

VICTORIA.

OFFENDERS AT LARGE AMENDMENT ACT.

Ordered by the Council to be printed, 11th October, 1854.

CHAS. HOTHAM,
Lieutenant Governor.

Message No. 20.

The Lieutenant Governor transmits to the Legislative Council the copy of a Despatch, with its enclosures, from the Right Honorable the Secretary, dated 24th June, 1854, (No. 2) relative to the Act passed on the 11th of October, 1853, entitled, "An Act to amend the law relating to Offenders illegally at large."

Government Offices,
Melbourne, 11th October, 1854.

[COPY.]

Downing-street,
24th June, 1854.

SIR,

I transmit to you copy of a Despatch which I have received from the Lieutenant Governor of Van Diemen's Land, on the subject of the punishment of certain persons from Van Diemen's Land, holders of conditional pardons, under the Convicts' Prevention Act.

2. From Mr. La Trobe's Despatch, No. 41, of March 2nd, 1853, Her Majesty's Government had been led to suppose (as the Duke of Newcastle stated in his Despatch of 30th September last), that in the opinion of the Attorney General for Victoria, the Act did not apply to convicts holding conditional pardons. This supposition was confirmed by the Returns contained in Mr. La Trobe's subsequent Despatch of November 18th last, which made mention of no such cases. But in his present Despatch Sir William Denison says, "that there are men holding conditional pardons under Her Majesty's authority who are now suffering punishment in Victoria under sentences of imprisonment with hard labor, their sole offence being that by the terms of the *Convicts' Prevention Act* they are still considered to be convicts illegally at large, notwithstanding the pardon which has been granted to them."

3. As the existing Act (which would have been disallowed had not Mr. La Trobe, acting no doubt on the best of his judgment, declined to execute his instructions in that respect) will expire in November next, no proceedings respecting it appear now necessary, and the substituted Act has not yet reached me in an official shape.

4. I am, moreover, aware that you left this country to take possession of your Government with full instructions from the Duke of Newcastle to use your best endeavours to reconcile the views entertained by Her Majesty's Government and by the Legislative Council on this subject, and to induce the latter to amend their Legislation in conformity with the opinions already expressed by His Grace. It is therefore unnecessary for me at present to address to you any further instructions with this view. But with reference to the cases mentioned by Sir William Denison, I have to direct you to ascertain whether the information he had received is correct; and if you find this to be the fact, I have to suggest that in order to prevent so obvious an injustice, and so serious an encroachment on the prerogative of the Crown, you should without delay cause free pardons to be issued to such alleged offenders against the Act.

I have, &c.,

(Signed)

G. GREY.

Lieutenant Governor Sir C. Hotham,
&c., &c., &c.

[COPY.]

Van Diemen's Land,
Government House, 15th March, 1854.

MY LORD DUKE,

In my former Despatches No. 197, dated the 2nd October, 1852, and No. 181, dated 1st September, 1853, I brought under the notice of the Secretary of State the injustice which would be inflicted upon many of the best conducted of the Convict population of this Colony, by the operation of the Convicts' Prevention Bill, passed by the Legislative Council of Victoria, and assented to by the Lieutenant Governor.

B.—No. 20.

2. Your Grace in a Despatch No. 61, dated 2nd May, 1853, enclosed a copy of a communication addressed to the Lieutenant Governor of Victoria, notifying to him Her Majesty's disallowance of the Bill in question, with instructions for the introduction of a modified measure, from which the objectionable provisions of the former Bill were to be omitted.

3 This Bill, however, it appears has not become law in its modified form, and I am now compelled to bring under your Grace's notice the fact, that there are men holding conditional pardons under Her Majesty's authority, who are now suffering punishment in Victoria, under sentences of imprisonment with hard labor, their sole offence being that, by the terms of the Convicts' Prevention Act, they are still considered to be Convicts illegally at large, notwithstanding the Pardon which has been granted to them.

4. I have now before me two instances, referred to in the accompanying enclosures, in which men to whom conditional pardons were issued last year, have been sent back to this Colony after imprisonment for some time at Melbourne, and I know from the evidence of the papers and from private statements that there are several men working on the roads in Victoria whose sole crime was, I may say, the possession of Conditional Pardons.

5. I feel it my duty to bring under your Grace's notice the very flagrant injustice which has been committed upon those men, many of whom after working hard and becoming possessed of property, have been deprived of it, and also of their liberty, under the provisions of an Act specially disallowed by Her Majesty, but retained in force pending a reference which has been made to your Grace by the Lieutenant Governor of Victoria, respecting a still more objectionable enactment, proposed to be substituted for it by the Legislature.

