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31 May 1849

Gentlemen,

In my address to you at our last meeting I spoke of the condition and prospects of the Colony as favorable, and as calling upon us for a peculiar expression of thankfulness to God for the many blessings which He had bestowed upon us; and although we have since then

been

been subjected to difficulties and distress occasioned not so much by faults or inadvertencies of our own as by Political and Commercial changes which have taken place in Europe, and which have reacted most injuriously upon the Inhabitants of these Colonies, yet as the period of distress has now to all appearance passed away

away, I do not feel in any way called upon to lessen or modify the opinion I then expressed. —

When we last met, I stated that the wishes of the Colonists on the subject of a Representative Assembly would soon be gratified. — I now lay on the Table a Despatch from the Secretary of State to me, enclosing a Copy of one addressed

No 124. 3 August 1848

to

to His Excellency Sir
Charles Fitzroy on the
subject of the changes
in the constitution
of this and the
other Australian
Colonies. — This
Despatch has been
already made known
to the Public, as I
conceived it to
contain matter of
such prominent
interest as to render
such publication
desirable. — It is
not my intention

to

to allude at present
to any of the particulars
of the scheme, as
detailed in this
despatch. — I expect
to receive the Act of
Parliament authorising
the change from a
nominated to an
Elective Council before
the end of the year;
and I shall then be
obliged to call you
together to discuss the
arrangements for
which Legislative
provision will probably

be

be required in order to carry out the intentions of Parliament. — This being the case, I have considered myself justified in postponing several matters of great importance to the Colony until I might be able to ascertain upon such subjects the opinion of the Community as expressed by their duly elected Representatives.

The business

brought

brought before you in the present Session will, therefore, be limited to one or two matters of local interest as to which it is desirable that Legislation should take place without delay. —

A statement of the Receipts and Expenditure of 1848 will be laid before you in a few days.

There has been a slight excess, upon a few items, over the

amount

amount estimated for the service of the year; but upon the whole the Expenditure has fallen short of the Estimate. — There has been a falling off in the Revenue as estimated, to the extent of £4615, —: the defalcation however has not taken place in those Items which may be said to afford by their variations a fair indication of the

the distress or prosperity of the people, but in some of the minor branches of the Revenue, from the fluctuations of which no such inference can be deduced. —

It is true that the amount received from the Customs' duties in 1848 has fallen far short of that which was received in 1847; but it would hardly be fair to

institute

institute a comparison between two years, one of which was marked by a peculiar extension, and the other by an equally remarkable contraction of Commercial transactions.

The Returns of the Customs' Revenue for the last Quarter shew an increase of £1105 as compared with the amount received in the corresponding Quarter of last year; and when it is considered that the changes in Europe had not begun to produce their effect upon the business of the Colony until after that date, the fact will not be considered as unimportant when taken in connection with other circumstances indicative of a change for the better in the aspect of Commercial affairs. —

The Estimates will be laid before you in

in a few days. — The
first will be a
Supplementary Estimate
for the service of the
present year for
certain expences which
were either omitted
in the original
Estimate or the
necessity for which
has occurred since
the last meeting of
Council. —

The second will
include the Estimates
for the ensuing year
which, in accordance

with

with instructions
from Home, have been
drawn up in a form
differing from that
in which they have
usually been brought
before the Council. —

Kate

As a full
explanation will be
given of all the items
of these Estimates
when they are laid
before the Council,
it is needless for me
to enter into any
detailed explanation
at present. ——

I

I have not, as yet, received any definite statement of the intentions of Her Majesty's Government as regards the appropriation of the Land Fund; but the allusions to this subject in various Despatches have been sufficiently precise to justify me in appropriating, as formerly, half of the net balance of the Fund to the Civil

Service

service of the Colony, leaving the remaining half available for Immigration, or for such other purpose as Her Majesty may be pleased to sanction.

A statement of the amount to be thus appropriated (which will include the accumulated Revenue since the 1st April 1856) will be laid before the Council as a part of the Revenue for the present year;

and

and a similar
statement will be
made of the
estimated Revenue
from this source
for the year 1850.—

It will be in
the recollection of
the Council that the
Estimates for 1848
were objected to by
a majority of
the Members then
present.— I was
consequently obliged,
in compliance with
the printed instructions

issued

issued for my
guidance in such
matters to forward
for the consideration
of Her Majesty's
Government a Copy
of the Estimates
submitted by the
dissentient Members
as well as of that
laid by me before
the Council.— I have
lately received some
instructions upon
the subject from the
Secretary of State, a
Copy of which will

be

be laid on the Table.—

On reference to the circumstances of former years, when an unavoidable delay of this kind took place, I found that in 1833 and in 1846 the appropriation Acts were not passed until the largest portion of the Expenditure had taken place, in accordance therefore with precedent I propose to lay before the Council an

appropriation

appropriation Act for the surplus expenditure of 1847, and for the whole of that of 1848, with the exception of so much of the outlay as was provided for in the Supplementary Estimate voted during the last Session of the Council, and which was included in the Act appropriating the Revenue of the present year.—

In my Finance Minute of last year, I mentioned that I had written to the Secretary

of

of State upon the subject of the heavy outlay for the support of Paupers and Invalids, and that I was in hopes of being able to induce the Government to adopt a plan by which a large portion of the expense under the Head of Pauperism would be transferred from the Colonial to the Convict Estimates. — I regret to say that my anticipations have proved incorrect. —

I now lay before the Council a Copy of my Despatch

No 74. 17 March 1848

No 200. 23 Dec 46

Despatch, together with one which I have lately received in answer. — On reference to this last, it will be seen that Her Majesty's Government is of opinion that the cost of the maintenance of such Convicts as were at the time of the expiration of their sentence suffering under disease or infirmity should be defrayed from Convict funds, but that those who had become chargeable to the Public owing to disease or accident to which they have become subject

posterior

posterior to their
liberation must be
supported by the Colony.

I lay on the Table a
Despatch which I have
received from the
Secretary of State, detailing
the steps which have
been taken for the
purpose of
establishing Steam
Communication between
England and New
South Wales by way
of Singapore, - I have
requested His
Excellency Sir Charles

Fitzroy

No 188. 30 Jan 1846

Fitzroy to inform me
whenever a properly
authorised Agent of
the Steam Company
is nominated at
Sydney, in order
that I may be
enabled to take the
necessary steps for
the purpose of
arranging if possible
the means of
continuing the line
of Steam Communication
to this Colony; and
I have caused a
sum of £2,000 to

be

be placed upon the Estimates for 1850 in order to cover the amount of any payments which we might be called upon to make in furtherance of such an object. — It will be for the Council to decide, when this particular Item is brought forward, as to the amount which it would be desirable for this Colony to contribute

towards

towards the object in question, - the sum of £2,000 being arbitrarily assumed as the amount which may possibly be required. —

Atkins

No 182. 25 Nov 1848

I lay upon the Table a Dispatch which I have received conveying to me the expression of the opinion of the Secretary of State upon certain clauses of the Road Bill, which was laid before the

Council

Council at the early session of 1848. — Lord Grey has sanctioned the principle proposed by me in the Bill in question, namely, that the Government should be considered in the light of the Landlord of all the property from which it derives a beneficial interest, and should be subject to be rated accordingly. — I have acted in accordance

accordance with the suggestions contained in this Despatch as regards certain Road Bills which will be laid before you in the present Session. —

No 183. 25 Nov 1848.

I also lay on the Table a Despatch, with reference to the establishment of Municipal Corporations in Hobart Town and Launceston. — With regard to this, however, I have preferred postponing

the

the question until it can be discussed in an Electric Assembly, where the Members of the Towns in question will be able to enter into all the details with an especial reference to the opinions of their constituents. —

I have called the Council together at rather a later period than I could have wished;

but

but, as all the matters which have to be brought forward by Government are in readiness to be submitted to discussion, I trust no inconvenience will be incurred by the delay. —

2

Extract from a Despatch
dated 30th of January 1849.

" You will however distinctly
" warn the Members of the
" Legislature Council, that as the
" Expenditure of the Colonial
" Government is incurred exclusively
" for Objects of Interest to the Colony,
" so if the Means of meeting it
" are refused, they must not
" expect that any of the Services
" thus left unprovided for, will
" be defrayed from the Imperial
" Revenue. You will inform
" them that no addition can
" be made in any shape to
" the very liberal Contributions
already

"already granted by the Mother
"Country towards the Expences
"of the Colony.—
"I think it the more necessary
"to press this point on your
"Consideration; and that of your
"Council; because I find from the
"terms of the amendment voted
"by the Majority; and from the
"arguments which are reported
"to have been used in the
"discussion which took place,
"that the Estimates were rejected
"much less on account of any
"objection to their amount, than
"because they were regarded as
"throwing charges upon the
"Colonial Revenue which ought

"in justice to "be borne by this Country"
"The same object is evident throughout
"the Counter Estimates proposed
"by these Gentlemen(:); they propose
"that half the Establishment
"of the Lieut. Governor, should
"be thrown on the Convict
"Department,—they claim from
"the Treasury two thirds of the
"Expense of the Gaol Establishment,
"the Judicial Establishment, and
"the Public works of the Colony,
"the Police, and the support of
"the poor. It is impossible, therefore,
"for me to avoid inferring, from
"the whole tenor of the proceedings,
"that the main object of their

Authors

"was to upset these wholly
"inadmissible demands against
"the Government and ~~the~~
"Public of the Mother Country."

Copy

No 3

No 182

Downing Street
25 November 1848

Sir

I have had under my consideration your Despatch No 97, of the 12th May last, enclosing the draft of a Bill which had been introduced in the purpose of providing for the construction and maintenance of the Cross Roads of Van Diemens' Land, but which had been rejected by the Council, and you ask for Instructions on some of the points raised in it, in the event of a similar enactment being brought forward on a future occasion. —

The

Lieut. Governor
Sir William Denison

The distinguishing feature of this Bill is the power with which it invests certain Commissioners to make and repair the Roads in question by means of a tax to be levied on the adjacent lands; and in the principle which is thereby involved, namely, that of leaving the cost and management of all except the great lines of communication in the Colony to be thrown upon the district, instead of allowing both one and the other to fall upon the general Colonial Revenue. — I cannot hesitate to express my entire concurrence. —

The Clauses which you propose to insert relative to the assessment of the Crown Lands

lands appear to be free from objection, and I am of opinion that, if any such local authority is established as that to which you refer for this purpose, a moiety of the net produce of the Land Sales within the District should be placed at their disposal for the same object, while the remaining half should be reserved for Immigration. —

I consider that the policy of maintaining the system of selling Land entirely depends upon the purchaser obtaining equivalent advantages in return for the price of the Land bought, and there are certainly no advantages so important in a new Country as good Roads.

Such

Such are my views in regard to the general spirit and tendency of the Bill you have brought under my notice, but whether its re-introduction to this Legislative Council at some future period would or would not be expedient, or whether it would be better to accede to the applications which you inform me you have received, and may probably receive, from time to time for Local Acts, enabling the different Districts to carry into effect the main provisions of the Bill now before me, and thus allowing the system which is

is sought to establish to grow up under more popular auspices, are questions of which the solution so greatly depends upon the state of Public opinion at the time in N. Zealand, that it is impossible for me with any degree of confidence to form a sound judgment in the matter. -

Under all the circumstances, however, I am inclined to give a preference to the last-mentioned course of proceeding.

I have the honor to be
Sir,
Your most obedient Humble Servt
Signed Grey

No 4

See W. T. Smith

Duplicate
No 188.

Downing Street.
30th November 1848.

Sir,

With reference to former correspondence on the subject, I transmit to you, herewith, for your information the enclosed Copy of a Despatch which I have addressed to the Governor of New South Wales notifying

Lieut: Governor
Sir W. T. Denison.
&c. &c. &c.
Van Diemen's Land

Rec.
The Secretary of State
on the
Regs. Dec 28th 1848
Ans.
31st July 1849
Int.

notifying that an arrangement
was about to be concluded by
Her Majesty's Government with
the India and Australia Steam
Packet Company, provided it
should be made to appear that
the Company were able to
perform such a Contract, for
the conveyance of the Mails
between Singapore and Sydney.

A proposal for
the Establishment of Commun=
=nication with Australia via
the Cape by means of sailing
Vessels with Screw Propellers
is

is still under the consideration
of Her Majesty's Government.

I have the honor to be
Sir,
Your most Obedient
Humble Servant

Copy

Downing Street
30 November 1848

No. 211.

Sir

With reference to previous Correspondence on the same subject, I transmit to you herewith for your information and guidance the enclosed Copy of a Letter from the Assistant Secretary to the Board of Treasury, intimating that, adverting to the advantages which may be anticipated from the acceleration of the communication with the Australian Colonies by the establishment of Steam Conveyance, and looking to the aid which may be expected from the Colonies towards the expense of the undertaking, the Lords Commissioners are of opinion that they will be justified in accepting a Tender made by the India and Australia Steam Packet Company for the Conveyance of the Mails between Singapore and Sydney in three Vessels of Two hundred horse power for Twenty six thousand pounds

Governor
Sir Charles A. FitzRoy
&c &c &c

Sir
The Secretary of State
with enclosure
Notifying
The arrangements for
Steam Communication
Ans 31st Jany 1849

per annum for a period of not less than Six years, and that they have intimated to the Board of Admiralty their approval of such Contract being concluded provided that Board are satisfied of the ability of the Company to perform the service

You will further perceive that it has been intimated to the Board of Admiralty that as the Colony of New South Wales has already agreed to a Grant of Six thousand pounds per annum for three years in aid of that service it will not be necessary to make provision in the Navy Estimates for more than Twenty thousand pounds on account of the Contract You will therefore take the necessary measures for the payment from time to time into the Commissariat Chest of such sums as will accrue from the Grant in question in order that they may be applied towards the expense of the Contract

I have further to acquaint you that a proposal for establishing Steam Communication with Australia via the Cape is still under the consideration of Her Majesty's Government

I have &c

(Signed) Grey

Copy

Treasury Chambers,
17th November 1848.

Sir;

With reference to previous correspondence on the subject of the conveyance of the Mails between Singapore and Sydney, I have it in command to request that you will state to Earl Grey that the Lords Commissioners of Her Majesty's Treasury adverting to the great and rapidly increasing importance of the Australian Colonies and to the advantage both in a commercial and social point of view of facilitating the communication between them and the Mother Country are of opinion that the question of the conveyance of the Mails should not be determined solely with reference to the return which may at present be derived from the Postage; but that the ulterior advantages which may accrue from the acceleration of the communication should be taken into consideration, and adverting also to the aid which may be expected from the Colonies towards the expense of the undertaking, They are of opinion

Herman Merivale Esq
&c &c &c

that they will be justified in accepting a tender made by the India and Australia Steam Packet Company for the conveyance of the mails between Singapore and Sydney in three vessels of two hundred horse power for twenty six thousand pounds per annum for a period of not less than seven years And my Lords have caused their approval of such Contract being entered into to be signified to the Board of Admiralty provided they are satisfied of the ability of the Company to perform the service

My Lords have also directed the Board of Admiralty to be informed that as the Colony of new South Wales has already agreed to a Grant of six thousand pounds for three years in aid of this service it will be unnecessary to make provision in the Navy estimates for more than twenty thousand pounds on account of the Contract And with reference to your letter of the 24th July last stating that the Legislative Council of New South Wales had decided upon such grant I am to request that you will move Lord Grey to cause instructions to be conveyed to the Governor of that Colony for the payment into the Commissariat Chest of such sums as will accrue from the grant in question in order that my Lords may apply the same towards the expense of the Contract.

I am also to request that you will observe to Lord Grey that the question of obtaining contributions towards this expense from other Colonies which may derive benefits from the arrangements as well as of the extension of the grant from New South Wales to the latter period of the Contract will be a subject for future consideration.

I am
Sir
Your obedient Servant
C. E. Trevelyan

(signed)

Copy No 5

Van Diemen's Land,
Government House,
17th March 1848

(No 74)

My Lord,

I was instructed by Your Lordship in a Despatch No 22, dated 26th October 1846, to direct my particular attention to the subject of the support of Paupers in this Colony as soon as circumstances might enable me so to do.—

The subject has been before me for some time and I have procured the Returns which I forward herewith, which will throw much light upon the different questions which will require

The Right Honble
Earl Grey

require to be considered. —

Your Lordship will see in the statement of the Expenditure of the Colony for the year 1847 a charge for the support of Paupers or Invalids amounting to £ 3486. 2. 8. — The Estimate for the same service for the present year is £ 4040, and there appears to be every probability of a steady increase for some years to come in the charge for this service. —

The persons who thus become chargeable to the Colony may be classed as follows: —

1st Free men, that is, persons who came free to the Colony.

2d Those free by servitude, or by holding Conditional Pardons. —

3d Orphans or Children whose Parents have deserted them who are taken into the Orphan School. —

As regards the first Class mentioned above, it requires but little notice, — the persons comprised under it are few in number, and consist principally of Lunatics, — each case is fully investigated before an order for admission into the Hospital is given. —

The 2d forms a more important class. It is composed partly of men who have been sent out from England at an age so far

advanced

advanced as to afford but
little prospect of their being able
at the expiration of their
sentences to procure employment
or to support themselves in any
way by their own labours, —
and partly of men who at
the time of their expatriation
were labouring under some
disease or physical infirmity
which although it was not
of such a character as to
incapacitate them from
performing certain duties
at the Convict stations, was
severe enough to prevent
their maintaining themselves
after the expiration of their

Sentences

sentences; — partly of men
who having been by disease or
accident during their
compulsory service in the
employment of the Government
incapacitated from labour &
been placed in the Hospital
or Invalid Depôts, have, as soon
as they were emancipated, been
thrown upon the charity of the
Colonial Government; — partly
of men who having become
free either by Pardon or servitude
and having earned for a period
their own livelihood, have been
reduced either by disease or
accident to call upon the
Government to afford them

that

that support which they were unable to derive from their own exertions. —

The 3d Class is more numerous than it ought to be. — The ties of natural feeling & not appear to be strong enough to withstand the temptation which the high wages at Port Phillip and elsewhere holds out to persons in the lower class of life in this Colony. — There are many instances of both parents leaving their Children to the charity of the Community here and betaking themselves to Port Phillip. —

I may here remark that the only mode in which support or assistance can be afforded to these Classes of Patients is by sending the sick and aged to the Hospitals or Invalid Depôts in charge of the Convict Department, where they are placed upon the footing of the Convict patients under treatment at those Establishments and by transferring the Children to the Orphan Schools. —

In bringing this question under Your Lordship's notice I would beg to refer to a Despatch from Lord Stanley N° 507 dated 5 August 1845, transmitting Copies of a correspondence

which

which had taken place between the Colonial Department and the Home ~~Government~~ Office relative to the principles to be adopted by the Inspectors of Prisons in the selection of Convicts for transportation to V. D. Land. —

In considering the Report of the Inspectors of Prisons which form part of the enclosures to the Despatch beforementioned it would appear that up to the 21 December 1824 these Gentlemen had been in the habit of sending out to this Colony persons who had lost limbs, provided they were

not

not obliged to use crutches, & that age, unless accompanied by such weakness as rendered the person at the time incompetent to labour was not considered by them as a sufficient reason for not carrying out their sentence of transportation. —

The reason by which these Gentlemen support the rule under which they acted, were sufficiently valid, could this Colony be considered only in the light of a Prison or a receptacle for Convicts, — but this is not the case. — The Convicts form it is true a large portion of the Population, and their services have been and are even now

of the utmost importance to the Community, but from the services of many of the Invalids the Colony has in no sense derived any benefit and it would appear rather unjust to call upon the Colonists to furnish Funds for the support of persons in whom they could by no possibility feel any interest and who had in no sense contributed to their welfare.—

If reference be made to Mr Stephen's letter to Mr Phillipps dated 12 July 1825 which also forms a portion of the enclosures to Lord Stanley's Despatch beforementioned a principle will be found to be therein suggested, which, if adopted, would remove every just cause of complaint, and it is this — that persons transported to this Colony who should at the expiration of their sentences, by becoming holders of Tickets of Leave or Conditional Pardons, be thrown upon their own resources and be unable to maintain themselves, should be supported by the Home Government.

This, however, goes further than necessary, — it would throw upon the Home Government

the

the charge of all Paupers who had ever been Convicts, irrespective altogether of the length of time which had elapsed since the date of their becoming free, - the justice of the case would, I submit, be met by a regulation such as the following: ——

All persons who have been transported to this Colony, and who have become free either by servitude or by the receipt of a Conditional Pardon, and who shall be through disease or infirmity unable to support themselves and therefore dependant upon assistance

to

to be afforded by the State, shall if they have not been free for a period of (say) ten years previous to the reception of such assistance, be chargeable to the Home Government. — If they have been free for more than ten years, the assistance shall be furnished from the Revenue of the Colony. —

This Regulation, however, is not intended to apply to those who come into Hospital for temporary treatment, but merely to those who from circumstances connected with their ailments either mental

or

or bodily may be considered as incapable of earning a livelihood for themselves, and therefore as permanent burthens upon the Revenue. –

In the Return which accompanies this Despatch those who would under the operation of the rule abovementioned, be chargeable to the Home Government are marked in Red Ink, and the number of these thus chargable would appear to be 84. As however this return was made for 1856 it will not of course be correct for the last year, – indeed it is only intended as an illustration of the state of things which has existed, and to which it is desirable to put an end by the adoption of some general principle upon which the assistance which the Government is compelled to afford to persons who would otherwise in all probability be left to perish, may be fairly apportioned between the British ~~Treasury~~ and the Colonial Treasury. –

I forward an Abstract of a case which has just been brought before me and which illustrates clearly the operation

operation of the rule as at present acts upon, as regards men who have received their pardons while actually under treatment in the Hospital, or while labouring under infirmity or disease which would render them fitting inmates of a Hospital or Invalid Depôt.

I have the honor to be
&c &c
(Signed) W. Denison

Copy

No 206

No 206

Downing Street
23rd December 1848.

Sir,

I have communicated with the Lords of the Treasury on the subject of your Despatch No 74, of the 17th March last, containing your views upon the support of Paupers in Van Diemen's Land, and enclosing some Returns in illustration of the arguments you have adduced in discussing the subject. —

After due consideration of these papers, their Lordships have agreed that it is reasonable to relieve the Colony from any further demand for the maintenance in Convict Hospitals

Lieut. Governor
Sir William Denison

Hospitals or Invalid Depôts of persons sent out as Convicts who, either at the time of their arrival in the Colony, or when they ceased to be employed in compulsory labour in Public Works, were incapacitated from age or organic disease, or mental or bodily infirmity, from supporting themselves by labour.

Adverting, however, to the great benefit which Van Diemens Land generally has derived, and continues to derive, from the labour of the Convict population either while employed on the Public Works

without

without charge to the Colony for their maintenance or in private service when assigned, as well as from the large pecuniary outlay from the funds of this Country on account of the Convict Establishments, I have to acquaint you that Her Majesty's Government do not feel that there are sufficient grounds to warrant them in charging the funds of this Country with any further liability for the relief of those who having been able to maintain themselves when they were released from compulsory labour may

afterwards

afterwards have become Paupers. —

I Am
Sir
Your most obedient servant,
(signed) Grey

H. T. Gazette

No 7

L: 124

Downing Street
3 August 1848

Sir,

I transmit to you herewith, for your information & guidance a copy of a despatch which I have addressed to the Governor of New South Wales, explaining the principles of the measure which Her Majesty's Government propose to introduce at as early a period as may be practicable of the next Session of Parliament: and which, while

Lieut: Governor
Sir William Denison
&c &c &c

it

it would effect the separation of the District of Port Phillip from the Colony of New South Wales, and its formation into a separate Government, would, at the same time, provide for introducing the principle of popular representation into the Governments of Van Diemens Land and of South Australia, by the addition of elective Members to their legislative Councils, bearing the same proportion to those nominated by the Crown as that which is now established in New South Wales. The motives which have influenced Her Majesty's Government in thus designing to maintain in New South Wales & Port Phillip the form of legislature now existing in the former Colony, instead of creating two distinct Chambers, are fully stated in the enclosed despatch. And it appears to me that there is no sufficient reason for departing from the same form of Constitution in those Colonies to which representative Government will

will be now for the first time extended. It is unnecessary to recapitulate those further points which you will find sufficiently noticed in the Despatch in question.

You will observe that the most material suggestion made by yourself in Conformity with the Report of Your Executive Council, in your despatch No 122 of the 2nd October 1847 has been followed, and the recommendations of your Council will receive full attention.

I am Sir,
Your most obedient Servant

Grey

No 8

No 133. Copy

Downing Street
31st July 1848.

Sir,

1. I have to acknowledge your Despatch No 3 of the 6th of January last in which you report the steps which you had taken to collect the Opinions of the Community over which you preside in relation to the measures proposed by me in my Despatch of 31st July 1847 and also No 31 of the 2d February last; enclosing a

Sir Charles Fitz Roy
&c &c &c

a Petition from a large number of the householders and Inhabitants of Sydney and its vicinity deprecating any change in the Constitution of the Colony, which shall not have received the previous sanction of the Colonists at large.

2 - I can only repeat my expressions of Sorrow for the Calamitous events which rendered you unable to give that personal attention which you would otherwise have been anxious to devote to the consideration of these important subjects and at the same time, assure you that I feel every reason to be satisfied with the proceedings which you found it in your power to adopt.

3 - I have given my best consideration to the representations thus addressed to me, and have delayed answering you for some time in consequence of the expectation held out in your despatches of further petitions on the same subject, which have not yet arrived. My anxiety not to act without being fully in possession of the views of the Inhabitants of

of New South Wales on the question of their future Government has thus caused a delay which at the now advanced period of the Session, renders it impossible that any measure can be introduced into Parliament with a prospect of being carried through. It becomes therefore unavoidable to postpone Legislation on this subject until next Session, when Her Majesty's Government will be prepared to undertake the task in full possession of all the available materials. Enough, however, has transpired to give me an insight into the general state of Opinion among the Colonists, and to enable me, in consequence, to state the outline of the measures which I am prepared to recommend.

4. I collect from the documents now before me, that the objections most strongly felt throughout the Colony to the views propounded in my Despatch, relate to the project of making the District Councils serve as Constituent bodies to the Legislature; and though in a less degree, to the division

division of the Legislature into an Assembly and a Council according to the ordinary pattern of the Governments of those Colonies which derive their free Institutions from Great Britain.

5 With regard to the first of these suggestions. I certainly continue to believe, that in Colonies possessing an extensive territory, it is highly desirable that the purely local affairs of different districts should be entrusted to the management of some local authority distinct from the general legislature; and, that the surest method

of preventing a conflict between such authority and the Legislature is to make the latter emanate from the former. But I can have no wish to impose upon the Inhabitants of the Colony a form of Government not in their judgment suited to their wants, and to which they generally object, and shall therefore, not think it necessary to advise the carrying of this proposal into execution.

6 With regard to the division of the Legislature into Assembly

and

and Council, upon own opinion, founded, as your state on long practical experience, that it would be a decided improvement upon the present form of the Legislature in New South Wales, is one to which I have already stated my own adherence. Had therefore the general feeling of the Colony responded, in any degree, to the views expressed by myself I should have had no hesitation in advising Her Majesty's Government to lay before Parliament the measures necessary to accomplish the change But it is not such a reform as

I

I consider it to be at all incumbent on the Legislature at home to press on an unwilling or even an indifferent people Their interests will I think, be better served by leaving in their own hands the power of effecting it whenever they shall see reason to do so. Nor am I insensible to the difficulty which might be found to exist if not in the Northern Districts at least in Port Phillip in finding at first a sufficient number of persons, unconnected with Government qualified and willing to act as nominated Members of a Separate Legislature.

Legislative Council

7 Having premised thus much in answer to the observations contained in your Despatch and its Enclosures I will proceed to state the measure which Her Majestys Government have it in contemplation to introduce into Parliament, in order to effect at once the separation of Port Phillip from New South Wales, and certain ulterior objects which will be explained in the course of this Despatch.

8 The Bill for this purpose will in the first place effect no change in the composition or authority of the Legislative Council of New South Wales beyond such as are the necessary consequences of the separation.

9 It will also establish in Port Phillip a Legislature similar in character to that which now exists in New South Wales.

10 It further appears to me advisable that the same Bill should contain provisions for the Establishment of Representative Institutions in the Colonies of Van Diemens Land and South Australia In the former the numbers of the Convict population, and the strict discipline

discipline which it was necessary in consequence to maintain have hitherto been regarded as presenting obstacles to the adoption of any system of self Government, but it now appears to me that such a measure ought no longer on this account to be delayed. In South Australia no such obstacles have ever existed and the rapid advance of its population in numbers and in wealth and intelligence appear to indicate that the time has fully arrived when that Province should take its place among

among the self governing Colonies of the British Empire. I propose therefore that in both these Colonies the principle of popular representation should be introduced, and that this should be effected by adding to their existing Legislatures elective members bearing the same proportion to those nominated by the Crown as in New South Wales. But as this form of Government, while upon the whole it may be the best adapted to present circumstances, is one which may admit of much modification and improvement under the suggestions of experience,

and

and as the Australian Communities are, in my opinion fully competent to originate and to discuss for themselves, any changes in this portion of their Institutions, I have it, further in contemplation to recommend that their respective Legislative Councils should have power to make such alterations in their own Institutions as they may think expedient, subject however to the condition that no ordinance which any such Legislative Council may pass for this purpose shall come into force until it shall have been specially confirmed by the Queen in Council, after being laid for one Month before both Houses of Parliament. By this arrangement, provision will, I trust be made, for accommodating the constitutions of these thriving Colonies to the wants and the wishes of their inhabitants, while at the same time the necessary security will be taken against the introduction of rash and ill considered changes.

11. There is another subject, to which in making the proposed arrangement

arrangement, it will be necessary to advert, the communication by land between the Districts of New South Wales and Port Phillip is already completely established, that of the latter with South Australia is becoming not inconsiderable, and in the rapid progress of events in these advancing Communities, the intercourse between them, will yearly become more and more intimate and frequent. If therefore these three portions of the mainland of Australia should be

be placed under distinct and altogether independent legislatures each exerting absolute authority as to the imposition of duties on goods imported, the almost inevitable result will be that such differences will grow up between the Tariffs of the several Colonies as will render it necessary to establish lines of internal Custom Houses on the frontier of each. The extreme inconvenience and loss which each Community would sustain from such measures needs no explanation, it will therefore be absolutely necessary

necessary to adopt some means of providing for that uniformity in their commercial policy, which is necessary, in order to give free scope for the developement of their great natural resources and for the increase of their Trade. In what manner this may best be accomplished is a question of some difficulty which I must reserve for more mature consideration.

