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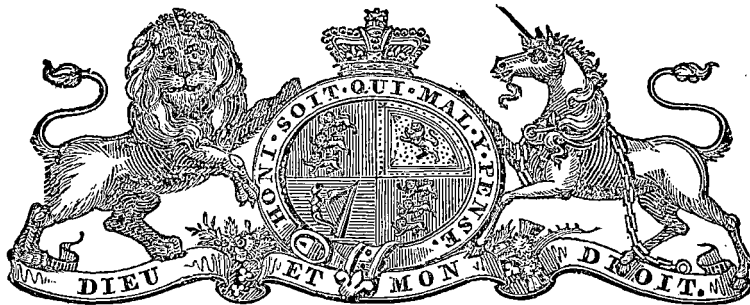
T A S M A N I A.

THE HON. FRANCIS BURGESS, ESQ.

**CORRESPONDENCE RELATING TO THE ABOLITION OF THE
OFFICE OF CHIEF POLICE MAGISTRATE.**

Return to an Order made by the House, 20 October. (*Mr. J. C. Gregson.*)

Laid upon the Table by Mr. Attorney-General, and ordered by the House to be
printed, 20 November, 1857.



Chief Police Magistrate's Office, 6th April, 1857.

SIR,

I FEEL it my duty respectfully to call His Excellency's attention to the Bill, now before the Legislative Council for second reading, having for its object the abolition of the office of Chief Police Magistrate of the Colony, of which I am, and for nearly fourteen years past have been, the holder, under Her Majesty's Royal Warrant; and respectfully, but firmly, to protest against its passing into law, inasmuch as it contains no provision as to compensation for my loss of office.

It is an appointment which has ever been considered as of great importance in this Colony, and, from the peculiar nature of its population, must continue to be so.

The Officer holding it has, until lately, been, by virtue of his office, a Member of the Executive Council, taking his rank as one of the highest Officers under the Government, and head of a Department. On him rests the responsibility, not only of working the Police, but of preserving the general peace of the Colony through its Police and Assistant Police Magistrates. Through him and his Department nearly all the working details of Government are carried out; but these, in reports furnished to Government, having already been so fully gone into, it will be unnecessary for me now to say more upon them.

The proposed measure, if I am correctly informed, was introduced by the late Ministry, upon the ground that the Bench duties in Hobart Town were of a nature to preclude the Chief Police Magistrate from exercising a proper and effective supervision over the Constabulary of the Colony.

I would respectfully submit for His Excellency's consideration, that it is only within a recent period that the Bench duties have been confided to me; and that the inconvenience which has of late resulted to the service from my almost constant detention at head quarters might have been obviated by the appointment of an Assistant Magistrate to officiate in my necessary absence, without prejudice to "the rights, profits, privileges, and advantages" which Her Majesty's Commission conferred upon me.

The appointment I hold was not solicited on my part. It was offered me by Lord Stanley, at the recommendation of Sir Robert Peel and Sir James Graham, then Home Secretary, on the successful termination of my labours as Chief Commissioner of Police at Birmingham, during a very troublesome and stirring period, upon the assumption that the experience which I had there gained, coupled with my legal knowledge, peculiarly qualified me for the office of Chief Police Magistrate of this Territory.

The letters and testimonials which I annex, and to which I would earnestly invite attention, must, I apprehend, be regarded as no unsatisfactory evidences of my success in my former sphere of action; and I think that few who were acquainted with the state of this Colony in 1843, when it was overrun with Bushrangers, and with the organisation and composition of the Constabulary at that time, will venture to assert that the efficiency of the Force has deteriorated under my management.

Despite my advanced age, and the infirmities attendant thereon, I have no doubt whatever as to my ability to execute thoroughly the duties with which I was entrusted on my arrival. Nevertheless, should the Government be of opinion that it is expedient to confide the inspection of the Police to a younger man, it would not, I apprehend, be

difficult so to amend the Bill as to transfer the powers of the Chief Police Magistrate, as to the appointment of Constables, &c., and working of the Police, to an Inspector, leaving to me the execution of purely Magisterial duties, without necessitating the actual abolition of my office.

My long services, I submit, entitle me to some consideration: they should, at any rate, save me from the degradation—for as such I cannot but regard it—with which I am at present threatened.

I have, &c.

FRAS. BURGESS.

The Hon. the Colonial Secretary.

Colonial Secretary's Office, 15th April, 1857.

SIR,

I HAVE submitted to the Governor your letter of the 6th instant, drawing attention to the Bill now before Parliament for abolishing the office of Chief Police Magistrate of the Colony, of which you are the present holder; and soliciting, in consideration of the length of your services, that, if it should be deemed necessary to transfer to another the duties connected with the Constabulary, the purely Magisterial duties may be left to yourself without the actual abolition of the office.

