

Duplicate

Van Diemen's Land
Government House
3rd December 1850

No.253

My Lord,

Executive

I have the honor to acknowledge the receipt of Your Lordship's Despatch No.114 dated 25th July 1850, conveying to me the views of Her Majesty's Government upon the subject of the treatment of a certain class of transported offenders and enclosing a set of printed Regulations for my guidance in disposing of the men of this class who will hereafter be sent to this Colony.

2. I will now proceed to detail for Your Lordship's information the steps which I have taken, in order to carry out the views embodied in the Despatch before mentioned and its enclosures.

3. Before, however, I do this it will be desirable that I should call Your Lordship's attention to some of the circumstances connected with the peculiar state of things in this Colony, which will compel me to modify to a certain extent some of the Regulations for Ticket of Leave holders which have been transmitted while yet I adhere closely to the spirit and intention with which they were dictated.

4. In the first place, with regard to the name "Ticket of Leave holder", Your Lordship is aware that there is already in this Colony a class of Convicts known by this name, who are by Law and regulation entitled to certain privileges, of which the men who have arrived by the William Jardine and those who will hereafter arrive, will not be able for some years, to avail themselves.

As, however, the men who have just arrived have been informed that they will be entitled to Tickets of Leave, I have not thought it advisable to change the name altogether, but in order to mark the difference which exists between their present state and that to which they will attain on the payment of their debt to the Government, I have called them Probationary Ticket of Leave holders.

5. I would submit, however, to Your Lordship the propriety of adopting some appellation for these men which

would more distinctly define the state of indulgence at which they have arrived, a stage in point of fact equivalent to, or nearly so, that of the Passholder under the old System. By so doing no opening would be left for doubt or misapprehension as to the extent of the privilege conferred, which might be the case were the appellation of Ticket of Leave holder (however modified) retained.

6. In the Second place, as regards the amount of the debt to be charged against the men forming the class alluded to above.

7. In the scale given in paragraph 7 of Your Lordship's Despatch No.114, the annual deduction from the wages of these Probationary Ticket of Leave holders is put at £5, but in paragraph 9 Your Lordship has empowered me to reduce this payment according to circumstances.

8. It is evidence that a deduction from the wages of a servant which would not be felt in New South Wales where the rate of payment for labour is at least 70 or 80 per cent higher than it is in this Colony would here be excessive, and as it would not be just or indeed possible to extend the period over which the total payment is to be spread, so as to retain the full amount of the debt, and to exact a greater quantity of labour in return for it, I have felt myself obliged to retain the periods of 1½, 2, 3, 4 & 5 years and to reduce the payment in proportion to the difference between the rate of wages here and in New South Wales. This under ordinary circumstances would reduce the payment from £5 to £3.

9. In order, however, to meet the cases in which the rate of wages paid to the men may vary, I have thought it better to make the deduction a rateable one, and to fix it at one third of the wages which a man may be entitled to receive from his employer.

10. Having given this preliminary explanation, I now beg to draw Your Lordship's attention to the Regulations relating to the Probationary Ticket of Leave holders, which have been promulgated in this Colony, and of which I forward a printed copy.

11. The first regulation defines the mode in which applications are to be made for the hire of these men, and in order to meet Your Lordship's views as to their employment in the Country Districts, any proposed employment in the Town is

made a matter of special reference to me. It is evident that there will be cases in which it would be impossible for a man to find employment in the rural Districts, and equally impossible for the Government to find them occupation of a character suited to this abilities. A man whose only qualification may be the power to write a good hand, and to keep accounts, could never find employment s a Shepherd or an agricultural labourer, while he might readily be hired in Town as a Clerk. I have therefore thought it better to reserve to myself the power of considering each case separately on its merits (laying down the general rule that the men are to be employed in the rural Districts) than to issue a positive prohibition to Town employment which circumstances might compel me to relax.

Clause 2 defines the period for which the men are to be hired in accordance with the scale laid down by Your Lordship, and in this Clause is embodied the principle enunciated by Your Lordship in paragraph 19 of the Despatch No.114, by which men who conduct themselves well will be relieved from a portion of their debt to the Government and of their period of compulsory service. I have thought it better to carry out the principle in the manner explained in these regulations, than in strict accordance with the mode pointed out in enclosure No.3 headed "Scale of Abatement for prompt payment". In the first place, it is less complicated and more easily worked. This is no slight advantage when it is considered that a regular Debtor and Creditor Account will have to be carried out with each Convict, the amount of clerical labour which the complicated system of reduction for prompt payment would involve when applied, as it will have to be, to some thousands of men would be enormous, especially when it would necessarily be coupled with questions as to the operation of punishment for misconduct in neutralising the advantage gained by promptitude of payment.

In the second place as the wages of the Convict will be paid by the Master at regular intervals, it would be almost impossible for him to forestall this period, as his Master would not in general be disposed to advance wages before they were due.

