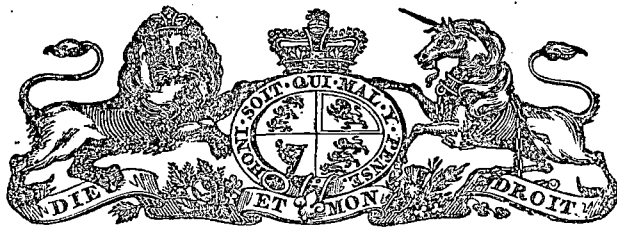


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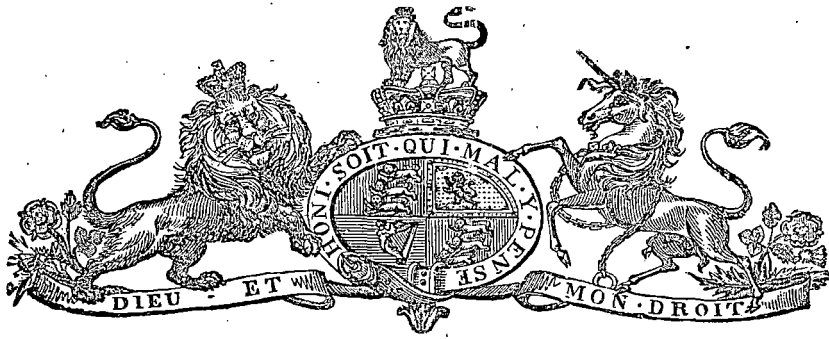
T A S M A N I A .

LEGISLATIVE COUNCIL.

T R A N S P O R T A T I O N .

MINUTES OF CONFERENCE.

Laid upon the Table by Mr. Whyte; and ordered by the Council to be printed,
July 18, 1865.



MINUTES OF CONFERENCE ON THE QUESTION OF TRANSPORTATION.

THE Members of the Conference appointed by the Governments of South Australia, Tasmania, and Victoria to be held at Melbourne, to consider the subject of Transportation of Convicts from the United Kingdom to Australia, assemble on Monday, the 19th day of December, 1864, in the Executive Council Chamber, Melbourne. Mr. Ayers (the Chief Secretary) and Mr. Blyth (the Commissioner of Crown Lands and Immigration) represent the Government of South Australia, Mr. Whyte (the Colonial Secretary) and Mr. Meredith (the Treasurer) represent the Government of Tasmania, Mr. M'Culloch (the Chief Secretary) and Mr. Higinbotham (the Attorney-General) represent the Government of Victoria. Mr. M'Culloch is appointed chairman of the Conference.

The following Resolutions are agreed to by a majority of the Conference :—

1. That, in the event of the Imperial Government consenting to put an end at an early period to Transportation to Western Australia, and every other part of the Australasian Colonies, a measure, similar to Act 27. Vict. No. 24, recently passed by the South Australian Legislature (omitting those parts that relate to the conveyance of prisoners to the Colony or Possession to which they were transported, or in which they were convicted), should be submitted by the Governments of Victoria and Tasmania to the Legislatures of their respective Colonies.
2. That the Governments of New South Wales, Queensland, and New Zealand be invited to propose a similar measure to the Legislatures of those Colonies respectively.

The representatives of the Government of Tasmania present the following Memorandum to the Conference :—

We cannot assent to Resolution No. 1, inasmuch as it would bind us to introduce to the Tasmanian Parliament, even "in the event of the British Government consenting to put an end at an early period to Transportation to Western Australia and to every other part of the Australasian Colonies," a measure of an unusual character in a British Colony; a measure which can only be justified by the actual existence and immediate presence of the evils resulting from the emigration of expirées from Western Australia.

If Her Majesty is graciously pleased to listen to the remonstrances of Her Subjects, and direct the immediate abolition of Transportation to Western Australia, and to every other portion of the Australian Continent, we do not feel that we would be justified in resorting, in Tasmania, to such legislation on the subject as has been considered necessary in Victoria and South Australia. But, in the event of the Imperial Government remaining deaf to our just complaints and earnest remonstrance, we shall then be prepared to advise the introduction of a measure to the Tasmanian Parliament similar in character to that referred to in the Resolution.

The following Resolutions are agreed to by all the Members of the Conference :—

3. That such a measure will, in the opinion of the Conference, sufficiently provide for the security and protection of the Eastern Colonies of Australia against the introduction of convicted persons heretofore transported from the United Kingdom to Australia.
4. That, in the event of the Imperial Government refusing to put an end to Transportation to Western Australia, it will be expedient and necessary, in addition to the above-mentioned measure, to terminate immediately the present mail contract with the Peninsular and Oriental Steam Packet Company, unless the Company agree to prevent their mail steamers touching at any port of Western Australia.