12. I regret the delay which has occurred (although from causes independent of Her Majesty's Government)

Government) in carrying into effect this necessary and urgently required measure. But the time last will not be regretted, if the consequence of that delay should be the framing of a measure more complete in all its parts, and more in accordance with the now ascertained views of the Australian Community, than could have been the case if legislation had been attempted during the present Session of Parliament.

I have &c
(Signed) Grey.

No 9

~~Duplicate~~
No 183.

Downing Street
25th November 1848.

Sir,

I have received your Despatch, No 100, of the 16th of May last, in which, in reference to the proceedings of the Executive Council of your Government for the latter part of the year 1847, you advert to the

Lieutenant Governor,

Sir W. Denison

&c &c &c

the question of establishing Municipal Corporations in Hobart Town and Launceston, and you point out, that your further measures with a view to that object had been suspended in consequence of your having been made aware by a Despatch which I addressed to the Governor of New South Wales on the 31st July 1847 of the intention entertained by Her Majesty's Government to make important alterations in the Constitution of the Australian Colonies.

My Despatch No. 124 of the 3rd of August last, will already have informed you of the change of my views with respect to the Constitution to be granted to the Colony of Van Diemens Land. Under the present circumstances I am not aware of any objection to your proceeding at once to amend the Act of the Local Legislature No. 10 of the 10th Victoria; and I entirely concur in the opinion which you have expressed with regard to the importance of establishing Municipal Corporations within the Colony.

I have the honor to be,
Sir,
Your Most Obedient,
Humble Servant,
C Vey

No. 2410.

First Report of the Board, which, on the 9th November 1848, His Excellency directed to assemble to consider and report upon the recent falling off in the amount of fees received in the several Departments of this Government.

Brown

We have in the first place respectfully to express our regret that various circumstances connected with this enquiry have

The Secretary of State
on
The establishing
Municipal Corporation
=
Ordered 31st July 1849.

have protracted our proceedings to an extent which at their commencement we were far from anticipating.

The Departments to which our investigation has extended are the following, namely, those of the Registrar, and the Master of the Supreme Court respectively, of the Sheriff, of the Registrars of the Courts of Requests, of the Commissioners of the Caveat Board, of the Registrar of Deeds

Deeds, of the Clerks of the Peace, of the Inspectors of Stock, of the Town Surveyor and of the Government Printer; also of the Police Department respecting which we would observe that having regard to the Spirit & evident intention of the instruction by which our Board is constituted, rather than to its letter, we consider the fines as well as the fees to come within the scope of our investigations. Neither have we wholly excluded the survey Department altho'

although the fees collected by the Surveyor General are fees for licences to cut timber on Crown lands & as such are not properly fees of office, but like those paid for de-pasturage, partake more of the character of rent.

Omitting the Survey office fees we find from the printed statement prepared by the Auditor & forwarded to us for our guidance that the above mentioned departments paid

paid over £10.136 in 1841, which we have considered a convenient year for the purpose of comparison, and £4579 in 1848 and that the aggregate deficiency of which we have to ascertain the nature and causes is therefore £5557.

The object of our enquiry will however be better attained by taking each department separately, which has been done in the accompanying comparative statement, a slight inspection of

A

which will not think
sufficiently disclose the fact
that the most serious reduction
of income is that which is
manifested by the Returns
of the Registrar of the Superior
Court, the Sheriff, & the Court
of Requests.

As might have been
expected the fees of the Sheriff
& the Registrar also exhibit a
general tho' not close as =
= similarity

or encumbrances in their respective
heads of increase, decrease,
the cause of which may readily
be referred to the circumstance
that the amount of business
in the office of the Sheriff is
determined by that in the Court
from which he receives his instructions.
Of suffers itself therefore as
the natural course of our enquiry,
first, to endeavor to ascertain
the cause of decline in the fees
of the Registrar & this we
have found proximately to
be

be a general diminution of business in the civil side of the Supreme Court.

To shew the correspondance between the actions brought there & the fees accounted for we have constructed the accompanying Table B, the various Columns of which not only throw light upon but tend to confirm each other, thus to prove that the decrease in this branch of the Revenue from fees is due not

not to neglect in the collection but as is suggested by our instructions to an alteration in the circumstances of the Colony for the facts of the case do not admit of our imputing it to any alteration within the walls of the Supreme Court. Did the cause exist there we should probably discover that the spirit of litigation found expression elsewhere, as for instance by a more frequent resort to arbitration which however

however as far from having happened that the questions settled by arbitration are themselves much fewer than formerly whilst the number of Warrants of attorney & Cognovits filed of precedents thereon, as to which the Court may be

had to act merely in a ministerial capacity, has also greatly decreased: And moreover the falling off in the number of actions really tried is much less than that in the number of actions brought

or

or commenced; for in 1841 there were 1948 actions commenced and 82 tried, whilst in 1848 the number brought was 514 of which not fewer than 34 were tried; whereas had the proportion continued the same as in 1841 the number tried would have sunk to less than 9½.

The years in which the greatest number of lawsuits was brought were 1841 & 1842 & comprehend the period in which

which the Colony passed from very high prices, high profits & high wages to that condition of depression which marked the commencement of the administration of the late Sir Eardley Wilmot, and it is equally worthy of observation that the period next in fertility as respects fees & law suits took its rise in 1832 when the same high prices wages & profits commenced & continued so long as they did-

forming

forming a coincidence such as has often been remarked elsewhere - for high prices occasioned by temporary causes & the speculative spirit excited by them have generally been observed to be accompanied by an increased activity in the Courts of Law

Clarke

In connexion however with the increase of business which took place during the transition period in 1841. it may be

proper

proper to remark that an uncommonly large proportion of the actions was brought upon Bills of Exchange & Promissory Notes & it will be accordingly seen under the column headed Quasi Judgements B against acceptors of Bills of Exchange and makers of Promissory Notes & under Act of Council 3rd Vic: No 3 that the number of Judgements so taken that

year rose to 67 and was more than double that for any subsequent year.

The seven years indeed intervening between 1841 and the present date give a total of only 86 or an average of little more than 12 per annum or about one fifth of the number for 1841. This not only indicates the present state of Credit to be very different from what it was in 1841 but it also proves the kind of business with

with which the Court was then occupied to have been one more productive of fees, it being by no means unusual for two or three Summonses to issue upon one Bill or subject of action, drawers & endorsers having been frequently proceeded against as well as acceptors.

The practical inference from what has now been observed appears to be that some

part of the difference between the amounts of fees collected in 1841 and 1848 is due not so much to deficiency in 1848 as to excess in 1841 and it is quite consistent with the facts apparent on the face of the printed Statement that a further deduction ought to be made for fees transferred to the Court of Requests, through the operation of the Act, which in 1842 raised the jurisdiction of that Court

which

(which has since June
1830 been limited to Cases
not exceeding 10 £) so as
to include actions for £30
a change which we shall
also refer to before closing
this Report: whether would
it be right not to take notice
in this place of the speech
of the Insolvent Court —
which however has itself
participated in the general
decline — an interesting

business which would
otherwise have found its way
to the Higher Court: a subject
however which may perhaps
be more effectually considered
in connexion with the fees
of the Sheriffs' department.

As we have already
submitted there is a general
correspondence as to the
amount of fees collected,
between the offices of the Registrar
of the Supreme Court & that of

the

the Sheriff. That conclusion however is by no means a perfect one: for the amount of fees received by the Registrar might be augmented by an increase of Equity & other business which would not affect the Sheriff. Again the Registrar sometimes receives fees in actions against persons who after Writs of Execution have been issued & levies made are declared to be insolvent, in which case

the

Sheriff is required by the Colonial Act V Vic: No 6 to give up possession to the assignee without receiving his fees, or any security for them other than that afforded by the Act V Vic: No 6 which is often insufficient in consequence of no funds whatever coming into the hands of the Assignee

Where however there are Cases of a more definite character to which we are enabled

enabled with certainty to
assign in part the reduction
in the ostensible amount
of the fees collected by the
Sheriff. We say the ostensible
amount for the fees now in
question differ from those
of the Registrar in not being
clear Revenue but being
liable to charges which
exceedingly diminish their
net proceeds. Thus if
his Excellency will be pleased
to turn to the printed Statement

He will find the Sheriffs'
Department credited in 1839
with £1993 which sum on
reference to the Analysis
for 1839, 1840 and 1841,
C — contained in the accompanying
document will be found
reduced after deducting
mileage & other charges of
the same class to a net
collection of only £629 &
in like manner for 1840
we must erase £1131 &
put down £89 in proportion
a still smaller sum.

In

In 1841 again the real Revenue at first sight is apparently greater for out of £2346 entered on the printed Statement there will remain after the same set off has been allowed £1397, but then on further investigation this amount will resolve itself into an amended balance of £746 – £350 being the fines paid to the Queen in that year by Messrs Jackson & Addison

&

& Macdougall for libel and therefore forming no part of the Sheriff's fees or proper Revenue – And a clear sum of £301 received for the service of Summonses which on enquiry the Under=Sheriff assures us are arrears, for there were no Summonses whatsoever served by the Sheriff in 1841.

We have also to observe that in calculating the net Revenue for the Years 1839 & 1840 we have not included the

the sum of £301, which as being arrears we have excluded from the net Revenue of 1841, inasmuch as we should then have had to examine, if indeed it could have been done, what arrears of 1838 are included in 1839, & what of 1839 are included in 1840, as it would obviously have been incorrect to give any year credit for the arrears of its predecessor & allow it in

addition to receive its own; and here we ought to mention that we do not allude to arrears in the hands of the Sheriff, such indeed as are noticed in the analysis, but to arrears in the hands of the Attorneys some of whom must often have delayed for a considerable time to settle their accounts.

On a further inspection it will be seen that the charges which so much diminished

diminished the net proceeds
of the sheriffs' fees were
incurred in by far the
greatest proportion for the
service of summons.

Of the sums credited
to the sheriffs in 1839 & 1840,
amounting respectively to
£1993 and £1131,5- £831
and £384 were for summonses,
but the cost of their service
was
severally £837 and
£634, showing a loss of
£6 in 1839, & of £250 in
1840. If however we take
1841 into the calculation
we shall find that there would
apparently no loss, but on
the contrary an apparent
gain as has been already
notice of £301, which when
set against the losses of
the two preceding years,
would give for the three
years an average profit
of £

of £15 per annum, which however a more careful inspection would show to be in some measure at least erroneous, for the payments to the Sheriff in 1841 were arrears due by Attorneys for Summonses, the charges upon which had been advanced from the Treasury in 1840, & are mixed with the proper charges of the year and set off against its receipts. If it be therefore

and that 1840 should have credit for the proceeds of the Summonses, in the terms of which those charges were incurred, the answer would be that 1840 must in like manner have received fees for Summonses the charges against which were borne by the Treasury in 1839, & that 1839 in its turn must be in like manner indebted to 1838.

It is apparent however on the face of the accounts that

that the arrears — we do not as already observed mean the Sheriffs arrears to the Government, but the Attorneys arrears to the Sheriff — for which 1839 is indebted to 1838, & for which 1840 is indebted to 1839, may have been less than 1841 gained from 1840: we shall therefore probably come sufficiently near the truth if we assume that the Revenue derived from the

the service of summonses issued in Jany 1841, was without imputing to it any loss, merely unproductive.

The discontinuance of this apparent Revenue is due to the act of Council which passed in 1840 to enable the Attorneys to serve summonses as well as the Sheriff, whose sole duty it previously was under the charter of Justice. It accounts in part for the

amount

amount of fees received by
the Sheriff having so fallen
off since 1824 as to have
become less than those of
the Registrar. This
is sufficient however to do
so fully for that decrease
is greater than the subtraction
of the fees in question will
explain & besides it com-
menced at an earlier
date & proceed upon the
whole in an increasing
ratio until 1825; Consequently
must be referable to other

causes, the principal
of which we believe to be
the fact, that the Sheriff
is almost entirely dependent
for his Revenue upon Writs
of Execution; whereas it
will be found, on reference
to the Registrar's Scale of
fees, that what he gains
from that source must
be a mere trifle in proportion
to what he derives from
other proceedings, & will
follow from this that
should the number of
Summonses

summonses issued & actions
brought increase without any
corresponding increase in the
Writs of Execution, there would
be an alteration of the pro=
=portion between the fees of
the Registrar & those of the
Sheriff; because whilst the
latter continued the same, the
former would increase, and
on the other hand, should the
Writs issued by the Court
diminish in number, whilst
the actions brought [continued
the same, the Sheriff might
lose

lose hundreds of Pounds
when the Registrar's deficiency
would be a few shillings
only — for on a £2000 Writ
the Registrar would get 4s
only; whereas the Sheriff
might realize £52. 10: &
accordingly we find that in
1836-7 and -8 the Writs of
Execution were 1327 to 3311
actions, but the actions
brought in 1840-1 and -2 were
4864 which, had the same
proportion continued, would
have produced 1949 Writs;
whereas they actually
did

did produce 1534 only; & again in 1840-1 and 2 the Writs of Execution being 1534 to 4864 actions, & the actions brought in 1843-4 and 5 being 2211, the Writs of Execution ought to have been 697 instead of which their number was 325 only.

The discontinuance of the fees for Summonses & the decreasing proportion thus demonstrated in the

Re Morris Estate £304 See page 39 of Report of the Board on Fees

Which Stats that the Large Fees obtained from the Morris Estate in 1846

2nd Orr

number of Writs appear to us to account upon the whole satisfactorily for the decline in the Sheriff's fees being greater than that of the Registrar's. In 1846 however the Sheriff's fees suddenly rose from £517 in 1845 to £815, and then in 1847 fell again to their minimum of £304 which is explained by the large fees obtained from Morris Estate in 1846, & the unusual unproductiveness of the Writs forwarded to the Sheriff

did produce 1534 only; & again in 1840-1 and 2 the Writs of Execution being 1534 to 4864 actions, & the actions brought in 1843-4 and 5 being 2211, the Writs of Execution ought to have been 69 " instead of which their number was 325 only.

The discontinuance of the fees for summonses & the decreasing proportion thus demonstrated in the

Re Morris Estate £304 See page 39 of Report of the Board on Fees

Which Stats that the Large Fees obtained from the Morris Estate in 1846

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number of Writs appear to us to account upon the whole satisfactorily for the decline in the Sheriffs' fees being greater than that of the Registrar's. In 1846 however the Sheriffs' fees suddenly rose from £517 in 1845 to £815, and then in 1847 fell again to their minimum of £304 which is explained by the large fees obtained from Morris Estate in 1846, & the unusual unproductiveness of the Writs forwarded to the Sheriff

Sheriff in 1847 which also were 27 fewer than in the former year.

We may add that we consider one of the effects of the Insolvent Act to have been to discourage the bringing of actions, & in this way it has unquestionably affected the fees of both Registrar & Sheriff — another has been to deter creditors from bringing their actions to maturity & by

this

this operation the fees of the Sheriff more particularly have been affected in consequence of the relative number of Writs having been gradually diminished in proportion as debtors learned to resort with less reluctance to the Insolvent Court & creditors to fear their doing so — a state of feeling on both sides which appears to have been rapidly progressive at least until 1845 & which we think should

be

be distinguished from that immediate & more legitimate effect indicated in B by - B - the entries for 1836 when first the act came into operation - a subject of enquiry however not within our province.

Having said so much on the subject of the fees receivable by the Registrar of the Supreme Court, it does not appear to us to be necessary to institute any

separate enquiry respecting the decline in those of the master, as the one appears governs the other.

The largest Revenue ever yielded by the Courts of Requests was in 1837 namely £2877 when the law which raised their jurisdiction from £10 to 30 £ was in full operation. This act was passed in July 1836 but disallowed in June 1838. The fees in 1839 consequently fell to £1327 having been

£1474

£14/4 in 1835, so that
the business once appear
to have been doubled in 1834
by the extended jurisdiction
without, as will be seen
in B, apparently detracting
in any appreciable degree
from the business of the
Supreme Court.

A similar Law
passed in Dec. 1842 after
enlarged powers had been
conferred on the Colonial
Legislature but the Effect
which it then had in
increasing

increasing the amount of
fees collected by the Court
of Requests generally was,
though it may perceptibly
affected the number of actions
in the higher Court, far
less considerable. In 1834
the year before the act passed
the fees of the Court of Requests
produced £1164 yet do not
reach £530 until 1844 since
which time they have been
declining Hence 1835 their
decline has been abrupt &
sudden, owing to the passing
of the act for the abolition

of

of imprisonment for debts under £20. In 1845 the collection was £1391 but in 1847 it was less than half that amount namely £610. The act therefore occasions a loss of from £600 to 700£ per annum, & in support of the opinion we have given as to the causes of the deficiency in this Department we annex a tabular Return for the Hobart Town Court prepared at our request by Mr Gardiner

D

the Registrar, from which it would appear that the more recent diminution in the number of actions brought in that Court is due exclusively to the act in question.

The point still remaining for examination is the question why the Revenue in 1844 was only £1530 whilst in 1837 it amounted to £2877. Upon inspecting the rules of Practice in force at these

+ The Colony received a check – temporary depression of trade

these different periods
respectively, we find that the
fees in 1837 were higher than
in 1824 in nearly the
proportion of 5 to 4, but 0,803
we can thus account at
the utmost for only £566 £9.13.6 ~ £7.1
of the difference, even if
we rely on the basis of
our calculation. But as
we observe in it this source
of fallacy - namely - that the fees
most frequently paid have
not been so much lowered
in the new scale as those of
later

later accounts, we
shall probably overrate
the truth if we take 2/3rds
of the amount only & put
down £377.

I had also assumed
to me that the circumstance
that the Jurisdiction of the
Court in 1837 was more
comprehensive in its range
of cases than in 1824,
might account for some
part of the difference. On
reference to the Registrar
of

of the Court for Hobart Town
has ascertained that such
really was the case, but
only to the extent of about
1/10th of the whole Collection
in 1837, say £284.

Therefore taking the
Collection of the Registrar
of the Supreme Court in
1834 at £936 & that of
the Courts of Requests at
£1530, the same proportion
in 1837 would have required
the Courts of Requests to

yield £2226 to which if
we add the £377 & £284
above spoken of we shall
make a total of £2890,
which comes near enough
the actual collection to
justify our assuming that
the business of the Courts of
Requests between 1837 & 1834
obeyed nearly the same law
of decrease with that of
the Supreme Court & may
therefore be adduced in
support of our conclusion
that the chief strength

as

as has been observed not the only cause of the diminution of the fees of the Departments connected with the Supreme Court & Courts of Requests is the alteration which since 1840 has taken place in the circumstances of the Colony.

Considering the length to which our enquiries have already extended we have thought it best to reserve

reserve for a second Report the results of our examination into the fees of the Police & other Departments. The suggestions which in obedience to our instructions we have to make respecting the Collection of the fees & the mode of accounting for them will, with Ars Excellency's permission form the subject of our third and final Report.

Respectfully submitted by

Adam Turnbull
Jno. W. Sovek
Which — apart by the other gaments

Comparative Statement of [illegible]

periods specified, and shewing the difference of the amounts received in 1841 and of those collected in 1848

Departments	Maximum from 1840 to 1848			Year of Maximum	Maximum if prior to 1841			Year of Maximum	Minimum from 1840 to 1848			Year of Minimum	Amount collected in 1841			Amount collected in 1848			Difference between the amounts collected in 1848 and Maximum: Increase			Decrease			Difference between amounts collected in 1841 and 1848: Increase			Decrease		
Registrar Supreme Court	1756	13	10	1841	"	"	"	"	701	"	4	1848	1756	13	10	701	"	4	"	"	"	1055	13	6	"	"	"	1055	13	6
Master Supreme Court	447	18	6	1841	"	"	"	"	60	4	6	1848	447	18	6	60	4	6	"	"	"	387	14	"	"	"	"	387	14	"
Registrar of Deeds	721	"	6	1844	791	"	"	1835	540	2	6	1847	587	7	6	566	9	9	"	"	"	154	10	9	"	"	"	20	17	9
The Sheriffs	2346	"	9	1841	2600	"	"	1838	304	4	6	1847	2346	"	9	317	12	6	"	"	"	2282	7	6	"	"	"	2028	8	3
Registrars of Courts of Request	1530	19	11	1844	2877	15	9	1837	610	"	8	1847	1164	16	5	734	9	8	"	"	"	2143	6	1	"	"	"	430	6	9
Clerks of the Peace	304	9	2	1847	"	"	"	"	199	17	8	1841	199	17	8	291	14	2	"	"	"	13	15	"	91	16	6	"	"	"
Government Printer	212	16	2	1841	"	"	"	"	95	1	8	1848	212	16	2	95	1	8	"	"	"	117	14	6	"	"	"	117	14	6
Inspectors of Stock	244	3	"	1841	338	1	9	1833	4	8	6	1848	244	3	"	4	8	6	"	"	"	333	13	3	"	"	"	239	14	6
Town Surveyors	52	15	3	1842	"	"	"	"	2	10	"	1847	10	12	"	6	12	6	"	"	"	46	2	9	"	"	"	3	19	6
Police – Fines and Fees	3770	"	5	1842	3785	10	4	1839	1801	16	7	1848	3165	16	8	1801	16	7	"	"	"	1983	13	9	"	"	"	1364	"	1
													10136	2	6	4579	10	2							91	16	6	5648	8	10
													Deduct Amt collected in 1848			4579	10	2							Deduct Increase			91	16	6
													Difference			5556	12	4										Decrease		
Survey Department	1020	12	11	1848	"	"	"	"	651	1	6	1844	833	5	6	1020	12	11	"	"	"	"	"	"	187	7	5	"	"	"

could be not be any

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B

Supreme Court

Writs of Summons	Writs of Capias	Actions brought	Actions tried	Declarations filed	Verdicts by consent	Judgments on Cognovits & Warrants of Attorney	Judgments on computation by the Master	Issues Judgments Final on Demurrers	Interlocutory Judgments Final on Demurrers	Writs of Execution £ s d	Writs of Execution £ s d	Warrants of Attorney filed	Cognovits filed	Causes and Summonses
1295	230+	1333	61	474	—	422	156	—	—	441	117+	593	91	4
851	28	879	41	219	23	181	43	38	59	275	61	290	36	5
1134	15	1149	39	196	9	155	41	99	38	369	59	204	41	1
1251	32	1283	55	320	13	172	49	281	55	471	92	197	71	2
929	33	962	69	248	15	74	23	176	13	281	67	138	34	15
1279	25	1304	53	339	26	93	51	224	12	311	68	122	49	9
1859	89	1948	82	471	7	182	80	379	67	602	103	327	104	3
1553	59	1612	89	349	17	96	54	132	26	366	84	104	46	7
974	25	996	34	237	4	113	53	201	23	324	68	225	46	3
717	36	753	34	192	7	135	23	124	19	198	63	199	26	4
426	36	462	29	113	2	76	11	64	8	114	26	119	16	7
349	43	390	40	106	4	54	17	61	3	95	11	72	8	7
353	26	383	31	116	2	49	8	40	3	63	16	86	14	3
456	54	514	34	97	2	57	6	67	4	68	11	95	20	2

Court of Requests Hobart Town

	Actions brought	Actions tried	Writs of Execution £ s d	Writs of Execution £ s d
++ At the End of 1835 the Law of arrest upon mesne process was settled, & the first Insolvent Act was passed.	2097	1669	443	573
	2167	1679	419	523
	2554	1332	681	437
	2271	1714	643	443
	1214	373	221	356
	1197	339	209	237
	1132	796	278	212
	1356	957	239	182
	1415	821	267	133
	1830	1165	377	243
	1722	1106	338	350
	1273	899	371	92
	873	567	318	5
	1090	699	395	5

Fees accounted for to the Government

By the Registrar of the Supreme Court £ s d	The Sheriff £ s d	Courts of Requests £ s d
1293-17-11	2561-0-11	1474-0-0
1215-15-9	2386-2-0	1342-4-7
1362-10-8	2331-6-6	2377-15-9
1357-17-0	2600-0-0	2448-2-0
1162-9-3	1993-4-0	1327-1-10
1135-10-6	1131-15-0	1016-9-9
1756-13-10	2346-0-9	1164-16-3
1482-14-10	791-11-0	1263-19-6
1060-13-5	621-6-0	1216-3-6
936-4-10	327-18-6	1530-19-4
953-15-3	547-6-0	1391-7-0
751-1-7	815-7-6	850-6-0
765-17-0	304-4-6	610-0-0
701-0-4	317-12-6	734-9-8

The first Act Extending the jurisdiction of this Court of Requests from 10£ to 30£ was passed in July 1836, & disallowed in June 1838.

The Act of Council enabling parties to issue their own writs of Summons was passed in December 1840.

The second Act Extending the jurisdiction of this Court of Requests from 10£ to 30£ was passed in October 1842.

The Act of Council abolishing imprisonment for debts under 20£ was passed in March 1846.

Returns of Suits instituted.

Years	For the Supreme Court	For the Court of Requests Hobart Town	Total
1835	1333	2097	3430
1836	879	2167	3046
1837	1149	2554	3703
1838	1283	2271	3554
1839	962	1214	2176
1840	1304	1197	2501
1841	1948	1132	3080
1842	1612	1356	2968
1843	996	1415	2411
1844	753	1830	2583
1845	462	1712	2174
1846	390	1273	1663
1847	383	873	1261
1848	514	1090	1604

3908
1604
1090
1847

A Return of the fees received for executing the Process of the Supreme Court, collected by the Sheriff in the Years 1839 – 1840 – and 1841 – together with the cost of Travelling Expences attending thereon –

— 1839 —

Received for Service of Summonses in 1839	831	19	–
Loss on Service of Summonses in 1839	6		6
	£ 837	19	6
Fees received on Final Process &c. in 1839	1192	9	6

Paid Expences on Service of Summonses in 1839	837	19	6
Loss on Service of Summonses in 1839 brought down	6		6
Paid Expences on Final Process &c. &c. in 1839	556	13	6
Net Revenue in 1839	629	15	6
	£ 1192	9	6

— 1840 —

Received for Service of Summonses in 1840	384	8	–
Loss on Service of Summonses in 1840	250	9	2
	634	12	2
Fees received on Final Process &c. in 1840	721	3	–

Paid Expences on Service of Summonses in 1840	634	12	2
Loss on Service of Summonses in 1840 brought down	250	9	2
Paid Expences on Final Process &c. &c. in 1840	380	19	8
Net Revenue in 1840	89	14	2
	£ 721	3	"

— 1841 —

Received for Service of Summonses in 1841	353	16	"
Gain on Service of Summonses in 1841 brought down	301	17	"
Fees received on Final process &c. in 1841	1461	18	9
Extra Revenue received in 1841 for Fines in the Supr: Court	350	"	"
	£ 2113	15	9

Paid Expences on Service of Summonses in 1841	52	19	"
Gain on Service of Summonses in 1841	301	17	"
	353	16	"
Paid Expences on Final Process &c. in 1841	716	15	2
Net Revenue in 1841 £1047. 0. 7 besides the £350 Fines in Supreme Court	1397	"	7
	£ 2113	15	9

Gained on Service of Summonses in 1841 – 301. 17. 0
Lost on do. in 1839 – 6. 0. 6
Do. on do. in 1840 – 250. 9. 2 – 256. 9. 8
Total Revenue derived from Service of Summonses in 1839. 1840 & 1841 – £ 45. 7. 4 an average of £ 15. 2. 5 per Annum

Net Revenue derived in 1839 – 629. 15. 6
" " " in 1840 – 89. 14. 2
" " " in 1841 – 1047. " 7
Total Revenue derived from the Sheriffs departments in 1839. 1840 & 1841 – £ 1766. 6. 3 – or £ 588. 16. 1 per Annum

N. B. The Sheriff received £ 308 2. 0 for sale fees in 1848 on which the Travelling Expences, when paid, will be about £ 80 – leaving a probable Net Revenue of £ 228 –

Amount received by the Sheriff's Assistants in 1839 as shown by the printed Statement £1993. 4 – less £12. 8. 0 added thereto in prior – 1980. 16. 0

Deduct fees for December 1838. received in January 1839 ——— 206. 8. 6

1774. 7. 6

Add fees for December 1839 paid into the Revenue in January 1840 ——— 250. 1. 0

Gross Amt. of Fees for 1839. £ 2024. 8. 6

Amount received by the Sheriff's Assistants in 1840 as shown by the Printed Statement ——— 1151. 15. 0

Deduct fees for December 1839 received in January 1840 ——— 250. 1. 0

881. 14. 0

Add fees for Oct. Nov. Dec. 1840. paid into the Revenue in January 1841 ——— 283. 12. 6

Gross Amt. collected in 1840 – £ 1165. 6. 0

Amount received by the Sheriff's Assistants in 1841 as shown by the Printed Statement – 2346. 0. 9

Deduct fees for Oct. Nov. + Dec. 1840 received in January 1841 ——— 283. 12. 0

2062. 8. 9

Add fees for December 1841 paid into the Revenue in January 1842 ——— 103. 6. 0

Gross Amt. for 1841 – £ 2165. 14. 9

Extraordinaries in 1841

Jackson + Adrain's fees 300. 0. 0

Macdougall's fees ——— 50. 0. 0

350. 0. 0

£ 1815. 14. 9

D

Return of Process issued &c &c in the Court of Requests for

The Police District of Hobart from 1835 to 1848 inclusive

	Summonses	Actions tried	Fi. Fa	Ca. Sa	Fees			Remarks
35	2097	1669	443	578				
36	2167	1679	419	523				£30 Courts instituted Nov.r
37	2554	1832	681	487				
38	2271	1714	643	443				£30 Courts abolished July
39	1214	873	221	356				
40	1197	839	209	237				
41	1132	796	278	212	470	"	"	
42	1356	959	239	182	480	"	"	
43	1415	821	267	133	668	"	"	New £10 a £30 Courts April
44	1830	1165	377	243	826	"	"	
45	1722	1106	338	350	751	"	"	
46	1273	899	371	92	430	"	"	Ca: Sa. under £20 abolished.
47	878	567	318	5	354	"	"	
48	1090	699	395	5	435	"	"	

C. Gardiner
Registrar
29 March 1849

D

Return of Process issued No 2 in the Court of Requests for

The Police District of Hobart from 1835 to 1848 inclusive

	Summonses	Actions tried	Fi: Fa	Ca: Sa	Fees			Remarks
35	2097	1669	443	578				
36	2167	1679	419	523				£30 Courts instituted Nov.r
37	2554	1832	681	487				
38	2271	1714	643	443				£30 Courts abolished July
39	1214	873	221	356				
40	1197	839	209	237				
41	1132	796	278	212	470	"	"	
42	1356	959	239	182	480	"	"	
43	1415	821	267	133	668	"	"	new £10 & £30 Courts April
44	1830	1165	377	243	826	"	"	
45	1722	1106	338	350	751	"	"	
46	1273	899	371	92	430	"	"	Ca: Sa. under £20 abolished.
47	878	567	318	5	354	"	"	
48	1090	699	395	5	435	"	"	

C. Gardiner
Registrar
29 March 1849

No 11 — To be printed

The Second Report of the Committee appointed to Examine into the causes of the decline in the amount of Fees received by the Public Departments.-

1.- In our former report we had the honor to lay before the Lieutenant-Governor a Statement of the circumstances which appeared to us, to have affected the collections of the Departments most immediately connected with the administration of Justice in civil questions - and we now propose in furtherance of your instructions, to extend our enquiries in like manner to the police Establishment.-

2.- We find, that the Fees and Fines collected by the Police Magistrates, have fallen from £3.785 in 1839- and £3.770 in 1842- to £1801 in 1848.-

3.- But, we also observe, that the annual collection would now have been £6.020 instead

f

of £1801 had it kept pace with the population which increased from 44.111 in 1839, to 70.164 in 1848- and, that the virtual decrease therefore, cannot, when considered relatively, be taken at less than about £4,219.-

4. - During several sittings, our attention was occupied in Examining into the manner, in which the fees and fines are collected, and accounted for, but we are bound to state that nothing transpired to justify our viewing the impression, that any part of the decrease in question is due to omissions or neglect, on the part of those to whom the collection has been entrusted.-

5.- Our next duty was to Examine, whether to grant a decrease could be distinctly assigned to any change in the circumstances of the colony, and for this purpose of investigating this question, we had the following returns prepared

1st.

