

This review of its real merits as a Colony determines us in the opinion which has long been held of the ultimate high destiny of New South Wales, as the oldest and leading of the Australian states. We shall hold to this opinion and promulgate it now more than ever, for despite its violent reverses of fortune, which we cannot conceal are to be traced to the yet unstable, unformed, dispositions of its inhabitants, we see with the vision of no fluttering enthusiast, but the calculating foresight of a material economist, a brilliant future for our adopted land—a future rendered famous through the moral elevation as much as the worldly wealth of its coming generations of children.

Having done homage to the rising genius of the land in such measured terms as the vastness of the pictures and ideas before us would gift our pen withal, we return to the more sober consideration of the Act establishing a Representative Legislature in New South Wales, and propose to include in this leading essay a summary of its historical origin, and of its existing details.

Before even the year 1834, the free population of New South Wales had increased to an extent which led them to suppose that an address, proceeding from their body direct to the Imperial Parliament, would succeed in obtaining the institution of a representative government for the Colony. Although the members of that class had confided their fortunes to the chance of their probable success in working with the materials of a penal society, yet they felt that the British Government had made itself responsible for their future welfare, by having held out to them all, inducements to emigrate from her own shores. The system which then prevailed of rewarding free emigrants by grants of land, and places under the local government, was also felt to arise from the desire of the Ministry to raise the moral standing of the country, and to render it, in a commercial point of view, a valuable mart of exchange for home manufactures. While few in number, the respectable inhabitants remained satisfied with the distinction made by Government in their favour in all the matters of social life; but as they increased, and found the emancipist and ticket-of-leave man either sharing or monopolizing the patronage of the Government, the controul, to which they were subjected through their association with a felon population, became irksome, galling, and intolerable, and they proceeded to agitate the restoration of those privileges from which they had been debarred, by leaving under the inducements of their paternal government, a free land for a bond. In 1835, these movements were brought to a focus by being represented in two Societies, formed of the resident Colonists—the one of which was styled the Patriotic Association, the other the Rowell Committee—both having the same objects, but endeavouring to attain them by somewhat different means and channels. By those Societies funds were subscribed, and influential parties deputed to go to England, and, in alliance with paid parliamentary agents, to advocate the views of the Societies and petitioning Colonists.

From that time to the introduction of the first free institutions under the present Governor, correspondence was unremittingly kept up, and every spring put in motion to get an Act of Parliament passed, in accordance with the instructions received by the Colonial Agents.

Whilst owing, however, to the frequent change of Ministers in the colonial department, the prayer of the colonists was often retarded, if not wholly lost sight of, His Excellency Sir George Gipps conceived the plan of bringing into operation Municipal Councils for towns, and Elective Directories of Public Works and Police, for districts. He looked upon these institutions as initiative steps to the great legislative change in the constitution, which he himself confidently expected at no distant period, and naturally anticipated that the measure would be adopted by the people with pleasure. In this, probably, had His Excellency extended the circuit of his view, he would not have been disappointed: but confining it only to Sydney, where the Government had done so much for municipal improvements, and to the surrounding districts, for which roads and bridges had been already provided, Sir George Gipps was disappointed by the expression of conflicting opinions, and further embarrassed by the very sage opposition of some of his Councillors, who had discovered that, although there was nothing so very repugnant in enjoying a seat in a legislature which annually levied duties and assessed taxes, although not a representative body, yet to delegate such powers to the inhabitants of distant towns and remote districts, where public works could not progress because the Government would neither expend money on them, nor allow the inhabitants to tax themselves for the purpose, was monstrously unconstitutional. The result was, that the Governor withdrew his Bills, and in compliance to the wishes of his Council referred the disputed points to the consideration of the Minister at home. His Excellency, in the answer which he received, under date 21st July, 1841, was deservedly complimented on the wide and intelligent view he had taken of the wants of the colony in its various portions, and the means of supplying them, and informed, for the satisfaction of the over-prudent Councillors, that the power of the Council to incorporate towns and districts was indubitable.

Accordingly, with the commencement of the last session of the old Legislative Council, His Excellency again introduced the two rejected Bills, each having been grounded on a rather more popular basis, and the Municipal Corporation Bill having been confined in its operations to the towns of Sydney and Melbourne. Petitions promptly came from Melbourne, Geelong, and Maitland, accepting, in one instance, both the Town and District Bill, and in the others, the measure connected with municipal government.

