35 sentences, such number not to exceed such number as under such rules it is necessary to earn fourteen days remission of sentence. The Gaoler or any Visiting or other Justice imposing any such punishments shall enter in a separate book, called the "Punishment

40 Book," a statement of the nature of any offence that he has punished in pursuance of this section, with the addition of the name of the offender, the date of the offence, and the amount of punishment.

24. If any criminal prisoner is guilty of repeated offences against any of the said rules made under the *sixteenth* or the *twenty-second* sections of this Act, and which the Gaoler is herein authorized to hear

45 determine and punish, or is guilty of any offence against any of the said rules which the Gaoler is not empowered to hear determine and punish, the Gaoler shall report the same to the Visiting Justices or one of them; and any one of such Justices, or any other Justice having jurisdiction in the place in which the prison is, shall have power to inquire upon

50 oath and to determine concerning any matter so reported to him, and to order the offender to be kept at hard labour with or without irons for any term not exceeding one year, and in his discretion to be kept in solitary confinement for any portion of such term not exceeding

55 which shall be at intervals of at least one month, and may direct that during such confinement such prisoner shall be deprived of any particular portion of the ordinary diet or allowances of such prisoners, or forfeit the whole or any number of marks earned by such prisoners under rules for earning remission of portion of sentences by good

60 conduct, or in the case of prisoners convicted of felony or sentenced to hard labour or penal servitude, by personal correction not exceeding fifty lashes at any one time.

Gaoler or Visiting or other Justice to have power to hear complaints.

Criminal prisoners guilty of repeated offences;

How punished.

Such period of imprisonment or solitary confinement as aforesaid shall not be deemed or taken as part of the period of imprisonment or hard labour or penal servitude to which such prisoner shall have been previously sentenced.

On prisoner being put in irons, notice to be given forthwith to one of the Visiting Justices.

25. No prisoner shall be put in irons or under mechanical restraint by the Gaoler of any prison except in case of urgent necessity, and the particulars of every such case shall be forthwith entered in the Gaoler's journal and notice forthwith given thereof to one of the Visiting Justices; and no prisoner shall be kept in irons or under mechanical restraint for more than twenty-four hours without an order in writing from a Visiting Justice, specifying the cause thereof and the time during which the prisoner is to be kept in irons or under mechanical restraint, which order shall be preserved by the Gaoler as his warrant.

Corporal punishments to be superintended by Gaoler and Surgeon.

26. All corporal punishments within the prison shall be attended by the Gaoler and the Surgeon. The Surgeon shall give such orders for preventing injury to health as he may deem necessary, and it shall be the duty of the Gaoler to carry them into effect; and the Gaoler shall enter in the punishment book the hour at which the punishment is inflicted, the number of lashes, and any orders which the Surgeon may have given on the occasion.

Punishment to be awarded only by Gaoler or Visiting or other Justice.

27. No punishment or privations of any kind shall be awarded except by the Gaoler or by a Visiting or other Justice.

Assisting prisoners to escape.

28. Every person who aids any prisoner in escaping or attempting to escape from any prison, or who rescues or attempts to rescue or aids in rescuing or attempting to rescue any prisoner from the custody of any gaoler warder overseer or other officer of a prison, whether such prisoner shall be in such custody within or outside of such prison, or who, with intent to facilitate the escape of any prisoner, conveys or causes to be conveyed into any prison any mask dress or other disguise, or any letter or any other article or thing, shall be guilty of felony, and on conviction be sentenced to penal servitude for a term not exceeding ten years, or to imprisonment with hard labour for a term not exceeding two years; and if any person shall convey or cause to be conveyed into any prison 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 prison or to any other person therein for the use of such prisoner, without the consent or privity of the keeper of the prison, 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.

Offences.

29. Any person who shall commit any of the offences following shall be liable to be punished and dealt with as in this section hereinafter provided:—

- (1.) Any person who shall bring or attempt to bring any wines or spirituous or fermented liquors into any prison;
- (2.) Any person who shall hold or attempt to hold any communication with any prisoner undergoing sentence;
- (3.) Any person who shall deliver or in any manner whatsoever endeavour or attempt to deliver or cause to be delivered to any such prisoner or shall introduce or attempt or endeavour to introduce or cause to be introduced into any public prison any money article of clothing letter tobacco or any other article or anything whatsoever not allowed by the rules and regulations for the time being in force for the classification diet instruction treatment correction and safe custody of the prisoners therein or for the good discipline of such prison;
- (4.) Any person who shall for any of the purposes aforesaid

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lurk or loiter about any road or other public works or any public prison or any place in or at which prisoners may be confined or employed, and any person loitering about any such public prison road or works or other such place as aforesaid, who shall refuse or neglect to depart therefrom upon being duly warned by any constable gaoler warder or authorized person so to do, shall be deemed and taken to be lurking or loitering about such public road or works for the purposes aforesaid ;

(5.) Any person who shall deliver or cause to be delivered to any other person any such money article of clothing letter tobacco article or thing for the purpose of being conveyed or introduced as aforesaid ;

(6.) Any person who shall secrete or leave upon or about any place where any such prisoner as aforesaid is usually employed, any such money article of clothing letter tobacco article or thing for the purpose of being found or received by any such prisoner ; or,

(7.) Any person who shall in any other manner convey or cause to be conveyed to any such prisoner any such money article of clothing letter tobacco article or thing ;

shall be liable to be apprehended without warrant by any constable gaoler turnkey warder or other person in whose charge or custody any such prisoner may then be without warrant, and be by such constable or other person detained and kept in safe custody until he can be brought before any Resident Magistrate or before two or more of Her Majesty's Justices of the Peace, who shall have power to hear and determine such offence, and upon conviction any such offender shall for any such offence forfeit and pay a penalty not exceeding

pounds, and in default of payment or in the discretion of such Resident Magistrate or Justices be imprisoned and kept to hard labour for any period not exceeding three months.

30. Every person who, contrary to the regulations of the prison, brings or attempts by any means whatever to introduce into any prison any spirituous or fermented liquor or tobacco, and every officer of a prison who suffers any spirituous or fermented liquor or tobacco to be sold or used therein contrary to the prison regulations, on conviction shall be sentenced to imprisonment for a term not exceeding six months, or to a penalty not exceeding twenty pounds, or both, in the discretion of the Court, and every officer of a prison convicted under this section shall, in addition to any other punishment, forfeit his office and all arrears of salary due to him.

