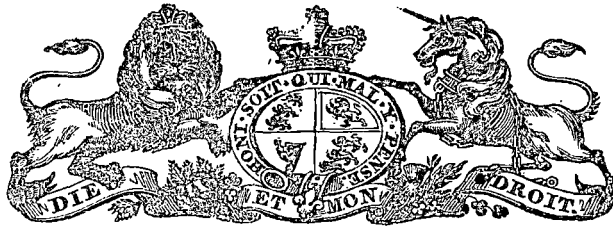


(No. 4.)



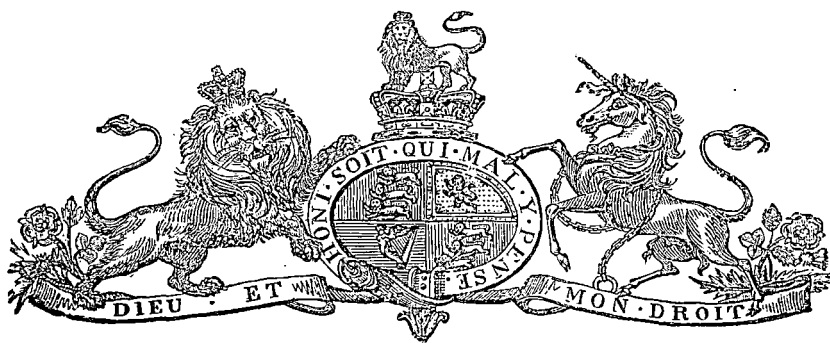
1858.

T A S M A N I A.

**CLAIMS AGAINST THE IMPERIAL
GOVERNMENT.**

MEMORANDUM ADDRESSED TO HIS EXCELLENCY BY
MINISTERS.

Laid upon the Table by Mr. Attorney-General, 10 September, 1858, and ordered
by the House to be printed.



MEMORANDUM.

Government Offices, Hobart Town, 3rd August, 1858.

WE desire to lay before Your Excellency a series of Resolutions which were unanimously adopted by both Houses of the Parliament of Tasmania. We respectfully solicit that Your Excellency will be pleased to transmit these Resolutions, with this explanatory Memorandum, to the Right Honorable the Secretary of State; and that you will enforce on the consideration of the Imperial Government the wrongs of which the Parliament complains, and the claim to redress which it urges.

1. Your Excellency will perceive that, in the first Resolution now submitted, it is alleged that the conduct of the Imperial Government, in withholding its fair contribution towards the maintenance of Police and Gaols and the Administration of Justice in this Colony, is not consistent with obligations which have been admitted by that Government.

We hope that it is only necessary to substantiate this statement, and in doing so to recal the attention of the British Government to its acknowledged obligations, to ensure that redress which the Parliament of Tasmania seeks. It is probably well known to the Right Honorable the Secretary of State, that for several years the earnest remonstrances of the Legislature, and of the people of this Colony, were raised against the heavy burthen of Police and Judicial Establishments, rendered necessary by the penal purposes to which Tasmania was devoted, being borne by its free inhabitants. The manifest injustice was at length acknowledged by the British Government; and in a despatch addressed to Lieutenant-Governor Sir E. Wilmot, of date 14th March, 1846, the Right Honorable Mr. Secretary Gladstone announced the decision at which Her Majesty's Ministers had arrived in these terms:—"After a full consideration of the subject, Her Majesty's Government have determined on defraying out of the Revenues of this country a portion of the charge of those Establishments equal to two-thirds of the whole expense now incurred." The principle, we respectfully submit, admitted in these terms, is the justice of the British Government defraying a portion of the Police, Gaol, and Judicial expenditure of this Colony; and further, that the proportion of two-thirds represented at the date of this adjustment the amount for which the Imperial Government was fairly liable. In the same despatch the Right Honorable Mr. Secretary Gladstone intimated £24,000 as the sum which would be contributed from Imperial sources: a reference to his despatch, and to other official data, showing, however, that that sum was fixed upon, not arbitrarily, but as representing at that period an approximation to two-thirds of the total expenditure of the Colony on account of the Establishments in question. That it was not an estimate in excess, there is the testimony, above all suspicion of a local bias, given by Sir W. Denison in his Despatch of 2nd June, 1847, in which he urged that the principle of proportionate contribution, rather than that of a fixed sum, should be strictly adhered to. But circumstances were only then beginning to operate, which tended, as they developed themselves, to show the inadequacy of the sum fixed upon by Mr. Gladstone. Transportation having some time previously to the date of that Right Honorable Gentleman's Despatch been discontinued to New South Wales, and its stream directed exclusively to Tasmania,—a system of Convict management having also been instituted, which in its progressive operation necessitated, for the protection of life and property, increased agencies of Police and Justice,—the sum of £36,000 did not, as formerly, suffice for their maintenance, reduced though the outlay upon them was to the strictest limits consistent with the objects in view by the vigilance of the Local Legislature, always peculiarly jealous in respect to this branch of the general expenditure. Other causes, however, far more striking in their effect—causes which neither the British nor the Local Government could have anticipated—came at a subsequent date into operation, manifesting the injustice of an adherence in the contribution of the British Government to the sum fixed upon by the Secretary of State, instead of its being determined by the principle which that sum had been assumed to represent.

