



Naval Discipline Act 1860

1860 CHAPTER 123

PART V

PENAL SERVITUDE AND PRISONS

Penal Servitude

LX Sentence of Penal Servitude.

Whenever any Sentence of Death shall be commuted for Penal Servitude, or whenever Sentence of Penal Servitude shall be passed upon any Offender by any Court-martial, and such Sentence, or any Part thereof, is intended to be carried into effect, the Admiralty shall cause the same to be notified in Writing to any Justice of the Queen's Bench, Common Pleas, or Baron of the Exchequer, and thereupon such Justice or Baron shall make an Order for the Penal Servitude of such Offender, upon the Terms and for the Time specified in such Notification, and shall do all such other Acts consequent upon such Notification as any such Justice or Baron is or may be authorized to make or do by any Statute or Statutes in force at the Time of making any such Order in relation to Penal Servitude of Offenders sentenced by Courts of Criminal Jurisdiction to Penal Servitude; and such Order and other Acts to be so made and done as aforesaid shall be obeyed and executed by such Person in whose Custody such Offender may at that Time be, and by all other Persons whom it may concern, and shall be as effectual and have all the same Consequences as any Order made under the Authority of any Statute relating to Penal Servitude with respect to any Offender in such Statute mentioned, and every Sheriff, Gaoler, Keeper, Governor, or Superintendent whom it may concern, and all Constables and other Persons, shall be bound to obey the aforesaid Order and Orders, and be assistant in the Execution thereof, and be liable to the same Punishment for Disobedience to or for interrupting the Execution of such Order as they would be if the same had been made under the Authority of any such Statute; and every Person so ordered to be kept in Penal Servitude shall be subject to all the Penalties and Provisions made by Law, and in force for the Time being, concerning Persons under Sentence of Penal Servitude, or receiving Her Majesty's Pardon on Condition of Penal Servitude; and from the Time when such Order of Penal Servitude is made, every Law in force touching the Escape

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of Felons, or their afterwards returning or being at large without Leave, shall apply to such Offender, and to all Persons aiding, abetting, contriving, or assisting in any Escape or intended Escape, or the returning without Leave of any such Offender; and the Judge or Baron who makes an Order for Penal Servitude as aforesaid shall direct the Notification of the Admiralty, and his own Order made thereupon, to be filed and kept of Record in the Office of the Clerk of the Crown of the Court of Queen's Bench, and the said Clerk shall have a Fee of Two Shillings and Sixpence only for filing the same, and shall, on Application, deliver a Certificate in Writing (not taking more than Two Shillings and Sixpence for the same) to such Offender, or to any Person applying in his or the Admiralty's Behalf, showing the Christian and Surname of such Offender, his Offence, the Place where the Court was held before which he was convicted, the Sentence, and the Conditions on which the Order of Penal Servitude was made, and such Certificate shall be sufficient Proof of the Conviction and of the Sentence of such Offender, and also of the Terms on which such Order for his Penal Servitude was made, in any Court and in any Proceeding wherein it may be necessary to inquire into the same.

LXI Disposal of Offender after Sentence of Penal Servitude.

When any Sentence of Death shall have been commuted for Penal Servitude, or when any Person subject to this Act shall have been condemned to Penal Servitude, it shall be lawful for the Admiralty, or the Commanding Officer of the Ship to which such Person belongs or has belonged, to cause him to be detained and conveyed to any One of Her Majesty's Ships, or any Gaol or Prison, there to remain in safe Custody until he is removed therefrom by due Authority, under an Order for his Penal Servitude, to be made by some Justice of the Queen's Bench or Common Pleas or Baron of the Exchequer as aforesaid, and a Certificate of his Sentence (such Certificate to be signed by the Secretary of the Admiralty or such Commanding Officer) shall be a sufficient Authority to the Commanding Officer of the Ship to which he may be sent, or to the Governor, Keeper, or Superintendent of the Gaol or Prison, to receive and detain him.

LXII Subsistence of Offender.

In case any such Offender shall be conveyed to any Prison, not being a Naval Prison appointed by virtue of this Act, an Allowance such as the Admiralty shall from Time to Time direct shall be made to the Governor, Keeper, or Superintendent of the Gaol or Prison, for the Subsistence of such Offender during his Detention therein, and such Allowance shall be paid by Order of the Admiralty, upon Production by the said Governor, Keeper, or Superintendent of a Declaration, to be made by him before One of Her Majesty's Justices of the Peace of such County, of the Number of Days during which the Offender has been so detained and subsisted in such Gaol or Prison.

LXIII Imprisonment of Offender already under Sentence for previous Offence.

Whenever Sentence shall be passed by a Court-martial on an Offender already under Sentence either of Imprisonment or of Penal Servitude, passed upon him by a Court-martial for a former Offence, the Court may award Sentence of Imprisonment or Penal Servitude for the Offence for which he is under Trial to commence at the Expiration of the Imprisonment or Penal Servitude to which he has been previously sentenced, although the aggregate of the Terms of Imprisonment or Penal Servitude may exceed the Term for which either of those Punishments could be otherwise awarded.