Punishment for carrying spirituous liquors or tobacco into prisons.

31. Every person who, contrary to the regulations of a prison, conveys or attempts to convey any letter or other document, or any article whatever not allowed by such regulations into or out of any prison, shall on conviction incur a penalty not exceeding ten pounds, and if an officer of the prison, shall forfeit his office and all arrears of salary due to him ; but this section shall not apply in cases where the offender is liable to a more severe punishment under any other provision under this Act.

Punishment for carrying letters into and out of prisons.

32. The Visiting Justices shall cause to be affixed, in a conspicuous place outside the prison, a notice setting forth the penalties that will be incurred by persons committing any offence in contravention of the three preceding sections.

Notice of penalties to be placed outside of prisons.

ESCAPE FROM PENAL SERVITUDE.

33. If any person who shall have been sentenced to be kept in penal servitude for any term other than for life shall be afterwards at large within any part of New Zealand, without some lawful cause, before the expiration of the term of such servitude, every such offender so being at large, and being thereof lawfully convicted, shall be kept

Escape of convicts, how punished.

in penal servitude for any term not exceeding five years, to commence and be computed from the expiration of the term of the original sentence.

Escape of convicts under sentence for life.

34. If any male offender who shall have been sentenced to be kept in penal servitude for the term of his life, or who having been convicted of any capital offence shall have had his sentence commuted to penal servitude for life, or shall have had mercy extended to him on condition of his being kept in penal servitude for life, shall afterwards be found at large within any part of New Zealand without some lawful cause, every such offender so being at large, and being thereof lawfully convicted, shall be kept in solitary confinement during such periods not exceeding one month at a time or for three months in the space of one year, in periods of one month, at intervals of at least one month each, as the Court shall direct.

Reward for the discovery, &c., of escaped convicts.

35 Whoever shall discover and prosecute to conviction, or shall give such information as shall lead to the conviction of any offender being at large contrary to the provisions of the two last preceding sections of this Act, shall be entitled to a reward not exceeding twenty pounds, at the discretion of the Judge, for every such offender so being convicted.

DISCHARGE OF PRISONERS.

When term of imprisonment expires on Sunday.

36. Any prisoner confined in a prison whose term of imprisonment would according to his sentence, or the rules relating to remission of sentences for good conduct or otherwise, expire on any Sunday, shall be entitled to his discharge on the Saturday next preceding such Sunday, and every gaoler of every prison having the custody of any such prisoner as aforesaid is hereby required and authorized to discharge such prisoner on the Saturday next preceding any such Sunday. All sentences of imprisonment on any offenders convicted at any criminal sittings of the Supreme Court shall date from the first day of holding such sittings, 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 prisoner was at large at the date of signing such warrant, in which case the sentence shall date from the time of arrest of the prisoner.

Allowance to discharged prisoner.

37. Where any prisoner is discharged from prison, the Visiting Justices may order a sum of money not exceeding two pounds to be paid out of any moneys appropriated for the purpose by the General Assembly or Provincial Council of the Province in which the prison is or otherwise under their control by the gaoler to the prisoner himself, or to the treasurer of a certified Prisoners' Aid Society on his receiving from such Society an undertaking in writing, signed by the secretary thereof, to apply the same for the benefit of the prisoner, or if that becomes impossible, to appropriate the whole or any unapplied part thereof for the benefit of such other prisoner or prisoners discharged from the said prison as the Visiting Justices may direct.

VISITING JUSTICES.

Appointment of Visiting Justices.

38. The Colonial Secretary shall from time to time nominate two or more Justices, with their consent, to be visitors of each prison within the Colony; and one or more of the Visiting Justices so appointed shall from time to time visit and inspect each prison, and shall examine into the state of the buildings, so as to form a judgment as to what alterations may appear necessary, strict regard being had to the requisitions of this Act and the regulations hereunder with respect to the separation of prisoners and enforcement of hard labour in prisons, and shall further examine into the conduct of the respective officers and the treatment and conduct of the prisoners, the means of setting them to work, the amount of their earnings, and the expenses attending the prison, and shall inquire into all abuses within the prison, and shall take cognizance of matters of pressing necessity and

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within the powers of their commission as Justices and regulate the same, and shall once at least in each quarter of a year make a report to the Colonial Secretary.

39. The Colonial Secretary may make rules with respect to the 5 duties of the Visiting Justices, and from time to time repeal or alter any rule so made, and make other rules in addition thereto or in substitution therefor; but no rules shall be valid which are inconsistent with any provision of this Act. Power to make rules as to Visiting Justices.

40. Any Justice of the Peace usually resident in the place at 10 which a prison is, may whenever he thinks fit enter into and examine the condition of such prison and of the prisoners therein, and he may enter any observations he may think fit to make in reference to the condition of the prison, or abuses therein, in the Visitor's Book to be kept by the gaoler. And it shall be the duty of the gaoler to draw 15 the attention of the Visiting Justices, at their next visit to the prison, to any entries made in the said book, but he shall not be entitled in pursuance of this section to visit any prisoner under sentence of death, or to communicate with any prisoner except in reference to the treatment in prison of such prisoner, or to some complaint that such 20 prisoner may make as to such treatment. Visits to prison by any Justice.

LAW OF PRISONS.

41. An inquest shall be held on the body of every prisoner who may die within the prison. Where it is practicable, one clear day shall intervene between the day of the death and the day of the 25 holding the inquest, and in no case shall any officer of the prison, or any prisoner confined in the prison, be a juror on such inquest. Inquests on prisoners.

42. Any writ warrant or other legal instrument addressed to the gaoler of a particular prison, describing the prison by its situation or other definite description, shall be valid, by whatever title such prison 30 is usually known, or whatever be the description of the prison. Description of prison in writ.

43. Every gaoler shall have the charge and superintendence of the prison for which he is appointed, and the custody of all debtors and criminals imprisoned within the same, and he shall be liable to answer for the escape of any criminal or debtor from his custody whenever 35 such escape shall happen by or through his wilful neglect and default, but not otherwise. Gaolers to have charge of prison.