In 1851, those remarkable gold discoveries which have since engaged the attention of Europe and of the world were made in Victoria. Their immediate and lasting effects have been a disturbance of all calculations of Public Expenditure made prior to them. Labour of every

description, provisions, rents,—all the incidents in short which make up the total expenditure either of private or public establishments,—were multiplied in cost, and remain so, two, three, and even four times. In the Department of Police, the wages of Petty Constables, previously 1s. 9d. per diem, rose to 5s. and 6s. per diem, and even at such augmented rates the Police force of the Colony was with difficulty recruited. The Gaols, Watchhouses, and places of confinement which had been supplied, in the five years from 1846 to 1850 inclusive, with the following principal articles of consumption at the annexed average rates,—

Fresh Meat, at 1 $\frac{1}{8}$ d. per lb.	Firewood, at 3 $\frac{3}{4}$ d. per 100 lbs.
Flour, £10 0s. 8d. per ton.	Coals, at 16s. 10d. per ton.
Vegetables, at 3s. 10 $\frac{1}{4}$ d. per 100 lbs.	

in the succeeding five years were not supplied at a less average rate than the following :—

Fresh Meat, at 4 $\frac{2}{6}$ d. per lb.	Firewood, at 1s. 0 $\frac{1}{6}$ d. per 100 lbs.
Flour, at £26 2s. 4d. per ton.	Coals, at £1 14s. 1d. per ton.
Vegetables, at 18s. 8d. per 100 lbs.	

So that the sum of £24,000 contributed as two-thirds of the cost of Police, Gaol, and Judicial Establishments of the Colony, so far from amounting to that proportion, and thus to what the Imperial Government had recognised its obligation to contribute, fell short of it, as can be proved in detail by the Public Accounts of the Colony, by the amounts respectively set opposite to them in the years following :—

	£
In 1852.....	7429
1853.....	19,829
1854.....	31,561
1855.....	43,795
1856.....	48,311
1857.....	36,161

These sums, with the amount of the difference (£6158)* between two-thirds of the actual cost of Police, Gaol, and Judicial Establishments in the years 1848 to 1851, and the sum contributed by the British Government, make up a total amount of £193,244 in which the contribution of the Imperial Government was deficient from 1848 to 1857 inclusively; £193,244 which the Colony now prefers the claim to have refunded to it by the British Government, resting its claim upon the engagement of the Right Honourable the Secretary of State, Mr. Gladstone, in the Despatch which has been cited; that engagement being interpreted according to the principles of justice and good faith in connection with the facts set forth in this Memorandum.

And the more the Despatch in question is looked into, the more does it support the claim now made on the part of this Colony. When the Right Honourable Mr. Secretary Gladstone intimated that a portion of the charges of Police and Gaols in Tasmania would be defrayed out of the Revenues of the Mother Country, he supplemented the just engagement by a material qualification in its value in the following intimation :—“ But in consideration of this contribution Her Majesty’s Government will, at the same time, resume the Land Fund, which was given up to the Colony in 1834, on the condition of the payment from Colonial Funds of the charges for Police and Gaols.” Accordingly, out of a Land Fund which for the years from 1841 to 1853 amounted to £400,533 5s. 4d., not more than £100,951 2s. 4d. (of which £63,407 2s. 10d. was expended in 1852 and 1853) was applied to the legitimate object of that fund, Immigration. The remaining £299,582 3s. was exhausted in the control and management of British Convicts. The check thus caused to the progress of our population cannot be well estimated. But some idea of it may be formed from the following facts shown by the Government Statistics :—

In 1841 the total population of the Colony was	50,217
On 31st December, 1853, it was	65,954
Increase in 13 years by births, the introduction of Convicts, and	—
all other causes	15,737
By the Census of 31st March, 1856, the population is	81,492
1853	65,954
Increase in three years and a quarter.....	15,538

* The items of this sum are as follows :—

	£
In 1848.....	1206
1849.....	1822
1850.....	669
1851.....	2461
	£6158

this increase being nearly as 4 to 1 compared with the previous increase, and having occurred after the cessation of Transportation, and with the richest gold-fields in the world within thirty hours' sail of the Island. We have been compelled to borrow, and have now a public debt exceeding £300,000. It would not be too much were we to apply to the British Government to repay to us the £299,000 of our Land Fund of which we have been so unjustifiably deprived. While from 1841 the old penal Colony of New South Wales and Victoria had the full benefit of their Land Fund for Immigration and other important public purposes, ours was taken from us and applied to British schemes which are now universally condemned, and by which the people of this Colony were socially, as well as pecuniarily, the principal sufferers.

2. The Parliament of Tasmania remonstrates against the gradual reduction and the eventual discontinuance of the Imperial contribution towards the maintenance of Police, Gaol, and Judicial Establishments, as that reduction and discontinuance have been carried out. The decision of the British Government to discontinue Transportation to this Colony was communicated by the Secretary of State for the Colonies in a Despatch to His Excellency Sir W. Denison, of date 22nd February, 1853, when the question was revived of the adjustment of the liabilities of the Imperial and of the Local Governments respectively for the maintenance of Convicts, and the cost of Police, while the system of Transportation was working itself out.

