

ACT No. XVII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 26th April 1860.)

*An Act to repeal Act V of 1858 (for the punishment of certain Offenders who have escaped from Jail, and of persons who shall knowingly harbour such Offenders), and to make certain provisions in lieu thereof.*

WHEREAS it is expedient to repeal Act V of 1858 (for the punishment of certain Offenders who have escaped from Jail, and of persons who shall knowingly harbour such Offenders), and to make certain provisions in lieu thereof; It is enacted as follows:—

Act V of 1858 repealed.

I. Act V of 1858 is repealed except as to any sentences passed under that Act.

II. It shall be competent to the Executive Government of any Presidency or place to declare by an order, as regards any or all of the Districts under such Government, the time within which the persons, who within such District or Districts shall, between the first of May 1857 and the time so declared, have escaped from Jail or other lawful custody whilst detained under sentence of imprisonment for any of the crimes hereinafter mentioned, could and ought to have surrendered themselves to a Magistrate or Police Officer; and no such person who shall have so surrendered himself within the period fixed as aforesaid, shall be liable to be prosecuted under this Act.

III. Every

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III. Every person who, whilst detained as aforesaid, shall have escaped from Jail or other lawful custody during the period mentioned in the last preceding Section, and who shall not have surrendered himself within the time declared by the Executive Government as aforesaid, may be sentenced to transportation for life or for any shorter period not being less than five years, or to imprisonment with or without hard labor in irons for any period not exceeding three years, in addition to any unexpired term of his original sentence. In any case falling within the provisions of this Section in which the Magistrate shall be of opinion that in addition to the unexpired term of the offender's original sentence, a more severe sentence than that which such Magistrate is by any law for the time being in force empowered to pass is not called for, it shall not be necessary for the Magistrate to order the commitment of the offender to the Sessions Court, but he may himself pass sentence to the extent of his powers and proceed to carry the sentence into execution.

Punishment for not surrendering within the time aforesaid.

In what cases Magistrate may pass sentence without commitment to Sessions Court.

IV. All sentences already passed in cases falling within the provisions of Act V of 1858, shall be deemed valid, any thing in the said Act to the contrary notwithstanding.

Sentences under Act V of 1858, to be deemed valid.

V. If any person subject to the penalty prescribed in Section I Act V of 1858, shall, before the passing of this Act, have been remanded to Jail under the order of a Magistrate to undergo the portion of his sentence remaining unexpired at the date of his escape from Jail or other lawful custody, such person shall not be liable to be prosecuted under this Act.

Certain escaped offenders, remanded to Jail, not liable to be prosecuted under this Act.

VI. The following are the crimes referred to in Section II, namely rebellion, mutiny, desertion, murder, attempts to murder, thuggee, dacoity, robbery, belonging or having belonged to a gang of thugs or to a gang of dacoits or to a wandering gang associated for the purposes of theft or robbery.

Enumeration of crimes referred to in Section II.

VII. Whoever shall knowingly harbour or conceal, or assist in harbouring or concealing, any such convict who shall have escaped as aforesaid and shall not have surrendered within the period provided in Section II of this Act, shall be liable to imprisonment

Punishment for knowingly harbouring or concealing offenders.

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sonment with or without hard labor for any term not exceeding seven years, and shall also be liable to fine.

VIII. All proprietors of lands, and all farmers, agents, and other persons having the charge or management of lands, are hereby declared accountable for the early communication to the Magistrates and Police Officers of intelligence of the resort, to any place within the limits of the lands held or managed by them, of any person in respect of whom there shall be reasonable suspicion of his being such convict who has escaped as aforesaid; and every proprietor or other person as aforesaid who shall neglect to give such intelligence, shall be liable, on conviction before a Magistrate, to imprisonment for a term not exceeding six months, and to fine not exceeding two hundred Rupees, commutable, if not paid, to imprisonment for a further term not exceeding six months.

IX. Any Magistrate or person exercising the full powers of a Magistrate, unless prohibited by order of the Executive Government, is hereby authorized, without reference to any other authority, to tender a pardon to any person who may have escaped from Jail or other lawful custody whilst detained under sentence of imprisonment for any crime or offence other than the crimes above-mentioned, on condition of his giving such information as may lead to the apprehension and conviction of one or more person or persons punishable under this Act. Such pardon may be tendered, as well in respect of the crime or offence for which the offender was detained, as of the offence of escaping from Jail.

X. Offences under this Act, other than those provided for by Section VIII of this Act, may be tried by a Sessions Judge, or by a Special Commissioner appointed under Act XIV of 1857 (to make further provision for the trial and punishment of certain offences relating to the Army and of offences against the State); and the sentence or judgment shall not be subject to appeal. Provided that nothing contained in this Section shall extend to the trial of a European British subject.

XI. If

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XI. It shall be competent to the Executive Government of any Presidency or place to direct that any person, who shall be convicted of escaping from Jail or other lawful custody whilst undergoing a sentence of imprisonment, shall be transported for the term remaining unexpired of such sentence as well as for any additional term of imprisonment to which such person shall be sentenced for making his escape, provided that the aggregate of both terms shall not be less than five years.

Executive Government may transport in cases where an unexpired sentence, together with the sentence for escaping from Jail, amounts to five years.