

Anno Octavo GEORGII IV. REGIS. No. 3.

By his Excellency Colonel *George Arthur*, Lieutenant Governor of the Island of Van Diemen's Land and its Dependencies, with the Advice of the Legislative Council.

AN ACT for imposing a Duty upon Newspapers, and upon all Licenses to print and publish the same.

WHEREAS it is expedient to provide a fund for defraying the charges of printing the public acts, proclamations, orders and notices of the Government of this Colony, by means of a stamp duty upon all newspapers and other papers and pamphlets containing public news or intelligence, or serving the purpose of a newspaper, printed within the Island of Van Diemen's Land, or any of the dependencies thereof, and upon all licenses for printing and publishing the same respectively :

I. Be it therefore Enacted, by his Excellency the Lieutenant Governor of the Island of Van Diemen's Land and its Dependencies, with the advice of the Legislative Council, That on and after the Fifteenth day of October in the present year there shall be levied, raised and paid to the use of His Majesty, His heirs and successors, for every sheet, half-sheet or other piece of paper, whereof any newspaper within the meaning of a certain law or ordinance, made by his Excellency Lieutenant Governor Arthur, with the advice of the Legislative Council, in the present year, intituled, "An Act to regulate the printing and publishing of Newspapers, and for the prevention of blasphemous and seditious Libels," shall consist, and printed within this Island, or any dependency thereof, the sum of three-pence sterling; and for every license to any person or persons to print such newspaper, the sum of Twenty shillings; and for every license to any person or persons to publish such newspaper, the like sum of Twenty shillings.

II. And be it further Enacted, by the authority and with the advice aforesaid, That the duties hereby granted shall be under the care and management of the Colonial Treasurer or Acting Colonial Treasurer for the time being, who is hereby empowered and required to provide and use proper and sufficient stamps for expressing and denoting upon all such newspapers and licenses as aforesaid the said duties hereby granted thereon respectively, and to alter and renew such stamps from time to time as occasion shall require; and also, with the approbation of the Governor, or other person for the time being administering the government of this Colony, to employ such person or persons as shall be found necessary for the marking and stamping of such newspapers and other papers and licenses as aforesaid, and for effectually collecting and levying the duties hereby granted.

III. And be it further Enacted, by the authority and with the advice aforesaid, that before any such newspaper as aforesaid, to be printed on or after the said Fifteenth day of October, shall be printed, every sheet, half-sheet or other piece of paper upon which the same is intended to be printed shall be brought to the office of the Colonial Treasurer to be marked or stamped; and before any such license as aforesaid shall be valid, the paper or parchment upon which the same shall be written shall be brought to the said office for the like purpose; and the said Colonial Treasurer or Acting Colonial Treasurer, or such other person or persons as shall be employed in that behalf as aforesaid, shall, upon demand made thereof, and without fee or reward, stamp or mark such quantity or parcel of paper as shall be so brought, upon which such newspaper as aforesaid is intended to be printed, and also any paper or parchment which shall be so brought, whereon any such license as aforesaid shall be written, the person or persons bringing the same first paying the several duties hereby charged thereon respectively, and for which duties the respective stamps thereto belonging shall be a sufficient discharge.

IV. And be it further Enacted, by the authority and with the advice aforesaid, That if any person shall knowingly and wilfully print or publish, or cause to be printed or published, any such newspaper as aforesaid, the same not being printed upon paper duly stamped as aforesaid, he or she shall forfeit and pay, over and above all other penalties recoverable under and by virtue of this or any other Act, the sum of Twenty pounds for every such newspaper as aforesaid so printed upon