The Members of the Conference proceed to consider the question of the means at present existing for the removal from one of the Australian Colonies to another of persons charged with having committed offences. It is agreed that the contiguity of the Australian Colonies to each other facilitates the escape of offenders; and that justice is liable to be defeated, owing to the

insufficient power of the several Australian Legislatures to enact laws providing for such cases. It is further agreed that this subject shall be brought under the notice of the Imperial Government by the Governments of the Colonies represented at the Conference; and that an earnest request be made to obtain the enactment, by the Imperial Parliament, of a law extending to misdemeanors and offences summarily punishable the provisions of the Acts 6 & 7 Vict. c. 34, and 16 & 17 Vict. c. 118.

DECEMBER 21ST, 1864.

All the Members of the Conference assemble in the Executive Council Chamber.

The following Resolutions are unanimously agreed to:—

1. That the practice which has heretofore prevailed in some of the Australian Colonies of granting a pardon, conditioned on the offender leaving the Colony in which he has undergone a part of his sentence, operates injuriously to the interests of the neighbouring Colonies, and ought not to be continued by any of the Australian Governments.

2. That the following Petition to Her Majesty be adopted by the Conference, and that the Governors of the several Colonies represented at the Conference be requested to transmit the same to Her Majesty's Principal Secretary of State for the Colonies:—

To the QUEEN's Most Excellent Majesty.

MAY IT PLEASE YOUR MAJESTY.

We, the undersigned, Your Majesty's loyal and faithful Subjects Members of Your Majesty's Executive Councils for the Colonies of Victoria, Tasmania, and South Australia, appointed Representatives by the Governments of the above-mentioned Colonies respectively to consider the question of the continuance of Transportation from Great Britain to Australia, assembled in Conference at Melbourne, humbly beg leave to assure Your Majesty of our devotion and attachment to Your Majesty's Throne and Person.

We are gratefully conscious of the interest which Your Majesty has always evinced in the moral welfare, the social happiness, political progress, and material prosperity of Your Majesty's Subjects of all classes of society throughout Your Majesty's wide-spread dominions.

Impressed with this consciousness, we now approach the Throne in the attitude of respectful remonstrance; and in the name and on the behalf of Your Majesty's subjects in the Colonies aforesaid, we humbly pray Your Majesty to redress a serious grievance now inflicted upon them. We pray Your Majesty immediately to terminate the practice of transporting criminals convicted of offences in Great Britain to any portion of Your Majesty's Australian possessions.

In Your Majesty's Speech delivered from the Throne at the opening of the Session of Parliament of 1852, Your Majesty was pleased to observe, that "You should rejoice if Parliament should find it possible to devise means by which, without giving encouragement to crime, Transportation to Van Diemen's Land might at no distant period be discontinued;" and, in accordance with this gracious intimation of Your Majesty's wishes, Transportation to Van Diemen's Land was almost immediately thereafter discontinued by Your Majesty's Ministers with the assent and approval of Parliament.

In a Despatch addressed to the Lieutenant-Governor of Van Diemen's Land in December, 1852, Your Majesty's principal Secretary of State for the Colonies states the considerations which have weighed with Her Majesty's Government on this subject; and we humbly take leave to assure Your Majesty that the same considerations apply now, after the lapse of twelve years, with equal force, to the circumstances of the Australian Colonies, as they are affected by the continuance of Transportation to Western Australia.

The Secretary of State, Sir John Pakington, in the same Despatch, observes that, in 1852, "No subject appeared to me to require more anxious deliberation, both on account of the gravity of the moral considerations involved, and of the general importance to this country and to the Colonies, than the great question of Transportation."

The same question still assumes proportions of corresponding importance and magnitude in its bearings upon the interests and relations of Great Britain and the Colonies; and the lapse of time cannot diminish "the gravity of the moral considerations which it involves," when the change from Van Diemen's Land to Western Australia is the only circumstance which distinguishes the present question from that of 1852.

At that period, Sir John Pakington admitted that he had "found that, for some years, there

had, undeniably, been proofs of a growing public feeling against the continued introduction of convicts, and that this feeling was not manifested in Van Diemen's Land alone, but in all the adjacent Colonies. Large Public Meetings petitioned against it, both in Van Diemen's Land and on the mainland of Australia; associations were formed for the exclusive purpose of opposing the practice; and finally, the Legislatures of Van Diemen's Land, of New South Wales, and of Victoria all have remonstrated against the continuance of Transportation." In the same Despatch Sir John Pakington declares—"We find that there is a general expression of a strong repugnance in Van Diemen's Land and in all the adjacent Colonies to the further reception of convicts in either of them."