44. If any debtor in execution shall escape out of legal custody, the gaoler or other person having custody of such debtor shall be liable to an action for damages sustained by the person or persons at 40 whose suit such debtor was imprisoned, and shall not be liable to an action of debt in consequence of such escape. Gaolers liable for escapes to an action of damages and not of debt.

45. Every debtor and criminal shall be deemed to be in the legal custody of the gaoler as soon as he shall be delivered within the door of any prison to the gaoler or some other person employed under him in 45 the custody of prisoners in such prison, and the liability of the Sheriff or other person delivering such criminal or debtor shall cease on such delivery as aforesaid. Persons to be deemed in custody of gaolers when delivered at prison, and the liability of Sheriff and others then to cease.

46. The gaoler of every prison shall deliver or cause to be delivered to the Judges of the Supreme Court and of District Courts, and 50 the Justices in Quarter or other Sessions of the Peace respectively, a calendar of all prisoners in custody for trial at each forthcoming Circuit Court or sittings of the Supreme Court for trial of criminal cases, and sittings of each District Court or Sessions of the Peace for the trial of criminal cases, in the same way as the gaoler of a gaol in 55 England is now required by law to deliver a calendar of prisoners to Judges of Assize and Justices in Quarter Sessions, in his custody for trial. Gaoler of prison to deliver calendar.

REMOVAL OF PRISONERS.

47. A prisoner may be brought up for trial and may be removed 60 by or under the direction of the gaoler from one prison to another, Removal of prisoners for trial.

to which, or from one place of confinement to another, to which such prisoner may be legally removed, for the purpose of being tried or undergoing his sentence, and no prisoner whilst in the custody of a gaoler shall be deemed to have escaped, although he may be taken into different jurisdictions or different places of confinement.

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

48. Whenever it shall appear to the Governor to be necessary that the prisoners or any of them confined in any prison within the Colony should be removed from such prison 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 prison, or for any of the purposes of this Act, and due notice thereof in writing shall by order of the Governor be given to the gaoler of the prison, it shall be lawful for such gaoler to remove such prisoners or any of them to such other prison or place of confinement as the Governor shall appoint.

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And to be removed back.

When any such prison as in this section aforesaid shall be made fit for the reception and safe keeping of such prisoners, it shall be lawful for the said gaoler to remove back thereto all such prisoners as shall then be in his custody.

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

Whenever the removal of any prisoners shall become necessary for any of the reasons in this section 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 prison to remove such debtors or other prisoners to such other prison or place of confinement within the same Province as shall be specified in such order. Every 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 gaoler of the prison.

25

No such removal as in this section provided shall be deemed or taken to be an escape.

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Gaoler may remove prisoners from one prison to another in the same Province.

49. It shall be lawful for the gaoler of any prison to remove any prisoner whatever from any prison under his control and management to any other prison in the same Province, or in case of the illness of such prisoner to any hospital or infirmary, as occasion may require, and also for the purpose of imprisonment under sentence of penal servitude may remove any prisoner to any prison whatsoever within the limits of the Colony: Provided that no such removal, except as in this section 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.

35

Prisoners removed to hospital may be removed thence to prison.

50. Whenever any gaoler, under any order of a Judge of the Supreme Court, has caused or shall have caused any prisoner whatever to be removed from any prison to any hospital or infirmary in case of illness, such prisoner shall be deemed to remain in the lawful custody of such gaoler, and such gaoler shall have power to remove such prisoner from such hospital or infirmary to the prison from which such prisoner was removed: Provided that no such removal from such hospital or infirmary shall actually take place without the leave of a Judge of the Supreme Court on application made to him for that purpose.

45

Governor may direct removal of prisoners.

51. The Governor may by warrant under his hand from time to time, when and as he may deem necessary, direct the removal from any prison of any prisoner confined therein to any other prison within New Zealand; and upon every such removal every such prisoner shall be subject to be kept at such prison for the residue of his sentence or until removed by legal authority.

55

Governor may delegate powers conferred by this Act to Superintendents of Provinces.

52. The Governor in Council may, under his hand and the public seal of the Colony, from time to time delegate to the Superintendent of any Province the powers by the *forty-eighth* and *fifty-first*

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sections of this Act vested in the Governor, to be exercised within such Province and not elsewhere, and may from time to time in like manner rescind any such delegation.

53. When a prisoner shall be received into a prison by removal from another prison, it shall be lawful under the rules in force in the prison into which he is so received to punish him for any misconduct which he may have committed in the course of such removal or within forty-eight hours before the commencement of the same, as if such misconduct had been committed by him within the prison into which he is so received.

Punishment of prisoners for misconduct during removal from one prison to another.

MISCELLANEOUS.

54. In every prison to which this Act applies, and in which prisoners convicted of misdemeanour may be confined, prisoners convicted of misdemeanour and not sentenced to hard labour shall be divided into at least two divisions, one of which shall be called the first division; and whenever any person convicted of misdemeanour is sentenced to imprisonment without hard labour, it shall be lawful for the Court or Judge before whom such person has been tried, to order, if such Court or Judge think fit, that such person shall be treated as a misdemeanant of the first division, and a misdemeanant of the first division shall not be deemed to be a criminal prisoner within the meaning of this Act.

Misdemeanants of first division.

55. Offences under this Act, with the exception of felonies and of offences for the mode of trial of which express provision is made by this Act or Rules, shall be prosecuted summarily before two or more Justices of the Peace, and in manner directed by "The Justices of the Peace Act, 1866," and any Act amending the same.

Recovery of penalties.

56. In any indictment against any offender for being found at large contrary to the provisions of the *thirty-third* and *thirty-fourth* sections of this Act, and also in any indictment against any person who shall rescue or attempt to rescue or assist in rescuing or attempting to rescue any prisoner from custody, or who shall aid or assist any prisoner to escape from such custody, it shall be sufficient to charge and allege the sentence or order made for the imprisonment of such prisoner, without charging or alleging any indictment trial or conviction of such offender.

Form of indictment for escape, &c.