transportation, and his or their assigns, for such term of Seven years ; and that where any offenders should thereafter be convicted of any crimes whatsoever, for which they were by law to be excluded the benefit of clergy, and his then Majesty, his heirs or successors, should be graciously pleased to extend royal mercy to any such offenders upon the condition of transportation to any part of America, and such intention of mercy be signified by one of His Majesty's Principal Secretaries of State, it should be lawful to and for any court having lawful authority to allow such offenders the benefit of a pardon under the Great Seal, and to order and direct the like transfer and conveyance to any person or persons who would contract for the performance of such transportation, and to his and their assigns, of any such before-mentioned offenders, as also of any person or persons convicted of receiving or buying stolen goods, knowing them to be stolen, for the term of Fourteen years, in case such condition of transportation should be general, or else for such other term or terms as should be made part of such condition, if any particular time should be specified by his said then Majesty, his heirs and successors as aforesaid, and that such person or persons so contracting as aforesaid should have a property or interest in the service of such offenders for such term of years : And it was by the said Act of Parliament further enacted, That where any such offenders should be transported, and should have served their respective terms according to the order of any such court as aforesaid, such services should have the effect of a pardon to all intents and purposes, as for that crime or crimes for which they were so transported, and should have so served as aforesaid : And whereas, by several Acts of Parliament made and passed between the Fourth year of the reign of King George the First, and the Nineteenth year of the reign of his late Majesty King George the Third, persons convicted of certain offences were made liable to be transported to America : And whereas, by an Act of Parliament made and passed in the Nineteenth year of the reign of his late Majesty King George the Third, intituled, "An Act to explain and amend the Laws relating to Transportation, Imprisonment and other Punishment of certain Offenders," the several courts therein mentioned within that part of Great Britain called England and Wales, before which any person should be convicted of any grand or petty larceny or other crime, for which he or she was or should be liable to be transported to any of His Majesty's colonies in America, or any court held for the same place with like authority, were empowered to order and adjudge any such person to be transported to any place beyond seas, whether the same should be situated in America or elsewhere, in such and the like manner, and for such and the same term of years, as and for which any such person was or should be liable to be transported to any of His Majesty's colonies and plantations in America ; and by another Act of Parliament made and passed in the Twenty-fourth year of the reign of his said late Majesty King George the Third, intituled, "An Act for the effectual Transportation of Felons and other Offenders, and to authorize the Removal of Prisoners in certain cases, and for other purposes therein mentioned," the courts therein mentioned (being courts in that part of Great Britain called England, and in the principality of Wales) before whom any persons should be thereafter convicted of grand or petty larceny, or any other offence for which they should be liable to be transported, were empowered to order and adjudge such persons to be transported beyond seas, for any term or number of years not exceeding the number of years or term for which such persons were or should be liable to be transported ; and in every such case it was made lawful for the King, with the advice of His Privy Council, to declare and appoint to what places within or without his dominions such offenders should be transported : And by several other Acts of Parliament, since passed from time to time, the aforesaid provisions of the Two last-mentioned Acts have been continued in the cases of persons convicted before the same courts in England and Wales ; but neither the same nor any provisions of the like nature have been extended to the cases of persons convicted before the courts of this Colony : And it is doubtful whether persons convicted in this Colony of any felonious taking or stealing of any money or goods and chattels, or of receiving or buying stolen goods, knowing them to be stolen, within the said Act of the Fourth of the reign of King George the First, or of any offence for which they are liable to transportation by any Act or Acts of Parliament which extend to this Colony, and which were made after the last-mentioned Act, and previous to the making of the said Act of the Nineteenth year of the reign of King George the Third, are by law liable to any other sentence or order of transportation than sentence or order to be transported to one of His Majesty's colonies in America : And whereas, by a certain other Act of Parliament made and

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passed in the Sixth year of the reign of His present Majesty, intituled, "An Act for punishing Offences committed by Transports kept to labour in the Colonies, and better regulating the Powers of Justices of the Peace of New South Wales," His Majesty was empowered, by any order made by him, with the advice of His Privy Council, to authorize the Governors, Lieutenant Governors, or other persons for the time being administering the government of any of His Majesty's foreign possessions, colonies or plantations, from time to time to appoint the places within His Majesty's dominions, to which any offender convicted in any such foreign possessions, colonies or plantations, and being under sentence or order of transportation, shall be sent or transported, and a certain Order to that effect, bearing date at Carlton House the Eleventh day of November Eighteen hundred and twenty-six, hath been made and issued by His Majesty, with the advice of His Privy Council; But the said last-mentioned Act of Parliament and Order in Council are applicable only to the cases of persons liable to be ordered or sentenced to transportation generally, and not to the cases of persons liable to be sentenced or ordered to be transported to America: Therefore to give full and general effect in this Colony to the last-mentioned Act and the said Order in Council, and any proclamation or proclamations which may be made in pursuance thereof, and to produce uniformity in the laws in force in this Colony as to the transportation of offenders convicted therein:—