In a Despatch of date 2nd July, 1853, (No. 154 Executive) Sir W. Denison adverted to some of the difficulties of such an adjustment, and more particularly to those attached to one based on the mere civil condition in which an offender might stand at the period of conviction in the Colony. "For instance," he urged, "a convict whose character has been notoriously bad, who has been sentenced again and again to every kind of punishment, who has perhaps been sent out to the Colony as an incorrigible offender, becomes free, and commits in a short time an offence which subjects him to a long period of imprisonment with hard labour. Is this man to be maintained at the expense of the Colony, simply because he happens to be free at the time he committed the offence for which he is undergoing punishment? It would seem hardly fair to charge the Colony with the expense of maintaining a man to whom a prison is almost a home." Sir W. Denison, therefore, suggested that for the disposal of such cases' a discretion should be vested in the Governor, as to whether the liability for maintenance should devolve on the British Government or on the Colony. In reference to the contribution from the Imperial Treasury to the cost of Police and the expense of witnesses in criminal trials, he proposed "that no decrease should take place in the amount of this contribution till the commencement of 1855; and after that a reduction of one-sixth should be made every year, so that all payments from the Military Chest on account of Police should cease at the end of the year 1860. A similar reduction (he added) should of course be made in the contribution towards the expense of witnesses." It is material, in connection with these suggestions of Sir W. Denison, that it should be borne in mind that at the date at which they were made the advisers of the Governor of the Colony were not responsible to the people through a Local Parliament; and that the Governor himself was an Officer whose emoluments were in part derived from the Imperial Treasury, in consideration of the Colony being a British depôt for criminals. The free inhabitants of Tasmania, therefore, are not compromised by any adjustment proposed in 1853 by Sir W. Denison, nor in consequence precluded from raising the question at issue on its intrinsic merits, through the first Parliament they have elected. And in respect to the settlement recommended by Sir W. Denison, its inconsistency, and its want of fairness to this Colony, are apparent on the face of the Despatch in which it is set forth. If this Colony had been, as is expressly stated, (par. 8 of Despatch) used by the British Government as a receptacle for incorrigible offenders,—if those offenders numbered, at the period contemplated, many to whom a prison was a home, and a relapse into crime was a certain event,—and if justice, therefore, required that, for an indefinite period, instead of any general rule for fixing the liability of the British or of the Local Treasury for the maintenance of such offenders when re-convicted, the liability should be determined by specific enquiries, and by a discretion in dealing with their results; by what principle was it to be assumed that the cost of Police might fairly terminate as against the Imperial Government at so short a period as seven years from the date of Sir W. Denison's Despatch,—a date within two months prior to which a ship-load of Convicts to the number of 209, under sentences of from seven to twenty-one years' duration, had arrived, preceded as that had been by twenty-three other ships with similar cargoes to the number of 6052 souls in the three preceding years?

The men and women to whom "a prison was a home," many of them young and middle aged, were not likely to be extinct in the space of seven years; and precisely the same considerations which made it only just that in the probable event of their re-conviction, or that of numbers of them, the liability for their maintenance should be met by the Imperial Government, demanded that the free inhabitants of this Colony among whom such irreclaimables were cast, and against whom their burglarious, their violent, or their larcenous propensities would be indulged, should receive Police protection by the assistance of the British Government for so long a time as it was subjected by the policy (of which the effects would not cease with

its discontinuance) of that Government to the evils in question. Quite enough, surely, was it that society in Tasmania should every now and again be convulsed by the daring deeds or the menaces of hardened culprits, to whom "a prison was a home,"—quite enough that it should suffer in property, and by deeds of violence, sometimes the most revolting,—without the Colony having to defray the whole cost of those Establishments, which at best could serve only to mitigate, not wholly to avert such evils. But if exception may be taken to the adjustment of liability proposed by Sir W. Denison, much more strongly may it be urged to that which, in reply to his despatch, was announced by His Grace the Duke of Newcastle as embodying the decision of Her Majesty's Government.

His Grace, under date 14th February, 1854, intimated the following as the rules which should be observed:—

1st. That Convicts who committed fresh offences should be punished at the expense of the Imperial Government, whilst free men, or expirees, or holders of conditional pardons, who committed offences, would be punished at the expense of the Colony. "In order, however, to provide equitably for the case of hardened convicts, who may commit fresh crimes very shortly after having served out their time, (His Grace then thus wrote) I have to authorise you further to adopt the following rule: any convict who within twelve months of becoming free, either by expiration of sentence or by a receipt of a conditional pardon, shall be convicted of an offence for which he is sentenced to a punishment of two years or upwards, shall be maintained at the expense of the Imperial Government; but no claim whatever shall be admissible upon the Home Government in respect of the punishment of a convict for any fresh crime which he may commit after the lapse of one clear twelvemonth from the date of his becoming free."

2nd. "The maintenance of invalid, lunatic, or pauper convicts, and of those free men who at the time of their arrival in the Colony as convicts were above sixty years of age, but of no other free men, shall be chargeable to the British Treasury."

3rd. "Notice was to be given to Chaplains in connection with the Convict Services that they would be dispensed with in three years."