1st.- A Statement of the amount collected in the police office Hobart Town, under the head of Fines and Fees- together, with its appropriation, for the years 1842 & 1848 respectively- from which, it appears, that in 1842, the total receipts were £1606. of which, however only £1523. were paid to the collector of Internal Revenue- The difference, having been expended, in making certain disbursements particularized in the return.-

In 1848 again, the total receipts, appear to have been but £717- of which £452. only- a smaller sum in proportion, was paid over to the Revenue- the deductions having been greater than in 1842.- This return takes no notice of the shares of fines paid to Informers.-

B

2:- B, a return of fines imposed at the police office Hobart, during the years 1842, and 1848- It exhibits the number of convictions or fines imposed,- the aggregate amount of such fines actually paid, and the amount

in

in default - it also shews, that of £1558 collected in 1842. the sum of £945 was the Crown's portion, and that £612. went to informers - and that in like manner, of the £891 collected in 1848, £424. - a much larger share, than in 1848. was distributed amongst the informers - The two returns are thus proved to agree. -

C

3rd. The next return is one of the Fines imposed at the Police office Hobart Town from 1837 to 1849. Shewing the principal offences, with reference to which, fines are inflicted, and their fluctuations in point of number - It will be seen, that this return exhibits, as compared with the former, a different total of convictions for 1848 - an apparent discrepancy to which we shall have to advert in a subsequent part of this Report. -

6. - From these returns, taken together, it will be seen, that the decline, is attributable

to

to a diminution in the number of fees - for, as to their respective amounts - these are fixed by law, and consequently, remain unaltered - to a reduction of the number of convictions, and also, of the average amount of the fines imposed, of which - besides, a smaller proportion is now actually paid than formerly. -

D

These points, which are of extreme importance, His Excellency will find more clearly set out, in the accompanying sheet marked D, - in which we have placed in juxta position - the number of convictions for each offence in every year - the average fine imposed during the same years, and also, the proportion of the unpaid fines to the paid -

E

7. - The next document, to which we would draw His Excellency's attention, is the accompanying table of alterations in the circumstances of

the

the Colony. which has been compiled chiefly from the printed Statistics published by the Colonial Secretary. - It appears, from the columns in that table marked 18 & 19 respectively, that though since 1842. the fines and fees have decreased in common with those of the Supreme Court. no such coincidence, can be traced, as having existed during the previous years: - On the contrary, the minimum collections made by the Registrar of the Supreme Court, actually correspond in point of time, with the maximum collections of the police. which must therefore have been determined by different causes. -

8. - On comparing together column 18, with column 11, of the same table, - we find, that the fees and fines have fluctuated almost exactly as wages have risen or fallen. -

9. - Again. on collating column 18, with columns 1 & 2, it will appear, that. though

between

between 1832 & 1835. the population increased from 29.079 to 40.283. and the free inhabitants, from 15.067 to 21.991. yet. the fees fell. from £1.799 to £1.075 - The effect, therefore, of the increased competition, seems to have been greater, in diminishing the amount of fees and fines, than that of the increase to the number of the population was, in augmenting it. - On the other hand, if we turn to the year 1839. and again compare the same column - we shall find, that the population, not only, did not increase in that year, but (if we presume from Emigration to Port Phillip) actually diminished, and that it was, under these circumstances, that the fines and fees attained their maximum collection of £3.785 - Again in 1840, 1841 & 1842. notwithstanding that in these years. the free inhabitants increased from 27.237 to 37.088. the new population added nothing

to

to the fees and fines - though it did not diminish them - There was then a great demand for labor - wheat bought (vide col: 9) large prices - and upwards of 50.000 acres of land were added (vide col: 8) to the 100,000 previously in cultivation - Again, (vide col: 1.2. & 4) between the last mentioned years and the present time - there has been a large importation of convicts - who after serving in probation - have passed into the labor market (vide col: 11); during this latter period also - wheat (Vide col: 9) has been reduced in price - - The number of acres in cultivation (vide col: 8) has not advanced, and wages (vide col 11) have fallen - at the same time, the decline in the fees and fines, into which we are to enquire, has taken place. -

10. - If again we now turn to the table marked D. Shewing the proportion of the unpaid

unpaid fines every year, it will be seen, that the fluctuation in the annual amounts of the fines, is dependent, not alone on any increase or decrease in the number of offences - but also, on different degrees of ability at different periods to pay the fines imposed - This table clearly shows, that the average fines now imposed are, when considered in connexion with the capacity to defray them, higher than they were in former years. -

11. - It may be instructive also, to observe, the different degrees of ability of different classes of offenders, to pay their fines. - The disturbers of the peace pay the fixed penalty of 5/- with fewer defaults than the drunkards do - and those, who are so degraded as to be guilty of indecent exposure and whose average fine is £1.4.6 are, more frequently in default, than the assaulters of constables, though the latter are charged £1:7:4

12

12._ Whilst we are thus in a position to submit to His Excellency. that the diminished productiveness, in proportion to their number, of the fines imposed, is not due to any neglect or omission in the collection of them, or, to any change in the views of those administering justice in the police Courts, except in so far, as they have beeninfluenced by the altered circumstances of the Colony, as respects the laboring population. it still, as already observed, remains for us to enquire, why the number of fines has not increased, so as to make up the deficiency in proportion to the increase of the population, but on the contrary,- if the last 4 years be compared with the 4 years preceding 1843, has rather receded: Why fines for drunkenness in Hobart Town have decreased from 6.259 to 4.822. whilst the population of the District has increased from 15.061 in 1842 to 21.429 in

1848

1848, and why, the fines for the same offence have diminished in the same periods, throughout the Whole Territory from 13.941 to 10.901. whilst the general population has increased from 58.902 in 1842 to 70.164 in 1848. ?—

Letter

13. The following table appears to answer the questions above proposed, by showing, upon the Whole, that the vice in question, fluctuates with the state of the supply of labor, and the demand for it.—

Year	Free Population	Number of Acres in Crop	Proportion of convictions for drunkenness to Free Population
1832	15.067	56. 626	0. 19
1833	18.214	61. 399	0. 11
1834	21. 084	69. 041	0. 13
1835	21. 991	87. 283	0. 15
1836	24. 712	89. 518	0. 09
1837	24. 096	79. 429	0. 11
1838	26. 055	108. 000	0. 12
1839	25. 747	100 348	0. 13
1840	27. 237	124. 103	0. 12
1841	33. 826	132. 614	0. 10
1842	37. 088	155. 525	0. 10
1848	43. 692	161. 732	0. 6

In

In 1833, there was in proportion a greater increase of population, than of cultivated lands, and the proportion of cases of dmnKennes fell from 0.19 to 0.11 -

In 1835, - there was a larger addition to the land in cultivation than to the population, and the proportion of dmnKennes attained its maximum since 1832, namely. 0.15.

In 1836, - there was a larger addition to the population than to the cultivated lands, and there was a decline of the proportion of the cases of dmnKennes to 0.09

In 1837, - there was a positive decrease both of population, and of the number of acres of cultivated lands, and the proportion rose from 0.09 to 0.11 -

In 1838, There was a small increase of the population, and a large one, to the number of acres in cultivation, and the proportion

rose

rose to 0.12 -

In 1839, As His Excellency, may be aware, the supply of labor was felt to be inadequate to the wants of the community, and the proportion rose to 0.13 -

In 1840, there was an accession of laborers, but a still greater addition to the cultivated lands, and the proportion though lower, still stood at 0.12, since which period, it declined until 1847, apparently as the demand for labor declined. -

14. - But the other punishable offences, do not appear at first sight, to observe the same law of decrease - for during 10 months of 1838, with which return No 5 commences, these were to dmnKennes,

338 to 1241 or as 0.27 but in

1839

1839	800	to	1.430 or as	0.55
1840	591	"	1.798 " "	0.32
1841	637	"	1.258 " "	0.50
1842	1195	"	1.773 " "	0.67
1843	827	"	1.210 " "	0.68
1844	946	"	1.370 " "	0.69
1845	1109	"	1.403 " "	0.79
1846	936	"	1.012 " "	0.92
1847	1119	"	1.123 " "	0.99
1848	1422	"	1.284 " "	1.10

15. - If at first sight, appears rather surprising, that this contrast between drunkenness and the other offences, is most observable, in the offence, which is, of all others, the most closely identified with the state of inebriety, or rather its result, namely, that of disturbing the peace, of which, in 1838, the cases were to those of drunkenness: -

	5	to	1.241 or as	0.004 but in
1839	97	"	1.430 " "	0.06
1840	92	"	1.798 " "	0.05
1841	116	"	1.258 " "	0.09
1842	196	"	1.773 " "	0.11
1843	245	"	1.210 " "	0.20
1844	342	"	1.370 " "	0.24
1845	336	"	1403 " "	0.23
1846	266	"	1.012 " "	0.26
1847	307	"	1.123 " "	0.27
1848	605	"	1.284 " "	0.47

The

- The explanation of this apparent paradox, appears partly, to be, that of late years, there has gradually come into operation a practice, not fully developed until the end of 1847, or beginning of 1848, of imposing double or cumulative fines. -

Previously to 1845, a person charged with drunkenness, was scarcely ever, also charged with indecent language or disturbing the peace, or resisting Constables - or, if charged, the Magistrate did not fine him for the latter offence. But now, to borrow the expression used by Mr Wilmot, the police Magistrate. "drunkenness is not considered to be any excuse for other offences". -

F
926
Query marked #

Hence, if we wish to compare 1847, or 1848, with 1842. we must strike out these cumulative fines, which in 1847, make

an

an addition of not less than 100 convictions to the cases of assault on Constables, and in 1848, the still greater number of 145. -

On the same principle 200 convictions must be subtracted, from the cases under the Police Act in 1847 and 140 in 1848, also, 80 cases of disturbing the peace in 1847 and 183 in 1848. -

It will also be seen, from the accompanying Memoranda, that drunkenness was the leading or primary offence recognized and punished in 293 out of the 366 cumulative cases of 1847 - and in 385 out of the 481 of 1848 - whilst it was probably the exciting cause in the remainder - though not presenting itself in so gross and palpable a form, as to be

punished

punished and recorded, - for we are assured by the Chief Constable of the Colony, to whose evidence, we shall have again occasion to advert, that drunkenness is almost invariably the cause of the offences which have appeared to increase in 1848. -

15. Even therefore, had we no information as to the cumulative fines, we should be bound to infer from the fact of 1.284 cases of drunkenness, being associated in the returns of 1848, with 615 cases of disturbance of the peace - that 1.241 cases of the one offence, must have been accompanied in fact, by more than 5 of the other in 1839 - and in like manner 1.430 by more than 97 in 1839 - or in other words, that the difference is mainly due, not to any change in the

reality

reality of things, but to an alteration in the mode of proceeding at the police office.-

We are informed, that persons charged with drunkenness, almost invariably plead guilty- in which case the constable gets half the fine- but that when the charge preferred is disturbance of the peace,- indecent exposure- or indecent language- it is frequently necessary to examine the Constable, in which case, he gets nothing.-

It is evident therefore, that when in 1838, a man was taken into custody for drunkenness joined to other offences, the constable- if limited to one charge, would always prefer that of drunkenness, knowing that the accused would be almost sure to confess it- and thus secure

19

secure to him half the penalty,- we can have but little hesitation therefore, in assuming that this is, in all probability, the cause of the extreme paucity of the charges, for disturbing the peace in 1838- after which however, the attention of the Police Magistrate, was probably gradually drawn to the subject, and the charges began thenceforth to be better discriminated, and drunkenness caused to be punished, whenever, on the circumstances of any compound case being stated, it appeared the less prominent offence.-

H/3.

16. This however, will not disturb, for the purpose of comparison, the number of cases of drunkenness, in the earlier years of the return as compared

with

with those for 1847 and 1848 - taken from each offence, being separately punished, by the system of cumulative fines, - it became no longer necessary to distinguish from the other offences which might occur in any compound case, one more prominent than the rest - but it will diminish the comparative number of fines for drunkenness during the intermediate years.

17. - We may here mention that the difference between the total number of convictions in 1848, as shown by the returns **B** & **C** arises from the cumulative fines having been omitted by the Police Magistrate in the former, for the purpose of more just comparison with the year 1842 - in which no such fines were inflicted - It will be seen however, from the remarks made by Mr Wilmot on **B**, that to make the comparison perfectly just, about two

hundred

hundred convictions should also be subtracted from even that return, namely, for 1842 - in which case the numbers of fines for 1842 and 1848, would stand at 2.768, and 2.210 respectively, instead of 2.968 and 2.210

18. The practical inference from all that has been submitted with reference to the numbers of the offences to which we have referred, appears to be, that drunkenness is after all, the leading and determining offence - and that it again fluctuates with and is determined by, chiefly, the rise or fall of the demand for labor. -

19. We shall not however, have satisfactorily completed our task, until we endeavour to ascertain, whether the connexion between the rise and fall of the demand for labor, and drunkenness, arises, through the

quarter

greater or less inability of the poorer classes, to purchase the means of inebriation, or from it, in convenience with some other cause. –

20– Upon this point, we have it upon the authority of Mr. Morgan, the Chief Constable – an officer of long experience and whose opportunities of acquiring information have necessarily been most extensive – that in 1842 – the habits of the working classes were different from what they are now – at that time, it was an ordinary thing for men to spend 20/– or perhaps even some pounds, at a sitting, in a public house, when now, they would not spend a tenth of that sum – that on these occasions, they used to treat all who came in their way with Rum – and that drunkenness and quarrelling and disorder amongst

amongst those so congregated, were the usual result – followed not unfrequently by their being all taken into custody and fined, and also by the punishment of those Publicans who entertained them. – Whereas now, a man more frequently calls for a moderate quantity of Beer, which he divides with his companion – and their is comparatively speaking, no immoderate treating. –

Mr Morgan says, that at present the more orderly men only, can get steady employment, that the less steady, but whose constitutions have not been broken down by intemperance, have gone to Port Phillip, and that there remains a residue of men, who from long continued bad habits, have no longer energy, either to work here, so as to ensure regular employment, or to make an effort to go Elsewhere – he

also

also informs us, that the Keepers of the public houses do not, by any means, make the profits which they used to do, and that he cannot imagine, how one third of them, can even manage to support their families - many of these, have told him, that had they any rent to pay, they could not live, but that they continue to keep on having purchased or built their houses, in better times. -

In 1842. an employer, would put up with the absence of a good mechanic or laborer, because it was difficult to replace him if dismissed - whereas now there is plenty of good tradesmen, - Monday used not to be a working day, now it is, generally speaking, the Tailors still take half the Monday, but other tradesmen do not - a pound was as little thought of

of then as 5/. are now. -

Chartism

Beer is now very good, and is cheaper than Rum, and the men are getting accustomed to it, and prefer it - He also states, that the disturbances of the peace are always the effect of drunkenness. -

Mr. Morgan was also asked, how he accounted for the case of drunkenness diminishing, and those of disturbances of the peace, having increased, - and he imputed it to the Constables, having been forbidden of late years to take up as drunken men, those, who though excited, could take care of themselves, and he observed, that that is the very condition in which a man was most likely to disturb the peace, if spoken to - it is the stage of drunkenness in which men are most disorderly. - The disturbers of the peace,

are

are of a better class than the drunkards. those who donot pay their fines, are not the working classes, but "hangers on" who live the best way they can.

Those who expose their persons, are of a lower class, than those who assault Constables - but are rather better than the drunkards, who donot pay their fines - they will work 3 or 4 days a week when they can get it. -

21. It will be perceived that Mr. Morgan's evidence extends not merely to the question more immediately before us, but also, to points which have previously engaged our attention, we have however thought it better to take it down entire as it now stands. -

It accords generally with the evidence of the Returns and Tables, to which we have

have had reference, and also, we may add, with information obtained by us in our general intercourse with the community, as to the greater control which the Master Tradesmen have over their Establishments than in former times. -

22 - One point however, appears to require explanation - we can discover nothing in the returns to show, that fines were improperly imposed either for drunkenness in 1842, or for disturbing the peace in 1848 - The accompanying returns, on the contrary prove that of the 1773 fines for drunkenness in the former year - so large a proportion as 1583 were awarded against parties who actually pleaded guilty - and in like manner that of 614 persons fined in 1848, for disturbing the peace - so many as 527 pleaded guilty, or in other words themselves substantially admitted that the Constables had acted properly in

taking

taking them into custody. -

23. We would also observe, that the subdivision of the working classes into three parts - the steady who have remained here in employment, - the unsteady who have gone to port Phillip, where there is a greater, and consequently a less discriminating demand for laborers; and the broken down and worthless, or hangers on, who like the first class, still remain in this colony - appears to us, to be undeniably well founded, if understood relatively and as an approximation, for it would be absurd to say, that all the steady & all the broken down have remained, whilst all those of the intermediate class have departed. -

24. - When the laborers are more numerous in proportion than the masters, only the more useful find constant employment but

but when the masters are more numerous in proportion than the laborers, every one is employed, such at least, is the tendency - The former of these conditions has existed here since 1842, whilst at Port Phillip a state of things directly the reverse has obtained during the same period. -

K

- The process in question may indeed be illustrated by a reference to the census. the number of persons who had become free in 1841 was 9.412, and after that period 13.918 convicts in addition regained their liberty, previously to 1848, making together 23.330 - yet the entire number of persons of this class in the colony, according to last census was only 11.529 and if the question be asked,

What

what has become of the 11.801 constituting the difference between those numbers - the answer (without allusion to those who have died in the interim) would of necessity be, that they must have left the Colony - On the other hand, if we take the Census, as it stands, for our guide - only 674 free Emigrants out of 14.492 have gone away - this however admits of a correction - It appears that 3.298 F. L. Men may have been erroneously included in the number of free Emigrants given in last census, which would increase the difference between the Maximum number of Free Emigrants and those in the Colony on the 31st December, 1847, to 3.972

24. It would seem, therefore, that of those who have once been Convicts

50 in every hundred have left the Colony, but only 27 out of every hundred of the originally free Immigrant population. -

25. We are aware however, that the impression prevails amongst well informed Colonists, that more, in proportion, of the originally free - than of those who were once convicts, have gone to the Neighbouring Colonies - and it is certainly possible, that some further fallacy may exist in the Census, on this point - but we do not think we should be justified on inferring its existence on the ground merely of an opinion, capable of being otherwise accounted for. The observation usually made is - "you never now see a free emigrant seeking for Employment" - the

Labourers

labourers who come about the farms have all been convicts"? to which it may very well be answered. "The free Emigrants do not wander about so much having generally found some permanent occupation." —

26. In conclusion, we would, with His Excellency's permission, state, the result of our enquiries to be, that the diminution in the fees and fines, is mainly due to the decrease in the demand for labor in proportion to the supply, such reduction operating, in our opinion, as follows: —

1st Wages have been lowered, the funds therefore at the disposal of the laboring classes have been diminished although, we may observe, not to such an extent as to prevent deposits being made in the Savings Banks. as is shown in the Return with which we have been obligingly provided by the Actuary of this Bank in Hobart Town.

We have not thought it necessary to apply for a Return from the similar Establishment in Launceston. —

2nd There having been more laborers than work the Masters have been enabled to chose the laborers, who in every respect pleased them best, the tendency of which has been to secure employment to the classes least likely to pay fines. —

E 3rd Those unable to exercise self control, have in many instances been driven out of the Colony - having been

been repelled from this, but attracted specially by Port Phillip - these, had they remained, would have been the largest contributors to the fines & fees. -

4th The worst class, or "hangers on", remain - but they have not the means of getting inebriated so often as formerly - and when they die fined for drunkenness they cannot pay their fines. -

27. - There may also have been other conditions cooperating with those to which we have now drawn His Excellency's attention - Beer, for instance, is cheaper, as well as less intoxicating beverage than Rum - and we find that

that concurrently with the recent change in the means of the working classes, the Breweries have been increasing since 1840, from 22 to 46, - whilst during the same period the duty on spirits has declined from £62.233 to £37.682 - though probably in part through illicit distillation. - neither can we tell, how great an extent of beneficial influence, may have been exerted by the abstinence societies - and it is probable, that something is also due to the increase of the proportion of females from 45 to every 100 - in 1842, to upwards of 46 in 1848. -

28. The last documents which we have now to submit for His Excellency's information, are the accompanying returns, showing, the total numbers of Fines

M^r N

for

for the first half years of 1848, & 1849, respectively - and exhibiting an increase in the latter year, as compared with the former - from which we should infer that the demand for labor, has recently, somewhat increased. -

Adam Turnbull

Wm. Sorell

W. Kirk

Hobart Town,
4th August 1849.
C.H.V.

A

Statement of Amount collected in the Police Office Hobart Town under the Head of Fines and Fees in the Years 1842 and 1848 respectively, together with its appropriation.

56

Receipts	Amount	Total Amt	1842
Fees actually collected in the Police Office in 1842	£76 .. 6		
Fines ——— do ——— do ———	945 10 9		
		£1021 11 3	
Fees received for Conditional Pardons ———		39 19 6	
Repayment from Commissariat for Rewards &c paid out of Fines and Fees collected in 1841 ———		55	
		£1066 10 9	

Appropriation	Amount	Total Amt
Paid petty disbursements ———		10 .. 4
Special payment to distrt constable John Partridge		21 .. ..
Paid for the apprehension of Absconders out of Fees and Fines collected in 1842	£202 15 ..	
deduct amount repaid by Commissariat during the Year 1842	£150 10 ..	
Balance due by Commissariat ———		52 5 ..
		83 5 4
Amount paid into the Revenue in 1842 ———		1523 5 5
		£1606 10 9

Receipts	Amount	Total Amt	1848
Fees actually collected in the Police Office in 1848	£295 11 6		
Fines ——— do ——— do ———	£310 18 9	£606 10 3	
Repayment from Commissariat of Rewards &c paid out of Fines and Fees collected in 1847 ———		111 5 3	

Appropriation	Amount	Total Amt
Paid petty disbursements ———		15 15 6
Paid for the destruction of Dogs ———		3 10 ..
Paid for apprehension of Absconders out of Fines and Fees collected in 1848 ———	£354 15 ..	
Paid for returns to constables on Rush duty out of &c	£163 4 3	
	£517 19 3	
deduct amount repaid by the Commissariat during the Year 1848 ———	£272 1 3	
Balance due by Commissariat ———		245 18 ..
		265 3 6
Amount paid into the Revenue in 1848 ———		452 12 ..

B

2

37

Return of Fines imposed at the Police Office Hobart Town during the years 1842 and 1848

	1842									1848									
	no: of convictions	Totals £	Totals s.	Totals d.	paid £	paid s.	paid d.	unpaid £	unpaid s.	unpaid d.	no: of convictions	Totals £	Totals s.	Totals d.	paid £	paid s.	paid d.	unpaid £	unpaid s.	unpaid d.
Police Act	2626	1310	18	0	961	18	0	349	0	0	2125	982	5	0	613	15	0	368	10	0
Licensing Act	71	432	0	0	326	0	0	106	0	0	32	187	10	0	185	10	0	2	0	0
Quarter Sessions Act	19	129	0	0	87	0	0	42	0	0	14	96	10	0	35	10	0	61	0	0
Weights & Measures Act	15	8	10	0	8	10	0	.	.	.	20	15	0	0	15	0	0	.	.	.
Pounds Acts	41	83	12	0	49	12	0	34	0	0	12	30	0	0	18	0	0	12	0	0
Dog Regulation Act	26	47	0	0	46	0	0	1	0	0	.	.	.	.	.	.	.	.	.	.
Dog Fines	157	37	15	0	37	15	0	.	.	.	.	.	.	.	.	.	.	.	.	.
Coroners Jury Act	11	20	10	0	20	10	0	.	.	.	.	.	.	.	.	.	.	.	.	.
Permit Act	1	1	0	0	1	0	0	.	.	.	1	10	0	0	10	0	0	.	.	.
Slaughtering Act	1	10	0	0	.	.	.	10	0	0	2	1	0	0	1	0	0	.	.	.
Registration Act	3	3	0	0	3	0	0	.	.	.	1	.	10	.	.	10	.	.	.	.
New Town Water Act	2	12	0	0	12	0	0	.	.	.	.	.	.	.	.	.	.	.	.	.
Stage Coach Act	1	5	0	0	5	0	0	.	.	.	1	2	0	0	2	0	0	.	.	.
Vehicle Regulation Act	.	.	.	.	.	.	.	.	.	.	2	4	0	0	4	0	0	.	.	.
Totals	2968	2100	5	0	1558	5	0	542	0	0	2210	1334	15	0	891	5	0	443	10	0

Of the £1558-5-0 collected in 1842 £945-15-9 were due to Government and £612 : 14 : 3 to Informers —

Of the £891-5-0 collected in 1848 £467-2-6 were due to Government and £424-2-6 to Informers - £310-18-9 were paid into the Treasury in 1848 accounts the remainder having been collected in 1849

5- There have been no Informations under the Coroners Jury Act, since the Police Magistrate cannot hold the Office of Coroner.

There are the only differences which seem to call for any remark.

Alan Macdonald
Hobart 16th June 1849

Remark.

The decrease in 1848 arises chiefly from the following causes
1st Informers not so partial to penalties inflicted if they were examined in proof of the Offence under any section of the Police Act the Offender was wholly acquitted or totally escaped the punishment - it only partially stopped the Publican's License by the Police Magistrate charged the annual payable to the Govt. is therefore considerably less in 1848
2- The lowest penalty in 1848 for retailing without a license might be 1/, Shillings in 1842 it was £1.
3- In 1842 Chap. 9 Clause 2 Quarter Sessions Act was in force Seamen Act was in force Masters were liable to a penalty from £2 to £50 for allowing their servants to work Sunday Labour - this part of the Clause was omitted in the Transported Offenders Act in 1845.
4- The fines under the Dog Regulation Act in 1842 were principally inflicted on Masters of Vessels not keeping proper rules on board. Ships at Anchor - The Marine Department have the duty now of enforcing regulations of this kind - having been transferred to it by the Water Police about four years ago - Such regulations I suppose did not exist in 1848
5- The Commissioners which are levied on Dog Fines in 1842 were actually £0 - but 5% collected from every party who came to claim his dog returned, which had been locked up in the Dog House - this practice, which has no warrant for it, has been discontinued since 1843.

Treasury
18. June 1849

Dear Sir

In comparing the two returns, which I have just received from you, I find that while they agree in the State, there is a difference between the two returns as respects 1848

The Chief Clerk Registrar

in the number of
convictions, the Conf
return stating that
at 2706 & the other
2210 –

I observe also th
the number of ca
of "disturbing the
public peace" is in
1848 double what
was in 1847

May I request
that you will favor
Board with
explanations on
these two points

Faithfully yours
Adam Turnbull

40

C

A Re

of fines imposed ~~upon Con~~

Office Hobart Town from

Offences	1838 no: of Convictions	Total £. S. D.	paid £. S. D	unpaid £. S. D	183 no: of Convictions	Total £. S. D
Drunkenness	1241	310. 5. 0	219. 15. 0	90. 10. 0	1430	357. 10. 0
ssaulting Constables	33	15. 10. 0	10. 0. 0	5. 10. 0	98	170. 10. 0
ls Act	49	69. 16. 6	42. 1. 6	27. 15. 0	33	56. 16. 0
lice Act	100	76. 15. 0	63. 15.	13. 0. 0	268	142. 16. 0
decent Exposure	7	25. 5. 0	15. 5. 0	10. 0. 0	81	74. 15. 0
sturbing the public peace	5	1. 5. 0	10. 0	15. 0	97	24. 5. 0
censing Act	30	176. 16. 0	90. 16. 0	86. 0. 0	55	596. 0. 0
sconduct as Constables.	3	18. 15. 0	15. 15. 0	3. 0. 0	64	58. 10. 0
stillation	1	5. 0. 0	5. 0. 0	. . .	1	100. 0. 0
her Offences	90	183. 1. 0	145. 0. 0	38. 1. 0	103	242. 6. 0
Totals	1579	882. 8. 6	607. 17. 6	274. 11. 0	2,230	1825. 8. 0

No 3

The Return includes only the ca

C

A Return

of fines imposed ~~upon Free persons~~ at the Police Office Hobart Town from the year 1837 to 1849

Offences	1838 no: of Convictions	1838 Total £. S. D.	1838 paid £. S. D.	1838 unpaid £. S. D.	1839 no: of Convictions	1839 Total £. S. D.	1839 paid £. S. D.	1839 unpaid £. S. D.	1840 no: of Convictions	1840 Total £. S. D.	1840 paid £. S. D.	1840 unpaid £. S. D.
Drunkenness	1241	310. 5. 0	219. 15. 0	90. 10. 0	1430	357. 10. 0	283. 0. 0	74. 10. 0	1798	449. 10. 0	378. 0. 0	71. 10. 0
Assaulting Constables	33	15. 10. 0	10. 0. 0	5. 10. 0	98	170. 10. 0	95. 10. 0	75. 0. 0	86	137. 0. 0	101. 10. 0	35. 10. 0
Peels Act	49	69. 16. 6	42. 1. 6	27. 15. 0	33	56. 16. 0	56. 16. 0	. . .	25	29. 15. 0	26. 10. 0	3. 5. 0
Police Act	100	76. 15. 0	63. 15.	13. 0. 0	268	142. 16. 0	115. 11. 0	27. 5. 0	233	83. 5. 0	73. 10. 0	9. 15. 0
Indecent Exposure	7	25. 5. 0	15. 5. 0	10. 0. 0	81	74. 15. 0	46. 5. 0	28. 10. 0	51	36. 15. 0	27. 15. 0	9. 0. 0
Disturbing the public peace	5	1. 5. 0	10. 0	15. 0	97	24. 5. 0	20. 5. 0	4. 0. 0	92	23. 5. 0	21. 5. 0	2. 0. 0
Licensing Act	30	176. 16. 0	90. 16. 0	86. 0. 0	55	598. 0. 0	548. 0. 0	50. 0. 0	34	418. 0. 0	268. 0. 0	150. 0. 0
Misconduct as Constables	23	18. 15. 0	15. 15. 0	3. 0. 0	64	58. 10. 0	35. 15. 0	22. 15. 0	30	39. 7. 0	13. 12. 0	25. 15. 0
Distillation	1	5. 0. 0	5. 0. 0	. . .	1	100. 0. 0	100. 0. 0	. . .	. .	. . .	. . .	. . .
Other Offences	90	183. 1. 0	145. 0. 0	38. 1. 0	103	242. 6. 0	212. 1. 0	30. 5. 0	40	237. 16. 0	199. 11. 0	38. 5. 0
Totals	1579	882. 8. 6	607. 17. 6	274. 11. 0	2,230	1825. 8. 0	1513. 3. 0	312. 5. 0	2389	1454. 13. 0	1109. 13. 0	345. 0. 0

The Return includes only the last ten months of 1838.

