



S U P P L E M E N T

TO THE

NEW SOUTH WALES

GOVERNMENT GAZETTE,

OF FRIDAY, OCTOBER 1, 1841.

Published by Authority.

SATURDAY, OCTOBER 2, 1841.

ANNO QUINTO,  
VICTORIÆ REGINÆ.  
No. 8.

By His Excellency SIR GEORGE GIPPS, Knight, Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, with the advice of the Legislative Council.

*"An Act to authorise the Governor of New South Wales to detain, at hard labour, any Male Offender, under a second sentence or order of Transportation."*

**W**HEREAS, by an Act of the Governor and Council of New South Wales, passed in Preamble, the Third Year of the Reign of His late Majesty King William the Fourth, intituled, "*An Act to consolidate and amend the Laws for the Transportation and Punishment of Offenders in New South Wales, and for defining the respective powers and authorities of William 4. General Quarter Sessions, and of Petty Sessions; and for determining the places at which the same shall be holden; and for better regulating the Summary Jurisdiction of Justices of the Peace; and for repealing certain Laws and Ordinances relating thereto;*" it was enacted, that certain Offenders should be Transported to such Penal Settlements, within the said Colony or its Dependencies, as the Governor should direct; and whereas, in the progress of the settlement of the said Colony, the places which, at the time of the passing of the said recited Act, were used as Penal Settlements, have ceased to be used as such for the said Colony, and it is expedient to repeal so much of the said recited Act as enacts that "every sentence of Transportation, passed in due course of Law, upon any Offender in New

South Wales or its Dependencies, and every order made by the Governor for the Transportation of any such Offender in lieu of Capital punishment, shall subject such Offender to be conveyed to such Penal Settlement within the said Colony or its Dependencies, at such time, and in such manner, as the Governor for the time being shall direct and appoint:" Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, That so much of the said recited Act as directs that any Offender shall be Transported to a Penal Settlement within the Colony of New South Wales or its Dependencies, who shall be convicted of any Offence for which he would be liable to be Transported, either by reason of a sentence of Transportation passed in due course of Law, or of an order of Transportation made by the Governor, in lieu of Capital Punishment, shall be, and the same is hereby repealed.

*(Governor to appoint places at which persons, under sentence of Transportation, may be detained at hard labour.)*

II. And whereas circumstances have arisen which may render it necessary to suspend for a time the carrying into effect any sentence of Transportation passed by any Court in the Colony of New South Wales, or any Order made by the Governor for the Transportation of any Offender in lieu of Capital Punishment, and, until provision can be made for the Transportation of such Offenders, to detain them in some place of safe custody, and at hard labour, within the said Colony, under such regulations as are hereinafter provided: Be it therefore enacted, That it shall be lawful for the Governor for the time being of the said Colony, to appoint any one or more place or places within the same, at which any male Offender who shall

have been convicted therein, and shall be under any order or sentence of Transportation passed by any competent Court, or any Order made by the Governor for the Transportation of Offenders in lieu of Capital Punishment, shall be detained; and every such Offender shall be liable to be kept to hard labour, at such place of safe custody, during such period of his sentence or order of Transportation as the said Governor shall order and direct: Provided always, that all male Offenders so detained shall be kept at such place or places, under the charge of a Commandant or Superintendent duly appointed by the said Governor; and every such Commandant or Superintendent shall have the same powers over such Offenders as are incident to the Office of Sheriff or Gaoler; and if any such Offender shall, during such custody, be guilty of misbehaviour or disorderly conduct, it shall be lawful for such Commandant or Superintendent, and he is hereby authorised and empowered to inflict on such Offender such moderate punishment as shall be allowed by any rules or regulations to be from time to time made for the management and discipline of such Offenders by the said Governor, with the advice of the Executive Council; and such Commandant or Superintendent shall, subject to such rules as aforesaid, keep every Offender to hard labour, and duly provided with food and clothing according to a scale to be set forth in the said Rules: Provided, moreover, that it shall be lawful for the said Governor to detain any such Offender, who may have been convicted of any burglary, robbery, or other crime attended with violence, and under a sentence or order of Transportation, in irons, or in separate confinement, if deemed necessary for the safe custody of such Offender.