4th. The rate of reduction in the Police contribution proposed by Sir W. Denison not appearing to His Grace "either sufficiently prompt, or sufficiently large;" instead thereof the reduction was prescribed to take place as follows:—

Reduction in the Grant in the first year.....	£ 3000
Ditto second year.....	4000
Ditto third year.....	6000
Ditto fourth year.....	6000
Ditto fifth year.....	6000
	£25,000

5th. The proposal of Sir William Denison, that at the end of three years from the date of his despatch the contribution of £2000 from the British Treasury towards the Governor's salary of £4000 should cease, was approved; but it was pointed out as "material that the Colonial Legislature should be induced to make permanently such provision as it may deem fit for maintaining the salary of the Governor at an adequate amount."

If we refrain to animadvert in the terms which we yet feel that we should be justified in employing on the decisions which have been recited, we trust that our moderation will not be misconstrued, and that it will rather operate to induce on the part of Her Majesty's Government a dispassionate revision of the question at issue. But it is due to this Colony that the injustice, we cannot but presume unperceived by His Grace, of his decisions should be made manifest.

(1.) In the first place expirees, or holders of conditional pardons, were in the event of their commission of crime to be punished at the expense of the Colony, with a qualification in the case of hardened convicts who committed fresh crimes very shortly after having served out their time. It is at once admitted, then, by His Grace that hardened convicts did pass, or were likely to pass, from the category of the bond to that of the free.

The experience of this Colony shows that numbers did so pass, to its injury and heavy cost. In respect, however, to such, the rule was sanctioned that the expense of their punishment for offences if committed within twelve months after restoration to freedom, or conditional freedom, and then only if their punishment embraced a period of two years or upwards, should be defrayed by the Imperial Government. It is difficult to perceive on what principle a sentence of eighteen months, or for shorter periods, did not as much entail the liability of maintenance as a sentence of twenty-four; and it is honorable to the morality of the Bench of Tasmania, that, revolted though public opinion has been at the burdens cast upon the Colony by His Grace the Duke of Newcastle's decisions, the suspicion has never been prompted that the administration of

justice was in the slightest degree influenced by the temptation to save the Colony from any portion of those burdens by the infliction of a two years' or longer sentence when a less appeared adequate. Again, in respect to the limitation as to time for the commission of fresh crimes entailing the cost upon the Imperial Government—namely, twelve months—the operation of the rule might have been anticipated from facts which have been repeatedly adduced in evidence on systems of secondary punishments. The gravest description of offenders are not those among whom relapses take place soonest: on the contrary, it is the frivolous classes of offenders whose lives are found to alternate perpetually between Houses of Correction and freedom; while the powers of self-control in the former class for lengthened periods, without any radical change of character, are often remarkable. A great temptation or a great opportunity does not arise every day. Against hardened convicts, therefore, a rule which relieved the Local Government of liability for twelve months only, or for that time fixed it on the Imperial Government, was a poor protection; it was likely to be of precisely the least value, among classes of criminals, in reference to that class to which it was applied.

(2.) The maintenance of invalid, lunatic, or pauper convicts, we submit, was fixed in a manner which cannot be defended on principle. Because a convict lunatic, invalid, or pauper happened at the time of his being landed here to be fifty-nine years of age, the Colony was to be saddled with his maintenance,—although a difference of a year, or perhaps of a few months, or even weeks or days, in his age would have fixed the liability on the Imperial Government. Tasmania was to be charged with the maintenance of those convict lunatics, and they were many,—or invalids, and they were many,—and paupers, and they were sure likewise, from a class distinguished by improvidence and deficiency in industrial skill, to be many,—it was to be charged precisely with those the burthen of whose maintenance was likely in the course of nature to last longest.

(3.) The reduction of Ecclesiastical provision to follow the discontinuance of transportation calls for little notice,—although it does appear to us that a paternal and considerate Government would not have abandoned many thousands of its liberated convicts without making some provision, some contribution towards the maintenance of religious ordinances among them. That, however, as well as other provision, it was left to the free inhabitants of Tasmania to make by their Local Government, or by voluntary channels.

(4.) The rate of Police reduction suggested by Sir W. Denison, on the one-sidedness of which we have already animadverted, did not appear to the British Government “either sufficiently prompt, or sufficiently large,” and therefore that more expeditious process of reduction enjoined by His Grace the Duke of Newcastle. A provision which had been made in reference to certain moral and social conditions for which the Imperial Government was responsible, and the duration of which from their nature could not be estimated, was to be withdrawn at a fixed date—was to be withdrawn at an arbitrary period; and that period was so proximate, that the moral and social conditions for which the provision now to be withdrawn had subsisted could not possibly by that time have expired.

(5.) In the same way one-half the salary of the Governor of the Colony, provided by the Imperial Government in consideration of the Imperial duties required of him, was to cease as a charge upon that Government—was to be made up by the Colony at a fixed date, on the rash calculation, of course, that the duties in question must then be at an end.

To these grounds of objection the decisions communicated by His Grace the Duke of Newcastle were open on the instant that they were announced; and we may reasonably conclude they would have been at once urged by the Tasmanian Government, had that Government at the period been responsible to the Colony, instead of to His Grace the Duke of Newcastle himself.