57. The certificate in writing, under the hand of the Registrar or other officer having the custody of the records of the Court where any sentence or order of imprisonment shall have been made or recorded, containing the substance of such sentence or order, shall be sufficient evidence thereof, and shall be received in evidence of such sentence or order, upon proof of the signature and official character of the person signing the same

Proof of previous sentence.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

Names of Acts.	Parts repealed.
The Ordinance of the Lieutenant-Governor and Legislative Council, Session VII., No. 7, intituled, "An Ordinance for the Regulation of Prisons"	The whole.
"The Secondary Punishment Act, 1854"	Sections 9 to 18, both inclusive.
"The Gaolers Act, 1858"	The whole.
"The Secondary Punishment Act Amendment Act, 1863"	The whole.
"The Prisoners Removal Act, 1865"	The whole.
"The Gaolers and Prisoners Act, 1869"	The whole.

SECOND SCHEDULE.

REGULATIONS FOR GOVERNMENT OF PRISONS.

General.

1. The prison shall be kept in a cleanly state, and the walls and ceilings of the wards cells rooms and passages used by the prisoners throughout every prison shall either be painted with oil, or be lime-washed, or partly painted and partly lime-washed. Where painted with oil, the painting shall be washed with hot water and soap once at least in every six months. Where lime-washed, the lime-washing shall be renewed once at least in every year. The day-rooms work-rooms passages and sleeping cells shall be washed or cleansed once a week, or oftener if requisite.

2. Nothing shall be allowed to grow against the outer walls of the prison, nor any rubbish or other articles to be laid against them, nor shall any tools or implements of any kind likely to facilitate escape be left unnecessarily exposed.

3. Thermometers shall be placed in different parts of the prison.

4. No person shall be permitted to sleep in the apartments of any subordinate officer of the prison without permission from the gaoler, such permission to be reported to a Visiting Justice.

5. A report shall be made to the gaoler at ten o'clock each night, whether the officers resident in the prison are all present; and no ingress or egress shall be allowed into or out of the prison between the hours of ten o'clock at night and six o'clock in the morning, except to the gaoler and his family, or surgeon, or in special cases which shall be entered in the journal of the gaoler.

Admission and Discharge of Prisoners.

6. Prisoners on admission shall be searched, and all dangerous weapons, articles calculated to facilitate escape, and prohibited articles, shall be taken from them.

7. No prisoner shall be searched in the presence of any other prisoner.

8. All money or other effects brought into the prison by any prisoner, or sent to the prison for his use, which he is not allowed to retain, shall be placed in the custody of the gaoler, who shall keep an inventory of them in a separate book.

9. The name age height weight features particular marks and general appearance of a criminal prisoner shall, upon his admission, be noted in a nominal record of prisoners to be kept by the gaoler. Every criminal prisoner shall also, as soon as possible be examined by the surgeon, who shall enter in a book to be kept by the gaoler a record of the state of health of the prisoner, and any observations he may deem it expedient to add.

10. All prisoners, previously to being removed to any other prison or being discharged from prison, shall be examined by the surgeon; and no prisoner shall be removed to any other prison unless the surgeon certifies by an entry in the nominal record, that the prisoner is free from any illness that renders him unfit for removal; and no prisoner shall be discharged from prison if labouring under any acute or dangerous distemper, nor until in the opinion of the surgeon such discharge is safe, unless such prisoner require to be discharged. Nothing in this clause shall be deemed to prohibit the removal of any prisoner to any hospital or infirmary.

11. Prisoners before trial shall be kept apart from convicted prisoners, and, so far as practicable, juveniles under the age of eighteen years of age from adults, and adult male felons from misdemeanants.

12. Female prisoners shall be searched on admission by female officers. In other respects the same course shall be pursued in reference to the admission removal or discharge of a female prisoner as in the case of a male prisoner, the matron performing the duties imposed on the gaoler in case of a male prisoner.

Food Clothing and Bedding of Prisoners.

13. Except as hereinafter provided, no fermented or spirituous liquors of any kind shall be sold or supplied to or be admitted for the use of any of the prisoners in any prison under any pretence whatever, unless by a written order of the surgeon, specifying the quantity to be admitted and the name of the prisoner for whose use it is intended; but this regulation shall not apply to any stock of fermented or spirituous liquors kept in the prison for the use of the infirmary, and under the control of the surgeon.

14. No smoking shall be allowed, or tobacco introduced, except with the consent and subject to the rules made by the Visiting Justices, or under a written order of the surgeon.

15. Any order by the surgeon for the admission of fermented or spirituous liquors or tobacco shall be entered by him in his journal.

16. A debtor shall be permitted to maintain himself, and to procure or receive at proper hours food wine malt liquor clothing bedding or other necessaries, but subject to examination, and to such rules as may be approved by the Visiting Justices.

17. No part of any food wine malt liquor clothing bedding or other necessaries belonging to any debtor shall be sold to any other prisoner; and any debtor transgressing this regulation shall lose the privilege of receiving or purchasing any wine or malt liquor for such a time as the Visiting Justices may deem proper.

18. A debtor, if unable to provide himself with sufficient food clothing bedding or other necessaries, shall receive the allowance of food clothing bedding or other necessaries allotted to debtors unable to maintain themselves by the prison rules for the time being in force.

19. A criminal prisoner before trial may procure for himself, or receive at proper hours, food and malt liquor clothing bedding or other necessaries, subject to examination and to such rules as may be approved by the Visiting Justices; and any articles so procured may be paid for out of the moneys belonging to such prisoner in the hands of the gaoler. No part of such food malt liquor bedding clothing or other necessaries shall be sold or transferred to any other prisoner; and any prisoner transgressing this regulation shall be prohibited from procuring any food or other necessaries for such time as the Visiting Justices may deem proper. If a criminal prisoner before trial does not provide himself with food, he shall receive the allowance of food allotted to criminal prisoners before trial by the rules of the prison.

20. Criminal prisoners before trial may, if they desire it, wear the prison dress, and they shall be required to do so if their own clothes are insufficient or unfit for use, or necessary to be preserved for the purposes of justice. The prison dress for prisoners before trial, or some portion of it, shall be of a different colour from that of convicted prisoners.

21. Every convicted criminal prisoner shall be allowed a sufficient quantity of food according to the scale established by the rules of the prison. Prisoners under the care of the surgeon shall be allowed such diet as he may direct. Care shall be taken that all provisions supplied to the prisoners be of proper quality and weight. Scales and legal weights and measures shall be provided, open to the use of any prisoners, under such restrictions as may be made by the prison rules.