I. Be it Enacted, by his Excellency the Lieutenant Governor aforesaid, with the advice of the Legislative Council, That from and after the commencement of this Act, when any person or persons shall be convicted before any court of competent jurisdiction within this Colony or any of the Dependencies thereof, of any offence for which by any law in force in this Colony such person or persons shall be liable to be transported, it shall be lawful to and for that court, or any subsequent court holden for the same place, to order and adjudge that such person or persons, so convicted as aforesaid, shall be transported beyond the sea for the term of life or years for which such person or persons shall be so liable to be transported as aforesaid.

II. And be it further Enacted, by the authority and with the advice aforesaid, That whenever His Majesty, His heirs or successors, or the Governor of this Colony, having lawful authority thereunto, shall be pleased to extend mercy to any offender convicted within this Island, or any dependency thereof, of any crime for which he or she shall be excluded the benefit of clergy, on condition of transportation beyond sea, and such intention of mercy shall be signified by the Colonial Secretary to the judge or justice before whom such offender shall be convicted, or to any judge or justice of any superior court of criminal jurisdiction, such judge or justice shall allow to such offender the benefit of a conditional pardon, and shall make an order for the immediate transportation of such offender, and such allowance and order shall be considered as an allowance and order made by the court before which such offender was convicted, and shall be entered upon the records of the same court by the proper officer thereof.

III. And be it further Enacted, by the authority and with the advice aforesaid, That every such sentence or order of transportation so made as aforesaid shall subject the offender to be conveyed to such place or places beyond sea, and within His Majesty's dominions, as the Governor, Lieutenant Governor, or other person for the time being administering the government of this Colony, shall from time to time, by any proclamations to be by them issued in pursuance of the said order of His Majesty in Council, or any other order of His Majesty in Council for that purpose made, appoint as the place or places to which offenders convicted in this Colony or any dependency thereof, and being under sentence or order of transportation, shall be sent or transported.

IV. And be it further Enacted, by the authority and with the advice aforesaid, That it shall and may be lawful for the said Governor to cause every such sentence or order of transportation to be carried into effect, and when any offenders shall be about to be transported, to give all necessary and proper orders for their removal to the vessel in which they are to be transported, and to nominate some person or persons to have the custody of such offenders during the voyage to the place to which they are to be transported.

V. And be it further Enacted, by the authority and with the advice aforesaid, That the sheriff or gaoler receiving such order of removal shall forthwith deliver every

offender to whom the same shall apply, to such person or persons as shall by such order be empowered to receive the offender or offenders ordered to be removed; and the person so empowered to receive such offender or offenders shall give a receipt in writing to the sheriff or gaoler, which shall be a discharge to such sheriff or gaoler.

VI. And whereas the carrying into effect such sentences or orders of transportation as aforesaid may be often attended with inconvenience or great delay: Be it further Enacted, by the authority and with the advice aforesaid, That it shall be lawful for the said Governor, whenever he shall think fit so to do, to order any male offender or offenders, being under such sentence or order of transportation as aforesaid, to be removed and confined and kept to labour either at Macquarie Harbour or Maria Island, or any other part or place within this Island or its Dependencies, to be appointed for the reception of offenders; and every offender who shall be so removed shall continue at such port or place aforesaid, and be under the custody and management of the Commandant thereof, until the said Governor shall otherwise direct, or until such offender shall be entitled to his liberty.

VII. And be it further enacted, by the authority and with the advice aforesaid, That after the removal of any offender as aforesaid, the Commandant who shall have the custody or management of him shall, during the term of such custody, have the same powers over him as are incident to the office of sheriff; and if any offender shall during such custody be guilty of any misdemeanor, the Commandant shall and may cause such punishment to be inflicted on him as in like cases any Justice of the Peace may cause to be inflicted on any offender transported to this Colony, and being here under sentence or order of transportation.

