

Duplicate

*Van Diemen's Land
Government House
31st January 1852*

No.24

Executive

My Lord,

I have the honor to acknowledge the receipt of Despatch No.156 dated 4th August 1851 in which Your Lordship has been pleased to explain the reasons which have induced the disallowance of the Regulations for the Governance of the Probationary Ticket of Leave holders forwarded in my Despatch No.253, dated 1st December 1850, and has also communicated to me the Regulations which are in future to be enforced.

2. On the receipt of the Despatch I directed the Comptroller General to report as to the mode in which Your Lordship's Instructions could best be carried into effect, and I forward herewith a Memorandum from that Officer, pointing out the alterations which will be required in the present system.

3. Your Lordship will perceive that the Comptroller General is of opinion that it will be altogether impossible to collect that portion of the wages of the convicts which, in accordance with the Instructions communicated in the present as well as in former Despatches should be paid either by their masters or by themselves to the Government in order to entitle them to further indulgence. In my Despatch No.140 dated 3rd October 1851, I have gone fully into this question, it is, therefore, unnecessary for me to say more at present than to express my earnest hope that Your Lordship will not order me to attempt to enforce a system which having been tried under circumstances much more favorable than those in which we are now placed, failed most completely, and which will be certain to place the Government in a position of hostility to every employer of convict labour in the Colony.

4. *I have in various Despatches expressed my opinion that the convicts sent to this Colony should be assimilated in position and privileges to the Passholders under the former Regulation, and I should not have adopted the term Probationary Ticket of Leave holder, had I not been impressed with the idea that Your Lordship's intention was to assimilate the condition of these men, more to the Ticket of Leave holders than to the Passholder. I quite concur in opinion with Your Lordship that the latter term should be adopted as shorter and simpler than that which I have used, and have accordingly directed the Comptroller General to make the change.*

5. *I regret to find that Your Lordship does not approve of that portion of the scheme submitted by me, by which the convicts are bound to remain for the whole period of their compulsory service with the same master. The complaints which have been made to me of the conduct of the convict servants have, in nearly every instance, been referred to the wandering desultory habits engendered by the system of hiring for short periods. I have noticed the fact in various Despatches, and the Regulation in question was adopted with a view to meet this particular and crying evil, it has given great satisfaction generally, and has been unaccompanied by any of those evils which attached to the old Assignment system, but as Your Lordship does not think it applicable to the condition of the present class of convicts sent to this Colony, the system of annual hiring will be adopted, carrying out, however, the important principle of shortening their periods as Passholders for continuous service with good conduct.*

6. *I do not think it necessary to allude at present to that portion of Your Lordship's Despatch which contains directions as to the mode of treatment to be adopted towards those Passholders for whom employment must be found on the Public Works. From various Despatches of late dates, Your Lordship has been made aware that there is no probability of my being compelled to find employment for men of this class.*

7. *In connection with the subject alluded to in this Despatch, I have to acknowledge the receipt of Your Lordship's Despatch marked "Separate", dated 4th August 1851, with*

reference to the indulgence to be given to those convicts who may have been disappointed in the expectations with which they came out to this Colony. Your Lordship has, in that Despatch expressed an opinion that an abatement of six months of the time which a Convict would be required to serve before being qualified for a Conditional pardon, would be an adequate compensation for such disappointment. I have, therefore, given directions that six months should be deducted from the period of service of all those men who have been classed as Probational Ticket of Leave holders.

*I have the honor to be
My Lord,
Your Lordship's most obedient,
humble servant,
W Denison*

*The Right Hon^{ble}
Earl Grey
&c &c &c*

Duplicate

Memorandum

Your Excellency having referred to me Lord Grey's Despatch of the 4th of August 1851, conveying His Lordship's decision upon the Regulations which had been drawn up for the control of convicts arriving eligible for employment in private service, I have the honor to submit the following observations in reference to the instructions contained in this Despatch.