22. No convicted criminal prisoner shall be allowed any wine beer or other fermented liquor, except under a written order from the surgeon, to be entered in his journal, specifying the quantity and the name of the prisoner for whose use it is intended, or shall receive any food clothing bedding or necessaries other than the prison allowance, except under special circumstances, to be judged of by one or more of the Visiting Justices, and to be reported to the Colonial Secretary.

23. A convicted criminal prisoner shall be provided with a complete prison dress, and shall be required to wear it.

24. On the discharge of a prisoner his own clothes shall be returned to him unless it has been found necessary to destroy them, in which case he shall be provided with clothing.

25. If necessary, the clothes of a prisoner shall be purified before he is allowed to wear them in the prison or to take them on his discharge.

26. Every male prisoner shall sleep in a cell by himself, or under special circumstances in a separate bed placed in a cell containing not fewer than two other male prisoners, and sufficient bed clothes shall be provided for every prisoner. A convicted criminal prisoner may be required to sleep on a plank bed without a mattress during such time as may be determined by the rules of the prison. Epileptic prisoners or prisoners labouring under diseases requiring assistance or supervision in the night, may at any time, notwithstanding this regulation, be placed by order of the surgeon with not fewer than two other male prisoners.

27. The bed clothes shall be aired changed and washed as often as the surgeon or the Visiting Justices may direct.

Personal Cleanliness.

28. Prisoners shall be required to keep themselves clean and decent in their persons, and to conform to such rules as may be laid down for that purpose.

29. The hair of a female prisoner shall not be cut without her consent, except on account of vermin or dirt, or when the surgeon deems it requisite on the ground of health; and the hair of male criminal prisoners shall not be cut closer than may be necessary for purposes of health and cleanliness.

Employment of Prisoners.

30. No gaming shall be permitted in any prison, and the Gaoler shall seize and destroy all dice cards or other instruments of gaming.

31. Debtors may be permitted to work and follow their respective trades and professions provided their employment does not interfere with the regulations of the prison; and such debtors as find their own implements and are not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements, or are maintained at the expense of the prison, shall be subject to a deduction, to be determined by the Visiting Justices, for the use of implements and the cost of maintenance.

32. Criminal prisoners before trial shall have the option of employment, but shall not be compelled to perform any hard labour.

33. On the acquittal of any criminal prisoner or when no indictment or information is found or presented against him, such an allowance on account of his earnings (if any) shall be paid to such prisoner on his discharge as the Visiting Justices may think reasonable.

34. Every male prisoner of sixteen years of age and upwards, sentenced to hard labour, shall, during the whole of his sentence where it does not exceed three months, and during the first three months of his sentence where it exceeds three months, be kept at hard labour of the first class for such number of hours not more than ten or less than six (exclusive of meals) as may be prescribed by the Visiting Justices, and during the remainder of his sentence shall be kept in like manner at hard labour of the first class,

except where during such remainder of his sentence the Visiting Justices substitute hard labour of the second class for hard labour of the first class: Provided that if the surgeon certifies any such prisoner to be unfit to be kept at hard labour of the first class during the whole or any part of the prescribed hours, such prisoner shall, during such whole or part of the prescribed hours, be kept at hard labour of the second class, unless the surgeon certifies that such prisoner is unfit to be kept at either class of hard labour during the whole or any part of such hours: Provided that prisoners sentenced to hard labour for periods not exceeding fourteen days may, in pursuance of rules made by the Justices in Sessions, be kept in separate confinement at hard labour of the second class during the whole period of their sentences.

35. Every male prisoner under the age of sixteen years sentenced to hard labour, and every female prisoner sentenced to hard labour, shall be kept at hard labour of the second class during such number of hours not more than ten or less than six (exclusive of meals) in each day as may be prescribed by the Visiting Justices, unless the surgeon certifies that he or she is unfit for hard labour.

36. No prisoner shall be employed at hard labour on Sundays, Christmas Day, Good Friday, and days appointed for public fasts or thanksgivings, or on public holidays.

37. The Surgeon shall from time to time examine the prisoners sentenced to penal servitude or hard labour during the time of their being so employed, and shall enter in his journal the name of any prisoner whose health he thinks to be endangered by a continuance at labour under sentence of penal servitude or hard labour of either first or second class, and thereupon such prisoner shall not again be employed at hard labour until the surgeon certifies that he is fit for such employment.

38. Provision shall be made by the Visiting Justices for the employment of all convicted criminal prisoners not sentenced to penal servitude or hard labour. The Visiting Justices shall make rules as to the amount and nature of such employment, but no prisoner not sentenced to penal servitude or hard labour shall be punished for neglect of work, excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such prisoners.

Health of Prisoners.

39. Debtors shall have the means of daily taking exercise in the open air.

40. Criminal prisoners, if employed at work in their own cells, shall be permitted to take such exercise in the open air as the surgeon may deem necessary for their health.

41. The names of the prisoners who desire to see the surgeon, or appear out of health, shall be reported by the officer attending them to the gaoler, and by him without delay to the surgeon.

42. All directions given by the surgeon in relation to any prisoner, with the exception of orders for the supply of medicines or directions in relation to such matters as are carried into effect by the surgeon himself or under his superintendance, shall be entered day by day in his journal, which shall have a separate column in which entries are to be made by the gaoler, stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the gaoler may think fit to make, and the date of the entry.

43. In every prison an infirmary or proper place for the reception of sick prisoners shall be provided.

Religious Instruction.

44. In every prison where there is no chapel a suitable room shall be set apart for the purposes of the chapel.

45. The Visiting Justices may appoint a fit and proper person to attend the prison to hold Divine Service there, at such times and under such rules as may be approved of or fixed by the Visiting Justices. Such person is hereafter referred to as the "officiating Minister."

46. Ministers of the several religious denominations, or accredited agents duly authorized in writing by the recognized authority of their respective Churches, will be allowed to attend any prison to hold Divine Service and to visit prisoners who may be members of their denomination, at such convenient times and under such rules as may be approved of or fixed by the Visiting Justices. Each officiating or other minister or accredited agent will be required to enter the days and hours of his visit, and the number of prisoners attending his ministrations, in a journal to be kept for that purpose. Debtors and all other persons shall be required to attend Divine Service, unless prevented by illness or other reasonable cause.

