

NEW
SOUTH WALES.

DESPATCH FROM THE GOVERNOR OF NEW SOUTH WALES.

— No. 2. —

(No. 96.)

COPY of a DESPATCH from Governor Sir *C. A. FitzRoy* to Earl *Grey*.

Government House, Sydney, 16 May 1850.

(Received, 4 November 1850.)

My Lord,

In reply to your Lordship's circular despatch dated 20th July 1849, enclosing an Order of the House of Commons for a return, showing how far crimes for which capital punishments have been abolished in the mother country, are still capitally punished in the colonies and dependencies of Great Britain; I have the honour to transmit the copy of a letter from the Crown Law Officers, furnishing the required information.

I have, &c.

(signed) *Chas. A. FitzRoy*.

Enclosure in No. 2.

Attorney-general's Office, Sydney,
29 April 1850.

Sir,

Encl. in No. 2.

WE have the honour to acknowledge the receipt of your letter of the 7th January last, calling for a return showing how far crimes, for which capital punishments have been abolished in Great Britain, are still capitally punished in the colony of New South Wales.

1. In reply, we have the honour to report, that the crimes for which capital punishments have been abolished in Great Britain, and which are still capitally punished in this colony, are, rape, and the several kinds of forgery in respect of which the punishment of death was taken away by the Act of Parliament 1 Vict., c. 84.

2. That Act abolishes capital punishment for the forgery of, or uttering, knowing the same to be forged, the following instruments:

1st. Any will, testament, codicil or testamentary writing.

2d. Any power of attorney or other authority to transfer any share or interest of or in any stock, annuity or public fund at the Bank of England or South Sea House, or at the Bank of Ireland, or to receive any dividend payable in respect of any such share or interest.

3d. Documents connected with the issue of Exchequer bills for the relief of Trinidad, British Guiana and St. Lucia.

4th. Documents connected with the compensation granted to slave-owners upon the abolition of slavery.

5th. Documents relating to the issue of Exchequer bills for the relief of Dominica.

3. Of these it is obvious that the 3d, 4th and 5th description of forgeries are such as, with reference to this colony and the present period, may be left entirely out of consideration.

4. The forgeries under the second head are such as may be committed in Australia, and would in strictness of law be punishable according to the *lex loci*; but we presume that as the offence relates only to British funds, the law of England would be followed in practice.

5. The forgery of wills, testaments, codicils and testamentary writings, is the only crime of this description which it concerned the Legislature of New South Wales to provide for the punishment of; and it being in the opinion of the Legislative Council unsafe to abolish the punishment of death for the forgery of wills, under the circumstances of the colony, the adoption of the Act 1 Vict., c. 84, was deliberately negatived by that body.

We have, &c.

(signed) *J. H. Plunkett*, Attorney-general.
W. M. Manning, Solicitor-general.

The Honourable the Colonial Secretary.

DESPATCH