His Excellency desires me to observe, that the Bill in question passed the House of Assembly without opposition, and is now before the Legislative Council;—that it has for its object Police Reform, which, without its passing, cannot be effected;—and that, as you will be no pecuniary loser by its becoming law, there is no good reason, so far as His Excellency sees, for impeding, by any step whatever, its progress through Parliament.

I have, &c.

T. G. GREGSON.

The Hon. F. BURGESS, M.L.C.

Colonial Secretary's Office, 24th June, 1857.

SIR,

THE Governor in Council has approved of a new distribution of the duties of the Stipendiary Magistrates, by which the Police Stations of Clarence Plains and Kingston are to be visited by the Magistrate who officiates at Hobart Town. At your advanced age, it is felt to be unfit to look to you to discharge the arduous duties which this arrangement must impose; and there is no alternative left but one, which it is most painful to His Excellency in Council to approve, to intimate that your services will not be required after the 1st August next.

In conveying this intimation, I am instructed to express the high sense which is entertained by the Governor and Council of your former services, and the satisfaction it would have afforded had they been enabled to continue them, either in the office you at present fill, or in some other, could they have done so consistently with the obligation they are under of effecting every reduction in the general expenditure which can be reconciled with the efficiency of the Public Service.

You will be entitled to compensation for loss of Office on a scale which has been approved by Parliament.

I have, &c.

WM. HENTY.

The Hon. F. BURGESS, Esq.

Chief Police Magistrate's Office, 27th June, 1857.

SIR,

I HAVE to acknowledge the receipt of your letter of the 24th instant, informing me that the Governor in Council had approved of a new distribution of the duties of the Stipendiary Magistrates, by which the Police Stations of Clarence Plains and Kingston

are to be visited by the Magistrate who officiates at Hobart Town, and intimating that, as at my advanced age it was felt to be unfit to look to me to discharge the arduous duties which this arrangement must impose, His Excellency had in Council decided to dispense with my services from the 1st August next.

In reply, I beg to state that, whatever may be my age, I feel myself able and willing to discharge all the duties in question, and for which, from my professional knowledge and practice in the Courts at Home, I am certainly as well qualified, if not more so, than any Officer, be he whom he may, who might be selected for their performance.

I trust, therefore, that His Excellency in Council will be pleased to re-consider the matter, or at least to afford me a fair trial under the proposed arrangement, before adopting a course in regard to myself and my office which I believe to be altogether opposed to the intentions of Parliament, and one which must consign myself and my family to penury.

For if at my "advanced age" I am held to be unfit for further active service under the Government, it is not to be expected that I can commence the struggle of life with any reasonable prospect of success; and yet the amount of pension which it is proposed to confer upon me on my retirement is, as His Excellency and his advisers must well know, inadequate for the respectable maintenance of their most subordinate *employés*. It is assuredly not such a reward as one whose whole life has been devoted to the service of the Crown,—whose labours in this Colony are acknowledged by His Excellency and his advisers,—and who for upwards of fourteen years has filled one of its highest offices, ought to look forward to in his declining years.

I have, &c.

FRAS. BURGESS, *Chief Police Magistrate.*

The Hon. the Colonial Secretary.

Colonial Secretary's Office, 8th July, 1857.

SIR,

IN reply to your letter of the 27th ultimo, I have to acquaint you that the Government regret that circumstances leave them no alternative but to adopt the course pointed out to you in my letter of the 24th ultimo.

I have, &c.

WM. HENTY.

The Hon. F. BURGESS, Esq.

Chief Police Magistrate's Office, 23rd July, 1857.

SIR,

I AM in receipt of your communication of the 8th instant, informing me, in reply to my letter of the 27th June, that the Government regretted that circumstances left them no alternative but to adopt the course pointed out to me in your previous letter of the 24th June.

His Excellency and his advisers, therefore, reject my application to be allowed a fair trial under the proposed new arrangements of the Police Department, and compel my retirement from the Public Service.

I feel it my duty to protest against the course which the Government has adopted in regard to me.

The appointment I hold, as Chief Police Magistrate, under Her Majesty's Sign Manual, was conferred upon me on 11th May, 1843, at the instance of Lord Stanley, then Secretary for the Colonies, in consideration of my previous services as Chief Commissioner of Police at Birmingham. In accepting it I abandoned my professional prospects, sold my property at a sacrifice, and spent a large sum of money in the outfit and passage of my family to the Colony; being influenced solely by the consideration that the employment would be of a permanent character.

I shall not trouble the Government with a detail of my services. Suffice to say, I have for fourteen years succeeded in maintaining the peace of the Colony, and in protecting life and property, always under circumstances of difficulty, and occasionally of peril.