47. The officiating and any other minister of religion attending any prison shall communicate to the gaoler any abuse or impropriety in the prison which may come to his knowledge, and shall enter the same in his journal.

Instruction.

48. Provision shall be made in every prison for the instruction of prisoners in reading, writing, and arithmetic, during such hours and to such extent as to the Visiting Justices may seem expedient: Provided that such hours shall not be deducted from the hours prescribed for labour under sentence of penal servitude, or hard labour.

Visits to and Communications with Prisoners.

49. Due provision shall be made for the admission, at proper times and under proper restrictions, of persons with whom prisoners before trial may desire to communicate, care being taken that, so far as is consistent with the interests of justice, such prisoners shall see their legal advisers alone. Such rules also shall be made by the Visiting Justices for the admission of the friends of convicted prisoners as they may deem expedient. The Visiting Justices shall also impose such restrictions upon the communication and correspondence of prisoners with their friends as they judge necessary for the maintenance of good order and discipline in such prison.

50. The gaoler may demand the name and address of any visitor to a prisoner; and when he has any ground for suspicion may search or cause to be searched male visitors, and may direct the matron or some other female officer to search female visitors, such search not to be in the presence of any prisoner or of another visitor; and in case of any visitor refusing to be searched, the gaoler may deny him or her admission; the grounds of such proceeding, with the particulars thereof, to be entered in his journal.

Prison Offences.

51. No punishments or privations of any kind shall be awarded, except by the gaoler, or by a Visiting or other Justice.

52. The gaoler or a Visiting or other Justice shall have power to hear complaints respecting any of the offences following, that is to say:—

- (1.) Disobedience of the regulations of the prison by any prisoner.
- (2.) Common assaults by one prisoner on another.
- (3.) Profane cursing and swearing by any prisoner.
- (4.) Indecent behaviour by any prisoner.
- (5.) Irreverent behaviour at Divine Service by any prisoner.
- (6.) Insulting or threatening language by any prisoner to any officer or prisoner.
- (7.) Absence from Divine Service without leave by any criminal prisoner.
- (8.) Idleness or negligence at work by any convicted criminal prisoner.
- (9.) Willful mismanagement of work by any convicted criminal prisoner.

All the above acts are declared to be offences against prison discipline; and it shall be lawful for the Gaoler or any Visiting or other Justice to examine any person touching such offences, and to determine thereupon, and to punish such offences by ordering any offender to be kept in close or other confinement in a light or dark cell, or to be fed upon bread and water only, during any time not exceeding three days, or by ordering both such punishments, or by ordering such offender to forfeit in addition a number of marks earned under rules for remission of portions of sentences, such number not to exceed such number as under such rules it is necessary to earn fourteen days' remission of sentence. And the Gaoler or any Visiting or other Justice imposing any such punishments shall enter in a separate book called "The Punishment Book," a statement of the nature of any offence that he has punished in pursuance of this regulation, with the addition of the name of the offender, the date of the offence, and the amount of punishment inflicted.

53. If any criminal prisoner is guilty of repeated offences against any of the rules made under the *sixteenth* or the *twenty-second* sections of this Act, and which the gaoler is herein authorized to hear determine and punish, or is guilty of any offence against any of the said rules which the gaoler is not empowered to hear determine and punish, the gaoler shall report the same to the Visiting Justices, or one of them; and any one of such Justices, or any other Justice having jurisdiction in the place in which the prison is, shall have power to inquire upon oath and to determine concerning any matter so reported to him, and to order the offender to be kept at hard labour with or without irons for any term not exceeding one year, and in his discretion to be kept in solitary confinement for any portion of such term not exceeding three months, in periods none of which shall exceed one month, and which shall be at intervals of at least one month, and may direct that during such confinement such prisoner shall be deprived of any particular portion of the ordinary diet or allowances of such prisoners, or forfeit the whole or any number of marks earned by such prisoners under rules for earning remission of portion of sentences by good conduct; or, in the case of prisoners convicted of felony or sentenced to hard labour or penal servitude, by personal correction not exceeding fifty lashes at any one time.

54. No prisoner shall be put in irons or under mechanical restraint by the gaoler of any prison, except in case of urgent necessity; and the particulars of every such case shall be forthwith entered in the gaoler's journal, and notice forthwith given thereof to one of the Visiting Justices; and no prisoner shall be kept in irons or under mechanical restraint for more than twenty-four hours without an order in writing from a Visiting Justice, specifying the cause thereof, and the time during which the prisoner is to be kept in irons or under mechanical restraint, which order shall be preserved by the gaoler as his warrant.

55. All corporal punishments within the prison shall be attended by the gaoler and the surgeon. The surgeon shall give such orders for preventing injury to health as he may deem necessary, and it shall be the duty of the gaoler to carry them into effect; and the gaoler shall enter in the Punishment Book the hour at which the punishment is inflicted, the number of lashes, and any orders which the surgeon may have given on the occasion.

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Prisoners under Sentence of Death.

56. Every prisoner under warrant or order for execution shall, immediately on his arrival in the prison after sentence, be searched by or by the orders of the gaoler, and all articles shall be taken from him which the gaoler deems dangerous or inexpedient to leave in his possession. He shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the constant charge of an officer. He shall be allowed such a dietary and amount of exercise as the gaoler, with the approval of the Visiting Justices, may direct. A minister of religion of that denomination to which the prisoner belongs, or such minister as the prisoner wishes to visit him, shall have free access to every such prisoner. With the above exceptions, no person, not being a Visiting Justice or an officer of the prison, shall have access to the prisoner except in pursuance of an order from a Visiting Justice.

During the preparation for an execution, and the time of the execution no person shall enter the prison who is not legally entitled to do so, unless in pursuance of an order in writing from two or more Visiting Justices.

Prison Officers.

57. No prisoner shall, except with the consent of the Visiting Justices in writing, be employed as turnkey, assistant turnkey, wardsman, yardsman, overseer, monitor, or schoolmaster, or in the discipline of the prison, or in the service of any officer thereof, or in the service or instruction of any other prisoner.

