

(No. 71.)



1878.

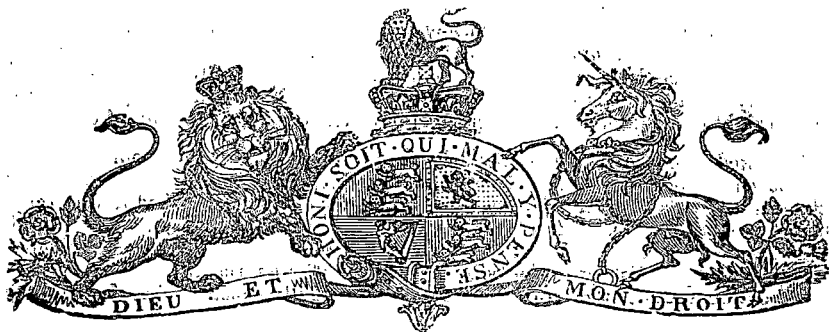
TASMANIA.

HOUSE OF ASSEMBLY.

EAST DEVON AND BARRINGTON:

PETITION FOR MUNICIPAL ACTION.

Laid upon the Table by the Colonial Treasurer, and ordered by the House to be printed, August 6, 1878.



MINUTE PAPER FOR THE EXECUTIVE COUNCIL.

Colonial Secretary's Office, Hobart Town, 14th May, 1877.

SUBMITTED—

THAT a Petition has been received from certain Ratepayers within the Electoral District of East Devon and the Parish of Barrington, praying that the said District and Parish may be constituted a Rural Municipality; and whereas the provisions of "The Rural Municipalities Act," 29 Vict. No. 8, limit the power of the Governor in Council to the proclamation of "Municipal Districts," as defined by the said Act, as and to be Rural Municipalities; and whereas the area which the Petitioners now pray should be constituted a Rural Municipality forms part of the Municipal Districts of Mersey and Russell, a Government Notice be published in the *Gazette* of the receipt of the said Petition, and of the intention of the Governor in Council, under the provisions of the 5th Section of "The Rural Municipalities Act," to alter the boundaries of the said Municipal Districts by excluding therefrom the area contained in the Electoral District of East Devon and Parish of Barrington, with the view of enabling the Governor in Council to entertain the aforesaid Petition for the constitution of the excluded portion a Rural Municipality in accordance with the provisions of the 7th Section of "The Rural Municipalities Act;" and further, notifying that such alteration may be carried into effect after the expiration of two months from the date of such notice, unless a Petition is received from a majority of the Ratepayers, being owners or occupiers of land of the annual value of not less than Twenty Pounds, within the area of that portion of the Municipal Districts of Mersey and Russell which the present Petitioners desire should be constituted a Rural Municipality.

THOS. REIBEY.

THE Governor in Council approves.

E. C. NOWELL.
14. 5. 77.

GOVERNMENT NOTICE.

No. 128.

Colonial Secretary's Office, 14th May, 1877.

NOTICE is hereby given, that a Petition has been received by His Excellency the Governor praying that the Electoral District of East Devon and the Parish of Barrington may be constituted a Rural Municipality. And it is hereby further notified that it is proposed to alter the boundaries of the Municipal Districts of Mersey and Russell by excluding therefrom the area contained in the above-mentioned Electoral District of East Devon and Parish of Barrington after the expiration of two months from this date, unless a Petition is received from a majority of the Ratepayers, being owners or occupiers of land of the annual value of not less than Twenty Pounds, within so much of that portion of the Municipal Districts of Mersey and Russell as is comprised within the Electoral District of East Devon and Parish of Barrington.

By His Excellency's Command,

THOS. REIBEY.

To His Excellency FREDERICK ALOYSIUS WELD, Esquire, C.M.G., Captain-General and Governor-in-Chief of Tasmania and its Dependencies.

The humble Petition of the undersigned Ratepayers of the Municipal District of Mersey.

RESPECTFULLY SHOWETH:

1. That the Notification No. 128, issued from the Colonial Secretary's Office on the 14th May, 1877, regarding alteration of boundaries of the Municipal District of Mersey, and constituting part of it a Municipality, does not comply with the provisions of Act 29 of Victoria, No. 8, or afford the Ratepayers that opportunity for petitioning Your Excellency on the subject to which they are entitled by law.

