

*Assaults on Female Children.***No. XXX.**ASSAULTS ON
FEMALE CHILDREN.**An Act for the better punishment of Indecent
Assaults upon Female Children. [2nd
October, 1847.]**

Preamble.

WHEREAS it is expedient to provide for the more effectual punishment of offenders in cases of indecent assaults on female children Be it enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That every person who after the passing of this Act shall be convicted of any assault with intent to commit the crime of rape or any assault with intent unlawfully and carnally to know and abuse any girl under the age of ten years shall be liable to transportation for such term (not being more than fifteen years nor less than seven years) as the Court shall think fit or to such period of hard labor as is or shall be by law provided in lieu of transportation for that term.

Punishment pro-
vided for certain
indecent assaults
upon female
children under ten
years of age.Offenders may be
found guilty of
assault with intent
&c.

2. And be it enacted That where any person shall be tried on any information or indictment charging him with the commission of the crime of rape or with having unlawfully and carnally known and abused any girl under the age of ten years it shall be lawful for the jury to acquit him of the crime or offence so charged and to find a verdict against him (if the evidence shall warrant such finding) of guilty of assault with intent to commit the same and such person shall upon such finding be deemed and taken to be convicted within the meaning of the preceding section and such verdict may be found in respect of any such girl under the age of ten years notwithstanding that she may or shall have consented to the act or acts proved against the prisoner.

Punishment for
offences against
female children
above ten and under
twelve years of age.

3. And be it enacted That every person who after the passing of this Act shall be convicted of the offence of unlawfully and carnally knowing and abusing any girl above the age of ten years and under the age of twelve years shall be liable to transportation for such term (not being more than ten years nor less than five years) as the Court shall think fit or to such period of hard labor as is or shall be by law provided in lieu of transportation for that term and on any information or indictment for such offence it shall be lawful for the jury to acquit the prisoner of the same and to find a verdict against him (if the evidence shall warrant such finding) of guilty of an attempt to commit the same offence and the Court may upon such finding sentence him to hard labor with or without imprisonment for any term not exceeding three years.

Indecent assault
upon a female child
under twelve years of
age a misdemeanor.

4. And be it enacted That if any person shall unlawfully and indecently assault any female child under the age of twelve years whether such assault be with or without the consent of such child every such offender shall be guilty of a misdemeanor and being convicted thereof shall be kept to hard labor upon the roads or other public works in the said Colony for any term not exceeding three years Provided always that if such offender be a transported felon the Court may direct that the said labor shall be performed by the said offender in irons.

Second conviction a
felony.

5. And be it enacted That if any person who shall have been convicted of the misdemeanor hereinbefore mentioned shall afterwards commit any such misdemeanor such person shall be deemed guilty of felony and being convicted thereof shall be transported for any term not more than ten years or sentenced to such period of hard labor as is or shall be by law provided in lieu of transportation for that term.

Commons Regulation.

6. And be it enacted That in any indictment or information for the felony hereinbefore mentioned it shall be sufficient to state that the offender was at a certain time and place convicted of an indecent assault upon a female child without otherwise describing such previous conviction and a certificate containing the substance and effect only (omitting the formal part) of the indictment or information and of the conviction for such indecent assault purporting to be signed by the Clerk or other officer having the custody of the Records of the Court where the offender was so convicted shall upon proof of the identity of the person of the offender be sufficient evidence of such conviction without proof of the signature or of the official character of the person appearing to have signed the same Provided always that it shall not be lawful on the trial of any person for any such felony to charge the jury to inquire concerning such previous conviction until after they have inquired concerning such felony and shall have found such person guilty of the same and whenever in such indictment or information such previous conviction shall be stated the reading of such statement to the jury as part of the indictment or information shall be deferred until after such finding as aforesaid Provided nevertheless that if upon the trial for such felony as aforesaid such person shall offer evidence of his good character it shall be lawful for the prosecutor in answer thereto to give evidence of such previous conviction before such verdict of guilty shall have been returned and the jury shall then inquire concerning such previous conviction at the same time that they inquire concerning such felony.

Practice on trial of such felony.