3

Offences	1841 No: of Convictions	1841 Total £ S D	1841 paid £ S D	1841 unpaid £ S D	1842 No: of Convictions	1842 Total £ S D	1842 paid £ S D	1842 unpaid £ S D	1843 No: of Convictions	1843 Total £ S D	1843 paid £ S D	1843 unpaid £ S D
Drunkenness	1258	314-10-0	263-0-0	51-10-0	1773	443-5-0	371-10-0	71-15-0	1210	302-10-0	246-0-0	56-10-0
Assaulting Constables	55	75-6-0	42-6-0	33-0-0	194	410-0-0	276-26	133-17-6	122	157-6-0	88-1-0	69-5-0
Beds Act	27	46-0-0	27-10-0	18-10-0	41	83-12-0	49-12-0	34-0-0	50	88-16-0	60-16-0	28-0-0
Police Act	220	88-2-0	81-7-0	6-15-0	415	217-13-0	177-15-6	39-17-6	171	84-12-0	70-17-0	13-15-0
Indecent Exposure	40	55-0-0	38-5-0	16-15-0	100	133-0-6	79-0-0	54-0-0	80	77-0-0	34-5-0	42-15-0
Disturbing the public peace	116	29-0-0	25-0-0	4-0-0	196	49-0-0	43-15-0	5-5-0	245	61-10-0	54-0-0	7-10-0
Licensing Act	42	293-16-6	196-16-6	97-0-0	71	432-0-0	326-0-0	106-0-0	18	51-0-0	50-10-0	-10-0
Misconduct as Constables	63	58-15-0	33-0-0	25-15-0	99	95-15-0	51-10-0	44-5-0	30	44-15-0	15-5-0	29-10-0
Distillation	..	.. ..	.. ..	.. ..	..	— —	— —	— —	2	220-0-0	53-6-8	166-13-4
Other Offences	74	184-8-0	140-3-0	44-5-0	79	236-0-0	183-0-0	53-0-0	109	174-10-0	146-10-0	28-0-0
Totals	1895	1144-17-6	847-7-6	297-10-0	2968	2160-5-0	1558-5-0	542-0-0	2037	1261-19-0	819-10-8	442-8-4

Offences	1844 No: of Convictions	1844 Total £	1844 Total S	1844 Total D	1844 paid £	1844 paid S	1844 paid D	1844 unpaid £	1844 unpaid S	1844 unpaid D	1845 No: of Convictions	1845 Total £	1845 Total S	1845 Total D	1845 paid £	1845 paid S	1845 paid D	1845 unpaid £	1845 unpaid S	1845 unpaid D	1846 No: of Convictions	1846 Total £	1846 Total S	1846 Total D	1846 paid £	1846 paid S	1846 paid D	1846 unpaid £	1846 unpaid S	1846 unpaid D
Drunkenness	1370	342	10	0	269	0	0	73	10	0	1403	351	10	0	255	15	0	95	15	0	1012	253	0	0	205	0	0	48	0	0
Assaulting Constables	138	224	3	0	77	18	0	146	5	0	217	318	5	0	154	7	0	163	18	0	141	188	0	0	133	0	0	55	0	0
Pols Act	39	52	11	0	41	1	0	11	10	0	36	49	19	0	35	14	0	14	5	0	41	82	13	0	41	3	0	41	10	0
Police Act	189	96	7	0	75	16	0	20	11	0	290	151	5	0	119	15	0	31	10	0	256	133	2	0	109	2	0	24	0	0
Indecent Exposure	69	56	5	0	19	10	0	36	15	0	100	80	10	0	34	5	0	46	5	0	57	61	17	0	31	17	0	30	0	0
Disturbing the public	342	85	10	0	74	5	0	11	5	0	336	87	0	0	70	15	0	16	5	0	266	70	0	0	60	15	0	9	5	0
Licensing Act	44	82	15	0	77	15	0	5	0	0	26	108	10	0	73	10	0	35	0	0	4	70	0	0	———			70	0	0
Misconduct as Constables	65	47	10	6	36	6	6	11	4	0	45	31	2	6	24	0	0	7	2	6	49	32	5	0	22	2	6	10	2	6
Distillation	5	550	0	0	.....			550	0	0	7	1150	0	0	- - - -			1150	0	0	9	950	0	0	.....			950	0	0
Other Offences	55	66	2	0	37	17	0	28	5	0	52	335	5	0	46	3	0	289	2	0	113	336	0	0	186	5	0	149	15	0
Totals	2316	1603	13	6	709	8	6	894	5	0	2512	2663	6	6	814	4	0	1849	2	6	1948	2176	17	0	789	4	6	1387	12	6

550 / 1053 — 550 / 1053

550 / 3421

1150 / 1513 — 1513

69

Offences	1847 No: of Convictions	1847 Total £ S D	1847 paid £ S D	1847 unpaid £ S D	1848 No: of Convictions	1848 Total £ S D	1848 paid £ S D	1848 unpaid £ S D
Drunkenness	1123	280 „ 15 . 0	181 . 15 . 0	99 . 0 . 0	1284	321 . 0 . 0	207 . 5 . 0	113 . 15 . 0
Assaulting Constables	164	163 . 10 . 0	115 . 0 . 0	48 . 10 . 0	248	270 . 17 . 0	154 . 2 . 0	116 . 15 . 0
Peels Act	34	45 . 16 . 0	40 . 6 . 0	5 . 10 . 0	12	30 . 0 . 0	18 . 0 . 0	12 . 0 . 0
Police Act	429	152 „ 16 „ 0	118 „ 11 . 0	34 . 5 . 0	398	184 . 1 . 0	118 . 2 . 0	65 . 19 . 0
Indecent Exposure	41	51 . 0 . 0	31 . 5 . 0	19 . 15 . 0	58	38 . 1 . 0	17 . 15 . 0	20 . 6 . 0
Disturbing the public peace	307	78 . 15 . 0	62 . 5 . 0	16 . 10 . 0	605	153 . 10 . 0	114 . 0 . 0	39 . 10 . 0
Licensing Act	22	264 . 0 . 0	184 . 0 . 0	80 . 0 . 0	32	187 . 10 . 0	185 . 10 . 0	2 . 0 . 0
Misconduct as Constables	25	22 . 12 . 6	6 . 2 . 6	16 . 10 . 0	16	14 . 16 . 0	2 . 11 . 0	12 . 5 . 0
Distillation	3	300 . 0 . 0	„ „ „	300 . 0 . 0	„	„ „ „	„ „ „	„ „ „
Other Offences	94	386 . 0 . 0	224 . 10 . 0	161 . 10 . 0	53	135 . 0 . 0	74 . 0 . 0	61 . 0 . 0
Totals	2242	1745 . 4 . 6	963 . 14 . 6	781 . 10 . 0	2706	1334 . 15 . 0	891 . 5 . 0	443 . 10 . 0

Alan Tulloch
Clerk 16th June 1849

D

Table of Proportion showing the average fine imposed every year for all the offences specified in Return No 3. and also the proportion to each other, of the paid and unpaid fines. also the same as to certain of those offences, separately. -

Year	Total Fines, exclusive of Distillation			Drunkenness at 5/. each		Disturbing the Peace at 5/. Each.		Assaulting Constables			Indecent Exposure			Licensing Act			Imprisonment as to above tables.		
	No.	Average Fine	Proportion of Fines unpaid to Paid	No.	Proportion of Fines unpaid to Paid	No	Proportion of Fines unpaid to paid	No	Average Fine	Proportion of Fines unpaid to Paid	No	Average Fine	Proportion of Fines unpaid to Paid	No	Average Fine	Proportion of Fines unpaid to Paid	No	Average Fine	Proportion unpaid to Paid.
		£							£			£			£			£	
1838	1578	0.11.1	0.45	"	"	"	"	33	0.9.4	0.50	7	3.12.1	0.66	30	5.17.10	0.95	23	0.16.3	0.20
1839	2229	0.15.5	0.22	1430	0.26	97	0.20	98	1.14.9	0.78	81	0.18.5	0.60	55	10.17.5	0.91	64	0.18.3	0.62
1840	2389	0.12.2	0.31	1798	0.18	92	0.09	86	1.11.10	0.34	51	0.14.4	0.33	34	12.5.10	0.55	30	1.6.2	0.92
1841	1895	0.12.0	0.35	1258	0.19	116	0.16	55	1.7.4	0.78	40	1.7.6	0.42	42	6.19.11	0.49	63	0.18.7	0.75
1842	2968	0.14.1	0.34	1773	0.19	196	0.11	194	2.2.3	0.48	100	1.6.7	0.68	71	6.1.8	0.32	99	0.19.2	0.86
1843	2035	0.10.2	0.36	1210	0.22	245	0.12	122	1.5.9	0.78	80	0.19.0	1.23	18	2.16.8	0.01	33	1.19.10	1.93
1844	2316	0.9.1	0.48	1370	0.27	342	0.14	138	1.12.6	1.89	69	0.16.3	1.89	44	1.7.7	0.06	65	0.14.7	0.30
1845	2505	0.12.0	0.85	1403	0.37	336	0.22	217	1.9.4	1.05	100	0.16.1	1.35	26	4.3.5	0.47	45	0.13.10	0.29
1846	1939	0.12.7	0.55	1012	0.23	266	0.15	141	1.6.8	0.41	57	1.1.8	0.96	4	17.10.0		49	0.13.1	0.45
1847	2239	0.*12.10	0.49	1123	0.54	307	0.25	164	0.19.11	0.41	41	1.4.10	0.61	22	12.0.0	0.43	25	0.18.1	26.6
1848	2706	0.*9.10	0.49	1284	0.54	605	0.34	248	1.1.10	1.75	58	0.13.1	1.17	32	5.17.2	0.01	16	0.18.6	4.50
		6.11.3	4.89		2.99		1.78		15.1.6	9.17		13.9.10	9.90						

Average £ 11/11

£1.7.4¾

£1.4.6

* Cumulative Fines in those years -

The proportion shown between the paid and unpaid fines, does not extend to the fractional parts of the pound. -

IE

Table of Alterations in the Circumstances of the Colony since 1832.-

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
	Exotic Imports	Do Consumption	Imports Assorted Sorts	Grain*	Beer in Colony	Wine in Do	Tobacco Manufactured	Do in Bond	Price of Wheat per Bushel	Price of Meat per Pound	Average Wages of Labourers & Mechanics	Exports	Imports	Duty on Spirits	Remarks	Persons to the Square Mile in Colony	Do in Melbourne	Revenue from Customs	Do Postage & Police	
32	24.079	15.167	"	12.706	"	"	"	56.626	5/-	"	8/-	157.906	392.666	"	"	2841	"	1.799	1.250	
33	34.450	18.214	"	14.990	"	"	"	61.399	5/-	"	7/6	152.967	352.894	"	"	2.141	"	1.403	1.501	
34	37.799	21.084	"	15.538	"	"	"	69.041	11/6	"	7/6	203.522	476.607	"	"	2.919	"	1.246	1.222	
35	40.283	21.991	"	16.968	"	"	"	87.283	6/6	"	7/-	302.679	583.646	"	"	3.312	"	1.075	1.293	
36	43.895	24.712	"	17.661	"	"	"	89.518	6/0	"	6/9	420.123	558.240	"	13	2.404	"	1.424	1.215	
37	42.795	24.096	"	17.953	"	"	"	79.429	7/3	"	6/3	540.221	563.144	45.362	16	2782	"	2.322	1.362	
38	45.846	26.053	14.382	16.133	"	"	"	108.080	8/9	4½	6/3	581.478	702.956	46792	19	3189	"	2697	1357	
39	44.111	25.747	"	17.077	"	"	"	100.348	11.6.0	4	7/6	875.165	746.887	53.006	22	3599	"	3785	1462	
40	46057	27.237	"	17.763	"	"	"	124.103	0.9.0	6	7/6	867.007	988.356	62.233	22	3271	"	3300	1135	
41	51.499	33.826	"	16.391	11.757	12.598	9.412	132.614	0.7.0	5¼	6/8	630.601	851.981	57.699	21	3.470	"	3.165	1.756	
42	58.902	37.088	15.061	20.332	12.724	14.492	9.872	165.525	0.6.6	2¾	7/4	582.589	587.453	53.583	26	3801	"	3.770	1.482	
43	"	"	"	"	"	"	"	157.340	0.3.6	2½	7/-	439.890	715.260	46.709	19	2.706	"	2.844	1.060	
44	"	"	"	"	"	"	"	121.938	0.3.3	2¼	4/10	408.797	442.985	39.221	"	2901	"	2.223	936	
45	"	"	"	"	"	"	"	140.953	0.3.3	2¼	5/8	422.218	520.562	34.651	44	2734	"	2.392	953	
46	"	"	"	"	"	"	"	152.343	0.5.0	2½	5/6	582.585	561.238	36.875	40	2157	"	2.493	751	
47	70.164	43.692	"	24185	18.395	13818	11.529	146.004	0.4.10	2½	4/10	600.876	724.593	39.562	46	3002	"	2.251	765	
48	"	"	"	"	"	"	"	161.732	0.3.6	-	4/3¼	490.281	594.154	37.682	"	3008	"	1.801	701	

* Column No 1 includes Military & Aborigines.-

+ in Col: 16 – The practice of giving Ticket of Leave men began to be adopted 2 or 3 years ago in some of the Districts or perhaps earlier. The Chief Police Magistrate is unable to ~~afford~~ precise information on the subject. It may account for part of the increase in this Column shown for the years 1847 & 1848—

F

48

30 June 1849

My Dear Sir

Would you oblige
me with the following
information for the
Board of Fees

1st When did the
arrangement commence
under which the
lines formerly received
by the Crown entire
are now shared by
Mr Enfield Wilmot Esq
Police Magistrate

Informers

2d to what Offe[illegible]
does the new arrange[illegible]
-ment more parti[illegible]
-cularly apply

3 The terms of the
Police Act seem to plac[illegible]
drunkenness &c on
the same footing wit[illegible]
other offences as respe[illegible]
the sharing of fines, h[illegible]
did the exception go[illegible]
mention as in fa[illegible]
of the Constable occu[illegible]

1. Since the end of 1847
[illegible] but occasionally before that
[illegible]me.
To assaulting and resisting
[illegible]stables.

49

2 This exception did
not occur. All ~~[illegible]~~ Informers or procedures
examined in proof of the
Offence get no portion of the
penalty under any section
of the Police Act

prior to the new
arrangement

4 Do Parties frequently
plead guilty when
charged under the 4
section with drunk

5. Do Parties as fre
-quently plead guilty
when charged with
indecent language
or with disturbing
the public peace

50

Almost invariably

not near so frequently

as when charged
with mere drunken-
-ness —

*6 In 1839 there were
97 convictions for
disturbing the public
Peace and 1430 for
drunkenness but in
1845 the numbers
were respectively 33[illegible]
to 1403 - can you

51

6 I cannot account for
this change of proportion otherwise
than by the fact that in 1845
more parties were charged
and fined for the double
offences of drunkenness and
disturbing the peace than
they were in 1839 - In the
latter year and in 1840
a person charged with
drunkenness was not
charged with the addition
of indecent language or disturbing
the peace, or if he was - the
Magistrate

account for this chan
of proportions

7 - In 1840 the cases
drunkenness formed
three fourths
$\frac{3}{4}$ of the offences but
in 1845 little more
than a half, what
is the explanation

8 Are the assaults up
Constables as aggrav
as they appear to ha
been in 1842 or 1830

Magistrate did not
give him for the latter
I do not consider however
drunkenness to be any
excuse for other offences.

I cannot account
for this

8 Not near so aggravated.
1839 and 1842 the assaults
on Constable were generally
constituted - Since the
beginning of 1847 they have
generally arisen from the
apprehension of parties
upon other charge

53

9 Is there any change in the nature of the offences committed as respects violence &c or the number of persons engaged in the same offence

I have taken advantage of going offer yesterday to send you

9 In the year 1839 and some years afterwards, Whalers and others used to combine attack Constables, who were often very much maltreated. No such combinations have occurred for this last two or three years. Offences under [illegible] have decreased in every respect.

then queries and
to save trouble
and time as well
as to keep the que
and answers to ge
I have left the
opposite page
blank

faithfully yo
Adam Turn

2d July 1849

My Dear Sir

The connections
of assaulting Constables
are 138 in 1844, 217 in
1845 and 141 in
1846 - will you be so
good as to say whether
A Landlaughtmost Esq

any and of any [illegible]
reason can be assign[illegible]
for so remarkable a[illegible]
fluctuation.

faithfully yours

Adam Ferrenbu[illegible]

10. The Convictions in every case in 1845 exceeded those in 1844 or 1846. Cannot account for the fluctuation — the reasons cannot be gathered from the Office Records.

~~1848~~ G 1 2 50

Return Shewing the number of parties charged at one time with two or more offences under the 48th section of the Police Act during the years 1847 and 1848 at the Police Office Ashburton Town

Combination of Offences-	1847 No: of: cases	1848 No: of: cases.
Drunk and disturbing the Peace	64	176
Drunk and Indecent Language	156	104
Drunk and Assaulting or Resisting Constables	42	77
Drunk and Exposure of Person	8	16
Drunk disturbing the Peace & Indecent Language	2	—
Drunk disturbing the Peace & Assaulting Constable	14	7
Drunk Indecent Language & Assaulting Constable	7	4
Drunk Exposure of Person and Assaulting Constable	—	1
disturbing the Peace & Indecent Language	35	40
disturbing the Peace & Assaulting Constable	15	35
disturbing the Peace & Exposure of Person	1	—
Indecent Language & Assaulting Constable	22	17
Exposure of person & Assaulting Constable	—	4
Totals —	366	481

P. J. Hendridge
Coll: Clerk

The 366 cases appear to have produced 755 fines
the 481 — — — — — — — 974 —
847 1729
847
Increase by cumulative fines 882 — in 1847 & 1848

Query	H	Answer
Which are the fines t are now shared t which were formerly id entire to the Crown, nd when did the change ke place -		1st Fines for offences under the 49th Section of the Police Act; The change took place gradually from the end of 146 but particularly from the end of 147 -
Are your records for 1838 d preceding years equally rfect with those now kept, not how do they differ -		The records for 1838 & preceding years upon inspection appear equally perfect with those now kept -
efore the charge sheets ere introduced were the ifferent offences under 48th Section of the Police t as certainly and refully distinguished they are now - or was the tendency to put down all ive shilling fines as or Drunkenness -		3rd I think the awards of the Magistrate in cases where parties were charged with two offences under the 48th section of the Police Act used not to be so carefully distinguished in the years when the custom of the Magistrate was to fine for only one offence as subsequently, & that when under such circumstances a fine of five shillings was inflicted it would appear as for Drunkenness - I do not think the introduction of the new system of charge sheets influenced in any way the correctness of the records; or that excepting in some cases with double charges the five shilling fine appeared improperly for Drunkenness -

The Board on Laws

H. Sandridge
18th July 149

Query | H | Answer

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t are now shared
t which were formerly
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nd when did the change
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H. Dandridge
18th July 149

The Board on Fees
&

I 11 58

Return of Persons who pleaded "Guilty" and "Not Guilty" in 1842 and 1848 respectively when charged under the 48th section of the Police Act distinguishing the offences and shewing the proportion of the fines unpaid to the paid

1842	Totals				Pleaded "Guilty"								Pleaded "Not Guilty"							
					paid				unpaid				paid				unpaid			
Offence	No: of convictions	Amount £	S.	D.	No: of convictions	Amount £	S.	D.	No: of convictions	Amount £	S.	D.	No: of convictions	Amount £	S.	D.	No: of convictions	Amount £	S.	D.
Drunkenness	1773	443	5	0	1326	331	10	0	257	64	5	0	160	40	0	0	30	7	10	0
Disturbing the Peace	196	49	0	0	115	28	15	0	17	4	5	0	60	15	0	0	4	1	0	0
Using Indecent Language	117	29	5	0	73	18	5	0	6	1	10	0	35	8	15	0	3	.	15	..
	2086	521	10	0	1514	378	10	0	280	70	0	0	255	63	15	0	37	9	5	0
1848																				
Drunkenness	1284	321	0	0	803	200	15	0	396	99	0	0	26	6	10	0	59	14	15	0
Disturbing the Peace	614	153	10	0	416	104	0	0	111	27	15	0	40	10	0	0	47	11	15	0
Indecent Language	322	80	10	0	192	48	0	0	92	23	0	0	13	3	5	0	25	6	5	0
Totals	2220	555	0	0	1411	352	15	0	599	149	15	0	79	19	15	0	131	32	15	0

J. C. Sandrid

K

Return showing the number of Convicts who have arrived in Van Diemens Land since the Year 1841— also the number Free by Servitude — & Conditionally Pardoned —

	Male			Female		
	Number of Convicts who arrived.	Number how Free by Servitude.	Number Conditionally Pardoned.	Number of Convicts who arrived.	Number how Free by Servitude	Conditionally Pardoned
During the Year 1842.	4839	744	977	681	122	
— " — 1843	3043	1122	816	684	178	
— " — 1844	4322	1252	—	644	251	—
— " — 1845.	2751	1055	1343	606	201	121
— " — 1846	1714	1247	1161	333	234	168.
— " — 1847	475.	1535.	952 24	626	297	142.
— " — 1848.	1108	1205.	1060.	642	330	165.
— Totals. —	18252	8160	6309	4216	1613	596

The Number of Conditional Pardons granted during the Years 1842. & 1843. includes Females. —

IL

Hobart Town Savings Bank
26/7 mo. 1849.

To the Clerk of the Council.

In reply to thy note of the 25th. inst. I have the pleasure to furnish the subjoined particulars for the information of the Lieut. Governor.

Total amount of Deposits with the H.t Town Savings Bank on the 31/12mo. 1848 £22017.16.6

No. of Depositors, same date 1319
Maximum Deposit " £196.12.11
No whose deposits exceed £100 — 33
" " " " 50 — 83
" " " are under 50 — 1203

The majority

The majority, probably amounting to fully two thirds of these, consists of Artisans, Mechanics, Labourers and Servants — not including under the last-mentioned term persons holding subordinate situations, yet above that of mere domestic service, who constitute a somewhat numerous class.

I remain,
Thine very respectfy.
Geo. W. Walker
Actuary.

P.S. I beg to add that the average amount to the credit of each Depositor on the 31st of 12th Month (Dec.) 1848 was £16.13.10¼

M

11

61

Return of Fines inflicted at the Police Office Hobart Town from 1st January 1849 to 30th June 1849.

Offence	no: of convictions		Total amount £	s.	d.	no: of convictions	Paid	Amount £	s.	d.	no: of convictions	Unpaid	Amount £	s.	d.
Drunkenness	643	at 5s. each	160	15	0	392	at 5s. each	98	~~10~~	0	251	at 5s. each	62	15	0
Disturbing the Peace	274	do.	68	10	0	204	do.	51	0	0	70	do.	17	10	0
Indecent Language	108	do.	27	0	0	74	do.	18	10	0	34	do.	8	10	0
Assaulting Constable	136	1 at £10 - 1 at £9. 2 at £8 - 1 at £6 - 1 at £5 7 at £4 - 14 at £3 - 21 at £2. 3 at 30/ 39 at 20/ 46 at 10/	224	10	0	85	2 at £4 - 10 at £3 - 9 at £2 . 2 at 30/. 30 at 20/. 32 at 10/.	105	0	0	51	1 at £10 - 1 at £9. 2 at £8. 1 at £6 1 at £5. 5 at £4. 4 at £3. 12 at £2 1 at 30/. 9 at 20/. 14 at 10/.	119	10	0
Indecent exposure of person	26	1 at £4. ~~1 at £3~~. 6 at £2 - 3 at 20/. 10 at 10/ 6 at 5/.	25	10	0	18	1 at £4. 2 at £2. 2 at 20/. 8 at 10/. 5 at 5/.	15	5	0	8	4 at £2. 1 at 20/. 2 at 10/. 1 at 5/.	10	5	0
Licensing Act	28	2 at £20. 3 at £10 - 1 at £5. 4 at £3 3 at £2 . 1 at 20/. 5 at 10/. 9 at 5/.	98	15	0	25	2 at £20. 2 at £10. 1 at £5. 4 at £3 2 at £2. 1 at 20/. 5 at 10/. 8 at 5/.	86	10	0	3	1 at £10. 1 at £2. 1 at 5/.	12	5	0
Transported Offenders Act	8	2 at £20. 1 at £5. 4 at £3. 1 at 20/.	58	0	0	3	1 at £20. 1 at £5. 1 at 20/.	26	0	0	5	1 at £20. 4 at £3	32	0	0
Weights & Measures Act	12	1 at £10. 1 at £5. 1 at £2. 1 at 25/. 1 at 20/. 1 at 10/. 6 at 5/.	21	5	0	12	1 at £10. 1 at £5. 1 at £2. 1 at 25/. 1 at 20/. 1 at 10/. 6 at 5/.	22	5	0	—	—	-	-	-
Pedlars Acts	10	2 at £3. 4 at 20/. 2 at 10/. 2 at 5/.	11	10	0	9	2 at £3. 3 at 20/. 2 at 10/. 2 at 5/.	10	10	0	1	1 at 20/.	1	0	0
Permit Act	2	1 at £50. 1 at £20	70	0	0	1	1 at £50	50	0	0	1	1 at £20	20	0	0
Slaughtering Act	2	1 at £4 1 at £3	7	0	0	—	—	—	—	—	2	1 at £4. 1 at £3	7	0	0
Police Act	18	12 at 20/. 1 at 10/. 5 at 5/.	13	15	0	14	8 at 20/. 1 at 10/. 5 at 5/.	9	15	0	4	4 at 20/.	4	0	0
Vehicle Regulation Act	1	1 at 10/.	.	10	.	1	1 at 10/.	—	10	—	—	—	—	—	—
Totals	1268		787	0	0	838		492	5	0	430		294	15	0

J. D. Sandridge
Collector
24/7/49

L

N — 1st ½ Year — 10

Description of Fine	1842 no: of convictions	1842 Total £	s.	d.	1842 Paid £	s.	d.	1842 Unpaid £	s.	d.	1848 no: of convictions	1848 Total £	s.	d.	1848 Paid £	s.	d.	1848 unpaid £	s.	d.
Police Act	1057	544	10	0	380	10	0	164	0	0	1028	445	5	0	289	15	0	155	10	0
Licensing Act	31	207	0	0	136	0	0	71	0	0	11	50	0	0	50	0	0	.	.	.
Quarter Sessions Act	13	80	0	0	48	0	0	32	0	0	13	66	0	0	18	0	0	48	0	0
Peels Acts	.	.	.	.	.	.	.	.	.	.	8	22	0	0	13	0	0	9	0	0
Weights & Measures Act	13	6	5	0	6	5	0	.	.	.	2	1	0	0	1	0	0	.	.	.
Stage Coaches Act	1	5	0	0	5	0	0	.	.	.	1	2	0	0	2	0	0	.	.	.
Registration Act	3	3	0	0	3	0	0	.	.	.	.	.	.	.	.	.	.	.	.	.
New Town Water Act	2	12	0	0	12	0	0	.	.	.	.	.	.	.	.	.	.	.	.	.
Formers Jury Act	10	19	10	0	19	10	0	.	.	.	.	.	.	.	.	.	.	.	.	.
Permit Act	2	3	0	0	3	0	0	.	.	.	.	.	.	.	.	.	.	.	.	.
Port Regulation Act	9	18	0	0	18	0	0	.	.	.	.	.	.	.	.	.	.	.	.	.
Dog Fines	37	9	5	0	9	5	0	.	.	.	.	.	.	.	.	.	.	.	.	.
Slaughtering Act	1	10	0	0	.	.	.	10	0	0	.	.	.	.	.	.	.	.	.	.
Vehicle Regulation Act	.	.	.	.	.	.	.	.	.	.	2	4	0	0	4	0	0	.	.	.
Totals	1179	917	10	0	640	10	0	277	0	0	1065	590	5	0	377	15	0	212	10	0
Difference in favour of 1842	114	327	5	0	262	15	0	64	10	0										

The "Police Act" in this return includes "Drunkenness" "Disturbing the Peace" "Indecent Language" "Assaulting Constables" & "Indecent Exposure" which are entered separately on the preceding return. JH

1842 Fines not shared by Informers amounted to £96-10-0
1848 Do £32-5-0

Enclosures of Report No 2.—

A Return of the over-time Tobacco burnt or destroyed at the Bonded Warehouses at the Ports of Hobart Town and Launceston in the years 1846 1847 and 1848.

	1846.	1847.	1848.
	~~lbs~~	~~lbs~~	~~lbs~~
Hobart Town	Nil	2,405.	Nil
Launceston	Nil	15,419.	21,409 3/4
	Nil	17,824.	21,409 3/4

Custom House 29 September 1848.
/signed/ W. Proctor acting Coll

No 13

9 January 49.

Gentlemen,

Revenue

You have before you all the documents which are required to elucidate the Financial State of the Colony, and I confess that it is with feelings of ~~no~~ ordinary ~~satisfaction~~ satisfaction that I lay before you such a statement at the expiration of a period of ~~unusual~~ distress and difficulty.