It was upon one of those occasions that the Governor repeated what he had so often said before, and said well, upon the subject of local corporations; but which particular remarks we quote, as at once the most explicit, clear and brief:

“I have called you together at a season somewhat earlier than usual, in order that I may lay again before you, in an amended shape, the Bills which I presented in 1840, but subsequently withdrew, in order that I might seek the instructions of Her Majesty’s Government on some points involved in them, respecting which a difference of opinion existed in the Colony. Of these Bills, the one to authorise the Election of Directors of Police and Public Works, is nearly in the shape in which it was first presented; but instead of the Bill to provide for the Incorporation of the principal Towns in the Colony by means of Charters or Letters Patent to be issued by the Queen, or by the Governor, if thereby authorised by Her Majesty, two Bills are now prepared; by one of which, if passed into a law, the town of Sydney, and by the other, the town of Melbourne, will at once, and without the issue of a

Charter, be incorporated. The additional experience which I have gained in the Colony since these measures were first proposed, has tended greatly to confirm me in the opinion that they are urgently required. I do not seek to conceal from the Council, or from the Colony, that the adoption of them will be attended with some expense to the parties who are to have the benefit of them; but it does not seem to me, that on this account they should be objected to. It can hardly be necessary to point out to you such obvious truths as that public works cannot be carried on, nor can a police force be maintained, without expense; neither can funds be obtained by the Government, for these or any other purposes, which do not in some way or other proceed from the pockets of the people. If, therefore, objects such as these are in any way to be provided for, the only question seems to me to be, whether the people of each town or district will spend their own money, or still desire that the Government should spend it for them. If it be your wish, and the wish of the Colony, that the Government should continue to do so, you will of course reject these bills; but before you decide on rejecting them, I desire to press upon you the following considerations:

“So long as the expense of police, public buildings, roads, bridges, and other similar works, continues to be defrayed out of a general fund, there is a desire on the part of each district to get for itself as large a share of that fund as possible; there is, in fact, a perpetual strife going on, as to which district shall get the most; each has consequently a tendency to be extravagant. When, on the contrary, each town or district defrays its own expenses, it becomes the evident interest of each to avoid extravagance, and to spend no more of its own money than is absolutely necessary. It may, indeed, be said, that the Government is in possession of a revenue sufficient for all purposes, and that, therefore, the imposition of any new tax on the public is unnecessary. If this be the case, the proof of it will be a good reason for reducing taxes, and thereby lessening the income of Government; but it cannot, in my mind, be a reason why the public of any district should not take the management of their local affairs into their own hands, unless, indeed, they consider that the Government can manage them better, and more economically, than they can themselves, and therein differ from the opinion which I entertain on the subject.”

The Governor also added, at the time of his presenting a petition upon the subject from Geelong, a few words, which we also subjoin, to support our own observation, viz., that if His Excellency had, from the first, looked to public opinion beyond the boundaries of Sydney and its contiguous district, he would have found it in accordance with his own views from their earliest suggestion:

“The Governor said, that before proceeding to the business of the day, he had three Petitions to present to the Council. The first was from the town and district of Geelong, and was signed by 110 names, and its prayer was for a Municipal Corporation. He was glad to see the Petition, as he thought that in time a Corporation would be good for them, and it confirmed him in his opinion of the value of Corporations.”

“The Governor, in presenting the second Petition, remarked that it also was from Geelong, and purported to be from the inhabitants of that town and district. The prayer of the Petition was in favour of the Police and Public Works Bill, which the Petitioners considered a well-considered measure, and he would move that it be read.”

“The Governor moved that the Petition be received, and said, that he had alluded to this Petition the other day, when he spoke of the dawn of understanding which had broken on some parts of the Colony, and which, he trusted, would soon spread into daylight over the whole.”

After indefatigable attention to these two leading subjects of the session, His Excellency succeeded in carrying the Municipal Corporation Bills for Sydney and Melbourne through the Council, and might, in time, have succeeded, with equal satisfaction to himself, with the District Bill, had not the arrival of the Act of Parliament, in which special provision was made for District Governments, superseded

any further exertion on his part. Before proceeding to the consideration of this main charter of the Colony, we must do Sir George Gipps the further justice to say, that the intended operations of his district "Directories" were essentially the same as Lord Stanley's district "Councils," as far as regarded the maintenance of police and public works, with these exceptions in favour of the former, that whereas the latter are *nominated* by the Executive, the former were to be *elective*: and whereas the Minister's law makes the payment of a moiety of the district police expenditure compulsory on the Council, such moiety being named by the Crown, without giving any controul over the police to the Council, the Governor's law would have made over the management of the police to the Directories on their undertaking to pay the whole of its expenses. Regarding these two points, viz.,—that rendering the Directories elective, and that ceding the controul of the police on certain conditions. We again quote from the reports of the Legislative Council. Our first quotation is extracted from the publication of "the general objects of a Bill to authorise the formation of district Directories."

"That in every Police District, "Directors of Police and Public Works" shall be elected.

"That the number of such Directors shall be in proportion to the population of the District—that is to say, where the population of a District shall be less than 7,000 souls, the number of Directors shall be nine; 7,000 and not more than 10,000, twelve; 10,000 and not more than 20,000, fifteen; and 20,000 and not more than 40,000, twenty-one;—the Governor being empowered, on application from the majority of the Magistrates resident in any District, to reduce the number of Directors for such District, to two-thirds the number it would be entitled to by population, provided such reduction be noticed in the *Government Gazette*.