2. Under the system now directed to be followed by Earl Grey, Convicts on arrival are to be required to serve, under the designation of Probationary Ticket-of-Leave Holders or Passholders the following periods proportional to their original sentences:-

<i>7 years</i>	<i>—</i>	<i>18 months</i>
<i>10 years</i>	<i>—</i>	<i>2 years</i>
<i>15 years</i>	<i>—</i>	<i>3 years</i>
<i>20 years</i>	<i>—</i>	<i>4 years</i>
<i>life</i>	<i>—</i>	<i>5 years</i>

Each Convict is to be required to enter service for a period for not less than a year, and the employer must undertake to pay to the Government, as a deduction from the wages of the Convict, the sum with which the Convict is to be charged. No Convict is to be allowed to obtain a recommendation for a Conditional Pardon until he has served the full period above named; but he will be entitled to receive a Ticket-of-Leave whenever he shall have paid the full amount that has been charged against him.

3. On the 30th of September I submitted to Your Excellency the difficulties arising with regard to the collection of the portion ordered to be deducted from the wages of the Probationary Ticket-of-Leave Holders, and my apprehension that the arrangement could not in any degree be satisfactorily worked. Under Your Excellency's authority the order was suspended from the 30th of September, and the state of the claims on account of the money due up to that period serves completely

to confirm the opinions expressed in my former Memorandum. The sum due up to the 30th of September amounts to £1410.17.6. Of this, only £370 has been received, and the remainder amounting to £1040.17.6 has to be collected. The employers are upwards of 1000 in number, and applications have to be now addressed to each. This number will, of necessity, rapidly increase, and for the correspondence that would ensue were the regulation still in force I have no sufficient clerical strength, nor is it possible to make any adequate arrangement to meet it. There are now 1576 Probationary Ticket-of-Leave Holders in service, and very many of these have two or more employers in the course of the year. To keep an account against each under such circumstances, and to dispose of all the grounds on which employers would refuse to make any payment, as I pointed out in my former Memorandum, would be found as impracticable as the very similar plan of Lord Stanley, under which a sum of £6000 accrued as a debt on the part of the various employers, which it was utterly impossible to collect. In reference to the other objection, I do not deem it necessary to recapitulate what I have stated in my former Memorandum.

4. Assuming, therefore, that at all events until the receipt of further instructions from Earl Grey, Your Excellency will not resume the plan of requiring any deduction from the wages of the Convicts, I proceed to consider what other changes in the existing Regulations are required under Earl Grey's instructions, and what will be the position of the convict under such amended regulations.

5. The first point which will require amendment is the period for which a Convict is to be required to enter service with one employer. By the existing Regulations he is compelled to enter for periods varying from one to five years. Under Earl Grey's present instructions no engagement is to be for a longer period than twelve months.

6. In reference also to the designation to be given to Convicts of this class, Earl Grey appears to consider that "Passholder" would be preferable to "Probationary Ticket-of-Leave Holder," and I would accordingly recommend that "Passholder" be adopted for the future, as showing more clearly

the difference between the condition of these Convicts and Ticket-of-Leave Holders.

7. Lord Grey has also pointed out that it was intended that these Convicts should be recommended for a Conditional Pardon on the expiration of their periods of service as Probationary Ticket-of-Leave Holders or Passholders, without being required to serve any additional period as Ticket-of-Leave Holders.

8. To the deduction allowed for continuous service Eaerl Grey does not appear to have taken any objection.

9. Carrying out, therefore, Lord Grey's instructions, with the exception of that which relates to the money payment, Convicts who hereafter arrive should be regarded as "Passholders" required to serve, as such, periods of from one to five years according to the length of their original sentences, such periods being subject to a diminution of one-fifth for continuous service with good conduct. Each period of engagement which it will be compulsory on a Convict to serve will not be less than a year, and on the expiration of the required whole period of service the Convict will pass into the condition of a Ticket-of-Leave Holder to be recommended for a Conditional Pardon.

10. In the present state of the labor market there is no prospect whatever of male Convicts eligible for hire not finding employment in private service. It is therefore unnecessary for me to offer any suggestions with reference to that part of His Lordship's instruction which relates to newly arrived men who may not be hired by private persons.

*(Sd) J. S. Hampton,
Comptroller General's Office,
26th January, 1852.*

*His Excellency
Sir W. T. Denison*