At one time my labours were restricted to the organisation and management of the Police, and to the supervision of the Police Magistrates; but when reductions were called for I voluntarily undertook, without extra remuneration, the Bench duties in Hobart Town in addition to the above; and the Records of your office will prove that I have, on all occasions, shown a disposition to assist the Government to the best of my ability and judgment.

It is an invidious task to invite comparisons; but I cannot avoid remarking on the sorry recognition which my services have met with, as contrasted with that which other Officers of the Government have received at the termination of *their* services.

As one of the oldest Members of the Executive Council under the old *regime*, I have surely as great a claim to be placed upon an equal footing in regard to Pension or gratuity as either the Colonial Treasurer or the Attorney-General, whose labours, responsibilities, and services (with all respect I say it) cannot be compared with my own.

Sir John Pakington first, and Lord John Russell subsequently, in their Despatches to Sir C. Fitzroy of the 15th December, 1852, and 4th May, 1855, distinctly recognised the *right* of the *principal Officers of the Government* to compensation in the event of their being deprived of their appointments through the operation of Responsible Government; and the circumstances of my own case are clearly within this description.

Nevertheless, in dispensing with my services as Chief Police Magistrate, on the ground that my advanced years unfit me for further active employment, the Government has thought proper to place me in an infinitely worse position than many recently reduced Officers of an inferior grade: to apportion me a Pension which they know to be utterly inadequate for my support in this Colony, and yet to leave me without the means of returning to England; and at so short a notice, too, as absolutely to prohibit my making any arrangements for the future maintenance of my family.

The only course left open to me is to memorialise both Houses of the Legislature; to appeal to their sense of justice to relieve me from the painful embarrassment in which the Executive have placed me: and, pending such appeal, I hope the Government will not think me unreasonable in asking that, whatever arrangements they may make for the future discharge of my duties, they will not deprive me of my office or of its emoluments until the sense of Parliament shall have been taken on the question. I make this request with the greater confidence, seeing that Parliament has already refused to abolish the office of Chief Police Magistrate.

I have, &c.

F. BURGESS.

P.S. Since writing the foregoing, my attention has been re-directed to your predecessor's letter of the 15th April, in which it is distinctly notified that I am not to be a pecuniary loser by the passing of the Bill "to transfer the Duties of Chief Police Magistrate to other Officers," then before Parliament.

F. B.

The Hon. W. HENTY, Esq. Colonial Secretary.

Colonial Secretary's Office, 28th July, 1857.

SIR,

IN reply to your second communication, dated the 23rd July, requesting that the arrangements for supplying the Police Magistrate's duties of Hobart Town may be suspended on your account until the Meeting of Parliament, I have the honour to acquaint you that the Government cannot consent to postpone or forego the arrangements which were announced to you in my letter of the 24th June. They were the subject of careful consideration, and felt to be imperatively necessary by the circumstances of the

Colony, and the obligations laid upon the Ministry by the Parliament. In all similar arrangements, individuals have been compelled to give way; and though the loss to them is felt by the Government with much regret, the necessity leaves them no alternative.

I have, &c.

WM. HENTY.

The Hon. F. BURGESS, Esq., M.L.C.

Hobart Town, 17th August, 1857.

SIR,

NOTWITHSTANDING the nature of the reply which I had the honour to receive from you of the 28th July last, I feel it to be a duty I owe to the Government to bring again prominently under notice that I received an appointment by Letters Patent, based upon Her Majesty's Royal Warrant;—that I have discharged the duties so bestowed upon me, and still am ready and able to discharge them, as well as the additional ones you have allotted to the Police Magistrate of Hobart Town; and I must again protest against the Government rendering the Letters Patent so issued to me nugatory, by removing me from office altogether, and appointing a junior officer to discharge those duties whilst I am here to perform them.

I have, &c.

F. BURGESS.

The Hon. the Colonial Secretary.

New Town, 1st October, 1857.

SIR,

I BEG to call your attention to the letter which I had the honour to address to you on the 17th August last, on the subject of my removal from office, to which I am, as yet, without any acknowledgment.

I have, &c.

F. BURGESS.

The Hon. the Colonial Secretary.

Colonial Secretary's Office, 3rd October, 1857.

SIR,

IN reply to your letter of the 1st instant, calling my attention to your communication of the 17th August, to which you have received no answer, I have to inform you that its purport being the same as your two previous letters which were replied to, and a Pension paper having been forwarded to you and returned, no answer was deemed to be necessary, as the Government adhered to the decision which had been communicated to you.

I have, &c.

WM. HENTY.

The Hon. F. BURGESS, Esq., M.L.C.