2. Under Section 5 of the Act quoted, His Excellency the Governor may alter the boundaries of any Municipal District (not previously constituted a Municipality) by a Proclamation, which shall take effect after three months, if not previously revoked. Under this provision the Ratepayers of the whole Municipal District are allowed three months to show cause why the alterations should not be made. By the Notice under objection the time is restricted to two months, and the right of Petition to the Ratepayers of the excluded portion only of the District.

3. By the Act quoted the Colony was divided into Municipal Districts, some of which were already Municipalities, and power conferred on His Excellency the Governor, under certain conditions, to constitute Municipalities of the rest. The Municipal Districts are detailed in a Schedule attached to the Act; and no power to increase the number of these Districts is conferred by the Act. The Petition referred to in the Notification above quoted prays that the Electoral District of East Devon and Parish of Barrington may be constituted a Municipality; but, as there is no such Municipal District in the Schedule of Act 29 Victoria, No. 8, your Petitioners respectfully submit that these places cannot, under the Laws of the Colony, be legally constituted a Municipality.

Your Petitioners therefore pray that Your Excellency will be pleased to revoke the Notification now objected to, and reject the Petition alluded to in it.

And your Petitioners, as in duty bound, will ever pray.

A. YOUNG, J.P., *Fetteresso, near Torquay.*

H. J. WILSON, J.P.

A. V. DUMBLETON, J.P.

JOHN D. JOWETT, *Torquay.*

JOHN H. M'CALL, *Torquay.*

S. H. THOMAS, J.P.

REFERRED to Ministers. If Petitioners' premises be correct, there appears to be fair grounds for the consideration of this Petition.

FRED. A. WELD.

27th June, 1877.

REFERRED to the Honorable the Attorney-General, with the request that he will favour the Colonial Secretary with his Opinion upon the points raised by the Petitioners, and state what course he would advise should be pursued.

THOS. REIBEY.

30th June, 1877.

THE Petitioners are confusing the different powers given to the Governor by Section 5 of "The Rural Municipalities Act." They will have abundant opportunity to petition during the three months which must elapse between the Proclamation and the expiration of the three months mentioned in the Act. Whether the Governor will see fit to issue such a Proclamation is a matter for his discretion; and he could do it, or not, without giving any notice. The mistake of the Petitioners lies in their taking a mere notification, which is not required by the Act, for a Proclamation, which may or may not issue hereafter, and against which they will be able, if it does issue, to petition.

C. HAMILTON BROMBY.

3rd July, 1877.

Colonial Secretary's Office, 5th July, 1877.

GENTLEMEN,

YOUR Petition praying that Government Notice, No. 128, of the 14th May last, having reference to a proposed alteration in the boundaries of the Municipal District of Mersey, may be revoked, having been referred to the Honorable the Attorney-General, I now forward copy of that Officer's Minute in reply:—

"The Petitioners are confusing the different powers given to the Governor by Section 5 of 'The Rural Municipalities Act.' They will have abundant opportunity to petition during the three months which must elapse between the Proclamation and the expiration of the three months mentioned in the Act. Whether the Governor will see fit to issue such a Proclamation is a matter for his discretion; and he could do it, or not, without giving any notice. The mistake of the Petitioners lies in their taking a mere notification, which is not required by the Act, for a Proclamation, which may or may not issue hereafter, and against which they will be able, if it does issue, to petition.

"C. HAMILTON BROMBY.

"3rd July, 1877."

The Notice was not published in the *Gazette* as a necessary legal precedent to the alteration of the boundaries of the District of Mersey, which, under the 5th Section of "The Rural Municipalities Act, is discretionary with the Governor in Council, but rather as affording the earliest possible notice to all those within the area of the proposed Rural Municipality of the desire to assume local self-government by a portion of the Ratepayers.

I have, &c.

THOS. REIBEY.

A. YOUNG, Esq., and the other Gentlemen signing the Petition.

House of Assembly, 3rd August, 1877.

SIR,

I BEG to remind you that the time has arrived when the Executive may act on the Petition of the Ratepayers of East Devon and Barrington, praying to have that portion of the Mersey District proclaimed a Municipality under the provisions of "The Rural Municipalities Act."