Sir John Pakington further states—"Whatever may be the private opinion of individuals who have not come forward on this question, numerous public meetings, and all the Legislative authorities in these Colonies have declared themselves strongly against Transportation."

And then the Secretary of State intimates to the Lieutenant-Governor of Van Diemen's Land that, under the circumstances, "Her Majesty's Government have felt it their duty to take such steps as may enable Her Majesty, with the assent of Parliament, to comply with a wish so generally and so forcibly expressed by Her Majesty's Subjects in those Colonies."

The Secretary of State concludes his Despatch with an assurance "that Her Majesty's Government are sincerely convinced of the good policy of the proposed measures," and expresses a hope that the Colonists "may recognise in it the desire of the Government of this country to consult their wishes, and to strengthen their loyalty to the Crown and attachment to the British Empire."

Such were the views entertained by Your Majesty's Government on "the great question of Transportation" in 1852. And we venture to express the earnest hope that the same liberal and enlightened anxiety "to comply with a wish so generally and so forcibly expressed," as that of Your Majesty's Subjects in these Colonies for the discontinuance of Transportation to Western Australia, may now be found to animate Your Majesty's counsels; and that in Your Majesty's gracious decision on the present occasion, the Colonists of Australia may be enabled to "recognise the desire of the Government of Great Britain to consult their wishes, and to strengthen their loyalty to the Crown and their attachment to the British Empire."

We would respectfully represent to Your Majesty that all the inducements and considerations which weighed with Your Majesty's Government in 1852, for the discontinuance of Transportation to Van Diemen's Land, now plead for a discontinuance of Transportation to Western Australia.

We may be permitted to remind Your Majesty that, in 1863, Delegates appointed by the respective Governments of New South Wales, Victoria, South Australia, and Tasmania, to consider matters of common interest in Conference assembled," adopted a respectful Address to Your Majesty, "entreating Your Majesty would be pleased to direct that, as early as possible, the Transportation of Convicts from the United Kingdom to Western Australia should cease, as daily experience proved that the existence of a penal settlement there inflicts much injury upon these Colonies;" and further "beseeching Your Majesty to prevent the infliction of so deadly a blow to the welfare and happiness of these Colonies, and to their moral and social progress," as the "revival of Transportation to any part of Your Majesty's Australian Possessions."

This Address was transmitted to Your Majesty's Principal Secretary of State for the Colonies, for presentation to Your Majesty, by the Governors of New South Wales, Victoria, South Australia, and Tasmania.

The Legislatures of the Australian Colonies have also adopted Resolutions or Petitions condemnatory of the policy of continuing Transportation to any portion of the Australian Continent.

Your Majesty needs not to be informed, that these Legislatures, as elective and representative bodies, speak the sense of the several communities more directly and with fuller authority than the Legislative Councils which "declared themselves against Transportation" in 1852.

In Victoria, in the present instance, "large public meetings have petitioned against it," as in 1852; and now, as then, "associations have been formed for the exclusive purpose of opposing the practice."

In South Australia the Legislature has recently passed a law imposing a heavy penalty upon the masters of ships introducing transported offenders into that province from Western Australia, and subjecting such offenders themselves to severe punishment if found on South Australian territory within three years of the date of the expiration of their original sentence. A law containing similar provisions has been constantly in force in Victoria since 1854.

In Western Australia at the present time, as in Van Diemen's Land in 1852, "various individuals have protested against the moral injury which they conceived the society in that Colony to

suffer from the introduction of Convicts." The Legislature of that Colony has not yet remonstrated against Transportation; but we feel justified in assuring Your Majesty that, even in the community supposed to be immediately benefitted by the present system, there are "proofs of a growing public feeling against the introduction of Convicts."

These facts suffice to assure Your Majesty that the feelings of the Colonists have undergone no change on the subject of Transportation; and should satisfy Your Majesty's Government that it is as much now as in 1852 "their duty" and "good policy" to "comply with a wish so generally and so forcibly expressed" by Your Majesty's subjects in these Colonies.

In addition to these considerations, we desire to convey to Your Majesty the assurance that the terms on which the discontinuance of Transportation to Van Diemen's Land was announced in their places in Parliament by Your Majesty's Ministers conveyed a distinct intimation to Your Majesty's Subjects that Transportation would be thenceforward discontinued, not only to Van Diemen's Land but to Western Australia.

