

No. V.

TRANSPORTATION. An Act for the Transportation of Offenders to
Penal Settlements and for the more effect-
tual Punishment and Security of the same.
[16th August, 1826.]

Preamble. **W**HEREAS by an Act of Parliament passed in the sixth year of
the reign of His present Majesty intituled "*An Act for*
Act of Parliament of 6 Geo. IV. recited. "*punishing offences committed by Transports kept to labor in the*
"*Colonies and better regulating the powers of Justices of the Peace in*
"*New South Wales*" His Majesty is empowered to issue an Order in
Council to authorise the Governors for the time-being administering
the Government of any of His Majesty's Foreign Possessions Colonies
or Plantations to appoint the place or places within His Majesty's
Dominions to which any offender convicted in such Foreign Possessions
Colonies

Transportation.

Colonies or Plantations and being under sentence or order of transportation shall be sent or transported And whereas in pursuance of the said Act of Parliament by an Order of His Majesty in Council bearing date at Carlton House the eleventh day of November one thousand eight hundred and twenty-five it is ordered that the "Governors or " other persons for the time-being administering the Government of any " of His Majesty's Foreign Possessions Colonies or Plantations shall " from time to time by Proclamations to be by them respectively for " that purpose issued appoint the place or places within His Majesty's " Dominions to which any offender convicted in any such Foreign " Possessions Colonies or Plantations as aforesaid and being under " sentence or order of transportation shall be sent or transported " And whereas in pursuance of the said Order in Council and in exercise of the powers thereby vested in the Governor of New South Wales His Excellency the said Governor issued his Proclamation bearing date the fifteenth day of August instant and thereby appointed Port Macquarie Moreton Bay and Norfolk Island to be the places to which offenders convicted in New South Wales shall be sent or transported. And whereas it is expedient that no ship or trading vessel should be permitted to enter or touch at or hold intercourse with any such place or places so appointed by the said Governor for the transportation of offenders in pursuance of the said Order in Council Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council That it shall not be lawful for any master mariner or other person commanding navigating or sailing in any ship vessel or boat to enter touch at or communicate with any such place or places so appointed by the said Governor for the transportation of any offender or offenders under sentence or order of transportation made or to be made by any Court or competent authority in New South Wales without the license or permission in writing of the said Governor being first had and obtained for such purpose and any person or persons who shall enter touch at or communicate with any such place or places as aforesaid shall be guilty of a misdemeanor and upon being thereof duly convicted before the Supreme Court of New South Wales shall for every such offence incur and be liable to a fine not exceeding One Hundred Pounds or to imprisonment for any time not exceeding one year or to both at the discretion of the said Court.

2. And be it further enacted That all persons who have heretofore been transported or sent to any place in New South Wales or the Dependencies thereof respectively under or in pursuance or in execution of any sentence or order of any Court or competent authority in New South Wales shall henceforth be subject and liable to all such laws rules and regulations as are or shall be in force in New South Wales or the Dependencies thereof with respect to Convicts hereafter transported to any such place as aforesaid and all officers Justices of the Peace and other persons whatsoever shall be and they are hereby absolutely indemnified of from and against all indictments informations suits actions and demands whatsoever which shall or may be brought or maintained against them or any of them in New South Wales or the Dependencies thereof for or in respect of any act matter or thing by them or any of them done or performed in enforcing against any such persons so transported or sent to any place in New South Wales or Van Diemen's Land or any of the Dependencies thereof respectively any of the said laws rules and regulations and it shall and may be lawful for the defendants in any such indictments informations suits or actions to plead the general issue and to give this Act and the special matter in evidence upon the trial of any such issue and if a verdict shall be given for any such defendant or defendants in any such

His Majesty's Order in Council of the 11th Nov. 1825 recited.

The Governor's Proclamation of the 15th August 1826 appointing Penal Settlements recited.

Communication with places declared to be Penal Settlements prohibited without license or permission of the Governor in writing.

Made a misdemeanor.

How punishable.

Persons heretofore transported under sentence of any Court or competent authority in New South Wales to be subject to such laws and regulations as shall be in force with respect to Convicts hereafter transported.

Officers Justices of the Peace and others indemnified against suits.

Transportation.

such indictments informations suits or actions such defendant or defendants shall thereupon be entitled to enter up judgment with double costs of suit.

The Governor may direct the removal of offenders to such places.

3. And be it further enacted That every sentence of transportation or removal passed or to be passed on any offender in any Court of competent jurisdiction in New South Wales and every order for transportation made or to be made by the Governor of New South Wales for the time-being as a commutation for or instead of capital punishment shall subject the offender to be conveyed to such of the said places as the said Governor for the time-being shall direct and appoint and that it shall be lawful for the said Governor to cause every such sentence or order of transportation or removal as aforesaid to be carried into effect at such time and in such manner as the said Governor for the time-being by any Order or Orders in such case made shall direct.

The Judges and Justices may condemn offenders to serve the Governor or Acting Governor or his assigns for the same time and under the same rules as if the offenders had been transported from England.

4. And be it further enacted with the authority aforesaid That in all cases in which the Courts of King's Bench Assize and Gaol Delivery or of Quarter Sessions in England are authorised to punish offenders by imprisonment and hard labor it shall be lawful for the Judges or any one Judge of the Supreme Court and for the Justices in Quarter Sessions in the said Colony to condemn offenders of the same degree to serve the Governor or Acting Governor for the time-being or his assigns in New South Wales for the same time and under the same rules as if such offenders had been transported from England or to imprisonment and hard labor or to hard labor in irons on the high roads or on other public works in the said Colony and the said Governor or Acting Governor shall order the said sentences respectively to be carried into effect upon reports thereof being made in the usual manner by the Judges or any Judge of the said Supreme Court or by the Chairman of the Sessions respectively.

Offenders born in the Colony or who came free shall for the first offence be liable to imprisonment and hard labor within prison walls only or to assignment in the ordinary manner.

5. Provided that all persons born in the said Colony or who have come into the same free shall for their first offence being of the degree as aforesaid be liable to imprisonment and hard labor within prison walls only or to be kept in the ordinary employment of the Crown or of the assignee or assignees of the Governor or Acting Governor and to be subject to the summary jurisdiction of Justices of the Peace in like manner as if such persons as last aforesaid had been transported from England.

The Governor or Acting Governor empowered to withdraw from the Penal Settlements persons sentenced to transportation and to employ them on the roads or otherwise.

6. And be it further enacted That it shall be lawful for the said Governor or Acting Governor by an Order in writing registered in the Office of the Secretary of the said Colony to withdraw any person or persons now or hereafter to be transported or sent to any Penal Settlement or place as aforesaid and to employ him her or them either in irons on the public roads or works or in the ordinary service of the Crown or to assign him her or them to settlers or others to be dealt with in all respects as if he she or they were under sentence of transportation from England.