

WESTERN AUSTRALIA

ANNO VICESIMO QUARTO

VICTORIÆ REGINÆ

No. 1

An Ordinance to amend the Ordinance 19th Victoria,  
No. 8, of 1856, to substitute in certain cases other  
Punishment in lieu of Transportation.

*[Assented to 1st October, 1860.]*

**W**HEREAS an Ordinance was passed in the session holden in Preamble  
the nineteenth year of the reign of Her present Majesty,  
No. 8, of 1856, to substitute other punishment in lieu of transporta-  
tion, and it is expedient that such Ordinance should be amended: Be

*Criminal Law (Penal Servitude)*

it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof:—

Sections 1 and 2  
of recited Ordinance  
repealed

1. That sections one and two of the said Ordinance shall be and the same are hereby repealed.

Sentence of  
transportation  
abolished, and  
sentence of  
penal servitude  
substituted

2. That from and after the commencement of this Ordinance, no person shall be sentenced to transportation; and any person who, if this Ordinance and the said Ordinance had not been passed, might have been sentenced to transportation, shall after the commencement of this Ordinance, be liable to be sentenced to be kept in penal servitude for a term of the same duration as the term of transportation to which such person would have been liable if the said Ordinance and this Ordinance had not been passed, and in every case where at the discretion of the Court, one of any two or more terms of transportation might have been awarded, the Court shall have the like discretion to award one of any two or more of the terms of penal servitude which are hereby authorised to be awarded instead of such terms of transportation: Provided always that any person who might at the discretion of the Court have been sentenced either to transportation for any term, or to any period of imprisonment, shall be liable at the discretion of the Court to be sentenced either to penal servitude for the same term or to the same period of imprisonment; and in any case in which before the passing of the said Ordinances sentences of seven years' transportation might have been passed it shall be lawful for the Court in its discretion to pass a sentence of penal servitude of not less than three years.

Recited Ordinance  
and this  
to be read as one

3. That the said recited Ordinance of the nineteenth year of Her Majesty, No. 8, of 1856 (with the exception of the sections thereof hereby repealed), and this Ordinance, shall be read and construed together as one Ordinance.

All enactments  
having reference  
to transportation  
to have reference  
to penal servitude

4. That where in any Enactment now in force the expression 'any crime punishable with transportation,' or 'any crime punishable by law with transportation,' or any expression of the like import, is used, the Enactment shall be construed and take effect as applicable also to any crime punishable with penal servitude.

Governor to  
make rules for  
colonial convicts  
sentenced in the  
Colony

5. That it shall be lawful for the Governor with the advice of the Executive Council to make and publish and from time to time to rescind or vary rules and regulations for the government of any and every penal settlement or place of confinement in this Colony and for the general management, treatment, control, employment, safe custody, probation, issue of tickets-of-leave respectively of or in anywise relating to offenders under sentences of transportation and penal servitude passed in this Colony, and for declaring the nature of and privileges incident to such tickets-of-leave granted to such offenders, and generally for securing a due supervision over the holders of such tickets-of-leave as aforesaid.

A. E. KENNEDY,  
GOVERNOR AND COMMANDER-IN-CHIEF.