It remains for us to show how they have been sustained by experience; and so established, may we hope that it is not too late to remonstrate, and to look for at least some measure of redress?

And first, as to the immediate and progressive diminution of crime which was to take place so soon as transportation was discontinued, so far from its being realised, by statistical returns it appears that while population was not augmenting, for 1853 the convictions for crimes were 268; 1854, 268; 1855, 338; 1856, 387. It was assumed, however, by His Grace the Duke of Newcastle, as the justification of a diminishing scale of liability on the part of the Imperial Government in its contribution towards the Police and Judicial expenses of the Colony, and the speedy cessation of all contribution, that there would of necessity take place a corresponding diminution of crime in those classes for which that Government recognised a given measure of liability.

Appended to this Memorandum is a Return (Appendix I.) showing the civil condition of all persons convicted before the Supreme Court, and the Courts of Quarter Sessions, in Tasmania, from 1st January, 1850, to 31st December, 1857; and by that return there is, indeed, an apparent justification afforded of the calculation of the Right Honorable the Secretary of State: whereas,

in the four years from 1850 to 1853 inclusively, the convictions of convicts (so called) amounted to 336, in the succeeding four years they had diminished to 194. If mere designation, therefore, could decide principles of equity, and their proper application, so far was the diminishing scale of His Grace the Duke of Newcastle supported. But a further examination of the return appended discloses the startling fact, that whereas in the first of the two periods compared the number of conditionally free who were re-convicted was only 91, in the second it had risen to 149; and again, the free by servitude re-convicted had for the same periods increased from 507 to 536. Crime then of that kind, or in those classes, of which the entailed expense, on the rule prescribed by the Secretary of State, fell on the British Treasury, had diminished: crime of the kind, or in the classes, in which the cost devolved upon this Colony had increased.*

The inherent fallaciousness, or injustice, of the principle announced as that which should determine Imperial or local liability, will in part only account for these results. An unfair principle was in the first instance (it has been presumed without its tendency having been perceived) laid down, but the course begun did not stop there; facts were constrained by the impatience of the Home Government to bring to a termination a system which had been condemned, into conditions which aggravated the unfairness of that principle, and leaving, in short, a principle in name only, in the whole proceeding by which the Imperial Government was relieved of, and this Colony saddled with, the cost of Police and Justice for the felony of the Mother Country. A sufficiently prompt, and sufficiently large, diminution of Imperial liability would not have resulted even from His Grace the Duke of Newcastle's amendment on the sliding scale proposed by Sir W. Denison, under the operation of pre-established rules in reference to the partial, or total, liberation of convicts; but it was attainable by a modification of those rules in such a manner as to hasten the passage of convicts into the categories for which the Tasmanian Treasury had been made liable in the event of re-conviction. We annex to this paper two notifications taken from the official *Gazette* of this Colony of date July 18th, 1854, "under instructions received from the Right Honorable the Secretary of State"—the Duke of Newcastle. (Appendix 2) They explain how it is that the statistics of this Colony reveal increasing crime among its conditionally free, side by side with diminishing crime among convicts.

As a practical illustration of the operation of the rule prescribed by the Secretary of State, we would refer to the account between the Colony and the Commissariat for the maintenance of convicts chargeable on the former for the year 1857-8. There were charged for that year 73,329 days, which correspond to the number of 201 convicts permanently maintained throughout the year. These 201 represent 277 individuals, of which number 33 had always been free up to the time of their conviction and sentence in the Colony in 1857 or 1858, 5 could not be identified, leaving 244 whose original position in Tasmania was that of convicts sent to it. Of these convicts 57 had been free for one year and less than two, 61 for two and less than three years, 24 for three and less than four, and 104 for various periods exceeding four years.

On the inequitable character of the means thus disclosed by which the Imperial Treasury was relieved, and this struggling Colony was burthened with liabilities which did not properly belong to it, we forbear to dwell; influenced in no small degree by respect for the nobleman who is immediately responsible for the measures of which we complain, who we are persuaded issued his instructions with inadequate data before him.

We appeal now, however, to the sense of what is honorable, what is defensible, what is worthy, in the British Government, towards a Dependency which has been sorely enough tried already by being the theatre of crude experiments with the outcasts of the Mother Country,—and we await the issue of our appeal not without that hope which its justice should inspire.

3. The Parliament complains that the introduction into this Colony of upwards of seven hundred desperate Criminals from Norfolk Island after the cessation of Transportation to it from the United Kingdom operated as a breach of the Royal promise, and has entailed vast expense and great social evils on this community. His Grace the Duke of Newcastle announced the cessation of Transportation in his Despatch of 22nd February, 1853, in these terms—"Her Majesty's Government have come to the resolution of putting an end at once to the removal of convicts to Van Diemen's Land." It was after this clear and unqualified intimation had been received with general joy by the free inhabitants of this Colony, that the revolting announcement was made in the Legislature of the day that this assurance—this engagement, notwithstanding that there was to be "an end at once to the removal of convicts to Van Diemen's Land," by the instructions of the Secretary of State, a body of some hundred convicts, the most abandoned, the most desperate, the most dangerous, to be found in the British dominions, were to be brought to Port Arthur, and from that gradually let loose upon