The

Returns of Police

The Return in
which the Estimated
Expenditure for 1858
is compared with the
actual outlay, and
also with the Revenue
for that year, will
shew the extent of
the difficulty with
which we have had
to struggle and the
mode in which it
has been met by
the Government, and
as this document
has reference to the
past I will go into

a

a brief explanation
of those Items which
may require some
elucidation, before I
notice those which
have reference to
the present or the
future, as detailed
in the Supplementary
Estimate for the present
year, or in the
Estimates for 1859.—

I need only say
that as it is my
wish and desire that
every matter should
be brought clearly

and

and distinctly before the Council, every explanation which may be required will be freely and fully given. —

First, with regard to the Revenue for 1848. It will be seen that the receipts fell short of the estimated amount by the sum of £4,615 .. 19 .. 6. — It is not necessary that I should go into the details of the

the Items which make up this amount further than to remark that there has been, as shewn, an increase in some branches of the Revenue, and a deficiency in others, the balance being as stated above. — The principal deficiency took place in the receipts from Fines and Fees in which item of the Revenue there has been for years a gradual and

and steady decrease.

I mentioned last year my intention to appoint a Board to enquire into the causes of this decrease with the view of bringing forward if necessary some legislative remedy. The Board have made two Reports which are now before the Council and which will be considered, and of which it is only necessary for me to say that they have

have been drawn up with great care, and that they appear to prove satisfactorily that the decrease in the Revenue from the sources in question is to be attributed altogether to the altered circumstances of the Colony, both as regards property and labour, and not to any want of care in the collection.

As regards the Customs Revenue, the

state

state of Commercial transactions both here and at Home have been such as would have been sufficient to account for even a greater deficiency than has taken place, and as to the falling off in the estimated Revenue from the Tolls, that was caused by the late period of the year at which they came into operation, the actual receipts

receipts being those of one Quarter only.—

Fleet.

As regards the account of the Expenditure for 1848, it will be seen that the balance, by which the outlay has fallen short of the Estimate, amounts to £5,649. 0. 10.

There is an excess upon a few Items amounting to £2921.. 2. 5½ for which no provision was made, while a sum of £8,570.. 3. 3½ which

which was voted, has not been expended, — leaving the actual balance as stated above. —

The Items not provided for in the Estimate which appear to require special notice are, an extra charge of £ 345. 7. 10 in the expenditure of the Port Officer and Harbour Masters Department — this has been caused in great

great measure by the increased cost of the oil required for the Light Houses; — an extra payment of £ 416. 3. 5 for Schools, caused by an increase in the number of Children who availed themselves of the facilities held out to them under the amended Government Regulations, — and a sum of £ 1295. 15. 2 paid to the Colonial Agent. — This latter amount

amount, however, though it appears as a surcharge in the accounts of 1848 is in reality an advance made on account of the payments for the present year, it being in fact the balance in the hands of the Agent on the 1st January 1849. —

The Items in which the Expenditure has fallen short of the

the estimated amount are more numerous, I am not aware, however, that it will be necessary to go into any minute details regarding them. —

On comparing the expenditure of 1848 with the Revenue actually received in the course of that year, it will be seen that the Receipts fell short of the outlay by £6,644:12.9½

the

the excess was
covered by a temporary
advance from the
Land fund which
has already been
repaid. —

Having thus
given a brief
explanation of the
Documents relating
to the past I will
enter upon those
which have reference
to the present year,
and will first
discuss the Items
of additional

expenditure

establishing checks
on the outlay, and
it is to provide for
this additional
labour that the
amount in question
is inserted in the
Estimate. — It is
true that the change
will not take place
until the commencement
of 1850, but it is
desirable that the
persons who are to
carry out the new
system should be
prepared to do so

when

when the time arrives.

With regard to the additional assistance to the Auditor, this is merely of a temporary nature being for the purpose of enabling that Officer to clear off the arrears of his Department so as not to be obliged to carry on the Auditing of two different systems of Accounts at the same time. —

The

The next Item which requires notice is under the head of Pensions and Gratuities "Compensation to Schoolmasters" £514.2.10

When the Board of Education was first established a certain number of Schoolmasters were sent from England under particular engagements as to Salary &c. — The Expenditure under this system having been found to be very

very large in
proportion to the
number of Children
receiving benefit
from the outlay,
a change was made
at the commencement
of the present year,
by which the
amount of the aid
given by the
Government to each
School was proportioned
to the number of
Children instructed.
Under this
condition, five of
the

in most instances
being sufficiently
clear, — there are a
few, however, which
call for some remarks.
The additional
Clerical assistance
in the Departments
of the Colonial
Secretary, the Treasurer,
and the Auditor has
been rendered
necessary by the
alteration in the
system of keeping
the Public Accounts.
This, though a great
improvement

improvement will involve additional labour in the Departments of the Colonial Secretary and Colonial Treasurer, from whom, in accordance with the Instructions which accompanied the new form of Estimate, and which have been laid upon the Table, periodical Returns &c are required for the purpose of establishing

expenditure, as shewn in the supplementary Estimate, and then explain the state of the Revenue shewing the means at our disposal of meeting the proposed outlay.

The Supplementary Estimate as ~~detailed~~ detailed in the papers on the Table appears to amount to £17.461.6.0 of which £15,000 is the amount which has already been paid to the

Commercial

Commercial Bank
in part liquidation
of the debt due by
the Colony to that
Establishment, in
accordance with
the resolution of
the Council during
the last Session.-

I do not think
it necessary to go
into an explanation
of all the Items
forming this
additional charge
upon the Revenue,
the Estimate itself

in

the Masters who were
sent out from
England have
declined to officiate
any longer as
Schoolmasters upon
the plea that the
Salaries secured to
them by the
Government under
their agreement
have now become
contingent upon
the number of
Children under
instruction, and
that they cannot,

under

under the particular
circumstances of
each case realize
the income which
they were entitled
to expect. — To one
of the five I have
been able to offer
an appointment
of equivalent
importance to
that which he
resigned — there
are four, however, to
whom after careful
consideration in the
Executive

Executive Council it
was decided to grant
compensation to the
extent of One year
and a quarters Salary
which amounts
altogether to the sum
provided in the
Estimate. —

Brown

Under the
head of Public Works
there appears to be
an addition of
£1836.. 2.. 9, but
this is reduced to
£336 : 2 . 9, by the
transference

transference of a sum of £1500 voted for Public Offices in Hobart Town, but not expended. —

The Items which appear to require special notice among those composing the addition to the Public Works Estimate are 1st. Steam Engine for Pumping at the Wharf. —

2d. Survey of the Sorell Causeway. —

3

3d. Repair of Perth Bridge. —

With regard to the first, it was found that the amount of labour expended in pumping and keeping the Basin clear of Water was so great and the number of hands at the disposal of the Government for the work so small, as to render it desirable to resort to Mechanical

means

means for the purpose,
by the use of which
60 men will be
rendered disposable,
and the work will
be pushed forward
so as to enable the
Basin to be opened
early next year.—
By this 1000 feet
of Wharfage will
be gained at once,
for the depth of
Water will be
sufficient to allow
most of the Vessels

which

which ply between
Hobart Town and the
Southern ports of
New South Wales to
enter and lie in the
Basin.—

In order to shew
that the money
granted for Public
Works in the past
and present years
has been properly
expended, I lay
upon the Table a
report from the
Director of Public

Works

Works, shewing generally the amount of work performed both at Hobart Town and Launceston & on the main line of Road. - From this it will appear that as regards the Wharf at Hobart Town, a much larger amount of work has been performed than could possibly have been executed by free labour or by

Contract

Contract. - At Launceston it also appears that 360 feet of new wharf was constructed in 1848; - great progress has been made in the work for the present year, in the course of which 200 feet of new wharf will be completed and the whole, or nearly the whole of the old wharf put into a good state of

repair

repair, and with respect as to the Main Road I have every reason to believe that the whole of the line from Hobart Town to Launceston will be finished before the expiration of the year, and that the outlay upon it will gradually diminish to £1200 or £1500 per annum, — or at the rate of £10 or £12 per Mile. —

With

Draft

With regard to the sum paid for the survey of the Sorell Causeway, an application was made to me with reference to the construction of this work, and as I considered it most desirable to do everything in my power to improve the means of communication, I complied with the request of the

inhabitants

inhabitants of the District, and sent a properly qualified person to make a plan and Estimate of the cost of the undertaking. —

As to the Perth Bridge, it was reported to me that the Floods ~~of~~ last year had acted injuriously upon the Piers, and that it was necessary to take some steps at once

once to secure its stability. — A party of men was accordingly set to work and everything has been, or will be done which is necessary to maintain the Bridge.

A sum of £200 is inserted under the head of Grants in aid of Public Institutions, one half of which is a back payment for the year 1847, when the sum in question was

was voted, but not expended, the other half is a contribution in aid of the Museum of the Royal Society which is just becoming of importance, and to which it is very desirable that the Government should contribute, in order that the Public may have a claim to participate in the advantages which such an Institution holds

holds out. —

I will now call the attention of the Council to the means at the disposal of the Government for meeting the Expenditure of the present year, including the additional amount shewn in the Supplementary Estimate

The Expenditure for the present year was taken at £134,611. 19. 7

To this sum must be

be added the amount
of the Supplementary 1726
Estimate viz £2145. 6. 0
for different Items, and
£15316.. 0. 0 for
Payment of £ Debts —
making the total
Estimated Expenditure
£152,073.. 5.. 7. — A
deduction, however,
must be made from
this of £1,050 being
the amount of the
Interest upon that
portion of the Debt
due to the Commercial

Bank

Bank which has been
paid off. — This will
leave a probable
expenditure of
£157,023.. 5.. 7. ——
The Revenue
was taken at £136,830
and as far as it is
possible to judge
from the receipts of
the first half year,
there does not appear
to be any reason
to doubt but that
the full amount
will be realized. —

To

To this must be
added a sum of £17595
be transferred from
the Land Fund, being
one half of the
accumulated Revenue
from that source
since the 1st April
1846. — The amount,
therefore, at the
disposal of the
Government for
the service of the
present year will
be £154,425,
shewing an excess

of

of Revenue over
Expenditure of £3,402.
There is, however,
an outstanding
balance for the year
1848 of £6,468..4..6
and though this will
be diminished by the
amount of the
excess above stated,
there will yet remain
a debt of £3066..4..6
to be carried to the
account of the year
1850. ——

As I have alluded

to

to the amount
carried from the
Land Fund to the
credit of the General
Revenue, I may as
well state that an
equal sum will
remain in the
Treasury which will
be available for
Immigration, or for
such purpose as
Her Majesty may
please to sanction.

I have taken
upon myself to
lend a portion of
this

this balance, viz
£3750 to the
Commissioners of the
Bridgewater Bridge
and by so doing
have been enabled
to lower the Tolls
materially. —

Having explained
the documents relating
to the past and present
year, I must now
call the attention
of the Council to the
Estimates for the
forthcoming year. —
I will first allude

to

to the shape in which these Estimates are brought before you which is in strict accordance with a form transmitted from Home for our guidance. The change of form will make the task of comparison between the Estimates for 1850 and those of any previous years more difficult. — In order, however, to

facilitate

facilitate such a comparison, I have caused a paper to be prepared in which the totals under each head of the Estimates for 1849 and 1850 are placed in juxta position, and any difference between these amounts will be explained when that particular head is under consideration. —

As I have noticed the debt which will have

to be carried

carried on to the account of 1850, it may be as well that I should first go into the question of Revenue. —

Upon a careful revision of all the Items from which our Revenue is derived, it does not appear probable that any have been overestimated. —

The Customs Duties are taken at £75,250 an excess of £1377

over

over the amount collected last year; and ~~as~~ there is every reason, I think, for believing that there will be an excess rather than a deficiency upon this head of the Revenue, the changes in the other Branches of the Revenue are but trifling, and call for no particular notice, with the exception of those which are derived

from

from the British
Treasury. —
Hitherto, although
that portion of the
Salary of the
Lieutenant Governor
which is paid from
the Military Chest
has been credited to
the Colony in the
Estimates, it has
not appeared in the
accounts of the
Treasurer and
Auditor, being paid
at once by the
Commissariat. —

The

Salaries also of
the Missionary Chaplains
who are acting in
different districts of
the Colony and who
are paid by the
Commissariat, have
not appeared on the
Estimates. — I have
thought it better
therefore to make
such arrangements
as will for the future
bring before the
Council the whole
amount contributed
by the Home Government

whilst

while at the same time the mode in which the money is expended is explained in the Estimates of Expenditure, - though there is then an increase in this head of the Revenue yet this is but apparent, inasmuch as the Expenditure has been augmented in proportion. —

The total amount of the Estimated

Revenue

Revenue for the year 1850 is as shewn £137,446. 14. 7. — To this must be added a sum of £10,000 which is the estimated amount of the half of the net Balance of the Land Fund applicable to the civil service of the Colony, making thus a total Revenue of £147,446. 14. 7

The total of the Estimated Expenditure for the year 1850

will

will amount to
£137,235 " 7 " 6
leaving a balance
in hand at the end
of the year of
£10,211 " 7 " 1.—
From this, however,
must be deducted
the debt of £3066,
before mentioned,
leaving a clear
balance of £7145 " 7 " 1
which may be
applied towards
the reduction of
the debt of £10,000
still due to the

Commercial

Commercial Bank,
or to such other
purposes as may
be hereafter considered
advisable.—

The changes in
the amount estimated
for the different
Departments under
the head of Civil
Establishment are
so trifling as not
to require any
special notice from
me at present, - every
information will be
given when the

particulars

particular Items
are under discussion.

The same remark
may be made as
to the Judicial
Establishment, and
the only change of
any importance
in the Ecclesiastical
Establishment is that
which has already
been noticed, the
insertion of the
Missionary Chaplains
which, as was
explained before,
is a change in

appearance

appearance only. —

Under the head
of Education, provision
has been made for
the Salary of the
Master of the Normal
School, the funds
for the construction
of which were voted
last year. — I have
written to England in
order to secure the
services of a person
thoroughly competent
to take upon himself
the arduous duties
of educating a class

of

of young men as
Schoolmasters, and
also at the same
time to give them
a proper industrial
training. — The
site selected for the
Normal School is
in the vicinity of
the Orphan School
having a farm of
150 acres in
connexion with it; —
The proximity of
the School will
enable the Masters
to watch over the
practical

practical application
of the Instruction he
has given, and the
cultivation of the
Farm will afford
useful employment
and instruction to
the Pupils of both
Schools. — In another
part of the Estimate
will be found a
provision for the
maintenance of the
Pupils who, however,
will I trust in a
short time be able
by the application

of

of their labour to the farm, to relieve the Government from a large portion of the cost of their subsistence. —

In the present Estimates the Police and Gaols are brought together under one head, and the total amount of the Estimate for these Establishments is £37505.17.1 — other Items for Travelling expenses, Transport,

Transport, Clothing &c must however be added to this, to the amount of £2960.17.1 making the grand total £40751.5.0. —

There is, however, no change in these Departments which call for any particular notice. —

Under the head of Pensions, there is a reduction to the extent of £709.6.8 from causes stated in the

the Estimate and which require no explanation, — there are two additional Pensions amounting to £65 altogether which have been granted to the Persons named in the Estimate, both cases were carefully considered in the Executive Council, and the evidence brought forward was such as to justify the grant

grant of the sums in question. —

With regard to Heads 3. 4 & 5 I do not think it necessary to go into any details.

Under Heads 6 & 7 "Charitable allowances and Hospitals" — which amount together to £4090 there is not much alteration from former Estimates, the sum required must of course be contingent upon a variety of circumstances which

which cannot with
any certainty be
foreseen. — A
strict investigation
is now made into
the circumstances of
every applicant for
assistance, and
only such as are in
every respect
incapable of
maintaining
themselves are admitted
either into the
Hospital or the
Invalid Depot. —
The subject of
the

the proper mode in
which provision should
be made for the
maintenance of the
sick, the aged and
the infirm is, however,
one of great importance
and will require much
and
careful consideration.
1
There is a simplicity
about the present
Plans
~~system~~ by which the
whole of the cost of
maintaining the
Paupers and Invalids
of the Colony is
thrown upon the
Government

Government, but
there are many &
great evils which
attend the system
which I should be
glad to exchange
for any well devised
scheme of local
control & supervision.

I have already
alluded to the Item
under head 8 for
the maintenance
of the Pupils at the
Normal School, —
there is another item
of £150 for the
School

Furniture and
fitting up of the
School, in order to
prepare it for the
reception of these
Pupils. — After this
year, the Annual
charge will be
limited to the Salary
of the Master, — the
support of the Pupils,
and to such ordinary
repairs as may be
required for the
Buildings and
Furniture. — I have
not, however, attempted
to

to lay down any of the details of the system to be pursued — that I have left until it could be discussed with the Master to whose arrangements I should be prepared as far as possible to defer. —

I do not think that Heads 9. 10. 11 12 & 13 require any special notice from me. — But I must call the attention

attention of the Council to some of the Items of Heads 14 & 15 which come under the Public Works Department.

A sum of £1,800 is taken for the erection of Public Offices at Launceston. At present the Government is paying £150 per annum for the Rent of a Building very much out of repair and very uncommodious

and

and it would be in every way more to the advantage of the Government to lay out such a sum as is now inserted in the Estimates for the purpose of securing a range of commodious Public Offices than to continue the payment of £150 per annum for a set of Buildings which the Landlord is not obliged to keep in repair.

The

sum is taken in the present Estimates, as the lease of the Present Building will expire in June 1850, and it is therefore desirable that the work should be commenced at once.—

I need say nothing as to the outlay on the Wharf either here or at Launceston. The report of the Director of Public Works being sufficient to explain

explain what is doing, and to shew that the money hitherto granted has been properly and usefully expended. It is but fair to presume that a similar appropriation will be made of the money voted for 1850. —

A sum of £300 was taken in the Estimates of the present year for improving the navigation

navigation of the Tamar. This will be expended in erecting proper Beacons at the entrance of the River and in clearing away the Bar at the mouth of the North Esk at Launceston. — A further sum of £300 is taken in the present Estimates for continuing the improvement by the removal of certain obstacles to the

the Navigation. — Charles

A sum of £670 being one half of the amount of the Estimates, is taken for the construction of a proper Powder Magazine. — The present Building being by no means fitted either by construction or position for the Storage of Powder.

On a reference to the Secretary of State it has been agreed that

that half the expense should be defrayed by the Ordnance Department, and half by the Colony, and that the whole charge should be placed in their hands of the Ordnance Storekeeper, he being paid £30 per annum for the responsibility which rests upon him of taking charge of the Powder belonging to the Merchants. —

The Report of the Director of Public Works

Works as to the state of the Main Road is satisfactory.- The sum taken for 1850 will enable me to put the whole into a thorough state of repair and in future years I anticipate a large ~~re~~ reduction in the amount required under this head.—

I have already alluded in my address to this Council

Council to the sum of £2,000 which is inserted in the Miscellaneous Estimates to cover any probable outlay for the purpose of providing for the extension of Steam Communication to this Colony, it will be for the Council to decide whether any or what amount should be taken for this purpose.—

I am not aware

aware that there are any other matters which call for special notice in the present Estimate. — Should further explanation be required I can but repeat that it will be most willingly afforded as my sole wish and object is that every matter should be made as clear as possible to ~~any~~ all the Members of Council.

Recd in Leg: Council 9th Augt 1849

1

A 4

Office of Public Works
6th August 1849.

Sir,

I have the honor to make the following Report of the State of the Works on the Main Line of Road and its Repair generally.

Commencing at the Northern termination at Launceston, the repair of the Sand Hill and the first four Miles have been for some months prosecuted, and are still in progress; attention being particularly

The Honble
Mr Colonial Secretary

particularly paid to ensuring a more perfect Drainage than has formerly existed. The Culverts on this portion, which have been constructed with Bricks and timber Coverings, or with timber only which has rotted, have all given way & are in a state requiring immediate attention from the effect of the last heavy rains on them. They are now in the course of repair or Renewal, as well as the more complete repair of this portion of the Road, which appears

Still

still to be necessary.

At the Cocked Hat Hill (7 Miles from Launceston) a portable Station has recently been placed. This part of the Road, from its hollow form, and bad drainage, had become almost impassable from the deep holes which had been formed. They have now been filled up with broken Metal, so as to render the Road more fit for Traffic, and the Clearing and improving the Drainage, and Reforming the Road

is

Wm Campbell

is gradually going on, the
strength of the party being in the
mean time directed to breaking
metal, a large quantity of which
it will be necessary to apply
before the completion of the works.

The party at Perth (12
miles from Launceston) placed here
particularly for the repairs required
to Evans the Bridge across the South
Esk being latterly interrupted in
the operations by the high level
of the River, have been employed
on the Main line of Road, North and
South of Perth. The improvement
effected here in the state of the
Road

Road, since the Commencement of
1848, is very great, but much
Remains to be done to the northward
in the direction of Launceston, which
I hope to complete in a good state of
Repair during the ensuing Year.

On the Road through
Snake Banks and Epping Forest,
the repairs have been constantly
and carefully carried out, by the
Employment of two or three hired
men, who have been moved as
as occasion required. This part
of the Road will all be in the
best order in about two months'
time

time, About two miles only (north of the Eagle Return Inn) being now in want of immediate attention, and which is now in course of repair. The Drainage at the sides of the part of the road from Perth to Willis Corners, has been entirely cleared out and improved; bushes and grass which, from their accumulation of dirt, had materially impeded the drainage have been cut down or hand off, and the whole road repaired and improved in form wherever the necessity existed.

From

From the termination of the Inct. Road to Campbell Town (about five miles) the road is undergoing very substantial repair and renewal by the parties from the Campbell Town and detached portable stations. The road for a very considerable length at Willis' Corners, had suffered so materially from neglect to the clearing the drainage and the insufficiency of the Culverts, that a long time has been occupied in re-forming and bringing it into a sound state, and the quantity of

Metal required to complete the
Repair will be very great, I am
however able to report that, with
the present strength of men, the
whole of that part of the line,
between Willis Corners and
Campbell Town, will be so far
Completed by the end of this year,
as to admit of the Addition of
the Campbell Town Station, retaining
only the portable Station to be moved
as occasion may afterwards require

From Campbell Town to
Ross the line was repaired in 1848,
and is a very good piece of Road,

to

so that with the Current Repairs
it be attended from time to time
it will remain in proper order
for a considerable period

The Road through the
Township of Ross appears to have
been left incomplete from its first
formation, and will be one of the
first works to present in the
ensuing year; but as abundance
of good gravel contiguous to the
Township is available, I am of
opinion that this will be
effectually and economically
performed. The new Road also
leading

leading Contractors from Ross for three miles having as yet received but a thin Coating of Metal, and the Sides of the Ross Bridge approaches being also in a dilapidated State, will require attention during the next year.

It will perhaps be advisable, as soon as possible, to move the portable detached Station North of Tunbridge in towards Ross, with a view of obtaining the requisite number of men, and to the preparation of Material in sufficient quantity for these improvements.

The remaining piece of Road between this point and Tunbridge and the next five miles across the Salt pan plains to Antill ponds is the part upon which the greatest strength has been systematically employed during the last and the present year. The Labor available being the Tunbridge party and two portable Stations, North and South of the Bridge. In this portion I am able to report the completion of the Bridge across the Blackmans River, constructed of Cut Stone piers having three openings between, and a strong timber platform laid across; the completion of the

Culverts

Culverts throughout except one; the formation of the road and drainage Complete, excepting about ½ a mile, and the preparation of metal in quantity nearly sufficient for the purpose in most places along the line. four miles and a half of this may be spared for traffic in about a month.

I regret that gravel has not yet been found contiguous to this part of the road for the purpose of blending the Basalt

At Antill ponds it will be necessary to erect two Culverts of Considerable size, the stone for which purpose is in preparation

And

And they will probably be finished by the end of the year

From Antill ponds and through St Peters pass to Oatlands Considerable improvement has been made in the narrowest portions of the road by cuttings to give an increase of width.

A large Culvert has been Antill across a branch of the Blackman in the pass, and several miles of road have been re-formed and Gravelled or otherwise Received a most substantial repair

There is at present a portable

Station

Station, with a party prosecuting these works, which will be almost immediately removed to within about two miles of Oatlands, for the purpose of effecting an improvement at a hilly portion of the road which also requires immediate repair.

The road from Oatlands and over Spring Hill I am now able to report as being entirely in good order, portions of it have been put in repair by detached hired laborers.

The new Road through Jericho and ascending Spring Hill has now become sufficiently consolidated to

Under

Under unnecessary any further labor excepting the attention of a hired Laborer as casually required

The repair of the South side of Spring Hill is now completed The whole of the drainage having been cleared, the unsound portions substantially remetalled and now only requiring similar attention to that mentioned above. I have therefore to report that the continuance of the party at Spring Hill will be unnecessary at the termination of the present month.

The remaining part of

the

the Road, as far as Bridgwater (about 25 miles) passing through Spreyponds, Over Constitution Hill and through Daydad is now placed under the charge of hired Labourers employed at intervals along the Road, and this System has been found a very efficient one for the purpose of Casual repairs.

In the neighbourhood of Spreyponds, it will be necessary during the next year to prepare depôts of Metal to assist the Labourers and also at one or two places along the Valley of Daydad.

The

The Bridge at Pontville across the Linden was completed during 1848, and shows not the slightest symptom of Failure.

From Bridgwater to O'Brien's Bridge, the Road has been re-made by the Glenorchy Party for upwards of six miles, including the Erection of a large Culvert or Bridge at about 3 miles from Hobart Town.

The Strength of this Station has lately been considerably Reduced on the Completion of this work, and will be dispensed with altogether

Altogether at the end of this month.

The remaining repairs required to be done will be effected before the end of the year by a few hired Labourers.

From Glenorchy to the third Mile Stone the Road is in good order any repairs required will be effected as above.

At New Town and the Entrance to Hobart Town a party have been constantly employed during the past and the present years, in Re-making the Road, and attending to such repairs, as the great amount of Traffic on it rendered from time to time necessary.

That portion of the Road between the Turnpike gate and the Entrance of the Town is in good order but the wear and tear at this place is so considerable as to demand constant attention

I have thus endeavoured to report generally the state of the Road from Launceston to Hobart Town at the present time, and it will be seen that the necessity for the

the continuance of the employment of any large road parties after 1849 will cease, and I am of opinion that afterwards the necessary repairs may be carried out by the parties occupying the five portable stations employed in breaking metal where required. And hired laborers at intervals along the road.

I have the honor to be

Sir,

Your most obedient Servant

Wm. I. Kay

No 15.

Office of Public Works
August 6th 1849

Sir,

I have the honor to make the following report for the information of His Excellency the Lieutenant Governor of the progress made in the Extension of the Wharfs at Hobart Town since the resumption of the Works at the end of the year 1847

The Addition to the New Wharf in the direction of the Ordance Stores is Four hundred feet in length. All of which at this time is made use of by the Shipping - Of this a frontage

The Hon.ble
The Colonial Secretary
&c &c &c

a frontage of two hundred feet has been completely finished, the remaining two hundred being still unfinished, but as from the arrangements made a large party of men will be immediately placed to resume this work, its completion will be speedily effected, And an additional length also commenced -

The average breadth of this part of the Wharf which has been thrown out by the Embankment and filling, is about ninety feet

The new Basin now constructing in front of the Commissariat Stores measures, in length 320 feet, and in breadth 250 feet, and when completed will be 9 feet at dead low water of Spring Tides it will give accommodation to a large proportion of the vessels employed in the inter colonial Trade

to the extent of frontage Wharf will be about 1100 feet frontage - Of this a length of 490 feet has been completed as far as the erection of the front railing, and the remaining portion will be constructed by the end of this year

The piling for the opening at the sea front is also being driven

The quantity of Embankment and filling up to form the bed of the Wharf which has been taken out of the Basin to deepen it, is about 23,500 Cubic Yards. That remaining still

Stile to be done is about 9000 Yards

This work has now been in progress six months, and the arrangements made for its prosecution will I am of opinion insure its completion in about the same period

Adjoining the Commissariat Wharf a frontage of 150 feet of Wharfing has also been finished which gives accommodation for one Vessel at that part

The Excavation formed in the Domain where the Stone is procured for the Wall of the Basin is at the same time forwarding the Construction of a Road leading from the termination of Macquarie Street towards the Point in the Domain intended for the landing place for Communicating from the opposite Shore of the Derwent; and which will consequently be in a great measure effected without any outlay for the purpose

I have the honor to be
Sir
Your very Obedient Servt

Wm. D. Kay

No 16

To be printed

No 6

Office of Public Works
August 6th 1849

Sir

I have the honor to submit the following Statement relating to the Works at Launceston with a view of affording His Excellency the Lieutenant Governor information of the amount of their progress since the commencement of their Operations.

At the Eastern End of the Foreign Wharf a new piece of Wharf of very substantial character was completed during 1848. Operations for a

The Hon.ble The Colonial Secretary

for a length of two hundred feet with the necessary Embankment and retaining Wall

A frontage of 160 feet in length was also formed for the river Vessels at the termination of Charles Street

The Old Wharfs were also partially repaired to enable them to be used extending over a distance of six or seven hundred feet.

During the present Year the operations have been at present principally pile driving and Quarrying Stone for the further extension of the Wharf

the Wharf frontage.

At the Foreign Wharf two hundred feet in length is now in the course of erection, the piles being all driven, the heading pieces prepared, the foundation for retaining Wall excavated, and the Stone quarried –

The wet Season and the consequent high Water in the Tamar has latterly very much impeded the further prosecution of this portion of the Work, but every thing is in readiness for its early completion, and a similar length will also be added before the End of the Year, renewing a portion of the Old Wharf –

At the

At the Colonial Wharf piles to retain the bank have also been driven to a distance along it of two hundred feet, with a view to its completion at a future period.

I have the honor to be
Sir
Your very Obedient Servt.