VIII. And be it further Enacted, by the authority and with the advice aforesaid, That it shall and may be lawful to keep to hard labour every offender under sentence or order of transportation, while he or she shall remain in the common gaol, if his or her health permit, and that it shall be lawful for the Governor, if he shall think fit, to order any such offender, being a male, to be removed to any penitentiary, and to be kept to hard labour there under the custody and management of the Superintendent, or in chains upon the high roads or other public works, and in like manner to order any such offender, being a female, to be removed and confined in any factory, and there kept to hard labour under the custody and management of the Superintendent thereof, or otherwise, or when he shall think fit to assign and make over any such male or female offender to any person, or his or their assigns, for all or any part of the residue then to come of the term for which such offender shall be sentenced or ordered to be transported, which person or persons, and their assigns, shall have a property in the service of such offender for and during the time for which he or she shall be assigned.

IX. And be it further Enacted, by the authority and with the advice aforesaid, That the time during which every offender shall continue in or at any gaol, port or place of confinement, penitentiary or factory, or as an assigned servant, shall be taken and reckoned in part discharge of the term of his or her transportation.

X. And be it further Enacted, by the authority and with the advice aforesaid, That the Superintendent of any penitentiary or factory having the custody of any such offender, under the authority of this Act, shall during the term of such custody have over such offender the same powers as are incident to the office of sheriff or gaoler.

XI. And be it further Enacted, by the authority and with the advice aforesaid, That if any offender who shall have been or shall be so sentenced or ordered to be transported either for life or years, shall afterwards be at large within this Colony or any of the dependencies thereof, without some lawful cause, before the expiration of the term for which such offender shall have been sentenced or ordered to be transported, every such offender so being at large, being thereof lawfully convicted, shall suffer death as in cases of felony without benefit of clergy, and if any person shall rescue such offender from the custody of such Commandant or Superintendent as aforesaid, or from the custody of the sheriff or any gaoler or other person conveying, removing, transporting or reconveying him or her, or shall convey or cause to be conveyed any disguise, instrument for effecting escape, or arms to such offender, every such offence shall be punishable in the same manner as if such offender had been confined in a gaol or prison in the custody of the sheriff or gaoler, for the crime of which such offender shall have been convicted.

XII. And

XII. And be it further Enacted, by the authority and with the advice aforesaid, That in any information or indictment against any offender for being found at large, contrary to the provisions of this or of any other Act hereafter to be made, and also in any information or indictment against any person who shall rescue, or attempt to rescue, or assist in rescuing any such offender from such custody, or who shall convey or cause to be conveyed any disguise, instrument for effecting escape, or arms to any such offender, contrary to the provisions of this or of any other Act hereafter to be made, it shall be sufficient to charge and allege the order made for the transportation of such offender, without charging or alleging any information or indictment, trial, conviction, judgment or sentence, or any pardon or intention of mercy, or signification thereof of or against or in any manner relating to such offender.

XIII. And be it further Enacted, by the authority and with the advice aforesaid, That the registrar or clerk of the court, or other officer having the custody of the records of the court where such sentence or order of transportation shall have been passed or made, shall, at the request of any person on His Majesty's behalf, make out and give a certificate in writing signed by him, containing the effect and substance only (omitting the formal part) of every information or indictment and conviction of such offender, and of the sentence or order for his or her transportation, (not taking for the same more than Six shillings and eight-pence,) which certificate shall be sufficient evidence of the conviction and sentence or order for the transportation of such offender.

XIV. And be it further Enacted, by the authority and with the advice aforesaid, That every offender under sentence or order of transportation shall, while confined in any gaol, penitentiary or factory, or while assigned as a servant, be subject to the summary jurisdiction of the Justices of the Peace and the Principal Superintendent of Convicts, as in such cases and in such manner as offenders transported to this Colony are subject thereto.