* An illustration of the text has occurred since it was penned. George Young, per *Kinnear*, free by servitude 10th March 1857, was convicted before the Supreme Court of the murder of Esther Scott—The murder happening to have been committed in May 1858,—six weeks, that is, after the space of one year from the restoration to freedom of the culprit,—the Colony is saddled with the payment of the reward of £50 for his conviction, and with all the other expenses incident to his crime, and its punishment.

society in this Colony. The consternation and revulsion of feeling which this intelligence created were at once expressed by remonstrance, and by petition from the Legislative Council to Her Majesty the Queen; and Sir W. Denison, yielding to the intense alarm and opposition of the inhabitants of the Colony, suspended, until further instructions, compliance with the Secretary of State's Despatch. But His Grace the Duke of Newcastle was inexorable; he endeavoured, however, in replying to His Excellency Sir W. Denison, to soothe the fears of the Colonists—"You are aware, (he said in his despatch,) that no prisoner can acquire a ticket-of-leave unless he earns a claim to the indulgence by his behaviour in confinement," &c.; "with these restrictions and securities," he indulged "the hope that the repugnance of the Legislature would be overcome." The date of the despatch recited was 30th March, 1854; the date of that in which His Grace instructed the local authorities to relax the "restrictions and securities" which he had quoted as an answer to the fear of the Colony, and the expressed repugnance of its Legislature, was the 3rd May, 1854, thirty-four days later; and on this doomed Colony were cast, (within three years of the date of the Royal pledge, made "out of deference to the feelings and representations of the inhabitants, that an end should be at once put to the removal of convicts to Van Diemen's Land,") seven hundred and five of the worst description of convicts from Norfolk Island—criminals, many of whom, in the language of Sir W. Denison, belonged "to a class of persons to whom crime is become a second nature"—criminals, including 180, by the report of the Comptroller-General, irreclaimable, and requiring extraordinary physical and other appliances to restrain their indulgence in unnatural and incorrigible propensities: these, to reap the advantage of the relaxed code prescribed May 3rd, 1854, by Her Majesty's Secretary of State, while the Colony was being told, under date 30th March, of the "restrictions and securities" it would possess against their lawless designs. The object paramount to all others was "a sufficiently prompt, and sufficiently large" diminution of Imperial liability for Gaols and Justice; in the prosecution of which great social and pecuniary cost to this Colony has resulted. Of the 705 men transferred from Norfolk Island to Port Arthur, 664 had been, in August 1856, liberated among our community either as passholders, ticket-of-leave, or free by expiry of sentence, and 41 then remained under their original order of detention, of which last number few are now under coercion unless as the consequence of renewed convictions.

4. The Parliament of Tasmania represents that the dispersion among this community, from time to time, of irreclaimable criminals from the penal establishment of Port Arthur, necessarily continues to expose the lives and properties of the inhabitants to danger, and entails increased burthens upon the Colony for the maintenance of Police and the administration of Justice. It is unnecessary, more particularly after what has been already said, to adduce evidence in support of this self-evident proposition. The exposure of the community to deeds of violence must continue until the elements of danger no longer survive, which, in the nature of things, cannot be until after the lapse of a protracted period. No less than fifty murders have taken place in the Colony in the years from 1852 to 1857; and less than a year since, just as the Imperial contribution to the maintenance of our Police and Gaols was about to expire, four convicts, men, that is, transported to this Colony, were in custody awaiting trial for murders and attempt at murder, the ascertained cost of whose capture and trial alone amounted to £344 15s. (Appendix 3.) The statistics of crime, which we have already cited for recent years, show how far the inconveniences and the costs incident to transportation are from having ceased with the discontinuance of that system; and it would have been extravagant to anticipate that they would, as it has been unjust to this Colony for the assumption to have been proceeded on by the Imperial Government. Not to dwell on the indefensible principles on which the relative liabilities of the British Treasury and of the Local Government were originally fixed in respect to the costs of Justice, of providing for paupers and lunatics, which we have already adverted to: had even those liabilities been fixed on equitable principles, with the exhaustion of the classes for which they were contemplated, the just obligation of the Imperial Government to this Colony would not have expired. Generations must pass away before the asylums of this Country,—in the pauperism resulting from indolent improvident habits, in the destitute orphanage resulting from the same cause, and in the hereditary lunacy which has been far more largely connected with criminality than it has been convenient at times to recognise,—will cease to afford a costly evidence of the purposes to which the Colony was originally devoted. At the present time, when all contribution to the expenses of our Government even in the obvious branches of Police, Gaols, and Judicial Establishments is withdrawn, there is scarcely a public department of which the duties are not augmented by the debris of British convictism; and we may appeal with confidence to Your Excellency, how large and anxious a portion of your own responsibilities relates to matters quite distinct from the interests of the free community,—although the cessation of all such responsibilities was assumed by His Grace the Duke of Newcastle in addressing your predecessor as a reason for requiring the Colony to provide the whole salary of its Governor. The same remark applies to ourselves as the Responsible Ministry of this Colony. Sworn as Members of the Executive on the 25th April, 1857, at the beginning of June last we had met to advise Your Excellency forty-three times, and on twenty-four of those occasions cases arising out of the past penal character of the Colony

occupied our time and attention ; while as regards one of us, the Attorney-General, it was incumbent on him to be prepared with the results often of most anxious and elaborate enquiry into the cases on which we had to give our advice.