Wm. S. Kay

No 22

Ways and Means
for
the Civil Service of Van Diemen's Land
with the probable expenditure
for the year
1850

	£	s	d
Debt on the 1st January 1849	6468	4	6
Excess of Revenue over the Expenditure in the year 49	3401	14	5
Probable balance against the Colony on the 1st January 50	3066	10	1
Estimated amount of Ordinary and Extraordinary Revenue of 1850, exclusive of Land Fund	37,746	14	7
Estimated half of the proceeds of the Land Fund for 1850	10000	0	0
Total estimated Revenue	47,746	14	7
Estimated Expenditure of 1850	37,684	2	6
Surplus Revenue	10062	12	1
Deduct balance against Colony on 1st January 1850 as above	3066	10	1
Probable balance in favor of the Colony on 31st December 1850	6996	2	0

J. P. Bicheno
Colonial Secretary

Colonial Secretary's
Office
8th Septr 1849

Protest No 23

with the proceedings for Council
[illegible] for [illegible]
[illegible] Estimates

WD

The Undersigned; being one of the unofficial Members of Council who annexed a protest dated 3rd November 1848 to the Estimates for the Year 1849 - reclaiming the sum of £11220.17.1 - as being the amount of the deficiency in the Contribution equitably due from the Home Government towards the expense of supporting the Police Gaols and Judicial Establishments of the Colony; feels himself again called upon by public duty to make a similar reclamation in respect of the Estimates passed for the ensuing Year 1850 to the amount of £9929 14 4

The circumstances which then induced him not to oppose the passing of the Estimates for 1849 continue to exist in a great degree and he prefers the present mode of asserting the rights of the Colony

to

to that of rejecting the Estimates and thus causing embarrassment to the Local Government to the manifest detriment of the Colony for a considerable period

The principle that a proportion of two thirds of the expenses of the Police & Gaols ought to be defrayed by the British Treasury having been conceded by the Secretary of State in 1846 - and acted upon by the British Parliament - by their vote of £24,000 as the 2/3 part of £36000. (the Home total expense of Police and Gaols) - What is now reclaimed under this head is merely the difference of the increased expense of those Establishments (which now amounts to £40.278) : This arises arising from the extended operations or other measures of the Home Government. —

The expense of the Judicial Establishment

Establishment do for as respects the administration of Criminal Laws being also incurred principally in the Trial of Convicts ought in justice to be respectively borne by the Home Government and the Colony in equitable proportion this proportion as Lord Stanley justly observed with regard to the Police and Gaols cannot be determined with rigid exactness - but from the various returns of Criminals tried in the Supreme Court - from Resolutions of the Council and even from the common observation of daily experience of what is passing in our Courts of Supreme Judicature and in our Courts of Quarter Sessions - it is quite evident that the same proportion of expense of Criminal justice should be defrayed by the Home Government for the Trial of British Convicts as it pays for Police & Gaols -

It has been objected that as the British Government has restored the Land Fund to the Colony that it ought to be accepted in lieu of any contribution to the Expense of the Judicial Department But the Waste Lands though held in Sovereignty by the Crown are properly a trust for the sole benefit of the Colony and cannot in justice be offered or accepted as an equivalent for a debt due for a large expenditure of money for British Objects —

The Reclamation from the Estimates for the year 1850 will therefore be expressed in figures as follows

Total Charge of Police & Gaols	£40,278.14 11
two thirds =	£26852.10
deduct Sum allowed in 1847	24000
Sum deficient	£2852 10

Judicial

Total Charge	£17199.6.6

Deduct the following Sums which are exclusively for Colonial Objects

Registrar of Deeds	£397.10
Court of Requests	300.
Registrar	150
Summoning Officer	260
Crier	40
Bailiff	50
Launceston Court	526
Outlands	120
Campbell Town	120
New Norfolk	120
Richmond	120
Longford	120
Circular head	20
South port	40
	£2383.10

The Salaries of the two Judges which it seems to be thought ought to be paid exclusively by the Colony	2700	5083.10
		£12115 16 6
		2/3d = £8077.4.4
Deduct Sum allowed for Witnesses expenses by the Home Government		1000.
Due from British Treasury		£7077 4 4

Recapitulation

Deficit Police 4 years £2852.10

Deficit Judicial 7077.4.4

Total for 1850 £9929.14.4

John Leake

Ronalds V.D.L. 13 Sept. 1849

James Stephens, Esquire, Letter to
C B Trevelyan Esqre dated 27 Nov.
1845

Extract

"Under all circumstances it appears
"to Lord Stanley manifestly just that
"the British Treasury should hereafter
"provide for a considerable part of the
"expences of the Gaols and Police in W I
"To determine, with rigid exactness
"what proportion of these charges should
"be to undertaken appears to His Lordship
"impossible. But as at least half of
"the whole population of the Island is
"composed of Convicts either liberated
"or in actual bondage and as those
"in bondage comprise at least two
"thirds of the whole colonial population
"and as it is to the presence of such persons
"that the extraordinary charge under
"this head of the Colonial Service is
"chiefly to be ascribed, Lord Stanley
"is of opinion that the British Treasury
"should not contribute less than
"two thirds in aid of the existing
"expenditure of £36,000 per
"annum, and upwards

PROTEST.

THE undersigned unofficial Member of the Legislative Council, one of two who voted for the Estimates of 1849 under Protest, votes also for the Estimates of 1850 under Protest, upon the grounds recorded last year, in the hope that the injustice which is done this Colony by the Home Government in certain respects will at last become so apparent, if not to the Colonial Minister, at least to Gentlemen of the House of Commons, as to ensure redress, without resorting to that extreme measure and mischief of stopping the supplies, and so far disorganizing the Colony's Government, the evils of which would fall upon the Colony.

The points at issue are, that the Home Government ought to pay two-thirds of the expenses of the Police and Gaols, and Judicial Establishments, because these expenses are so greatly increased by British Criminals.

As respects the Police and Gaols, the justice of this principle is conceded by Lord Stanley when Secretary of State for the Colonies, in a Letter, 27th November, 1845:—

Extract—"But as at least half of the whole population of the Island is composed of Convicts, either liberated or in actual bondage, and as those in bondage compose at least two-sevenths of the whole Colonial population, and as it is to the presence of such persons that the extraordinary charge under this head of the Colonial Service is chiefly to be ascribed, Lord Stanley is of opinion that the British Treasury should not contribute less than two-thirds in aid of the existing expenditure of £36,000 per annum and upwards."

These expenses have increased, as it appears my Lord contemplated when he used the word "upwards," to the sum of £42,346 5*s.* 7*d.* in the year 1849.

As the Home Government contribute only £24,000 per annum in aid, it is clear that they do not pay their two-thirds of these expenses by £4228 17*s.*, which leaves this a balance in favour of the Colony for 1849, as shown in the Protest sent home with those Estimates, 3rd November, 1848.

This principle and reasoning applies with equal force to the Estimates for 1850, wherein the expenses of the Police and Gaols are £40,408 14*s.* 11*d.*: the Home Government contribute £24,000; therefore they do not pay their two-thirds by £2939 3*s.* 3*d.*, which being added to the £4228 17*s.* shown to have been deficient in the year 1849, leaves a debt due from the British Treasury to this Colony of £7168 0*s.* 3*d.* in the two years, according to my Lord's own arrangement.

In common equity, and upon the same principle as that laid down by my Lord Stanley in his Letter of the 27th November, 1845, the Home Government ought to pay two-thirds of the expenses of our Judicial Establishments, because these expenses are incurred chiefly in coercing British criminals, as shown by Returns appended to the Protest of 3rd November, 1848, and Returns hereunto appended. Deducting all items caused by Colonial purposes, there was a balance of £6992 17*s.* 1*d.* shown to be in favour of the Colony for 1849 in the Protest before named, under the head Judicial Expenditure. Pursuing the same reasoning with respect to these expenses for 1850, and after deducting every expense which it can be thought just that the Colony should pay, the account stands:—

	£	*s.*	*d.*	£	*s.*	*d.*
Judicial Charges, 1850				17,199	6	6
Deduct for Colonial purposes:—	£	*s.*	*d.*			
Registrar of Deeds.....	397	10	0			
Court of Requests	1986	0	0	5083	10	0
Judges' Salaries	2700	0	0			
				£12,115	16	6
The Home Government ought to pay two-thirds				£8077	4	4
Deduct their Grant towards Witnesses' Expenses				1000	0	0
Due the Colony, 1850				£7077	4	4

RECAPITULATION.

	£	*s.*	*d.*	£	*s.*	*d.*
Actual Balance due this Colony under						
Police and Gaols, 1849	£4228	17	0	7168	0	3
Ditto ditto, 1850	£2939	3	3			
Equitable Balance due under Judicial Expenditure:—						
	£	*s.*	*d.*			
1849.....	6992	17	1	14,070	1	5
1850	7077	4	4			
Total due to the Colony				£21,238	1	8

The amount due under Police and Gaols, I look upon as clearly a balance of account due from the British Treasury to the Colony.

It is my duty to explain why I think the Home Government ought to pay two-thirds of our Judicial Expenditure, which I shall prove, from authentic Council Papers, has been, and still is, principally incurred in coercing British Criminals.

1st. That it is and has been so incurred, the Criminals tried in our Supreme Court prove (*vide* Returns), especially after the year 1843, when, by British orders,

that degrading System called Probation was substituted in the management of Convicts here, for our previous really reformatory system of apprenticeship called Assignment, which was too hastily directed to be abandoned upon exciting, one-sided, and incorrect statements:—

PERSONS TRIED.

ASSIGNMENT SYSTEM.					PROBATION SYSTEM.		
1839.	1840.	1841.	1842.	1843.	1844.	1845.	1st *Half Year*, 1846.
165	221	182	273	230	475	457	220

Thus the result of the British Government's experiment, at this Colony's expense, was to double her Criminals, to the manifest increasing of expense, loss, suffering, and anxiety of the Colonists upon whom their crimes were perpetrated.

Did the British Government pay her proportion of these expenses? No—to this day she compels this little Colony to pay the whole Judicial Expenditure, with the exception of granting £1000 a year latterly as Witnesses' Expenses.

From 1844 to 1850, or since the Probation System, the Colony has paid from her Revenue Judicial expenses amounting to £122,748 9*s.* 10*d.*

Previous to 1844, during the Assignment System, all unemployed Convict labour was given to the Public Works of the Colony, as some compensation, *gratuitously*.

But the British orders, which about 1844 forced the Probation System upon this Colony, also said, "The Public Works of the Colony shall no longer receive the labour of any unemployed Convicts *gratuitously*, but must pay sixpence per diem to the *British Treasury* for each Convict employed upon the Public Works."

With the unjust drains upon her Revenues for *British purposes*, the Colony could not pay this: the orders from Home were *positive:* the consequences were, that thousands of men remained corrupting in masses in gangs in idleness, and themselves debased, while the Public Works were allowed to decay, and the utility of their labour lost for ever.

Was it just to issue such orders at a period when our expenses were *increased*, by the increased masses of Prisoners forced upon the Colony to facilitate British purposes, and when the tampering, idle pampering of the theoretic new system was making the greater part of them vicious almost beyond parallel, from congregating them by hundreds, almost without control, in gangs, and in idleness, rather than let them work for the Colony's benefit?

Could this be an equitable position for a great country like Britain to assume toward her young and helpless Colony?—in effect saying, "We *will* take *your* money for *our* purposes: we will fill your country with our criminals: your Colony must suffer from the effects of the deep errors of our theories; and we will deny you those advantages you heretofore received."

This state of things has been much modified latterly, but for years they continued as stated. I do think the Ministers of England owe some great reparation to this Colony for the injuries they inflicted upon her, no doubt unintentionally—which pressed not the less severely upon her on that account.

Finally, to support my opinion, that the British Treasury ought, upon the equity of the principle so well laid down by my Lord Stanley with respect to our Police and Gaols, also to pay two-thirds of our Judicial Expenditure, "because they are chiefly incurred by prisoners sent here for British convenience," I shall append such returns as are within my reach of the civil condition of the persons tried in our Supreme Courts: they must, I believe, carry conviction to every unprejudiced mind of the truth of my position, that the British Treasury should in future contribute two-thirds of these expenses, and of the reasonableness of the claim of £14,070 1*s.* 5*d.* for the deficiencies of the last two years.

Judicial Expenditure, 1846 ..... £20,138 0*s.* 0*d.*
Persons convicted in the Supreme Court, 1st half of 1846:—
Transported hither..... 131
Always Free Colonists 4

Judicial Expenditure, 1849 ..... £14,269 5*s.* 8*d.*
Persons tried 1848:—
Transported hither..... 265
Always Free Colonists 28

Judicial Expenditure, 1850 ..... £17,199 6*s.* 6*d.*
Persons tried 1849:—
Transported hither 200
Always Free Colonists 28

W. RACE ALLISON.

Streanshall, Van Diemen's Land,
October 1, 1849.

HAVING said the funds of the Colony were used for British purposes, without making any claim, I will state the position of Expenditure in our next Department to the Judicial, our Police and Gaols, that it may be seen whether the British Government *have*, or *have not*, dealt fairly by the Colony in that Department also:—

	£	*s.*	*d.*
Expenses of Police and Gaols paid from the Colonial Revenue from 1836 to 1850	495,767	1	7
Balance, after providing for Emigration, of the Colony's *own Land Fund* which the British Government *gave* her toward the expenses of Police and Gaols, from 1836 to 1845 .....deduct	149,428	3	10
	£346,338	6	8

	£	*s.*	*d.*
Forward.....	346,338	6	8

In the year 1846 the British Government took back the Land Fund, and paid the Colony instead thereof:—

	£		
1846	18,000		
1847	24,000		
1848	24,000		
1849	24,000		
1850	24,000		
deduct ———	114,000	0	0
Paid wholly from the Colonial Revenue	£232,338	6	8

After *conceding* the British Government *credit* for the £149,428 3*s.* 10*d.* contributed by the Colony's own Land Fund; a credit they cannot be fairly entitled to.

To enable a correct judgment to be formed, my next duty is to append such Returns of the Civil condition of persons passing through our Gaols as I have obtained:—

Extract from Return No. 1.

"The Conditionally Pardoned Men are classed with the Free, as well as those whose Sentences have expired; a number of men represent themselves as Free, and are so returned, who are afterwards discovered to be Convicts:—

Convicts, known to be..... 2828
Free, or so represented 539

23*rd March*, 1848. (Signed) J. BURNETT, *Sheriff.*

Extract from Return No. 2.

Convicts, known to be..... 2356
Free, or so represented 524

4*th September*, 1849. (Signed) J. BURNETT, *Sheriff.*

In a note it is said by the Sheriff, "I do not believe that 5 per cent. of the Prisoners stated to be Free arrived free in the Colony."

No observation can give any additional force to these facts,—they prove for themselves, whether the expenses have not been chiefly incurred in coercing the Criminals of Britain.

W. RACE ALLISON.

No 254

BY

W. RACE ALLISON, ESQ., M.L.C.

ON

THE POLICE, GAOLS, AND JUDICIAL EXPENDITURE.

JAMES BARNARD,
GOVERNMENT PRINTER, HOBART TOWN.

No 24

To be printed

Return of the number of Crown Leases, the number of Acres Let, and the Amount of Rent received during the Years 1842. 3. 4. & 5. and for the first eight months of the Year 1849. shewing, also, the number of Acres applied for and not yet allotted. —

Years	No. of Leases	No. of Acres Let	Amount of Rent received			No. of Acres applied for and not yet allotted	No. of Acres applied for in the New Country.	Remarks. —
1842	41	39.019	£58	14	"			
1843	79	78.714	991	0	8			
1844	490	1.062.989	14.279	"	"			
1845	538	1.363. 427	17.511	11	3			
						167,000		
							733,000	

Renewal of Licences for the same period of 1847) amounted to 621.575 Acres, realizing the Sum of £6,215. 15/- The Renewal of these Licences will take place during the latter part of the present Year. —

The greater number of the Applications for this Land will be acted upon during the present year, being now delayed partly from the want of Surveys of Rivers, and partly in consequence of the descriptions contained in the Applications being so vague, thereby entailing a reference for further information. —

Surveyor Generals Office
11th August 1849

No 25

No. 25

Return of the number of Acres of Crown Land with the Amount of rental, for which Licences of Occupation were not renewed between the 1st May and 7th June 1849. and, Also, between the last mentioned period and the 8th August 1849, as reported to this Office by the Collector of Internal Revenue; Also, Shewing the Number of Acres applied for during the same periods. —

No. of Acres for which Licences were not renewed between 1st May & 7th June 1849. —	Amount of rent annually paid for same	Quantity of Land applied for between 1st May & 7th June 1849. —	Remarks. —
15.900 —	£159.	*519.205.	* This Area includes 462.350 Acres applied for in the New Country. —

No. of Acres for which Licences were not renewed between 7 June & 8th Augt. 1849	Amount of rent Annually paid for same	Land Applied for between 7 June & 8th August 1849.	Remarks.
60.689	£1025. 16. 4	*251.020 —	* This Area includes 195.000 Acres applied for in the New Country. —

Surveyor Generals Office
13th August 1849. —

Statement Shewing the Sums collected under the New Norfolk Water Act and the appropriation thereof during the years 1847 and 1848.

1847

Amount collected	£	42	"	"	Paid Wages of Pass Holders	£ 21	13	"
					— " — Timber	4	8	"
					— " — Nails	"	6	"
Excess of Payments over Receipts		14	7	"	Salary of Town Surveyor	30	"	"
	£	56	7	"		£ 56	7	"

1848

Amount collected	£	41	10	"	Paid Wages of Pass Holders	£ 22	3	"
					— " — Timber	1	13	"
					— " — Tools & repairs to tools	—	10	6
Excess of Payments over Receipts		12	16	6	Salary of Town Surveyor	30	"	"
	£	54	6	6		£ 54	6	6

Audit Office
9 August 1849
[illegible]

to be printed No 28

To; His Excellency Sir William Thomas Denison, Knt, - Lieutenant Governor, and the Honorable the Legislative Council, in Council Assembled.

The Memorial of Edward Abbott Esq.

Respectfully Sheweth;

That your memorialist preferred a claim in the year 1847 before the Commissioners for claims to Grants under the local law, (6th Willm 4 No 11) for certain land near Launceston.

That a caveat was lodged to the same on behalf of the Crown. —

That the case came on for adjudication on the 28th of July of that

year —

the law officers appearing to oppose the same — and that after a protracted hearing of several days the majority of the Commissioners decided that a Grant ought to issue to your memorialist. —

That the 10th Section of the said act (6th William 4 & 11) states that "in every case", if no appeal is entered to the Judges of the Supreme Court, the decision of the majority of the Commissioners "shall be final."

That there was no appeal entered in the case of your memorialist — nor has Your memorialist gained any advantage what-

over

from the decision of the Commissioners, which the 10th Section of the local law regards as final and conclusive.

That the circumstance of the Crown Lawyers appearing before the Commissioners, was an implied acknowledgement that the Local Government would be bound by the result, as Your memorialist has reason to believe, that if the Commissioners had decided adverse to your memorialist, that the Government would have insisted on your memorialist abiding such determination.

That

That the 8th Section of the act of Council above referred to, — contains a provision that the Governor shall not be compelled to issue a Grant, — unless His Excellency deems it proper so to do.

That the 8th Section of the said act is opposed to the 10th Section, which decides, that in every case the decision of the majority of the Commissioners shall be final — is repugnant to the Title of the said act: — "the settlement of claims to grants of Land" — and is at variance with

the preamble of the said act — viz "that it is expedient that measures should be taken for Quieting Titles to Lands in this Colony."

That it is a Rule of Law, that a Public act, (such as is the 6th Will. 4th ch. 11) should be interpreted so as to attain the end proposed by its enactment, — (which has not been done in the case of your memorialist.) —

That the following Law authorities bear on the point: —

"a Statute made pro bono publico shall be

construed in such a manner that it may as far as possible attain the end proposed."

(Dwarris on Statutes vol. 2 page 722)

"Words of a statute ought not to be expounded to destroy natural justice. When words per se are repugnant and very absurd, what is necessary may be supplied by reasonable intentment and good construction."

(Ibid page 726)

"When a statute will bear two interpretations — one contrary to plain sense the other agreeable to it — the latter shall prevail."

(Ibid page 756)

The preamble to a statute usually contains

the motives and inducements for making it."

(Ibid page 655)

"The title of an act is not to be disregarded in putting a construction on it."

(Lord Denman in Hinton v Dibbin 2. A & E. N.S. page 663.

That notwithstanding the above dictum the legal advisers of the local Government (Messrs Horne & Fleming) have reported that the Commissioners for claims to Grants are "only a Board of Advice," (Col: Sec's letter 4th Nov 1848) while Counsel — (Sir A Stephen & Mr Horne) have advised that — "they regard the Board in the sacred

light

of a Court."

That by the act of Council (6th Willm 4th No. 11) an appeal is allowed on certain conditions to the Judges of the Supreme Court — and that a notice of an act was inserted in the Hobart Town Gazette (17 July 1847) granting an appeal in every case, but your memorialist submits with deference that such an appeal is valueless, if the Government are not bound by the deliberate judgment of the Judges and Commissioners.

That

That if the local Government can legally refuse to give effect to the decisions of the Commissioners for claims to Grants in cases where they are a party, (which they have already done in the case of your memorialist) they may do so in claims between individual colonists.

That such a proceeding is manifestly unjust, — as all laws should mutually binding both on the Government and on the People, and that as a consequence the present act, has done your

memorialist

great injury and serious wrong.

That in the mother country a different principle obtains — there the Queen defers to the laws of the Land, as code as the poorest of Her Majesty's subjects, as was shewn in the late action of Turner v. The Crown: —

"The result of the Trial carries with it the moral, as exhibiting what little favor in England is shewn to the Crown, over the pleas of the meanest of its subjects." —

(The Times.)

Your

Your memorialist therefore prays that the public act, 6th Will. 4th No. 11 may be Amended, so that it may agree with its Title and Preamble — that the doubts now existing may be removed — and that the said ordinance may be made Binding and Obligatory as code on the Local Government, as on the Colonists.

And your memorialist &c

Edward Abbott.

Hobart Town Van Diemens Land.
August 21st 1849. —

to be laid before the Legve Council
WD 27 Aug '49

No 56 No 28

Ordered printed 27 Aug.

Downing Street
27 April 1849

Sir,

I have the honor to acknowledge your despatch No 228 of the 17th of November last, accompanied by certain Resolutions passed by the Legislative Council respecting Transportation.

The opinion embodied in the second of these Resolutions

Sir William Denison
&c &c

very much agrees with the views which have at various times been expressed by H. M. Govern-ment. I quite concur in thinking it most desirable, if the object could be effected, that convicts who have under-gone a due portion of punish-ment at home should be distributed in moderate numbers over a variety of Colonies, instead of being collected in a single one.

You will be so good as to apprize the Legislative Council in the usual mode that their resolutions have been duly received, & you will assure them that the subject to which those resolutions relate is one which continues to engage the anxious attention of H. M's Government.

I have the honor to be
Sir, your obedient servant

Grey

Cat. Sec.s. To be laid before the Leg.d Council
WD 27 Aug. '49

No. 39

Downing Street
20th March 1849

No. 31.

Sir,

I have to acknowledge your Despatch No. 144 of the 15th August last, containing suggestions as to the introduction of representative institutions into Van Diemen's Land. You will have already ascertained that I

found

Lieutenant Governor,
Sir William Denison
&c. &c. &c.

The Right Hon. Earl Grey
Sgt
His Excellency the Lieutenant Governor
of
Transportation.

Aug. 5th Council Chr.
27th Aug.

found it impossible to bring in a Bill for this purpose last Session, and also, that since this measure was first contem=plated, accounts have been received shewing that objections to which it has been considered right to defer are entertained by the inhabitants of New South Wales to the charges which were proposed in the system of Government now prevailing in that Colony. The Bill now in preparation, and which will very shortly be introduced, will accordingly leave New South Wales,

and

and the new Colony of Victoria which is to be formed out of it, under legislatures resembling that, by which they are at present governed. And for the reasons which you have yourself adduced, it is not thought advisable to adopt a different system for Van Diemen's Land from that which prevails in the adjacent Colonies.

I have not the less to express my thanks to yourself and the Executive Council for the attention which you have paid to the subject and

the

the suggestions with which you have favored me.

I have the honor to be,

Sir,

Your Most Obedient,

Humble Servant,

Grey

Her Excellency the Lieut. Governor

The proposed Reference

active Institutions

On

Rule

W. A. Horney General Home.

28 Oct. 1847

No 36 & 32

I understand the question referred for my opinion to be simply this viz. The proper interpretation of the Act of Council intituled "An "Act for the settlement of Claims "to Grants of Land and for other "purposes relating thereto" upon this point - Whether the Commissioners appointed under that Act are merely to be considered as a Board or Council of advice to the Lieutenant Governor, or as a Judicial Authority to whose decisions he is bound to defer. and that this question is irrespective of the Case of Mr Abbott, which gives rise to the question. -

There

There can be no doubt that the sole power given by this Act 6. W 4. No 11 to the Commissioners is [when they agree] to report their opinion, upon claims preferred before them, to the Lieut: Governor. They have no power to decide anything respecting the claims themselves. –

When the Commissioners disagree, the Claimant or opponent of the claim may enter an appeal and the Commissioners may settle a special case to be tried before the Supreme Court, upon which the only question to be tried is decided by the 11 Section of the Act to be

"Whether

"whether according to the true intent "and meaning of the Act the report "of the Commissioners ought to stand "or ought to be in any and what "respect altered." –

Such being the powers of the Commissioners, it appears to me absurd to say that they stand in any other position than that of a Board of Advice. –

The express provisions of the Act itself negative any such interpretation as, that the Commissioners possess any judicial authority to which the Lieutenant Governor is bound to defer. –

To

To support such an interpretation of the Act would have the Effect, contrary to the express provisions of the Act, of divesting the Crown of its rights to the land of this Colony, and its prerogative appertaining thereto; and reducing the Lieutenant Governor to the Office of Ministerial Officer of the Commissioners. -

Cd Thos Horne
28 Oct 1847.

Mr. Solicitor General Fleming.
26 Oct. 1847

Until the Crown shall have surrendered to the Commissioners its interests, or bound its prerogative rights in their hands, by express enactment, I can entertain no doubt on the question submitted to us. -

W. 4 - No 11. The Caveat Board Act has most guardedly reserved the rights of Her Majesty - Even without the eighth section, which is shaped in the strongest form as a proviso, I should be of opinion that the report of the Commissioners operates no farther than a recommendatory advice of the party who, in their

judgment

judgment and discretion, should receive a Grant, if the Crown should be pleased to issue one. - But the eighth Section places the question wholly beyond doubt. Nothing in the Act is prejudicially to affect the rights of Her Majesty, or to constrain the Lieutenant Governor to deliver a Grant, unless he shall deem proper so to do, - thus at the same time preserving the rights of the Crown, and placing the ultimate discretion as to the issuing a Grant in the hands of His Excellency. I am clearly of

opinion

opinion therefore that the Commissioners appointed under the Act in question do not constitute a judicial Authority to whose decisions he is bound to defer. -

Before returning these papers, I deem it incumbent upon me, as the Law Officer who conducted the case before the Caveat Board, to advert to that passage in Mr Abbotts letter in which he has ventured to assert that "the Law Officers interpose "every technicality, and, as he says "he may add, frivolous opposition." I read this with no ordinary

Sept 11. 1847

astonishment

astonishment, and I gave to it the most explicit & unqualified contradiction. - After a most laborious analysis of the whole subject from first to last, I felt that the case of the Govm required the withholding no evidence on its part, or the opposing of technical difficulties or objections to the admission of all desired evidence on the part of the applicant. I acted upon this principle, laying bare every thing within my reach, and shutting out nothing on the other side which could tend to elucidate the case before the Commissioners and enable them

them to arrive at a sound conclusion on its merits. - I must, therefore, leave it to Mr Abbott to reconcile the assertion he has made as one that is just and well-founded - it is sufficient for me to contrast that assertion with the concluding paragraph but one in the recorded judgment of Mr Commissioner Knight, who decided in Mr Abbott's favor, with the additional expression of my perfect conviction that that paragraph would meet the concurrence of the whole Board.

Knight's judgment

"In conclusion I will not deny "myself the gratification of expressing "the

"the sense that I entertain of the
"generous manner in which the
"Government have laid before the
"Applicant and before this
"Board for their unrestricted
"scrutiny every document that
"may be supposed to bear upon
"the question."

Signed / D. Fleming
Solicitor General's Chambers
26 October 67

Return of the number of Schools, both general and denominational, which have been during the past year either wholly or in part supported by Public money, with the number of Children attending each School, the names of the Schoolmasters and Schoolmistresses and their condition in life, whether any of them are or have been other than free, and the net income of each, whether arising from Government Contributions, the Fees paid by the Parents of the Children, or other Sources.

1. Church of England Schools

Situation of School	Names of Master and Mistress	Condition in life		No. of Children attending 31st December 1848	Amount of Contribution by the Government			Income arising from Fees paid by Parents and other Sources.			Net Income			Remarks.
		Master	Mistress		£	s	d	£	s	d	£	s	d	
Hobart														
St Davids	Rev. & Mrs Bedford	Clergyman		174	132	7	7				132	7	7	
Trinity	J. J. Taylor & Miss Lascelles	Pass. Sch.		78	71	9	6	18	0	0	71	9	6	
St Georges	Mr & Mrs Pearsall													
Launceston														
Frankland-st	Mr & Mrs Tremble			76	87	15	3	50	0	0	137	15	3	
Trinity	Mr & Mrs Richards			96	103	15	11	95	0	0	198	15	11	
St Johns	Mr & Mrs Nathen			66	59	14	11	40	0	0	99	14	11	
Ladies' School	Mrs Thurlow			30	26	4	2	35	0	0	61	4	2	
Pattersons Plains	T. H. Bramfield			27	15	15	1	10	0	0	25	15	1	
Franklin Village	W. Powell			19	19	1	2	26	17	0	45	18	2	
Springs	Mr & Mrs Aram			36	30	14	0	41	0	0	44	14	0	
Carrick	Mr & Mrs Adams			24	18	12	4	24	0	0	42	12	4	
Hadspen	Mrs Johnston			28	32	1	11	10	1	3	42	3	2	
Illawarra	W. Russell			22	8	6	4	Not ascertained			8	6	4	
Bishopsbourne	J. Smith			31	20	19	10	17	5	6	38	5	4	
Westbury	T. H. Willson			23	28	16	4	Not ascertained			28	16	4	
Belvaine	Mrs Humphreys			12	17	0	0				17	0	0	

Situation of School	Names of Master and Mistress	Condition as to Life: Master	Condition as to Life: Mistress	Number of Children attending on 31 December 1845	Amount Contributed by Government			Income arising from Fees from Parents and other Sources			Net Income			Remarks
Bothwell	E. Tarleton	J. L		52	53	12	4	12	16	6	66	8	10	
Ouse Bridge	Mr & Mrs Stace			19	16	1	0	52	0	9	68	9	9	
Fenton Forest	M. Perry			17	13	15	1	8	0	0	21	15	1	
Comeys	M. B. Sneade			34	25	3	10	uncertain			25	3	10	
Brass	M. Hutchinson			32	36	9	1	70	5	0	106	14	1	
Brown's River	Mr & Mrs Allen			35	32	14	6	15	0	0	47	14	6	
New Town	Mr & Mrs Matthews			37	34	14	6	30	0	0	64	14	6	
Pontville	Mr & Mrs Rainy			14	22	19	4	uncertain			22	19	4	
Huon Settlement	G. Lloyd			25	27	10	4	do			27	10	4	
Ladys Bay	M. Davies	J. L.		16	11	4	9	12	0	0	23	4	9	
Forest Rivulet	M. Kennedy			17	8	4	10	uncertain			8	4	10	
Jarcott	J. Holmes	J. L		22	15	9	4	do			15	9	4	
Hobart St Davids	Miss M. Bewhurst			118	105	11	1	do			105	11	1	
Port Cygnet	A. Macleam	M. M.		16	18	2	0	4	0	0	22	2	0	
Hobart Harrington-st	J. L. Smales & Mrs Landles			145	109	11	7	uncertain			109	11	7	
Circular Head	Stanley Mr & Mrs Walsh			21	30	0	4	do			30	0	4	
do do	Forest M. Latimer			36	17	7	2	do			17	7	2	

33

5

Schools conducted on the principle of the British and Foreign School Society, and formerly under the Board of Education.