The Petitioners are desirous that the necessary Proclamation may be issued as early as convenient, and request me to urge the matter on your notice.

Hoping that you will attend to the matter, and inform me of decision thereon,

I beg to subscribe myself,
Your obedient Servant,

The Hon. the Colonial Treasurer.

J. M. DOOLEY, *M.H.A.*

Colonial Secretary's Office, 10th August, 1877.

SIR,

I HAVE the honor to acknowledge the receipt of your letter addressed to the late Colonial Treasurer, reminding him that the time had arrived when the Executive might act on the Petition of the Ratepayers of East Devon and Barrington, praying to have that portion of the Mersey Municipal District proclaimed a Municipality under the provisions of "The Rural Municipalities Act."

Having conferred with the Honorable the Attorney-General, I have the honor to inform you that it appears there are certain difficulties in connection with the constitution of the proposed Municipality, consequent upon the present state of the Law; and, without fresh legislation, the Attorney-General is of opinion that it would be impracticable to give legal effect to the prayer of the Petition.

I have, &c.

J. M. DOOLEY, *Esq., M.H.A., River Forth.*

P. O. FYSH.

Colonial Secretary's Office, Hobart Town, 11th October, 1877.

MEMO.

THE accompanying Petition from certain Ratepayers in the Municipal Districts of Mersey and Russell, praying that the area comprised within the Electoral District of East Devon and Parish of Barrington (forming a portion of the said Municipal Districts) may be proclaimed a Rural Municipality under the Act 29 Vict. No. 8, is forwarded to the Honorable the Attorney-General with the request that he will advise whether, in accordance with the provisions of the said Act, the prayer of the Petition can be entertained.

WM. MOORE.

House of Assembly, 15th November, 1877.

MEMO.

IT is the opinion of the Printing Committee that the enclosed Document should be printed and appear in the *Gazette*. It is therefore returned to your Office for that purpose.

HUGH M. HULL, *Clerk of the House.*

The Assistant Colonial Secretary.

REFERRED to the Honorable the Attorney-General with the request that he will advise whether the Government can take action on this Petition under the provisions of "The Rural Municipalities Act."

The Hon. the Attorney-General.

WM. MOORE.
Nov, 1877.

I AM of opinion that, under the existing Act, 29 Vict. No. 8, the prayer of the Petition cannot be entertained. Section 7 gives power to the Governor in Council, under certain circumstances, to declare any "District," *i.e.*, any one Municipal District as defined by the Act, to be a Municipality; but the area comprised within the Electoral District of East Devon and the Parish of Barrington, which is proposed to be declared a Municipality, is not a Municipal District. The substance of this opinion was communicated to the Honorable the Colonial Secretary some time ago; and the Papers in connection with the matter, which have been retained in this office as a guide to the preparation of new legislation, are now returned.

ALFRED DOBSON.
22 July, 1878.

EAST DEVON AND BARRINGTON.
PETITION FOR MUNICIPAL ACTION.

(In continuation of Paper No. 71.)

[Laid upon the Table by the Colonial Treasurer, 4th September, 1878, and ordered by the House to be printed.]

To His Excellency FREDERICK ALOYSIUS WELD, *Esq.*, *Captain-General and Governor-in-Chief of Tasmania and its Dependencies.*

MAY IT PLEASE YOUR EXCELLENCY.

WE, the undersigned owners and occupiers of property within the Electoral District of East Devon and the Parish of Barrington, adjoining and situate in the Electoral District of West Devon, whose properties or holdings are valued at not less than twenty pounds in the Valuation Roll of 1877 for the Police District of Port Sorell, are impressed with the belief that the time has arrived when the advantages of local self-government may be conferred on the aforesaid district under the Act of Parliament, 29 Victoria, No. 8.

And your Petitioners therefore pray that Your Excellency may be pleased to cause the said Electoral District of East Devon and the Parish of Barrington unitedly to be proclaimed a Rural Municipality under the Act above quoted, and under the title of "Latrobe Rural Municipality."

And your Petitioners, as in duty bound, will ever pray.

[Here follow 174 Signatures.]