To the Solicitor-General of the Colony is at present confided the principal duties of Crown Prosecutor. He has lately attended Sessions of the Supreme Court in Hobart Town, Oatlands, and Launceston ; and to our enquiries into the original condition of the prisoners convicted at these Sessions he has made the return appended. (Appendix 4.)

Blended as the Government formerly was in this Colony in its Local and Imperial relations, it could not be expected that those relations would cease without also leaving those liabilities behind which are inseparable from changes in Government ; liabilities, we mean, to superannuated or reduced public servants. The Imperial Government recognised its obligation to contribute to our Judicial, our Gaol, and Police Expenditure ; but it has made no provision, as yet, for the pensioning, or otherwise compensating, the Officers reduced, as we contend it is as much bound in justice to do, as it was to contribute to the maintenance of the establishments to which those Officers belonged. This has been left to fall on the Colony, unless it would see faithful and efficient servants unfairly dealt with. Our Pension List of this year gives a sum of £4379 17s. 7d. paid, and payable for an indefinite period yet to come, to Judicial and Police functionaries, the principal part of whose services it is no exaggeration to state arose out of the penal objects pursued here by the Imperial Government. More palpable still, if possible, is the injustice by which among these pensions figure those of individuals, every way meritorious no doubt, but who receive them from the revenues of the Colony for the loss of limbs in pursuing British felons, of whom more secure custody should have been taken by the Agents of the British Government ; and that of the widow of a District Constable murdered when on the like service. A sum of £630 19s. 3d. has likewise been paid this year by way of compensation to reduced Police, Gaol, and Judicial Functionaries ; and these payments, as well as claims for pensions, will not exhaust themselves until the establishments maintained heretofore with a reference to the peculiar social condition of the Colony are reduced to proportions corresponding to the requirements of a free community, and until those employed on them consist only of such as have been engaged with a reference to those requirements.

5. It remains only that we should again, in compliance with the Resolution of Parliament, beg Your Excellency to be pleased to transmit the Resolutions which we have endeavoured to explain and illustrate to the Right Honorable the Secretary of State ; and that you will enforce upon the immediate notice of the Imperial Government the wrongs to which they refer, and the claims they urge. The wrongs it were needless to recapitulate ; the claims resolve themselves into—1. The payment to the Colony of a sum of £193,244, being the unliquidated amount of the Imperial contribution to the expense of Police, Gaols, and Justice, pledged to the Colony by the Right Honorable the Secretary of State, Mr. Gladstone. 2. A revision of the principle on which the liabilities of the Imperial and Local Governments were fixed in 1853 in respect to convict paupers and lunatics, and transported convicts re-convicted in Tasmania ; and the payment to the Colony of the sum which it has been required to disburse under subsisting arrangements in excess of its fair proportion. 3. The resumption from the date at which it ceased of a contribution from the British Treasury to the maintenance of Police and Gaols, and the Administration of Justice,—the contribution to be proportioned to the interest which the Imperial Government, on account of its convicts, must have in those branches of our public expenditure. The Parliament of Tasmania has based its claims on broad, intelligible principles of justice ; and we trust that it is not vain to hope that these principles will be respected by the British Government, as above and before all other considerations in deciding upon its claims ; and that any apprehension on our part that justice to this Colony will be tardy, or uncertain, because its concession will amount to an acknowledgment of past wrongs, is a reflection which no upright or high-minded Minister of the Queen would by his conduct justify.

FRANCIS SMITH.
WM. HENTY.
F. M. INNES.

His Excellency
Sir HENRY EDWARD FOX YOUNG, *Kt., C.B.*
Captain-General and Governor-in-Chief.

APPENDIX 1.

RETURN showing the CIVIL CONDITION of all Persons convicted before the Supreme Court and the Courts of Quarter Session in TASMANIA, from 1st January, 1850, to the 31st December, 1857.

Year.	Courts.	Convicts.	Conditional Pardon.	Free by Servitu ^d c.	Originally Free.	Unknown.	TOTAL EACH COURT.		Total both Courts.
							Supreme Court.	Quarter Session.	
1850..	Supreme Court..	48	9	33	2	..	92	..	235
	Quarter Session .	43	18	79	3	..	..	143	
1851..	Supreme Court..	71	8	58	6	1	144	..	322
	Quarter Session .	47	20	104	7	..	..	178	
1852..	Supreme Court..	23	9	32	5	..	69	..	164
	Quarter Session .	19	10	61	5	..	..	95	
1853..	Supreme Court..	53	10	50	11	..	124	..	268
	Quarter Session .	32	7	91	13	1	..	144	
1854..	Supreme Court..	29	19	48	8	..	104	..	266
	Quarter Session .	27	21	101	15	..	..	164	
1855..	Supreme Court..	34	28	42	8	..	112	..	338
	Quarter Session .	22	37	142	25	..	..	226	
1856..	Supreme Court..	28	12	29	4	..	73	..	193
	Quarter Session .	23	18	67	12	..	..	120	
1857..	Supreme Court..	18	9	45	10	..	82	..	170
	Quarter Session .	13	5	61	9	..	..	88	
<i>Total of each Class ..</i>		530	240	1043	143	2	800	1158	1958

W. NAIRN.

Sheriff's Office, 9th June, 1858.