Situation of Schools.	Names of Master and Mistress	Condition in Life. Master	Condition in Life. Mistress	Number of Children attending	Amount contributed by the Government	Income arising from Fees from Parents and other Sources	Rent allowed by the Government	Net Income.	Remarks.
Back River	Mr & Mrs Swift			34	100 0 0	Not ascertained	40	100 0 0	15 of these teachers have since left their situations and the result of no reference to those remaining has not been ascertained.
Bothwell	" Rainy			42	100 0 0		36	100 0 0	
Campbell Town	" Standage			61	100 0 0		35	100 0 0	
Clarence Plains	Mr McArdell			54	125 0 0		30	125 0 0	
Cressy	Mr & Mrs Symonds			23	100 0 0		25	100 0 0	
Glenorchy	" Darley			51	100 0 0		40	100 0 0	
Green Ponds	" Johnston			60	100 0 0		50	100 0 0	
Hobart Town Liverpool St	Mr Conor			74	100 0 0		40	100 0 0	
Do Campbell Street	Mr Oldfield & Mrs Stallard			170	150 0 0		60	150 0 0	
Launceston	Mr & Mrs Chambers			93	125 0 0		80	125 0 0	
Longford	" Bird			40	100 0 0		30	100 0 0	
New Town	" Emmett			58	100 0 0		35	100 0 0	
New Norfolk	" Barnett			60	100 0 0		45	100 0 0	
Norfolk Plains	Mr Hagan			15	25 0 0			25 0 0	
Oatlands	Mr & Mrs Hall			53	100 0 0		40	100 0 0	
Perth	Mr Adams			26	100 0 0		35	100 0 0	
Richmond	Mr & Mrs Law			60	125 0 0			125 0 0	
Sorell	" Peacock			39	100 0 0			100 0 0	
Sandy Bay	" Crepswell			41	95 0 0		30	95 0 0	
Kangaroo Point	" Law			38	100 0 0		36	100 0 0	
Re-an-dale	" Scales			45	45 0 0			45 0 0	
Patterson's Plains	Mr Ashworth			21	18 15 0			18 15 0	
				1161	2108 15 0		707	2108 15 0	

No 3.

Roman Catholic Schools.

Situation of Schools	Names of Master and Mistress	Condition in Life. Master	Condition in Life. Mistress	Number of Children attending	Amount contributed by Government	Income arising from Fees from Parents and other Sources	Rent allowed by the Government	Net Income	Remarks
Hobart Town	Mr Woods & Mrs Williams			219	147 10 8	26 0 0			
Launceston	Mr & Mrs Fitzgerald			106	113 1 4				
Richmond	Mr Simpson			21	26 1 9				
				346	286 13 9				

Chas Nettleton Inspector of Schools

No 34 — [illegible] Aug. 31st

A Return of the Number of Persons tried
d acquitted - and also of the Number tried and convicted
ore The Supreme Court during the Year 1848 -
tinguishing between those who arrived free in the Colony.
d those who were transported. -

Acquittals

	No.
Free to the Colony	19
Free by servitude, or Conditionally Pardoned	29
Prisoners	32
Total	80

Convictions

Free to the Colony	9
Free by servitude or Conditionally Pardoned	57
Prisoners	82
Total	148

Free to the Colony - Acquittals - 19
Convictions 9
Total 28

Transported Letter - Acquittals - 61
Convictions - 139
Total - 200

W. Sovek
Reg. Sup. Court

Registry Supreme Court.
August 30. 1849.

Aug. 48

Return
of
Paupers in Hospital,
~~June~~
1848

Return shewing the number of Paupers maintained at the Expence of the Colony in Hospitals during the year ending 31st December 1848, distinguishing those who came free to the Colony from those who came as prisoners.

	Free to the Colony	Free by Servitude and Conditional Pardon
Invalids	95	347
Lunatics	9	7
Total	104	354

From Returns in the Colonial Secretary's Office.

J. E. Bicheno
Colonial Secretary
31 August 1849.

No. 1.

COPY *of a* DESPATCH *from Lieutenant-Governor* SIR W. DENISON *to the Right Honourable* EARL GREY.

(No. 144.)

Van Diemen's Land, Government House, August 15, 1848.

(*Received March* 10, 1849.)

MY LORD,

I HAVE just received your Lordship's Despatch, No. 43, dated 15th March, 1848, acknowledging the receipt of the Report which I was instructed to furnish respecting the institution of a Representative Legislative Assembly for this Colony.

Your Lordship, at the termination of the Despatch, expresses a hope that you will be able to submit a Bill to Parliament before the end of the present Session, which will provide for a Representative Assembly for Van Diemen's Land.

In the face of this it would almost seem needless that I should say anything more upon the subject, as the chances appear to be that the Bill will have passed long before your Lordship can receive this Despatch; but as delays may take place, and as your Lordship may not be able to carry the Bill through Parliament in the present Session, it will be but just to the Members of the Executive Council, and to myself, that I should explain to your Lordship the grounds upon which we recommended the adoption of a form of government similar to that at present existing in New South Wales, without attempting to give an opinion as to the advantages or disadvantages contingent upon the adoption of that particular form.

These reasons may all be summed up in the simple fact, that the form was established in New South Wales, and that the Australian colonies are so connected together—so identified with each other, as far as the character and habits of the people are concerned—as to make any change in the existing system of representation, if applied only to one colony, a matter of very doubtful policy.

The probability would be, that such a change would be looked upon with suspicion and dislike, and for that very reason would not be carried into effectual operation.

We were altogether ignorant that any change in the system of New South Wales was contemplated; and we therefore conceived ourselves limited to the consideration of the trifling amendments in the details of the Bill, without touching upon the principle.

As, however, your Lordship has expressed an intention of making certain alterations in the system of representation now in operation in New South Wales, and as I have now the experience of a session of the Legislative Council to help me in forming an opinion of the character of

the people comprising this community, I do not think that the chance of the Act having been passed will justify me in withholding any information, as to either facts or opinions, which may be of use in enabling your Lordship to form a judgment as to the nature of the institution best adapted to secure the permanent welfare of these colonies.

Without, therefore, wishing or presuming to give an opinion on the general question of the best form of legislative body, I may say that, under the peculiar circumstances of these Colonies, I should most strenuously recommend the adoption of a Second or Upper Chamber.

When we consider the elements of which society here is composed,—when we see the low estimate that is placed upon every thing which can distinguish a man from his fellows, with the sole exception of wealth,—when we see that even wealth does not lead to distinction, or open the road to any other ambition than that of excelling in habits of self-indulgence,—it can hardly be subject of surprise that so few are found who rise above the general level, or that those few owe more to the possession of a certain oratorical facility than to their powers of mind or the justness of the opinions which they advocate.

The broad plain of equality, as in America, receives the whole of the community; and though there are many who would gladly avail themselves of any opportunity of raising themselves above the general level, yet here, as in America, any attempt to do so would be frustrated by the jealousy of the remainder of the community.

Your Lordship can hardly form an idea of the character of the population of these colonies.

It is usual to assume that colonies are off-shoots from the parent stock, containing in themselves the germs of all the elements of which society in the Mother-Country is composed.

This can only be said of any Colony with many reservations, but it cannot be said of these colonies with any appearance of justice or truth.

There is an essentially democratic spirit which actuates the large mass of the community; and it is with the view to check the developement of this spirit, of preventing its coming into operation, that I would suggest the formation of an Upper Chamber.

The members of this, call it senate or what you may, will be raised in some measure above the general level of society,—they will be rendered independent of popular blame or approbation,—but, being also free from the suspicion of acting under the control of the Government, they will conciliate popular feeling, and hold a fair position between the Executive and the Legislature.

I do not presume to enter into any detail of the mode in which such an assembly should be constituted, further than to express an opinion that the Government should have as little as possible to do in the nomination or selection of the members.

There must, of course, be some *ex officio* representatives of the Government in the House. The bishops of the Church of England and

Rome might sit as representatives of the ecclesiastical bodies; but as the object with which I advocate the establishment of a second chamber is more that of operating morally upon the body of the community, than of facilitating generally the operations of the Executive Government, I should be loth to recommend the adoption of a plan which might in any way neutralize the beneficial action of such a body upon the mass of the people.

I also think that, in order to render the members perfectly independent of either the Government or the people, they should be appointed or elected for life.

Trusting that your Lordship will not be of opinion that, in offering these suggestions, I have in any way exceeded the limits imposed upon me by my position in this colony,

I have, &c.
(Signed) W. DENISON.

The Right Hon. EARL GREY,
&c. &c. &c.

No. 2.

EXTRACT *of a* DESPATCH *from Lieutenant-Governor* SIR W. DENISON *to* EARL GREY, *dated Van Diemen's Land, Government House, November* 6, 1848.

THE trade which is rapidly increasing between Van Diemen's Land and the other Australian Colonies will, in a few years, become of the greatest importance. From South Australia a quantity of copper ore has been already sent here for shipment to England as ballast; and we have every prospect of being able to establish smelting-furnaces in this colony, by which a large portion of the copper ore raised in South Australia will be transferred here, and a back trade in coal created.

I have therefore deemed it very desirable to relieve a rising traffic of such importance from the trammels which a heavy duty of 15 per cent. would impose upon it. In the same way, the wool which is brought into this Colony is merely sent here from the settlements to the southward and eastward of New South Wales, because there are greater opportunities of shipment to England from hence than from the place where the wool is produced. The coal which it is proposed to admit duty free is merely that which may be required for the purposes of steam navigation. I expect to be able very shortly to provide an article from the coal-mines of the colony of better quality, and far cheaper, than any which can be imported.

No. 1.

(No. 31.)

COPY *of a* DESPATCH *from the Right Honourable* EARL GREY *to Lieutenant-Governor* SIR W. DENISON.

SIR, *Downing-street, 20th March,* 1849.

I HAVE to acknowledge your Despatch, No. 144, of 15th August last, containing suggestions as to the introduction of representative institutions into Van Diemen's Land. You will have already ascertained that I found it impossible to bring in a Bill for this purpose last Session; and also that, since this measure was first contemplated, accounts have been received showing that objections, to which it has been considered right to defer, are entertained by the inhabitants of New South Wales to the changes which were proposed in the system of government now prevailing in that colony. The Bill now in preparation, and which will very shortly be introduced, will accordingly leave New South Wales and the new colony of Victoria, which is to be formed out of it, under legislatures resembling that by which they are at present governed; and, for the reasons which you have yourself adduced, it is not thought advisable to adopt a different system for Van Diemen's Land from that which prevails in the adjacent colonies.

I have not the less to express my thanks to yourself and the Executive Council for the attention which you have paid to the subject, and the suggestions with which you have favoured me.

I have, &c.

(Signed) GREY.

Lieut.-Governor SIR W. DENISON,
&c. &c. &c.

JAMES BARNARD,
GOVERNMENT PRINTER, HOBART TOWN.

Ordered by the Legislative Council to be printed,
3rd September, 1849.

DESPATCHES
RELATIVE TO
THE NEW CONSTITUTION
OF
VAN DIEMEN'S LAND.

CIRCULAR to the GOVERNORS *of the* AUSTRALIAN COLONIES, *except* NEW ZEALAND.

Colonial Office, May, 1849.

SIR,

I TRANSMIT to you a Report of the Committee of Her Majesty's Privy Council for Trade and Plantations on the subject of the proposed Bill for the Separation of Port Phillip from New South Wales, and the extension of Representative Institutions to Van Diemen's Land and South Australia.

The importance of the questions which required to be determined in making arrangements for the future administration of these Colonies induced me to advise Her Majesty to refer the subject to the consideration of the above Committee, by which it has accordingly been very carefully and deliberately investigated; and though some delay has thus been occasioned in maturing the measure for carrying into effect the proposed changes in the existing institutions of Her Majesty's Australian Possessions, I trust that this loss of time will be more than compensated by the advantage which has been derived from the labours of the Committee in rendering the Bill, which will now be submitted to Parliament, as perfect as possible.

The Report itself explains so fully the general purport of the proposed measure, that it is unnecessary for me to state more than that a Bill, framed in accordance with the recommendation of the Committee, will be introduced forthwith into Parliament: but, as some time must necessarily elapse before it can become law, I have thought it advisable that you should be made acquainted with its provisions through the medium of this Report; and the highly interesting nature of the general subject, of which it also treats, affords an additional reason for its transmission.

I have, &c.

(Signed) GREY.

Lieut.-Governor
SIR WILLIAM DENISON,
&c. &c.

AT A COURT AT BUCKINGHAM PALACE,
THE 1ST DAY OF MAY, 1849;

PRESENT

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS there was this day read at the Board a Report of the Right Honourable the Lords of the Committee of Council, appointed for the consideration of all matters relating to Trade and Foreign Plantations, dated the 4th day of April last, in the words following; viz.—

Your Majesty having been pleased, by your Order in Council of the 31st January last, to refer unto this Committee copies of a correspondence between Earl Grey, one of Your Majesty's Principal Secretaries of State, and Sir Charles Fitz Roy and the other Governors of Your Majesty's Australian Settlements, on the subject of the introduction to Parliament, in the ensuing session, of a Bill for the better government of those colonies, to consider the same, and report to Your Majesty our opinion as to the steps which it would be advisable for Your Majesty to take on the subject of the said correspondence.

In obedience to Your Majesty's commands we have taken into consideration the subject so referred to us, and humbly submit to Your Majesty the following Report of the conclusions which we have adopted.

In order to render intelligible the grounds on which our opinions on this subject proceed, we must briefly advert to the distinctions between the practice which has been observed during the present century, and the practice which was observed in earlier times, respecting the establishment of systems of civil government in the colonial dependencies of the British Crown.

In those ancient possessions of Your Majesty's royal predecessors, which at present form so large a part of the United States of America, and in all the other British colonies (whether acquired by the occupation of vacant territories or by cessions from foreign powers), there prevailed until the commencement of the nineteenth century the almost invariable usage of establishing a local legislature consisting of three estates—that is, of a Governor appointed by the Sovereign, of a Council nominated by the Sovereign, and of an Assembly elected by the people. Although in some cases other schemes of colonial polity had been at first established, yet those schemes had all, with one exception, progressively been brought before the end of the eighteenth century into conformity with this general type or model. The colonies of Ceylon, Trinidad, and Guiana do not form exceptions, for although conquered, they had not been ceded before the beginning of the present century. Nor is Newfoundland an exception, because it was in those times regarded and governed as a mere fishing station, and not as a colony. Neither can Malta and Gibraltar be referred to as exceptions, because they were regarded not as colonies, but as mere military fortresses, and were governed by military laws. The only real exception was in the case of Sierra Leone, which at the æra in question was governed by an incorporated company.

Further, these colonial constitutions were all (except in the Canadas) created by letters patent under the Great Seal either of England or of Great Britain, and those letters patent were issued in the exercise of an unquestionable and undisputed prerogative of the Crown. But in Lower and Upper Canada, the three estates of Governor, Council, and Assembly were established, not by the Crown, but by the express authority of Parliament. This deviation from the general usage was unavoidable, because it was judged right to impart to the Roman Catholic population of the Canadas privileges which in the year 1791 the Crown could not have lawfully conferred on them. There is also reason to believe that the settlement of the Canadian constitution, not by a grant from the Crown merely, but in virtue of a positive statute, was regarded by the American loyalists as an important guarantee for the secure enjoyment of their political franchises.

But during the nineteenth century the British Crown has acquired, by conquest and cession from foreign states, three transatlantic colonies, one colony in Southern Africa, and four colonies to the eastward of the Cape of Good Hope. During the same period the British Crown has acquired, by the occupation of vacant territories, two colonies on the western coast of Africa, three in New Holland, one in Van Diemen's Land, one in New Zealand, and one in the Falkland Islands. In no one of these sixteen colonies has the old colonial polity of a Governor, Council, and Assembly been introduced. In no one of them (except New South Wales) has any electoral franchise been granted to the colonists, or any share in the local legislation to their representatives.

In all these conquered colonies, the ancient system of internal government remains such as it was at the times of the respective conquests, excepting that, by letters patent under the Great Seal, a Governor and a Council appointed by the Crown have in each of them been authorised to make local laws. In Guiana, indeed, no such letters patent have been issued, because the ancient Dutch legislature still retains in that colony its ancient forms and powers.

In all the colonies acquired during the nineteenth century by the occupation of vacant territories, the same system of internal legislation by a Governor and a Council appointed by the Crown has been introduced by the authority of Parliament.

In colonies so acquired, the royal prerogative was competent only to the establishment of systems of civil government, of which a legislature, composed in part at least of the representatives of the people, formed a component part. To dispense even for a while with such a legislature, Parliamentary aid was requisite. But in sanctioning that departure from the general type or model of the earlier colonial Constitutions, it has been the practice of Parliament to recognize the ancient principle, and to record the purpose of resuming the former constitutional practice so soon as the causes should have ceased to operate, which in each particular case had forbidden the immediate observance of it. Nor has the pledge thus repeatedly given been forgotten. It has been redeemed in New South Wales, except so far as relates to the combination which has taken place there of the Council and Assembly into one Legislative House or Chamber. It has been redeemed with regard to New Zealand, although peculiar circumstances have required a temporary postponement of the operation in that Colony of the Act passed by Parliament for establishing in it a representative legislature.

We are of opinion that the time has not yet arrived for conferring this franchise on the Colonists of Western Australia; because they are unable to fulfil the condition on which alone, as it appears to us, such a grant ought to be made the condition, that is, of sustaining the expense of their own civil government by means of the local revenue, which would be placed under the direction and control of their representatives. Whenever the settlers in Western Australia shall be willing and able to perform this condition, they ought, we apprehend, to be admitted to the full enjoyment of the corresponding franchises, but not till then.

The Colonies of South Australia and Van Diemen's Land being, on the other hand, at once willing and able to provide by local resources for the public expenditure of each, or at least for so much of that expenditure as is incurred with a view to colonial and local objects, the time has

in our judgment arrived when Parliament may properly be recommended to institute in each of those colonies a legislature in which the representatives of the people at large should enjoy and exercise their constitutional authority.

In submitting to Your Majesty this advice, we are only repeating an opinion so familiar and so generally adopted by all persons conversant with the government of the British colonies, that it would seem superfluous to support it by argument or explanation. The introduction of this constitutional principle into every dependency of the British Crown is a general rule sanctioned by a common and clear assent. The exception to that rule arises only when it can be shown that the observance of it would induce evils still more considerable than those which it would obviate and correct. We are aware of no reason for apprehending that such a preponderance of evil would follow on the introduction of such a change in South Australia and Van Diemen's Land. The contrary anticipation appears to be entertained by all those who possess the best means and the greatest powers of foreseeing the probable results of such a measure. We therefore recommend that during the present session of Parliament a Bill should be introduced for securing to the representatives of the people of South Australia and Van Diemen's Land, respectively, their due share in the legislature of each of those colonies.

We apprehend, however, that it would be found highly inconvenient to consider this question as it regards those two settlements, without at the same time adverting to the effects with which such a change in them must be followed in the whole range of the Australian colonies.

New Holland is at present divided between the three governments of New South Wales, South Australia, and Western Australia. The most cursory inspection of the maps and charts of those regions will sufficiently show that, as they shall become more populous and more extensively settled, it will be necessary to divide them into a greater number of distinct colonies. But, confining our immediate attention to the case of New South Wales, we observe that the cities of Sydney and of Melbourne, lying at a great distance from each other, form the respective capitals of districts of great extent, separated from each other by diversities of climate and by some corresponding differences in their natural resources, and in the agricultural and commercial pursuits followed in each of them. The inhabitants of the southern districts have long and earnestly solicited that Melbourne should be made the seat and centre of a colonial government separated from that of Sydney; and so decided has this wish become of late, that, on the recent general election of members of the Legislature of New South Wales collectively, the inhabitants of the southern district have virtually and in effect refused to make any such choice. The reluctance which was at first so naturally entertained at Sydney to the proposed innovation, appears to have gradually but effectually yielded to the progress of knowledge and reasoning on the subject. The Governor and the Executive Council, the existing Legislature, and, as we believe, the great body of the colonists, now favour the contemplated division of their extensive territory into a northern and a southern colony.

Nor is it surprising that such should have been the ultimate conclusion of such a debate. The inhabitants of countries recently and imperfectly settled are exposed to few greater social evils than that of the remoteness of the seat of government from large bodies of the settlers. The effect is virtually to disfranchise a large proportion, if not a majority,

of the colonists, by excluding them from any share in the management of public affairs, and in the inspection and control of the conduct of their rulers. In such circumstances the inconveniences of the centralization of all the powers of government are experienced in their utmost force. The population of the districts most distant from the metropolis are compelled to entrust the representation of their persons, and the care of their local interests, to settled residents at that metropolis, who possess but a very slight knowledge of their constituents, and a faint sympathy with their peculiar pursuits and wants.

We propose, therefore, that Parliament should be recommended to authorise the division of the existing colony of New South Wales into a northern and a southern province. Sydney would be the capital of the northern division, which would retain the present name of New South Wales. Melbourne would be the capital of the southern division, on which we would humbly advise that Your Majesty should be graciously pleased to confer the name of Victoria. In former times Your Majesty's royal ancestors or predecessors permitted a similar use of their names to designate provinces on the North American continent. Venturing to presume that it will be Your Majesty's pleasure to follow those precedents on the present occasion, we shall take the liberty in the sequel of this Report to use the name of Victoria to describe the same province; and the name of New South Wales to describe the northern province of the great territory to which, collectively, the latter of those appellations at present belongs.

The line of demarcation between New South Wales and Victoria would coincide with the existing boundary between the two districts into which, for certain purposes, the colony is already divided. It would commence at Cape How, pursue a straight line to the nearest source of the River Murray, and follow the course of that river as far as the boundary which now divides New South Wales from South Australia.

In each of the two proposed provinces of New South Wales and Victoria, we apprehend that provision ought now to be made by Parliament for creating a legislature in which the representatives of the people should exercise their constitutional authority and influence. We do not advise that resort should be had for these purposes to the ancient and unaided prerogatives of Your Majesty's Crown; because it is not competent to Your Majesty, in the exercise of that prerogative, to supersede the constitutions which Parliament has already established in the Australian colonies. Parliamentary intervention is therefore indispensable.

If we were approaching the present question under circumstances which left to us the unfettered exercise of our own judgment as to the nature of the legislature to be established in New South Wales, Victoria, South Australia, and Van Diemen's Land, we should advise that Parliament should be moved to recur to the ancient constitutional usage by establishing in each a Governor, a Council, and an Assembly. For we think it desirable that the political institutions of the British Colonies should thus be brought into the nearest possible analogy to the constitution of the United Kingdom. We also think it wise to adhere as closely as possible to our ancient maxims of government on this subject, and to the precedents in which those maxims have been embodied. The experience of centuries has ascertained the value and the practical efficiency of that system of colonial polity to which those maxims and precedents afford their sanction. In the absence of some very clear and urgent reason for

breaking up the ancient uniformity of design in the government of the colonial dependencies of the Crown, it would seem unwise to depart from that uniformity. And further, the whole body of constitutional law which determines the rights and the duties of the different branches of the ancient colonial governments having, with the lapse of time, been gradually ascertained and firmly established, we must regret any innovation which tends to deprive the Australian Colonies of the great advantage of possessing such a code so well defined and so maturely considered.

But, great as is the weight that we attach to these considerations, the circumstances under which we actually approach the question are such as to constrain us, however reluctantly, to adopt the opinion that the proposed Act of Parliament should provide for the establishment in each of the four Australian colonies of a single House of Legislature only; one-third of the members of which should be nominated by Your Majesty, and the remaining two-thirds elected by the colonists.

For such is in point of fact the system which now prevails throughout the territories which will compose the two provinces of New South Wales and Victoria. It was the pleasure of Parliament, in the year 1842, to establish that system. Custom appears to have attached the colonists to it. Public opinion in New South Wales would appear to be decidedly opposed to an alteration in this respect of the existing constitution of the colony by the authority of Parliament.

Of this fact the most conclusive proof is to be found in the petitions recently presented to Your Majesty, and to Parliament, from a large body of the colonists, praying that no change may be made, without the consent of the inhabitants at large, in the constitution and form which the local legislature has already received from Parliament. In the absence of any counter-petitions, we think it reasonable to conclude that such is the deliberate judgment of the great body of the settlers in New South Wales and Victoria; and we are of opinion that it would be unwise and unjustifiable to force such a change upon them. All that in our judgment can be reasonably done is to leave to the legislatures, now to be established, the power of amending their own constitutions, by resolving either of these single Houses of Legislature into two Houses. The weight which is justly due to the arguments in favour of that measure will, we trust, not be without its proper influence on both the electoral and the elected bodies.

But, even if the state of public opinion in New South Wales were less distinctly ascertained, the adoption of the course which in itself we regard as the most wise, would be forbidden by the pledge into which Your Majesty's Executive Government have already entered on the subject. Proceeding as we apprehend in the same view which we have ourselves taken of the wishes and judgment of the inhabitants at large, and anticipating, as we believe, our own view of the impropriety of any direct encounter with that opinion on the present subject, Your Majesty's Secretary of State having the department of the Colonies, in a Despatch of the 21st July last, informed the Governor of New South Wales, and through him the existing legislature and the colonists at large, that this was not such a "reform as it was at all incumbent on the legislature at home to press on an unwilling, or even on an indifferent people." The language of this Despatch (in the wisdom of which we entirely concur) will, of course, be regarded by Your Majesty as implying an engagement to which it is necessary strictly to adhere.

The considerations to which we have thus adverted in favour of thus establishing a single House of Legislature in each of the two proposed provinces of New South Wales and Victoria may perhaps appear applicable to those provinces only. For neither in Australia nor in Van Diemen's Land has Parliament introduced any such constitution; nor has Your Majesty's Executive Government entered into any pledge on the subject to either of those colonies; nor have any petitions been received ascertaining what is the state of public opinion in either of them on the question whether the Legislative Houses should be combined into one Chamber or separated into two. But we cannot from these considerations conclude that a real freedom remains to Your Majesty and to Parliament of selecting that which may appear on abstract grounds and on general principles to be the wiser course. We apprehend that the inconvenience of settling the forms of government simultaneously in colonies so closely adjacent and so intimately connected with each other, with any diversity in regard to a principle so fundamental as this, is a much more formidable inconvenience than any which could follow from maintaining a strict uniformity in that respect. As therefore, for the reasons which we have already assigned, it appears necessary to constitute a single House of Legislature only, both in New South Wales and Victoria, we are of opinion that the same system must prevail in regard to South Australia and Van Diemen's Land.

We recommend, therefore, that the proposed Act of Parliament should provide for convoking in each of the four colonies a legislature comprising two estates only, that is, a Governor and a single House, composed of nominees of the Crown and of the representatives of the people jointly. We also think, that in South Australia and Van Diemen's Land, as in New South Wales and Victoria, the legislatures now to be established ought to have the power of amending their own constitutions, by resolving either of these single Houses of Legislature into two Houses. Whatever the result may be in either of the four colonies, Your Majesty will thus at least have the satisfaction of knowing that free scope had been given for the influence of public opinion in them all; and that this constitutional question has been finally adjusted in each, in accordance with that opinion.

For the same reason we think it desirable that the legislatures now to be created should be entrusted with the power of making any other amendments in their own constitution which time and experience may show to be requisite. We are aware of no sufficient cause for withholding this power, and we believe that the want of it in the other British colonies has often been productive of serious inconvenience.

On the other hand we do not think it right that a subordinate legislature should have the power of enlarging or altering any of the constitutional franchises conferred on it by Parliament, without either the express or the implied assent of the Queen, Lords, and Commons of the United Kingdom. We should object to such an unrestrained permission, not for technical or legal reasons merely, but on broad and substantial grounds. Changes in the constitution of any colony may be productive of consequences extending far beyond the limits of the place itself. They may affect the interests of other British settlements adjacent or remote. They may be injurious to the less powerful classes of the local society. They may be prejudicial to Your Majesty's subjects in this country, or they may invade the rights of Your Majesty's crown. We think, therefore, that no Act of any Australian Legislature which shall in any manner enlarge, retrench, or alter the constitution of that Legislature of its rights and privileges, or which shall be in any respect at variance with the Act of Parliament or other instru-

ments under which the Legislature is constituted, ought to be of any validity until it had been expressly confirmed and finally enacted by Your Majesty in Council. And we are further of opinion that it should not be lawful to make any Order in Council so confirming any such Act until it had been laid before each House of Parliament for at least thirty days.

Such being the general views we entertain as to the creation of the proposed Australian Legislatures, it seems necessary to advert, however briefly, to the subordinate and auxiliary enactments requisite for giving effect to that design. We shall, however, indicate the principal topics of this class to which it will be necessary to advert, without entering into any minute examination of the particular course which it would be desirable to follow in regard to each of them.

The statute-book abounds in recent precedents of such enactments. They will especially be found in the Acts establishing the existing legislature of New South Wales, and in the recent Act for establishing a legislature in New Zealand. The main objects of them, are the division of each colony into convenient electoral districts; the determining who shall be qualified to vote and to be elected; the settling whatever relates to the registration of votes, the conduct of elections, and the making returns; the ascertaining all the rules to be observed respecting the nomination of such of the members as are not to be elected; the defining the powers of the Governor as to the acceptance or rejection of bills; the defining the powers of Your Majesty with regard to the confirmation or disallowance of any such bills; and the securing to the Executive Government of each colony the initiation of all money votes. It would be easy to enlarge this catalogue of subordinate topics demanding attention in framing the proposed Act of Parliament; but, for the reason already mentioned, we apprehend that it would be a needless addition to the length of this Report.