58. Every prison officer, while acting as such, shall, by virtue of his appointment, and without being sworn in before any justice, be deemed to be a constable, and to have all such powers authorities protection and privileges for the purpose of the execution of his duty as a prison officer as any constable duly appointed has.

59. No officer of a prison shall sell or let to, nor shall any person in trust for or employed by him sell or let to, or derive any benefit from the selling or letting of, any article to any prisoner.

60. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison.

61. No officer of a prison shall at any time receive money, fee, or gratuity of any kind for the admission of any visitors to the prison or to prisoners, or from or on behalf of any prisoner, on any pretext whatever.

62. Female prisoners shall in all cases be attended by female officers.

Gaoler.

63. The gaoler shall reside in the prison. He shall not be concerned in any other employment.

64. The gaoler shall strictly conform to the law relating to prisons and to the prison regulations, and shall be responsible for the due observance of them by others. He shall observe the conduct of the prison officers, and enforce on each of them the due execution of his duties, and shall not permit any subordinate officer to be employed in any private capacity, either for any other officer of the prison, or for any prisoner.

65. The gaoler shall, in case of misconduct, have power to suspend any subordinate officer, and shall report the particulars without delay to a Visiting Justice.

66. The gaoler shall, as far as practicable, visit the whole of the prison, and see every male prisoner once at least in every twenty-four hours, and in default of such daily visits and inspections he shall state in his journal how far he has omitted them, and the cause thereof. He shall, at least once during the week, go through the prison at an uncertain hour of the night, which visit, with the hour and state of the prison at the time, he shall record in his journal. When visiting the females' prison he shall be attended by the matron or some other female officer.

67. The gaoler shall cause an abstract, to be approved by the Colonial Secretary, of the regulations relating to the treatment and conduct of prisoners, with a copy of the prison dietaries (printed in legible characters), to be posted in each cell, and shall read or cause the same to be read to every prisoner who cannot read within twenty-four hours after his admission.

68. The gaoler shall, without delay, call the attention of the surgeon to any prisoner whose state of mind or body appears to require attention, and shall carry into effect the written directions of the surgeon respecting alterations of the discipline or treatment of any such prisoner.

69. The gaoler shall notify to the surgeon without delay the illness of any prisoner, and shall deliver to him daily a list of such prisoners as complain of illness, or are removed to the infirmary, or confined to their cells by illness, and he shall daily deliver to the surgeon a list of such prisoners as are confined in punishment cells.

70. Upon the death of a prisoner, the gaoler shall give immediate notice thereof to the Coroner, and to one of the Visiting Justices, as well as to the nearest relative of the deceased, where practicable.

71. The gaoler shall without delay report to the Visiting Justices any case of insanity or apparent insanity occurring among the prisoners.

72. The gaoler shall keep the following records and accounts:—

First. A register of the church or religious persuasion to which each prisoner belongs.

- Second. A journal in which he shall record all such matters as he is directed to record therein by this Act, and all other occurrences of importance within the prison.
- Third. A nominal record of all prisoners committed to his charge, in such form as may be directed by the Visiting Justices.
- Fourth. A punishment book for the entry of the punishments inflicted for prison offences.
- Fifth. A visitors' book for the entry of any observations made by visitors to the prison.
- Sixth. A record of articles taken from prisoners.
- Seventh. A record of the employment of prisoners sentenced to hard labour, and the manner in which they have been so employed.
- Eighth. A list of books and documents committed to his care.
- Ninth. An inventory of all the furniture and moveable property belonging to the prison.
- Tenth. An account of all prison receipts and disbursements; and such other books records and accounts as shall be directed by the Colonial Secretary or the Visiting Justices.

73. The gaoler shall be responsible for the safe custody of the journals registers books commitments and all other documents confided to his care.

74. The gaoler shall not be absent from the prison for a night without permission in writing from a Visiting Justice; and his leave of absence, with the name of the Visiting Justice granting it, shall be entered in his journal; but if absent without leave for a night, from unavoidable necessity, he shall state the fact and the cause of it in his journal.

75. Where a deputy gaoler is appointed to a prison he shall be legally competent to perform any duty required by law to be performed by the gaoler; and when the gaoler is absent from the prison, the deputy gaoler shall perform all his duties. Where there is no deputy gaoler, or in case of his services not being available by reason of sickness or other unavoidable cause, the gaoler shall, when absent from the prison on leave, appoint, with the consent of the Visiting Justices, an officer of the prison to act as his substitute, and during such absence the substitute so appointed shall have all the powers and perform all the duties of the gaoler.

The deputy gaoler when in charge of the prison as gaoler shall, if absent from the prison from any unavoidable cause, or unable from sickness to perform his duties, appoint a substitute with the sanction of the Visiting Justices.

Matron.

76. The matron shall reside in the prison. She shall have the care and superintendence of the whole female department. The wards, cells, and yards where females are confined shall be secured by locks different from those securing the wards, cells, and yards allotted to male prisoners, and the keys of those locks shall be kept in the custody of the matron.

77. The matron shall, so far as practicable, visit and inspect every part of the prison occupied by females, and see every female prisoner once at least in every twenty-four hours, and in default of such daily visits and inspections she shall state in her journal how far she has omitted them, and the cause thereof. She shall, at least once during the week, go through such part of the prison at an uncertain hour of the night, which visit, with the hour and state of such part of the prison at the time, shall be recorded in her journal.

78. The matron shall not be absent from the prison for a night without permission in writing from a Visiting Justice, on the recommendation of the gaoler; and her leave of absence, with the name of the Visiting Justice granting it, shall be entered in her journal; but if absent without leave for a night from unavoidable necessity, she shall state the fact and the cause of it in her journal.

79. The matron shall, with the consent of the gaoler, and with the approval of the Visiting Justices, appoint a female officer of the prison to act as deputy matron whenever she is absent on leave from the prison, and during such absence the deputy matron shall have all the powers and duties of the matron. Before leaving the prison the matron shall personally give over the charge of the part of the prison occupied by females to the deputy matron.

80. The matron shall keep a journal in which she shall record all occurrences of importance within her department, and punishments of female prisoners, and lay the journal before the gaoler daily, and before the Visiting Justices at their ordinary meetings.

Surgeon.