APPENDIX 2.

Convict Department, Comptroller-General's Office, 18th July, 1854.

THE Lieutenant-Governor directs it to be notified that, under instructions received from the Right Honorable the Secretary of State, male and female ticket-of-leave holders will, from this date, be required to serve with good conduct only half of the period for which they would have had to serve under previous regulations for a recommendation for a conditional pardon.

Ticket-of-leave holders becoming eligible under this notification for a recommendation for a conditional pardon, must send in their applications on the usual printed form to the Comptroller-General of Convicts, through the Police Magistrate of the district in which they may be resident.

J. S. HAMPTON, *Comptroller-General.*

Convict Department, Comptroller-General's Office, 18th July, 1854.

THE Lieutenant-Governor directs it to be notified that, under instructions received from the Right Honorable the Secretary of State, male and female pass-holders will, from this date, be required to serve only half of the period for which they would have had to serve under previous regulations for the indulgence of a ticket-of-leave.

Petitions from pass-holders, who will thus be eligible for the indulgence of a ticket-of-leave, must be sent in on the usual printed form to the Comptroller-General of Convicts, through the Police Magistrate of the district in which they may be resident; and no application will be entertained from any pass-holder who has been under Magisterial sentence until the completion of Six Months, with good conduct, from the expiration of the last sentence.

It is also notified that, under the instructions above referred to, pass-holders who have no offence recorded against them since their arrival in the Colony will be allowed a further deduction of one-fourth of the diminished period of service for a ticket-of-leave.

J. S. HAMPTON, *Comptroller-General.*

APPENDIX 3.

R. Ennis, alias Long Mickey—murder	£	s.	d.
	70	11	0
The two Kellys	221	0	0
Yeomans—attempt at murder	53	4	0
	<hr/>		
	£344	15	0
	<hr/>		

APPENDIX 4.

A RETURN of CONVICTIONS at Sessions of the Supreme Court, held at Hobart Town on the 1st June, at Oatlands on the 25th June, and at Launceston on the 1st July, 1858; showing the Conditions of those convicted, whether originally Free or Convict, respectively.

<i>Name of Place.</i>	<i>Originally Free.</i>	<i>Originally Convict.</i>	<i>TOTAL.</i>
Hobart Town, 1st June, 1858	3	12	15
Oatlands, 25th June, 1858 ...	<i>Nil.</i>	4	4
Launceston, 1st July, 1858 ..	1	10	11
TOTAL.....	4	26	30

16th July, 1858.

THOS. J. KNIGHT.

MEMORANDUM.

Government Offices, Hobart Town, 12th August, 1858.

SINCE we had the honor of addressing to Your Excellency our Memorandum of the 3rd instant, on the Resolutions of Parliament affirming the Claim of the Colony on the Imperial Government, the Despatch of the Right Honorable the Secretary of State, Lord Stanley, (No. 24,) of date 10th May, with enclosures, has been received; from which we learn that it has been decided by the British Government "to continue for a time the reduced rate of £6000 towards the support of Police and Gaols." We desire to acknowledge our sense of the equitable considerations which have prompted Her Majesty's Government thus far to accede to the Claims of the Colony: but we feel, at the same time, that it would be perilous to the success of the remonstrances of the Parliament, and to the claims in question, which are far from being satisfied by the concession referred to, that our Memorandum of the 3rd instant should be transmitted to the Right Honorable the Secretary of State without being accompanied with this Supplement to it, which is suggested by His Lordship's Despatch. We desire, therefore, respectfully to state that the principal grounds of remonstrance and appeal set forth in the Resolutions of Parliament, and explained in our Memorandum, remain as before: the Colony is burthened with a debt, the consequence of the disproportionate payments it was required to make on account of Police, Gaols, and Justice, arising from the Imperial Government adhering to a fixed sum in its contributions, instead of observing in them the principle which that sum had been assumed to represent: the payment of £6000 annually, now to be resumed, does not represent one half the annual interest which the Colony is required to pay on the debt it has contracted through burthens thrown upon it, for which it was not in the first instance justly liable; and it does not approximate to a fair proportion of the current expenditure on account of the Establishments for which it is specially contributed: the Colony remains under the undivided liability of pensions and compensations to decayed or reduced Officers of Departments maintained principally for Imperial purposes, and to which, on that account, the Imperial Government recognised its obligation to contribute. We would deprecate, therefore, the recent Despatch of the Right Honorable Lord Stanley being interpreted as satisfying the demands of Parliament; and we would not less earnestly than before the receipt of that Despatch respectfully press upon Your Excellency to urge the revision of the whole question which has been raised with a view to an equitable adjustment of accounts between the Colony and the Imperial Government.

FRANCIS SMITH.

WM. HENTY.

F. M. INNES.

His Excellency
Sir HENRY E. F. YOUNG, C.B.