

No. 56.

COPY of a DESPATCH from the Right Hon. the Duke of BUCKINGHAM to
Governor Sir GEORGE GREY, K.C.B.

(No. 45.)

SIR,—

Downing Street, 19th July, 1867.

I have the honor to transmit to you for your information a copy of a Despatch which I have addressed to the Governor of Victoria, respecting a desire expressed in a Memorandum signed by one of the Ministers of each of the Australian Colonies, represented at the Conference recently held at Melbourne, that a measure should be introduced into the Imperial Parliament for the extension of the provisions of certain Imperial Acts to all cases of misdemeanours committed in any of these Colonies.

I request that you will submit to your Responsible Advisers the observations contained in the accompanying Despatch, and inform me of the views entertained by them and by yourself, and also by the Judges of the Supreme Court, in connection with this question.

I have, &c.,
BUCKINGHAM AND CHANDOS.

Governor Sir George Grey, K.C.B.

Enclosure in No. 56.

The Duke of BUCKINGHAM and CHANDOS to Governor Sir J. H. T. MANNERS SUTTON.
(No. 43.)

SIR,—

Downing Street, 4th July, 1867.

I have the honor to acknowledge the receipt of your Despatch of the 25th March, enclosing a Memorandum signed by certain representatives of Victoria, New South Wales, New Zealand, Queensland, South Australia, and Tasmania, desiring an extension of the Imperial Acts 6 and 7 Vict., c. 34., and 16 and 17 Vict., c. 118, to all cases of misdemeanour.

I have received applications to the same effect from New Zealand, Queensland, and Tasmania, and, I presume, shall receive similar communications from South Australia and New South Wales.

Her Majesty's Government have every desire to aid the Australian Colonies by such legislation as will facilitate the effectual administration of justice, and draw the different members of the group into a closer union. But before so important an enactment is submitted to Parliament, I should desire to be furnished with more precise information from those who are especially capable of judging of the probable effect and practicability of such a measure.

I have to desire you therefore to lay the Despatch and the Memorandum before your legal advisers, and to ask them for a report thereon; and I have also to desire you to ascertain whether the Judges of your superior Court are in favour of the plan, or have any suggestion to make upon the subject. I shall desire the Governors of the other Colonies to do the same.

It appears to me that there are two points worthy of special consideration: First,—Whether the object of the colonists requires that the proposal shall extend to all misdemeanours however trifling. There is a large class of misdemeanours of a very grave criminal character closely bordering on felony, but there are also a great many misdemeanours which it would seem unnecessary if not almost absurd to include in a measure of the kind proposed.

I may refer you to an Act of your Government, 27 Vict., No. 233, in which both classes of misdemeanour are to be found; and probably there are scattered through the Acts of the several Colonies many misdemeanours of as trivial a kind as those included in the criminal Act referred to.

It would seem desirable that in the first instance, at all events, any measure should be confined to misdemeanours of the more serious character, which might be defined or referred to in a Schedule to the proposed Act. Secondly,—It seems worthy of consideration whether the object of the colonists might not be better attained by following the precedent of many English Acts, and making the offender liable to be tried either in the place in which the offence was committed, or in the place where he is apprehended, or in custody, rather than by extending the provisions of 6 and 7 Vict., c. 34, and 16 and 17 Vict., c. 118, which are in the nature of extradition Acts. This would be practicable in all cases of serious offences which are made misdemeanours in all the Colonies represented at the Conference.

Such legislation, I need hardly remark, would be greatly facilitated if it were possible for the Australian Colonies to enact in concert a common criminal code based on the Imperial law—a proceeding which Her Majesty's Government would see with much pleasure, both on account of its intrinsic convenience and from its tendency to consolidate the great Colonies which compose the Australian group.

I should be glad also to receive information from you as to the working of the Acts of 6 and 7 Vict., c. 34, and 16 and 17 Vict., c. 118, and to learn whether the powers given by those Acts have been frequently, or otherwise, put into operation.

I have, &c.,

BUCKINGHAM AND CHANDOS.

Governor the Hon. Sir J. H. T. Manners Sutton.