In the House of Lords, in 1853, the Duke of Newcastle, then Your Majesty's Principal Secretary of State for the Colonies, said, "Looking to the circumstance that Western Australia now remained the only Colony to which, with safety to the interests of the Colonists, Transportation could be continued, that he could not, on the part of the Government, hold out any expectation but that Transportation would also, before long, be brought to a final conclusion. However, Convicts would, in all probability, be sent to that Colony for a very short time, and to a limited extent."

We humbly beg leave to represent to Your Majesty, that the unequivocal and spontaneous declarations of the determination of Your Majesty's Government, twelve years ago, to put a period to Transportation have led Your Majesty's Subjects in Australia to believe that no proposal for the re-establishment of Transportation to any Australian Colony, or to any new Settlement on the Continent, would ever be entertained by the British Government.

And we are constrained to represent to Your Majesty, that the present system of transporting annually from the United Kingdom to Western Australia some seven hundred convicted criminals of the worst class is universally regarded throughout all the other Australian Colonies as a breach of faith with Your Majesty's loyal Subjects the Colonists of Eastern and Northern Australia.

We crave leave also to represent to Your Majesty the moral and political bearings of "the great question of Transportation" upon Your Majesty's Subjects in Australia, and upon the relations between the British Government and the Australian Colonies.

We would remind Your Majesty that the Colonies of New South Wales and Tasmania, at no inconsiderable pecuniary sacrifice, demanded the cessation of Transportation to their shores. The Colonies of South Australia, Victoria, and Queensland have never received Convicts transported from the United Kingdom; and all these Colonies now enjoy, by Your Majesty's grace and the wisdom of the Imperial Parliament, free institutions and self-government on the most liberal constitutional basis.

Your Majesty's Subjects in these Colonies cannot regard the continuance of Transportation of British Convicts to any portion of Australia in any other light than that of a reflection on their moral character and political status, totally incompatible with the apparent admission of their capacity for free institutions and self-government implied in the concession of their present constitutional polity.

The fact that British convicted criminals are sent under the sanction of the Imperial Government to any one of the Australian Colonies stamps the stigma of a "Penal Settlement" and a "Convict Colony" upon every member of the group. We beg to assure Your Majesty that this is the general opinion of Your Majesty's Subjects enjoying constitutional government in Australia.

Your Majesty's loyal Subjects the Colonists of Australia are unwilling to believe that it can be the wish of Your Majesty's Advisers to subject the Colonists to this gratuitous and undeserved humiliation in their own estimation and in the eyes of the civilized world.

There are other serious objections to the reception in Australia of British Convicts. Their presence in these Colonies imposes a heavy annual expenditure upon the people of Australia for the prevention and repression of crime. A large proportion of the persons convicted in these Colonies of serious offences are found to have been originally transported to New South Wales, Van Diemen's Land, or Western Australia. In this way the cost of the maintenance of a larger Police Force than would otherwise be requisite, the expense of apprehending, convicting, and supporting in penal servitude criminals forced into the Colonies by the action of the British Government, is imposed upon Your Majesty's Subjects with the sanction of a Legislature in which they are not represented and have no deliberative voice. Thus a fundamental principle of the Constitution is practically violated, which declares that there shall be no taxation without representation.

The Colonies of Australia desire no compulsory addition to their numbers: and they are quite sufficiently burdened with the expense of the police, judicial, and charitable establishments necessitated by a condition of civilization as artificial and exacting as that of Great Britain, without being required, against their will, to coerce and maintain British criminals.

We appeal with confidence to Your Majesty's sense of justice and love for your people to remedy the wrongs under which we suffer. We feel convinced that Your Majesty cannot view with indifference the patience and loyalty of your Australian subjects under such a long and serious infliction of contumely and injustice. And we entertain a confident assurance that Your Majesty will not permit an unredressed grievance in any part of Your Majesty's Dominions to interpose the shadow of suspicion and distrust between any portion of Your Majesty's Subjects and Your Majesty's Government.

We, therefore, humbly pray that Your Majesty will be graciously pleased to direct such measures to be taken as may be necessary to effect the immediate and total discontinuance of Transportation to Australia.

DECEMBER 22ND, 1864.

All the Members of the Conference assemble in the Executive Council Chamber.

The following Resolution is unanimously agreed to:—

That the Proceedings of the Conference shall not be made public until after the arrival from England of the November Mail.

JAMES M'CULLOCH, *Chairman*.