*(Not to affect persons born or arrived free in the Colony, unless convicted of a Capital Offence, or previously convicted of a Transportable Offence.)*

III. Provided always and be it enacted, that nothing herein contained shall be deemed to apply to any person who shall have been born in the said Colony or its Dependencies, or who shall have arrived free therein, unless such person shall be convicted of a Capital Offence, or have been previously convicted of a Transportable Offence.

*(Governor may order removal of Offenders from one place of detention to another.)*

IV. And be it enacted, that it shall be lawful for the said Governor, from time to time, to order and direct the removal of every such Offender, from any such place of detention to another, as he in his discretion shall think proper.

*(Penalty for unauthorised intercourse with places of detention.)*

V. And whereas, for the safe custody of Offenders kept at any such place of detention as aforesaid, it is expedient to prohibit all intercourse with such places, except by persons duly authorised by the said Governor; Be it therefore enacted, that it shall not be lawful for any person whomsoever to approach, be found at, or in any manner communicate with, any place or places within the Colony of New South Wales or its Dependencies, which shall have been appointed by the said Governor for the detention of any such male Offenders as aforesaid, without the licence or per-

mission of the said Governor being first had and obtained; and any person or persons who shall approach, be found at, or in any manner communicate with, any such place or places as aforesaid, without such permission, shall be guilty of a misdemeanor, and upon conviction thereof before the Supreme Court, or any other Court of competent jurisdiction within the said Colony or its Dependencies, shall, for every such offence, be liable to a fine or penalty not exceeding Twenty pounds, or to imprisonment for any time not exceeding three calendar months, or to both, at the discretion of the said Court: Provided always, that whenever any place shall be appointed for the detention of male Offenders as aforesaid, the same shall be notified in the *New South Wales Government Gazette*, by order of the said Governor.

*(Offenders to be subject to summary jurisdiction of Justices.)*

VI. And be it enacted, That every such Offender under sentence or order of Transportation, shall, while so detained at hard labour as aforesaid, be subject to the summary jurisdiction of the Justices of the Peace, and of the Principal Superintendent of Convicts, in like manner as Offenders Transported to New South Wales are subject thereto.

*(Time of confinement to reckon as part discharge of Offenders Transportation.)*

VII. And be it enacted, That the time during which any Offenders shall be detained as aforesaid, under the provisions of this Act, shall be taken and reckoned in discharge or part discharge of the term of such Offenders sentence or order of Transportation passed or made within the said Colony, or its Dependencies; and all such Offenders shall be subject, as soon as His Excellency the Governor shall see fit, to be Transported to such place as may be duly established by Proclamation for the Transportation of Offenders for the residue of their respective sentences.

*(3 Victoria, No. 22, abolishing the Transportation of Female Convicts, not repealed or altered.)*

VIII. Provided however, and be it enacted, That nothing herein contained shall be held or construed to repeal or alter the provisions of an Act of the Governor and Council of New South Wales, passed in the Third year of the Reign of Her present Majesty, intituled, "*An Act to abolish the Transportation of Female Convicts, and to provide for the more effectual punishment of Female Offenders within the Colony of New South Wales.*"

*(Act not to interfere with Her Majesty's prerogative.)*

IX. Provided further, and be it declared, That nothing herein contained shall be held to affect, in any way, the exercise of Her Majesty's prerogative of mercy.

*(As to costs.)*

X. And be it enacted, That if any suit or action shall be prosecuted against any person for any thing done in pursuance of this Act, the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done by the authority of this Act; and if a verdict shall pass

for the defendant, or Judgment shall in any manner be given against the Plaintiff, the Defendant shall recover treble costs, and have the like remedy for the same as any Defendants have by law in other cases; and if a verdict shall be given for the Plaintiff in any such action, such Plaintiff shall not have costs against the Defendant, unless the Judge before whom the Trial shall be had, shall certify his approbation of the verdict.

thereof, and shall thenceforward be and continue in force for one year.

GEORGE GIPPS,  
Governor.

Passed the Legislative Council }  
this Twenty-first day of Sep- }  
tember, One thousand eight }  
hundred and forty-one. }

WM. MACPHERSON,  
Clerk of Councils.

*(Commencement and duration of Act.)*

XI. And be it enacted, That this Act shall commence and take effect from and after the passing

Sydney:—Printed by WILLIAM JOHN ROW,  
Government Printer, and Published by him at  
the Government Printing Office Bent-street.—  
October 2, 1841.

