

(No. 21.)



1866.

T A S M A N I A.

LEGISLATIVE COUNCIL.

D E S P A T C H E S.

DISALLOWANCE OF THE OFFENDERS' CONTROL ACT.

Laid upon the Table by Mr. Whyte; and ordered by the Council to be printed,
July 31, 1866.



(Copy.)

TASMANIA.
No. 19.

Downing-street, 8th March, 1864.

SIR,

I HAVE had under my consideration the Act of your Government, No. 20 of 1863, entitled "An Act to make further provision for the Control and Disposal of Offenders under Sentence of Imprisonment."

I regret to say that the 2nd Clause of the Act appears to me open to very grave objection. It subjects prisoners to the extreme penalty of death, not for murder or an attempt to murder, nor only for a savage assault, but for assaulting or even attempting to assault a prison officer with intent to escape, or for a mere attempt to escape from lawful custody, if it should happen that the prisoner is armed with any dangerous or offensive weapon or instrument.

It is impossible that such an enactment can be allowed to remain in operation; and I should wish you to submit to your Government the propriety of such amendments as shall render it more conformable to the spirit of modern legislation.

I am far from supposing that crime can be repressed and prisoners controlled without due severity. But to inflict capital punishment on account of offences not involving any atrocity, or any sufficient indication of an intention to commit any atrocious act, is a mode of proceeding quite inconsistent with the principles of modern English legislation, and which from its very rigour is likely to defeat itself.

I have, &c.,

(Signed) NEWCASTLE.

Governor GORE BROWNE, C.B.

TASMANIA.
No. 64.

Downing-street, 27th November, 1865.

SIR,

IN his Despatch, No. 19, of the 8th of March, 1864, my Predecessor informed you of the objections entertained by Her Majesty's Government to the 2nd Clause of the Act of the Legislature of Tasmania, No. 20, of 1863, "to make further provision for the Control and Disposal of Offenders under Sentence of Imprisonment," and you were instructed to submit to your Responsible Advisers the propriety of so amending the Act as to render it more conformable to the spirit of modern legislation.

As no amending Act has been received from you, and as the time within which it will be competent for Her Majesty to exercise Her power of disallowance will expire on the 18th day of December next, I have felt it my duty, though unwillingly, to advise Her Majesty to have recourse

to this step ; and I herewith transmit to you an Order of Her Majesty in Council disallowing the enactment, together with a Certificate under my hand and seal showing the date at which the Act was received at this Department.

I have, &c.

(Signed) EDWARD CARDWELL.

Governor GORE BROWNE, C.B.

I, EDWARD CARDWELL, being one of Her Majesty's Principal Secretaries of State having the Department of the Colonies, do hereby certify that the Act (No. 20 of 27th Vict.) passed by the Legislature of Tasmania, and entitled "An Act to make further provision for the Control and Disposal of Offenders under Sentence of Imprisonment," was received at this Department on the 18th day of December, 1863.

Given under my hand and seal this 27th day of November in the year 1865.

(Signed) EDWARD CARDWELL. (L.S.)