81. The surgeon shall visit the prison at least twice in every week, and oftener if necessary, and shall see every prisoner in the course of the week. He shall daily visit the prisoners, if any, confined in punishment cells, and he shall visit daily, and oftener if necessary, such of the prisoners as are sick, and, when necessary, shall direct any prisoner to be removed to the infirmary.

82. The surgeon shall enter, in the English language, day by day, in his journal to be kept in the prison, an account of the state of every sick prisoner, the name of his disease, a description of the medicines and diet, and any other treatment which he may order for such prisoner.

83. The surgeon shall, once at least in every three months, inspect every part of the prison, and enter in his journal the result of each inspection, recording therein any observations he may think fit to make on any want of cleanliness, drainage, warmth, or ventilation; any bad quality of the provisions, any insufficiency of clothing or bedding, any deficiency in the quantity or defect in the quality of the water, or any other cause which may affect the health of the prisoners.

84. Whenever the surgeon has reason to believe that the mind of a prisoner is or is likely to be injuriously affected by the discipline or treatment, he shall report the case in writing to the gaoler, together with such directions as he may think proper, and he shall call the attention of the officiating minister to any prisoner who appears to require his special notice.

85. The surgeon may, in any case of danger or difficulty which appears to him to require it, call in additional medical assistance; and no serious operation shall be performed without a previous consultation being held with another medical practitioner, except under circumstances not admitting of delay—such circumstances to be recorded in his journal.

86. The surgeon shall, forthwith on the death of any prisoner, enter in his journal the following particulars, viz.:—At what time the deceased was taken ill, when the illness was first communicated to the surgeon, the nature of the disease, when the prisoner died, and an account of the appearances after death (in cases where a *post-mortem* examination is made), together with any special remarks that appear to him to be required.

87. In case of sickness, necessary engagement, or leave of absence, to be given by the Visiting Justices, the surgeon shall appoint a substitute, approved of by the Visiting Justices. The name and residence of the substitute shall be entered in his journal.

PRISON OFFICERS.

88. All officers of the prison shall obey the directions of the gaoler, subject to the regulations of this Act, and all subordinate officers shall perform such duties as may be directed by the Gaoler, with the sanction of the Visiting Justices, and the duties of each subordinate officer shall be inserted in a book to be kept by him.

89. Subordinate officers shall not be absent from the prison without leave from the gaoler; and before absenting themselves they shall leave their keys, instruction book, and report book in the gaoler's office.

90. Subordinate officers shall not be permitted to receive any visitors within the prison without permission of the gaoler.

91. All subordinate officers shall frequently examine the state of the cells bedding locks bolts &c., and shall seize all prohibited articles, and deliver them to the gaoler forthwith.

Porter.

92. The officer acting as gate porter may examine all articles carried in or out of the prison, and may stop any person suspected of bringing in spirits or other prohibited articles into the prison, or of carrying out any property belonging to the prison, giving immediate notice thereof to the gaoler.

Reports.

93. Within one week after the termination of every sitting of the Supreme Court or District Court, or Court of Sessions of the Peace for the trial of criminal cases, the gaoler shall transmit by post to the Colonial Secretary a calendar containing the names crimes and sentences of every prisoner tried at such Courts in such form and containing such particulars as may be required by the Colonial Secretary; and whenever such Court adjourns for any longer time than one week, the day upon which the adjournment is made shall be deemed the termination of the Session within the meaning of this regulation; and every adjourned Session for the trial of prisoners shall, for the purposes of this Act, be deemed a separate Session; and every gaoler who neglects or refuses to transmit such calendar, or wilfully transmits a calendar containing any false or imperfect statement, shall, for every such offence forfeit a sum not exceeding twenty pounds, to be recovered summarily.

94. The Visiting Justices shall, once at least in each quarter of the year, carefully examine the following books kept by the gaoler of every prison—that is to say, the register of the religious persuasion of prisoners, the journal, the nominal record, the punishment book, the visitors' book, the record of articles taken from prisoners, record of the employment of prisoners, the list of books and documents committed to his care, the inventory and the account of prison receipts and disbursements, and shall report to the Colonial Secretary or some person appointed by him for that purpose, any special circumstances which call for notice in respect of such books. The gaoler shall also answer, in writing or on oath if required, the inquiries of the Colonial Secretary or such person so appointed with respect to the condition of the prison and of the prisoners, and with respect to any other matters relating thereto. He shall at the same time transmit or present a certificate, signed by himself, containing a declaration how far the requisitions of this Act, or the regulations made under this Act, with respect to the separation of prisoners and enforcement of hard labour, have been complied with, and shall point out any deviation therefrom which has taken place since his last report.

95. The journals of the surgeon shall, once at least in each quarter of a year, be laid before the Colonial Secretary or such person so appointed as aforesaid, at such time as the Colonial Secretary or such person as aforesaid may appoint, and shall be signed by the Colonial Secretary or such person as aforesaid in proof of the same having been produced; and the surgeon shall, once at least in each quarter of a year, report to the Colonial Secretary the condition of the prison, and the state of health of the prisoners under his care.

96. There shall be kept in every prison a book, to be called "The Non-resident Officers Book," in which any other officer of the prison not residing within the prison, but attending on or required to attend on such prison, shall regularly enter the date of every visit made to the prison by such officer; and every entry shall be signed with the name and be in the handwriting of such officer, and such book shall, once at least in each quarter of a year, be laid before the Colonial Secretary or such person as he may appoint for the purpose, at such time as the Colonial Secretary or such person may appoint. The gaoler of every prison shall be responsible for the safe custody of such book, and shall at all times, when required so to do, produce it for inspection to the Visiting Justices, or to any Justice of the Peace resident in the Province in which the prison is.

Construction and Application of Schedule.

97. Subject to the provisions of this Act, the Colonial Secretary shall make such rules as he thinks expedient with respect to the classification and treatment of prisoners who are not debtors and are not criminal prisoners within the meaning of this Act.

98. Any rules made by the Colonial Secretary, or by the Visiting Justices, and any dietary tables framed in pursuance of this Act, shall be deemed to be regulations of the prison within the meaning of this Act.

99. All officers of a prison shall be deemed to be subordinate officers with the exception of the gaoler, the surgeon, the matron, and the officiating minister.