6. I do not attempt to bring individual cases before your Grace, for this would lead only to a very partial remedy of the evil, the extent of which seems to me only to require to be known to Her Majesty's Government to cause its immediate cessation.

I trust that instructions will be given to the Lieutenant Governor of Victoria to make a return of the number of persons who have been punished, either by imprisonment or banishment from the Colony, under the provisions of the Act in question, and that some compensation should be awarded to them for the injustice with which they have been treated.

I have, &c.,

(Signed) W. DENISON.

His Grace the Duke of Newcastle,
&c., &c., &c.

[COPY.]

Memorandum by the Comptroller General.

Pardons in the usual form.

Conditional Pardons (copies enclosed) were issued last year to the two men herein referred to, but they may consider themselves fortunate, that under the "Convicts' Prevention Act" they were not sent to work for three years in irons on the roads of Victoria, instead of being returned to Van Dieman's Land.

(Signed) J. S. HAMPTON.

7th March, 1854.

Memorandum by the Lieutenant Governor.

Let us ascertain whether these men shewed their pardons, and pleaded them.

(Signed) W. D.

[COPY.]

Memorandum by Acting Police Magistrate, Launceston.

In reply to the Lieutenant Governor's Memorandum, the Bench Clerk informs me, that on Daniel Bridges and William Harding being brought up at the Police Office here, they each stated to the Police Magistrate of Launceston, that when apprehended in the Colony of Victoria, they both had their conditional pardons in their possession, and that they shewed and pleaded them before the Magistrate at Heidelberg, Victoria; that they were not accounted as free men in that part of Victoria; that they had been confined in gaol several weeks; that all their money was taken from them (£17 from one of the men); and that they had been returned to Van Diemen's Land penniless, and wished to know if they had any redress.

(Signed) JAS. PENNY, J.P.

11th March, 1854.

[COPY.]

Launceston,
2nd March, 1854.

SIR,

I have the honor to report that Daniel Bridges, per *Anson*, and William Harding, per *Blundell*, have been forwarded to this from Melbourne, with the accompanying warrants.

Both were provided with conditional pardons, and, as I satisfied myself as to the identity of the prisoners, I at once discharged them from custody. I am at a loss to know why the men were returned to this Colony, as they both held proper documents duly issued last year.

I am, &c.,

(Signed) W. GUNN.

To the Chief Police Magistrate.

[COPY.]

Memorandum by the Chief Police Magistrate.

As this is a matter which may effect many emigrants from these shores, I deem it a matter so important as to induce me to bring it specially under the notice of the Lieutenant Governor, with a view to the evil being remedied.

From the letter of Mr. Gunn, the Police Magistrate of Launceston, it may be inferred that these men were in possession of their proper Instruments of conditional pardon, and that they exhibited them to the authorities at Melbourne, if they did not they are to blame, and upon this point I shall direct an immediate enquiry to be made.

If they *did* produce these documents, (of which perhaps the Comptroller General will supply a copy,) I cannot imagine, not having the Acts of Council of Victoria to refer to, why these men should be returned under a warrant, the body of which charges them respectively with being *offenders* (of what kind, or against what?) illegally at large. Their conditional pardon is by Her Majesty, or Her authority, and valid everywhere except in the Territory specially named, equally so with a free pardon.

The prerogative here is set at nought, and as a lawyer, I have no hesitation in saying it is illegally set at nought.

(Signed)

F. BURGESS.

4th March, 1854.

The Comptroller General.

[COPY.]

11 and 12 Vict., c. 42.—Warrant of Commitment.

To the Constable of Warringal, in the Colony of Victoria, and to the Chief Keeper of the Gaol at Melbourne, in the said Colony.

Whereas Daniel Bridges was this day charged before me, one of Her Majesty's Justices of the Peace in and for the District of Warringal, in the said Colony, on the oath of H. W. Howlett and Fred. Roper, of Heidelberg, in the said Colony of Victoria, for that he, the said Daniel Bridges, is an offender illegally at large. These are, therefore, to command you, the said Constable of Warringal, to take the said Daniel Bridges, and him safely to convey to the Gaol at Melbourne aforesaid, and there to deliver him to the keeper thereof, together with this precept; and I do hereby command you, the said keeper of the said Gaol, to receive the said Daniel Bridges into your custody, in the said Gaol, and there safely keep him until he shall be thence delivered by course of law.

Signed this 18th January, 1854, at Heidelberg.

(Signed)

R. MARTIN, J.P.

Endorsed—"144, 18th January, 1854, Daniel Bridges, Runaway Convict, to be forwarded to Van Diemen's Land"

A Warrant, similar in every respect, in regard to William Harding.