We should think it prudent, if we thought it practicable, to confine the proposed Act to those provisions which are necessary for constituting legislatures in the four colonies in question, and for enabling those legislatures to perform the duties to which they will be called. For we contemplate with great reluctance any departure from the general principle which leaves to the local legislature of every colony the creation of other local institutions, and the enactment of any laws which are to have their operation within the local limits of the colony. But there are circumstances which seem to render unavoidable some deviation from that principle in the case of the Australian Colonies.

Thus throughout New South Wales there are at present existing (at least in point of law) municipal corporations called District Councils. In point of fact, and for every practical purpose, these bodies may be regarded as extinct. Nevertheless, their legal rights, founded on an Act of Parliament, might at any time be called into action. It becomes therefore inevitable that Parliament should, in some form or other, dispose of the claims of these bodies to corporate powers and privileges.

The most obvious course is that of a simple repeal of so much of the existing statute as relates to the District Councils, leaving the local legislatures to deal with the subject afterwards at their discretion. The objection to this method of proceeding is, that it would not really be the mere removal from the British statute-book of a series of ineffectual enactments. It would be regarded, and not unreasonably regarded, in these colonies, as a significant intimation of the judgment of Parliament, that local

municipal corporations might safely be dispensed with in their system of government. We think that it would be highly inexpedient to afford any countenance to such an opinion.

We are of opinion that the existence in Australia of municipal bodies in a state of efficiency is scarcely less necessary to the public welfare than the existence there of representative legislatures. A large part of the benefit to be derived from such legislatures seems to us to depend on the simultaneous establishment and co-existence of incorporated municipalities. It is the only practicable security against the danger of undue centralization. It is the only security for the vigilant and habitual attention by the local legislature to the interests of the more remote localities. It is by such bodies alone that in those secluded societies public spirit is kept alive, and skill in the conduct of public affairs acquired and exercised. It is in such corporations that the colonists are trained to act as legislators in a larger sphere. By them, and by them alone, can any effectual resistance be made to the partial and undue dedication of the public resources to the advantage of districts peculiarly fortunate in the zeal and authority of their representatives in the legislature.

For these reasons we cannot think it right that the legal existence of the existing District Councils should be abolished by Parliament.

We think it would be a better course that the Act of Parliament passed in 1842 should be amended, by enacting that the district councils which it contemplated should not be brought into operation unless upon the petition of the inhabitants of the several districts; and that the Governor should be invested with the power of issuing charters for creating these corporations in the districts from which he should receive petitions for their establishment, such petitions fairly representing the prevailing and deliberate wishes of the inhabitants of any such district. We apprehend that this arrangement, by which the grant of corporate powers would be left to the Governor, as the representative of Your Majesty, would be in strict accordance with the practice of this country from the earliest period. The ancient charters of incorporation were granted on the petition of the towns to which they were accorded by the Sovereigns. The early charters invested the corporations with the right of holding markets and of levying tolls, and landed property was also frequently conferred upon them; and they were thus placed in a possession of such resources as were necessary for the proper performance of the duties assigned to them.

When, in the progress of society, a different state of things had arisen, and it was no longer possible to provide any new corporations which might be created with the pecuniary means of discharging the functions belonging to them without the imposition of rates, as it was held that the authority of the Crown did not extend to empowering corporations created by it to levy rates, the practice of granting charters fell into disuse, and many of our largest towns experienced much inconvenience from being without any adequate local organization. To meet this difficulty, Parliament, in reforming the ancient corporations, invested the Crown, in the year 1835, with the power of granting charters, by which the corporations so created should be authorised to levy rates for local purposes.

Charters of incorporation have in this country, it is true, been confined to the towns; but, without charters, the rural districts have

possessed from the earliest times an organization enabling them to manage their own local affairs with but little interference on the part either of the Crown or of the legislature, except for the purpose of from time to time extending or regulating the exercise of the powers of their local authorities.

The parish vestries, from very ancient times, have exercised the power of levying rates for the repair of churches, to which was afterwards added the relief of the poor. The magistrates, also, who may be regarded as the virtual representatives of the counties, have been empowered by Acts of Parliament, passed at various times, to levy county rates for the purpose of building bridges, gaols, lunatic asylums, and court-houses: also for the custody of prisoners, for maintaining a police, and for various other purposes of local interest. It has always been held that this system of local government has been one of the main elements of our national greatness, and of the stability of the British Constitution.

In Australia it seems impossible, from its peculiar circumstances, to create so complex a system of local organization as that which prevails in this country: in their present state of progress, inconvenience only could result from attempting to create in these colonies parishes, poor-law unions, and corporate towns, with their distinct powers; the same localities being, for different purposes, under the jurisdiction of two or three different local authorities. But we are of opinion that it would be both practicable and desirable that so extensive a territory should be divided into districts, each possessing some body of a representative character, constituted in some simple manner, to which should be entrusted all the powers of local administration which are required. Such a body ought to possess the power of levying rates; but we would recommend that the exercise of this power should not be made imperative, and that the provision of the existing Act of Parliament, which renders it nccessary that half the expense of the Police in each district should be thus levied, should be repealed. The colonial legislature ought, we think, to have full power to pass laws, making any regulations it may think fit as to the mode of assessing and levying rates; also for making any alterations which may be found necessary in the constitution and in the duties assigned to these municipal bodies. We recommend that the provisions we have now described should be made applicable to Van Diemen's Land and South Australia, as well as to the provinces into which New South Wales will be divided, and should likewise be extended to Western Australia, whenever that settlement may be capable of receiving a representative legislature.

It may however be questioned, and with great apparent reason, whether there exists, or is likely to arise, in any of these colonies a disposition to bring into action the dormant powers of the existing municipalities, or to solicit the grant of any new powers of that nature. It is at least certain that there has hitherto been a strong disinclination in the rural districts of New South Wales to assume the privileges and to undertake the responsibilities of such incorporations, and that reluctance may of course be found insuperable hereafter. If so, we should regard it as a conclusive objection to the project of reviving the old, or of creating new municipalities. Neither Your Majesty nor Parliament would desire to force unwelcome duties on the Australian colonists under the name of franchises. If such duties are not undertaken with alacrity, and performed with zeal, and controlled by public vigilance, and rewarded by public applause, they would be undertaken to no good purpose, and would be better declined.

But the acknowledged want of alacrity and zeal in this service in the municipal corporations already established, has been publicly and generally ascribed to a cause which we are disposed to regard as remediable. In order to the effective execution of the powers of these bodies, it would be necessary to raise large local rates, and to devote a large part of the produce of them to an expenditure unfruitful of any considerable or immediate advantage to the rate-payers. If, for example, a road or a drain should be formed through a district imperfectly settled, by the produce of rates levied on the present settlers, that outlay would confer on the ungranted lands, in proportion to their extent, a benefit equal to that which the settled lands would derive from it. Eventually, indeed, those ungranted lands would be sold at prices enhanced by this application of the local rates, and the general territorial revenue of the colony would to the same extent be enhanced; but the rate-payers of the district would receive no peculiar benefit excepting that of the more rapid increase of settlement in their immediate vicinity. Persons living in a new country, to whom the command of capital is of such urgent importance, can never be expected to find in such remote, uncertain, and inappreciable benefits as these, a motive strong enough to induce them to impose on themselves rates to which the wild lands could contribute nothing.

To remove this very reasonable objection, we would observe that one-half of the territorial revenue of the Australian colonies is at present appropriated by Act of Parliament to the cost of introducing emigrants. The remaining half, subject to a deduction of certain enumerated charges, has been placed by Parliament at the disposal of the Lords Commissioners of the Treasury for the public service of the respective colonies. We recommend that, of the territorial revenue realized in each district, the proportion thus left under their Lordships' control should be placed by them at the disposal of the District Councils for objects of local concern, reserving only such a per-centage as might be necessary for any purposes of general interest which ought to be charged upon this fund. We should further propose that the sums so placed at the disposal of the District Councils should be applicable exclusively to public works within their respective districts. We also think that no such work, if effected at the expense or by the aid of the land fund, should be undertaken without a previous report on its probable advantages, and a previous estimate of its cost by official persons duly qualified to prepare such reports and estimates. Further, we would advise that no such work should be actually undertaken without the previous sanction of the Governor in Council, founded on the proposed estimates and reports. Finally, we think that the proper officers of each District Council should render annually accounts of the grant of the last preceding year, which accounts should be published for general information. No additional grant ought to be made to any such body so long as any such account was in arrear.

It appears to us that by dedicating to these purposes that part of the land fund which Parliament has left at the disposal of the Crown, many important ends would be answered. The Executive Government in this country would be relieved of a responsibility which is as needless as it is invidious. A powerful motive would be called into action for the acceptance and employment of the proposed corporate franchises. The great principle of devoting the land fund to the utmost possible extent to the improvement of the land would be observed. The manual labourers introduced into the colony by the one-half of that fund would not more directly contribute to the improvement of the territory, than the remaining portion would contribute to that end by the creation of roads, drains,

and other similar works. The price of all ungranted lands in the district would be enhanced by such works, and of that increased price the colony would receive the benefit in an augmented emigration fund, while the particular district would also receive a particular benefit from it in an augmented dividend of the part of the fund which we propose to dedicate to these services. It would operate as an inducement to purchase waste lands to *bonâ fide* settlers, as every such purchaser would, through the Council of his district, virtually receive back again a large part of his payment for the land in improvements of the locality in which it was situate. Thus every district in which sales of Crown lands could be effected would be in a state of progressive improvement. As, by means of successive sales, the waste lands of the Crown in any district became small in comparison with the improved lands of actual settlers, this source of local revenue would indeed diminish; but the value of the rateable property would be continually increasing. The resource afforded by this use of the funds at the disposal of the Lords of the Treasury would thus come in aid of the local resources of a district when such aid was most essential to its welfare, and would cease to avail the district as it became more and more independent of all resources but its own. Thus District Councils would be rescued from the necessity of contracting debts in the infancy of the settlement of their district, when the lenders of the money would demand a very high rate of interest, and such loans would be necessary only in districts wealthy enough to be able to make them on moderate terms.

As however the proposed application of this fund must be contingent on the acceptance or non-acceptance by the Districts of the proposed Charters, we apprehend that, until that contingency shall be determined by the event, it will be premature to ratify by the authority of Parliament the contemplated dedication of the fund to these purposes. Nor is there any present necessity for the intervention of Parliament, as under the existing law Your Majesty possesses the power of directing this appropriation of the funds in question.

Among the appropriations of the public revenues of New South Wales by Parliament, is that of a sum of 30,000*l.* per annum for the support of public worship; it being, however, referred to Your Majesty to apportion that fund between the different Christian Churches amongst which the colonists are divided. Your Majesty has already determined that this sum shall be distributed between the Churches of England, of Scotland, and of Rome, and the Wesleyan Society. To each of those bodies has been assigned an income bearing to the entire income the proportion which, according to the census of the year 1841, the number of the members of each of those bodies bore to the collective number of the members of all of them. The census of 1846 has, however, shown such a change in these numerical proportions, or such an inaccuracy in the census of 1841, as renders the division of the fund somewhat more favourable to the Church of England than, according to the strict principle of that division, it ought to be.

We are of opinion that the proposed Legislatures ought not to possess the unrestricted power of altering the existing arrangements. The vested rights which individual clergymen hold under the New South Wales Constitutional Act ought, we apprehend, to be maintained inviolate. And in the absence of very weighty reasons, clearly and fully established, it would, we think, be inexpedient to deprive any one of the four churches in question of any part of the temporal support to which it is at present

entitled under that statute. The existing arrangement, however, which appears to have contemplated a periodical revision of the number of the members of each church, and a consequent re-adjustment from time to time of their respective dividends, is in this respect open to much objection; and the effect of adopting that principle would inevitably be to bring discredit on the efforts made by those churches for the diffusion of the opinions peculiar to, and characteristic of, each of them. Such efforts would be ascribed, however unjustly, to other motives than the disinterested desire for the propagation of truth, or of supposed truth, and a spirit of competition and rivalry would be excited which every devout member of each of those churches would earnestly deprecate.

We should therefore propose to secure to each of the four Churches, not for a definite, but for an indefinite period, that share of the common fund which has been assigned to it under the existing arrangement. If at any future time the local legislature of either province should see fit to endow any other church than those four, or to augment the endowment of any one of the four, any such new or augmented endowment ought, we apprehend, to be made by an additional charge on the revenue of the province, and not by a deduction from the revenue of any one of the four endowed churches. Whatever fluctuations may occur in the comparative numbers of the members of those churches, the steady and rapid increase of the population of the Australian colonies renders it eminently improbable that the absolute wants of any one of those churches will ever be less than they are at present, or that the existing endowment of any one of them will ever be found to be excessive.

In giving this permanent character to the existing apportionment, it seems, however, necessary to guard against one error which has already been brought to light. That apportionment was founded on the census of 1841. But there is reason to conclude that the subsequent census of 1846 was not only taken with much greater care, but was drawn up with much greater accuracy, and affords a much safer basis on which to erect a scheme of indefinite duration. We subjoin a schedule showing the results of the census of 1846, as far as respects the numerical proportion between the adherents of the different churches. From that schedule it will appear that the present apportionment of the fund for the support of public worship is less favourable to the other endowed churches, as compared to the Church of England, than according to the census of 1846 it ought to be. In pursuance of the principle already stated, we propose that Parliament should be recommended to redress that inequality, not by a deduction from the share of the latter, but by an additional charge on the public revenue. Such a charge would not be of great amount, and would not raise the whole appropriation for public worship to the same proportion to the existing resources of New South Wales, as that which subsisted between the former appropriation for that service and the resources of the colony at the time when it was made.

In distributing between New South Wales and Victoria the total amount of the proposed annual charge for public worship, we apprehend that, in pursuance of the principle of respecting as far as possible all vested interests and existing arrangements, the Census of 1846 should be taken as the guide to be followed. We therefore propose that the proportion of the grant for each of the four churches, to be charged on the revenue of each province respectively, should be determined by the comparative numbers of the members of these churches in the two districts at the time the census was made. We add in an Appendix to this report

a Schedule, showing the amount which, following this rule, would be charged on the revenues of both provinces in favour of the several churches.

With regard to Van Diemen's Land and South Australia, in neither of which colonies has any Parliamentary provision been made for the support of public worship, we conceive that it will be sufficient that Parliament should now provide that the proposed Act shall not in any manner interfere with the operation of the laws existing on that subject in either of those colonies, but that those laws shall continue in force as fully as if no such Act had been passed.

Passing to the subject of a Civil List, we have to observe, that the very large proportion of the revenue of New South Wales at present withdrawn from the control of the Legislature by the permanent appropriation of Parliament, has been a continual subject of complaint and remonstrance in the colony since the passing of the Constitutional Act of 1842; and we cannot conceal our opinion that these complaints are not without some foundation. It appears to us hardly consistent with the full adoption of the principles of representative Government that, as to a large part of the public expenditure of the colony, the Legislature should be deprived of all authority; nor does there appear to us to be any real occasion for imposing a restriction upon the powers of that body which manifests so much jealousy as to the manner in which those powers may be exercised. The expenditure thus provided for is all incurred for services in which the colonists alone are interested. The colonists themselves are mainly concerned in the proper and efficient performance of those services; and it appears to us that they ought to possess, through their representatives, the power of making such changes from time to time in the public establishments as circumstances may require. But, while we are of opinion that there is no sufficient reason for refusing to the legislatures of the colonies a control over the whole of their expenditure, we also think that great inconvenience and very serious evils might be expected to arise from leaving the whole of the public establishments to be provided for by annual vote. In this country Your Majesty's Civil List is settled upon Your Majesty for life; and, in addition to this, Parliament has thought fit to provide, by a permanent charge on the Consolidated Fund, for a very considerable part of the establishments kept up for the public service, including the whole of those of a judicial character, leaving to be defrayed by annual votes those charges only which have been regarded as requiring the more frequent revision of the Legislature. The reasons which have induced the British Parliament in this manner to withdraw various heads of expenditure from annual discussion, and to make provision for them in a manner which can only be altered by an Act of the whole Legislature, apply, as we apprehend, with much increased force in favour of adopting a similar policy in the colonies. It is not to be denied that in these smaller societies party spirit is apt to run still higher than amongst ourselves, and that questions respecting the remuneration of public servants are occasionally discussed rather with reference to personal feelings, than to a calm consideration of the real interest of the community. We believe also that true economy is promoted by giving to those who are employed in the public service some reasonable assurance for the permanence of their official incomes. It is thus only that efficient service can be secured in return for a moderate remuneration. With these views the arrangement which we should recommend is, that Parliament should, in the first instance, charge upon the revenues of the several colonies an amount sufficient to defray the expense of those services which it would be inexpedient to leave

to be provided for by annual votes of the respective legislatures, leaving, however, to those legislatures full power to alter this appropriation by laws to be passed in the usual form. It would remain for Your Majesty to determine what instructions should be given to the governors of these colonies as to their assenting on behalf of the Crown to any laws which might be tendered to them by the legislatures for repealing or altering any of the charges created by Parliament on the revenues of the respective colonies. We conceive that it might be advisable by such instructions to restrain the governors from assenting to Acts making any alterations in the salaries of their own offices, or of those of the judges, and some others of the public servants, unless these Acts contained clauses suspending their operation until they should be confirmed by Your Majesty's immediate authority. It appears to us that this course ought to be adopted, because we consider that the salaries of the principal officers of the colonial governments ought not to be changed without Your Majesty's direct concurrence; and because the present holders of some of the offices of lower rank have received their appointments under circumstances which give them a strong claim to the protection which would be thus afforded to them. Men who have abandoned other prospects for the purpose of accepting colonial employment, which they had reason to expect would be permanent, and who have since faithfully discharged their duties, must be regarded as having claims which rest upon the grounds of public faith, and on contracts which on their side have hitherto been strictly fulfilled, to retain their present salaries, so long as they shall conduct themselves properly, or to receive adequate compensation for their loss. We doubt not that such claims would be respected by the local legislatures, whatever reductions they might see fit to make in other cases; but we think that Your Majesty ought to secure them even from the risk of a hasty and ill-considered decision to their prejudice occasioned by some temporary excitement: subject to these qualifications, we are of opinion that complete control over the colonial expenditure ought to be given to the respective legislatures.

There yet remains a question of considerable difficulty. By far the larger part of the revenue of the Australian colonies is derived from duties on customs. But if, when Victoria shall have been separated from New South Wales, each province shall be authorised to impose duties according to its own wants, it is scarcely possible but that in process of time differences should arise between the rates of duty imposed upon the same articles in the one and in the other of them. There is already such a difference in the tariffs of South Australia and New South Wales; and although, until of late, this has been productive of little inconvenience, yet with the increase of settlers on either side of the imaginary line dividing them, it will become more and more serious. The division of New South Wales into two colonies would further aggravate this inconvenience, if the change should lead to the introduction of three entirely distinct tariffs, and to the consequent necessity for imposing restrictions and securities on the import and export of goods between them. So great indeed would be the evil, and such the obstruction of the inter-colonial trade, and so great the check to the development of the resources of each of these colonies, that it seems to us necessary that there should be one tariff common to them all, so that goods might be carried from the one into the other with the same absolute freedom as between any two adjacent counties in England.

We are further of opinion that the same tariff should be established in Van Diemen's Land also, because the intercourse between that Island

and the neighbouring colonies in New Holland has risen to a great importance and extent, and has an obvious tendency to increase. Yet fiscal regulations on either side of the intervening strait must of necessity check, and might perhaps, to a great extent, destroy that beneficial trade.

If the duties were uniform, it is obvious that there need be no restrictions whatever imposed upon the import or export of goods between the respective colonies, and no motive for importing into one goods liable to duty which were destined for consumption in another; and it may safely be calculated that each would receive the proportion of revenue to which it would be justly entitled, or, at all events, that there would be no departure from this to an extent of any practical importance.

Hence it seems to us that a uniformity in the rate of duties should be secured.

For this purpose we recommend that a uniform tariff should be established by the authority of Parliament, but that it should not take effect until twelve months had elapsed from the promulgation in the several colonies of the proposed Act of Parliament. That interval would afford time for making any financial arrangements which the contemplated change might require in any of them; and, by adopting the existing tariff of New South Wales (with some modifications to adapt it to existing circumstances) as the General Tariff for Australia, we apprehend that there would be no risk of imposing upon the inhabitants of these colonies a table of duties unsuited to their actual wants. We should not, however, be prepared to offer this recommendation, unless we proposed at the same time to provide for making any alteration in this general tariff which time and experience may dictate; and this we think can only be done by creating some authority competent to act for all those colonies jointly.

For this purpose we propose that one of the Governors of the Australian colonies should always hold from Your Majesty a commission constituting him the Governor-General of Australia. We think that he should be authorised to convene a body to be called the General Assembly of Australia at any time and at any place within Your Majesty's Australian dominions which he might see fit to appoint for the purpose. But we are of opinion that the first convocation of that body should be postponed until the Governor-General should have received from two or more of the Australian Legislatures addresses requesting him to exercise that power.

We recommend that the General Assembly should consist of the Governor-General and of a single House, to be called the House of Delegates. The House of Delegates should be composed of not less than twenty, nor of more than thirty members. They should be elected by the Legislatures of the different Australian colonies. We subjoin a schedule explanatory of the composition of this body; that is, of the total number of delegates, and of the proportions in which each colony should contribute to that number.

We think that Your Majesty should be authorised to establish provisionally, and in the first instance, all the rules necessary for the election of the delegates, and for the conduct of the business of the General Assembly; but that it should be competent to that body to supersede any such rules, and to substitute others, which substituted rules should not, however, take effect until they had received Your Majesty's sanction.

We propose that the General Assembly should also have the power of making laws for the alteration of the number of delegates, or for the improvement in any other respect of its own constitution. But we think that no such law should come into operation until it had actually been confirmed by Your Majesty.

We propose to limit the range of the legislative authority of the General Assembly to the ten topics which we proceed to enumerate. These are,—

1. The imposition of Duties upon Imports and Exports.

2. The Conveyance of Letters.

3. The formation of Roads, Canals, or Railways, traversing any two or more of such colonies.

4. The erection and maintenance of Beacons and Light-houses.

5. The Imposition of Dues or other Charges on Shipping in every Port or Harbour.

6. The establishment of a General Supreme Court, to be a court of original jurisdiction, or a court of appeal for any of the inferior courts of the separate provinces.

7. The determining of the extent of the jurisdiction, and the forms and manner of proceeding, of such Supreme Court.

8. The regulation of Weights and Measures.

9. The enactment of laws affecting all the colonies represented in the General Assembly on any subject not specifically mentioned in the preceding list, but on which the General Assembly should be desired to legislate by addresses for that purpose presented to them from the legislatures of all those colonies.

10. The appropriation to any of the preceding objects of such sums as may be necessary, by an equal per-centage from the revenue received in all the Australian colonies, in virtue of any enactments of the General Assembly of Australia.

By these means we apprehend that many important objects would be accomplished which would otherwise be unattainable; and, by the qualifications which we have proposed, effectual security would, we think, be taken against the otherwise danger of establishing a central legislature in opposition to the wishes of the separate legislatures, or in such a manner as to induce collisions of authority between them. The proceedings also of the Legislative Council of New South Wales, with reference to the proposed changes in the Constitution, lead us to infer that the necessity of creating some such general authority for the Australian colonies begins to be seriously felt.

SCHEDULE 1.

	Distribution of £30,000 according to Census of 1841 (existing Arrangement).	*Distribution of £30,000 according to Census of 1846.*	*Sums which, according to the Census of 1846, will correspond with the sum now enjoyed by the Church of England, according to the Census of 1841.*
	1	2	3
	£ s. d.	£	£
Church of England ..... (In the present undivided Colony of New South Wales.)	17,581 2 4	15,715	17,581
——— Rome	8,510 14 6	9,333	10,441
——— Scotland	3,136 9 11	3,634	4,066
Wesleyans	771 13 3	1,316	1,472
Total	29,998 0 0	29,998	33,560

DISTRIBUTION of the SUMS in Column 3 between New South Wales (present Sydney District) and Victoria (present Port Phillip District), according to the CENSUS of 1846.

	New South Wales.	*Victoria.*	*Total.*
	£	£	£
Church of England	14,812	2,769	17,581
——— Rome	8,757	1,684	10,441
——— Scotland	2,979	1,087	4,066
Wesleyans	1,176	296	1,472
Total	27,724	5,836	33,560

CENSUS of 1841 and 1846, upon which the above Calculations are founded.

	1841.		1846.	
Church of England :—				
Sydney District	67,537		79,810	
Port Phillip District	6,190	73,727	14,921	94,731
Church of Rome :—				
Sydney District	33,249		47,187	
Port Phillip District	2,441	35,690	9,075	56,262
Church of Scotland :—				
Sydney District	11,009		16,053	
Port Phillip District	2,144	13,153	5,856	21,909
Wesleyans :—				
Sydney District	2,586		6,338	
Port Phillip District	650	3,236	1,597	7,935

SCHEDULE 2.

Composition of the House of Delegates.

EACH Colony to send two members, and each to send one additional member for every 15,000 of the population, according to the latest Census, before the convening of the House.

On the present population the numbers would be as follows :—

	Population by last Census.	*Number of Members.*
New South Wales	155,000	12
Victoria.....	33,000	4
Van Diemen's Land (deducting Convicts)	46,000	5
South Australia	31,000	4
		25

Her Majesty having taken the said Report, together with the Schedules thereunto annexed, into consideration, was pleased by and with the advice of Her Privy Council to approve thereof.

(Signed) W. L. BATHURST.

PAPERS

ON THE

NEW CONSTITUTION OF THE AUSTRALIAN COLONIES.

Ordered by the Legislative Council to be printed.
3rd September, 1849.

JAMES BARNARD,
GOVERNMENT PRINTER, HOBART TOWN.

No 40

To His Excellenc
& to the Honourable
in Council assemble

We the u

have heard that a motion is

Council to grant to the Bis

for the purchase of a house

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No 240

To His Excellency Sir W. T. Denison Knt.
& to the Honourable the Legislative Council
in Council assembled

We the undersigned Citizens of Hobart Town have heard that a motion is to be made in your Honourable Council to grant to the Bishop of Tasmania ten thousand pounds for the purchase of a house that a notice has been received that Her Majesty's Government has prepared a measure to confer on the Representatives of this Colony the right of appropriating the public revenue that without entering on the question of the proposed motion in its Ecclesiastical aspect we earnestly deprecate the expenditure of any public money for purposes not immediately necessary in conducting the Government and that we cannot but regard all especial grants of the present Council as a violation of the spirit of that policy announced by the Crown That while the local Government is in debt a duty of 15% exacted, the agricultural interests of the colony at the lowest ebb so as to threaten the extinction

of the settlers and to involve the general interests in ruin we cannot but regard the conversion of an annual rental into the grant of a capital equal to the amount of that rental as oppressive and unjust

Your petitioners humbly pray therefore that your Honorable Council will not accede to the motion of granting the £2000 in question and

Your petitioners will ever pray

Henry H. Jenkins
Chas. G. Stevens
Geo. H. Salter
Geo. W. Walker
J. Briers
John Watkins
Jas. Elliott
Thos. Patterson
Henry White
R. Jarrett

Thos. L. Chapman
Jr. Fuller
A. H. Manning
L. L. Stevenson
Wm. Watson
Wm. Hall
Henry White Jr
J. Monaghan

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G. Stevens
H. Salter
W. Walker
J. Piper
Perkins
Elliott

Thos. D. Chapman
Fr. Haller
A. H. Manning
L. L. Stevenson
Wm Patchorn
William Jones

Read in the Legislative Council
3 Nov 1840

No 41

To
His Excellency, Sir William Thomas Denison Kt Lieutenant Governor, and the Honorable the Legislative Council of Van Diemens Land.

The Memorial of John Morgan, a Resident Inhabitant of the City of Hobart Town,

Respectfully showeth,

That your Memorialist has observed that a notice of motion has been given by the Honorable the Colonial Secretary, calling upon Your Excellency, and Honorable Council to appropriate the sum of Two thousand Pounds, to the purchase of a residence for the Lord Bishop of Tasmania.

That, your Memorialist being a public Journalist, is acquainted with the feelings and opinions of many of the Colonists on this subject, and he therefore considers it to be his duty to respectfully, and promptly protest, against any such outlay of the public money. —

That as a Member of the community, he, by this Memorial, and protest, only asserts a right, inalienable to a British subject, at any time to respectfully tender his objection to any measure affecting his interests, and he does so individually, because no time is given for a general petition from the Colonists, ~~generally~~, the object being, (as Your Memorialist believes) to hasten this appropriation of the public revenue through Your Honorable Council during the present session, in order to make its application immediately available.

That your Memorialist in common with many others, has reason to believe, that a very few months will give to the Colonists generally, the advantages of an Electoric Assembly, and he therefore respectfully submits, that the proposed appropriation of any part of the public revenues, would be unnecessary, and objectionable, as it would be positively unjust toward other religious denominations in this Island, whose money, taken from them by direct and indirect taxation, Your Excellency, and Honorable Council are called upon, ~~to~~ thus to vote away.

That for these, and many other reasons which could be adduced,

Your Memorialist respectfully prays, that the Motion of which the Honorable, the Colonial Secretary has given notice, may not in any way, be acted upon, until the general community, to which Memorialist belongs, have had an opportunity of expressing their sentiments on the subject, through their elected representatives.

John Morgan.

Hobart Town, November 3. 1849.

No 42

To His Excellency Sir William
Thomas Denison Knt. Governor of
Van Diemens Land &c. and the
Honorable Members of the Legislative
Council, in Council assembled

The humble petition of
William Hall Vicar General of
the Roman Catholic Church
in Van Diemens Land.

Sheweth that the Right Reverend Robert
William Willson Roman Catholic
Bishop of Hobart Town is in receipt
of one hundred pounds per annum
for house rent, in lieu of one thousand
pounds for the erection of a Bishop's
house.

That the Bishop has hitherto been
unable to procure a suitable and
convenient residence, and is desirous
of building a house upon St. Mary's
Church land Harrington Street.

Petitioner therefore, in the
absence

absence of the Right Reverend the Bishop from the Colony, but in accordance with His Lordship's wish, prays that His Excellency and Honorable Council will be pleased to vote the sum of one thousand pounds towards the erection of a suitable residence for the Bishop, as Head of the Roman Catholic Church in Van Diemens Land, to be for ever Church property, in lieu of the one hundred pounds per annum allowed as house rent.

And your petitioner will ever pray &c. &c. —