In the third place, by making prompt payment the principal, indeed I may say the only mode of reducing the period of compulsory service, encouragement is held out to the servant to procure money by other than legitimate means. I

have therefore thought it better to withdraw this temptation, to make continuous service and good conduct the sole means by which any reduction in the term of service can be obtained; the amount of the reduction in the payment is, it is true, rather greater by this plan, inasmuch as it is put at one fifth or 20 per cent, instead of one tenth of the whole amount, but the diminution in the period of service is less, being one fifth instead of one fourth.

Clause 3 relates to the payment to be made to the Convict and to the Government, and is fully explained in my preliminary remarks on this subject.

12. The remaining clauses require no explanation. Should Your Lordship approve of them, I would beg to submit that the Convicts when sent out from England should be furnished with printed copies of these Regulations, instead of enclosures 1 and 3, in which case being made fully aware of the course which will be pursued with regard to them, they will not be able to plead disappointed hope as an excuse for discontent and misconduct.

13. I would also suggest that the practice of issuing to each Convict a document stated to be "a Certificate for well conducted men embarking with Tickets of Leave", which Certificate is signed either by Lieutenant Colonel Jebb, or by the Governor of the Prison from which the man is sent should be either discontinued or the form modified. The document is of no value in any way, and the possession of it only serves to raise in the mind of the Convict hopes and fancies which are sure to lead to disappointment.

14. Having thus explained the mode in which I have attempted to carry out Your Lordship's views as regards the employment of these men in the service of the Settler, I may be allowed to allude briefly to the difficulties which I may have to encounter in my attempts to carry out the system of Government employment for men who may not be hired by private Individuals, I say, may have to encounter, for it is evident that the amount of the difficulty will be in proportion to the number of men sent to the Colony. Should the ordinary demand for labour be sufficient to carry off the greater portion of the Convicts sent out, then it will be easy enough for me to find employment for the remainder in various ways, but should the supply so far exceed the demand as was the case in 1846, and thus leave several thousand men on the hands of the

Government it will obviously be impossible for me to find funds to pay the wages of these men and of the Foremen and others required to direct their labour.

15. *The Land Revenue of this Colony to which Your Lordship has in paragraph 16 alluded, as the source from which funds will be drawn, is pledged in the first instance to the extent of £5,000 per annum for the debt due to the British Treasury. A sum of £7,500 has then to be advanced to the £500 pensioners who are coming out as Guards in the Convict Ships, so that the amount which will be available for the employment of these men in 1851 and 1852 will not be very large.*

16. *Should it, therefore, be the intention of Her Majesty's Government to send out to this Colony, a greater number of Convicts annually than that mentioned in my Despatch No.142, dated 27th September 1849, namely 1,500, it will either be necessary to reconsider the directions contained in Paragraphs 12, 13, 14, 15, 16, 17, 18 of Your Lordship's Despatch or (which would be much more advantageous to the Colony) to adopt the plan suggested by me in my Despatch No.14 dated 11th January 1850, of granting remission orders for the purchase of Land at the Government Sales to the extent of from one to 400 acres, which bonus together with the advantage in some cases of a free passage to the Colony would be certain to induce an influx of small Capitalists, who would provide employment for the Convicts.*

17. *With regard to those portions of Paragraphs 12 & 13 of Your Lordship's Despatch No.114, which explain the nature and extent of the Control to be exercised over the men supposed to be employed as laborers upon Government works, I would beg to point out to Your Lordship that under the arrangement detailed in these paragraphs, the men will be placed in a better position than those hired by the Settlers. They will receive the current wages of labour, and be subject to no control except during the hours of work.*

Should the place where these men may be employed be in the neighbourhood of a settled district, the result of the absence of control over them, would be the creation of gangs of thieves, who would be the plagues of the vicinity. Should it be at some distance back in the Bush, then we may expect a recurrence of all those evils which characterised the lax system adopted by Captain Maconochie at Norfolk Island.

I have thought it better to make these few observations, although I am not prepared as yet to lay before Your Lordship any Scheme by which the labour of these men may be made available.

As soon as I have matured a plan I will report fully on the subject to Your Lordship.

I have the honor to be,

My Lord,

*Your Lordship's most obedient,
humble servant,*

W Denison

Right Hon^{ble}

Earl Grey

&c &c &c

CONVICT DEPARTMENT.

Regulations for the Hiring of Probationary Ticket-of-Leave Holders.

1.—PERSONS who may wish to hire Convicts of this class must obtain the sanction of the Lieutenant-Governor through the Office of the Comptroller-General, and it is desirable, to prevent delay in the consideration of the application for authority to hire, that it should be sent through the Police or Assistant Police Magistrate of the District in which the applicant resides.

As it is intended that these convicts should generally be distributed in country Districts, his Excellency's special authority must be obtained in each case, before they can be hired in Hobart Town or Launceston.