XV. And in order to avoid frequent repetitions, and the use of numerous terms in this Act: Be, it Enacted, by the authority and with the advice aforesaid, That whenever the word "Governor" is used in any part of this Act, the same shall be construed to mean the Governor for the time being of this Island, and in case of his absence or of a vacancy in that office, the Lieutenant Governor or other person for the time being lawfully administering the government of this Island; and that by the word "Commandant" shall be understood and meant the officer commonly so called, or other person, by whatever denomination known for the time being, having the command and management of the Island, harbour, port or place of confinement mentioned or referred to in that part of this Act in which the word "Commandant" is used; that by the term "Penitentiary" shall be understood and meant any building or place for the time being used for the reception and lodging of male offenders transported from Great Britain, and in the service of the Government; and that by the term "Factory" shall be understood and meant any building used for the reception of female offenders transported from Great Britain, and in the service of the Government; and that by the term "Superintendent," as applied to a penitentiary or factory, shall be understood the person for the time being, by whatever denomination known, who shall have the charge, care or superintendence of such penitentiary or factory as aforesaid.

XVI. And be it further Enacted, by the authority and with the advice aforesaid, That nothing in this Act contained, respecting the sentence or order to be made by any court for the transportation of offenders, liable to be transported, shall apply to any sentence or order to be made by any court of general or quarter sessions, or any Justices or Justice of the Peace, in the exercise of the summary jurisdiction vested in such courts of general or quarter sessions and Justices or Justice of the Peace respectively, by a certain Act of Parliament, made and passed in the Fourth year of the reign of His present Majesty, intituled, "An Act to provide until the First day of July One thousand eight hundred and twenty-seven, and until the end of the next session of Parliament, for the better Administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes relating thereto;" and by the before-mentioned Act of Parliament of the Sixth year of His present Majesty's reign.

XVII. And whereas, since the opening of the Supreme Court of Van Diemen's Land, several offenders convicted before the said Court of petty larceny, and other

offenders convicted before the said Court of grand larceny, within the benefit of clergy, have been by the said Court ordered to be transported to such places as the Lieutenant Governor should appoint for terms of Seven years each, and other offenders convicted before the said Supreme Court of receiving stolen goods, knowing them to be stolen, have been by the same Court ordered to be transported to such places as the Lieutenant Governor should appoint for terms of Fourteen years each, and the Lieutenant Governor has from time to time appointed Macquarie Harbour and Maria Island as the places to which such offenders should be sent or transported, and many of such offenders have been sent to such places for the terms for which they have so been respectively ordered to be transported: And whereas several offenders convicted of capital crimes have received promises of pardon upon condition of transportation, and have been sent to Macquarie Harbour or Maria Island, or have been transported to Norfolk Island, for the several terms according to the conditions upon which they have been respectively promised such pardons; Be it further Enacted and Declared, by the authority and with the advice aforesaid, That every sentence or order of transportation which hath been so made by the said Supreme Court, hath been and is good and valid in law, as an order of transportation, and that every such offender who hath been so sent to Macquarie Harbour or Maria Island, and who hath not since been pardoned, and also every such offender capitally convicted as hath been so sent or transported to either of those places or Norfolk Island as aforesaid, and the condition of whose pardon hath not been since remitted, is and shall be deemed and taken to have been and to be lawfully transported, and shall be subject and liable to all laws, regulations and penalties to which transported offenders are or shall be subject and liable, and that every offender who now is under such sentence or order of transportation, and hath not been removed or transported, as also every such person capitally convicted; to whom a pardon has been promised on condition of transportation, such condition not having been remitted to him or her, shall and may, without further sentence or order, be transported to, or removed to, and confined in such place, or be assigned as a servant for all the residue now to come of the term for which he or she hath been so ordered to be transported, or on condition of transportation for which he or she hath been promised such pardon, in such and the like manner as any offender who shall hereafter be sentenced or ordered to be transported under or by virtue of this Act shall and will be liable to be transported, removed, confined and assigned, and shall be subject and liable to all the same laws, regulations and penalties.

XVIII. And be it further Enacted, by the authority and with the advice aforesaid, That nothing in this Act contained shall affect His Majesty's royal prerogative of mercy.

XIX. And be it further Enacted, by the authority and with the advice aforesaid, 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 notwithstanding 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.

GEORGE ARTHUR.

Passed the Council, this 21st
day of September 1827.

John Montagu, Clerk of the Council.