2.—Convicts of this class can only be hired at the Prisoners' Barracks, Hobart Town, and such other Government Establishments as may be hereafter notified in the *Gazette*, for some one of the following periods:—

- 1 year and a half
- 2 years
- 3 years
- 4 years
- 5 years,

according to the length of their original sentence, each period being however subject to a diminution of one-fifth, for continuous service without offence; and on completion of these periods they will be no longer subjected to the restraint of having to work for a particular master, but will be eligible for a ticket-of-leave with the privileges now attached to that indulgence by law and regulation. Any failure on the part of the convict in fulfilling his engagement will render him liable to

punishment, and defer the period of his becoming eligible for higher indulgence.

3.—Two-thirds only of the wages at which the Convict is hired are to be paid to the Convict himself, at intervals, not exceeding three months—the remaining third to be paid by the Employer to the Comptroller-General, on account of the Government. The payments to the Comptroller-General are to be made half-yearly, in the months of January and July. No wages will be payable during any period for which the Employer may be deprived of the services of the Convict by misconduct or sickness.

4.—Employers will be required to furnish suitable lodging, on their own premises, with a proper supply of bedding, together with provisions and soap, in accordance with the following scale of daily rations:—

- 1 lb. meat
- 1½ lbs. bread, or 1 lb. bread and 2 lbs. vegetables
- ¼ oz. tea
- 1 oz. sugar
- ½ oz. soap
- ½ oz. salt.

The Convict must provide himself with clothing.

5.—During the term of engagement, the Employer will be required, at his own expense, to provide the Convict with requisite medicines and medical attendance, or he may be sent to the nearest General or Station Hospital, upon his Employer undertaking to pay the regulated charge of one shilling per diem for any period not exceeding one month, should the term of engagement not previously expire, after which he will remain in Hospital free of charge to the Employer.

6.—Employers will be required to forward to the

Comptroller-General, in the months of January and July of every year, a return of the Convicts of this class who were in their service on the first day of these months respectively, and a similar return to the Police Magistrate of the District in which they reside.

7.—The Convict must attend Divine Service in accordance with his professed creed, at least once every Sunday, wherever there is a place of public worship within two miles or other reasonable distance of his Employer's residence. When there is not a place of public worship within such distance, he will attend any private meeting for worship and religious instruction his Employer may appoint, provided such worship and instruction be in accordance with the professed creed of the Convict.

8.—No Convict of this class will be allowed to be employed in whaling or other vessels.

9.—The Convict is, under no circumstances, to be permitted by his Employer to work for his own benefit, or to be otherwise at large, or not under proper control.

10.—The arrival of the Convict at his place of service must be reported by the Employer to the Police Authority of the District; and should an Employer have occasion to send the Convict to any other District, he must be supplied with a pass from the Police Magistrate.

11.—No engagement can be broken or altered by the Convict; but an Employer may terminate an agreement, and return the Convict to the service of the Government, by forwarding him, *under charge*, to the nearest Hiring Depot or Police Station, the Employer sending in a written report to the Comptroller-General as to the cause of his having thus concluded the engagement, and specifying what the conduct of the Convict has been up to the time of his discharge. Under such terminated engagement, the Convict will be deemed to be entitled to wages up to the period of his being returned to the Government.

12.—Should the Convict be sentenced by a Magistrate to imprisonment, he will be returned to his service to complete the term of engagement after the expiration of his sentence,

unless the Employer states to the Magistrate, or notifies to the Comptroller-General, that he does not desire to receive him back again,—and, at the same time forwards any balance of wages that may be due to the Convict at the period of his leaving.

13.—A summary power will be exercised by the Lieutenant-Governor of terminating any engagement, if His Excellency shall be of opinion that such a measure is called for.

14.—The Convict, having any complaint to make against his Employer, will be at liberty to prefer such complaint before the Police or Assistant Police Magistrate of the District; for which purpose the Employer shall, on application to that effect, furnish the Convict with a pass. The convict must, however, bear in mind, that he will be liable to punishment, if his complaint be found to be either frivolous or groundless.

15.—Police and Assistant Police Magistrates will have the power of withdrawing the Convict from his service, upon any complaint being substantiated against an Employer, which renders the return of the Convict to the service inexpedient in the opinion of the Magistrate. Such withdrawal of the Convict will be subject to the final approval of the Lieutenant-Governor, as the report which will be transmitted through the Comptroller-General.

16.—Probationary ticket-of-leave holders are amenable to Convict Law only.

17.—Should any Employer act in wilful contravention of, or refuse to comply with the foregoing regulations, Convicts will not be allowed to continue in, or thereafter enter into, the service of such employer.

18.—The wives and families of this class of convicts will be sent out to the Colony when half the cost of doing so has been paid by themselves, or their friends, or parishes in the United Kingdom; and any sums paid by their Employers to the Government under the preceding regulations, will be accepted as part of the contributed towards this object.

J. S. HAMPTON,

Comptroller-General.

Comptroller-General's Office,

21st November, 1850.