"That all monies which shall be collected under the proposed Bill, and paid into the hands of the Treasurer, shall form a fund for the benefit of the District; and the Treasurer shall pay such monies, in the first place, to defray so much of the expenses of the Police of such District as shall be directed to be so paid by any Act or Ordinance of the Governor and Council: provided that no money shall be paid by such Treasurer without a written order signed by at least — of the Directors: and the residue of such monies shall be applied towards the construction and repair of highways, roads, bridges, and other public works within the district; provided further, that no portion of such monies shall be applied to the improvement or repair of any road which has been, or shall be, declared to be a parish road."

Our second quotation is from his Excellency's remarks on presenting the petition already alluded to as having been received from Geelong:

"The other point he would refer to, was with respect to the Police. The Petitioners asked for the controul of it; and he could only say to this as he had said before, that if they paid the whole of the expenses of the Police, they were entitled to have the controul of it; but if Government lent its aid, then they had none; or, the Government had a right to give its aid on its own terms. The only terms on which it would give its aid, was the possession of the controul."

One principal effect of the acquisition of Free Institutions, is the wish it disseminates amongst the colonists to take lessons on the principles of good government, as affecting the interests of their adopted country. Hitherto, the life of the squatter, amongst whom are to be found the greatest number of educated, gentlemanly, and intelligent men which are divided between the different classes of society, has been one of mere animal existence; their pursuits, those of the drover and the shepherd on a great scale, their personal habits, ever varying between the extremes of indolence and excess, and their conversation quadrating with the confined

and monotonous objects of their mode of life. Even the tradesman and merchant of the town was only to be roused to some action, above the constant accumulation of wealth, by a fit of public excitement, more wonderful than profitable; and the youth, natives either by birth or rearing, were hardly taught to look beyond the questionable independence of life, which an early induction into the pursuits of business or of rural matters conferred on the young beginners.

How different are the earliest aspirations of the youth of Great Britain! How soon are they not taught to take an interest in public matters, and how sensibly are the principles of legislation mingled with their maturing studies in trade, agriculture, commerce, or the learned professions; scarcely does the boy feel himself free of the trammels of his school days, than the very sound of politics has a charm to his opening and observant mind—he continues to seek knowledge with avidity upon the novel and embracing topic until he begins to ape at the mysteries of Political Economy, and studies it as science; then, as years and circumstances lead him forward to take his share in the scenes and occurrences of public life; he applies the knowledge he has acquired, always readily, if not always well.

The ignorance which, in contrast to this picture, exists in the Colonies, we are willing to ascribe to the little participation the Colonists have had in the government of their adopted country; and to admit that their indifference was aggravated by their ignorance on all points of local legislation: but now that the "close borough" system of Government has been done away with, now that they have representatives whose persons and histories are familiar to them, and whose sympathies are in accordance with their knowledge of their constituents' wants, whether moral or municipal, we shall be surprised and grieved to find the plain practical exposition of political doctrines, such as we shall, from time to time, lay out in these pages, rejected or overlooked by the general reader.

We tarry no longer over excuse making, but enter at once into a description of the Government of New South Wales, as embraced in the Municipal Corporation Acts, and the Acts of Parliament, conferring on the territory its new and admirable constitution.

The Form of Government enjoyed by New South Wales has five distinct divisions, which will be separately described, and commented on, as we proceed.

1st. The Governor, with the title of His Excellency, for the time being, is the direct Representative of the Crown, and exercises the powers delegated to him for the purpose, through the Minister of State for the Colonies, within the limits of the territory described in his patent of authority, and which includes so much of the continent as is bounded inland by the 140th degree of East longitude, and coastwise by the northern, eastern, and southern shores of Australia, lying to the East of that degree of longitude, with a jurisdiction (lately decided) of three miles of the surrounding sea beyond low water mark. The powers of the Governor are again delegated, in all matters relating to the government of the Province of Port Phillip, to a Superintendent, with the title of His Honor, who exercises the powers of a Lieutenant Governor, within the limits of the district, as set forth in the Government announcement in July last.

2nd. The Executive Council, which was appointed in 1824, to assist, advise, and controul the Governor, and which consists of the Lord Bishop of Australia, His Excellency the Commander of the Forces, and the Honorable the Colonial Secretary and the Colonial Treasurer.

3rd. The Legislative Council, which is in part nominated by the Governor, on behalf of the Crown, and partly composed of the Representatives of the People. The Act 5 and 6 Vict., cap. 76, vests in this Representative Legislature the power of declaring and altering the electoral districts, together with the number of representatives each shall return, and, as a consequence, the whole number of the Council, reserving always to the Crown the right of nominating to such Council as many members as shall form as nearly as may be a third of the whole Council, and providing also that the City of Sydney shall return always two members, the Town of Melbourne one member, and the District of Port Phillip five members; to be increased, of course, at the option of the Legislature. The Legislative Council is also endowed with the powers of altering the number and boundaries of the territorial subdivisions over which the District Councils are to preside, as well as the number of the members in such Councils. The Council has the power, within itself, of making laws for the Colony, if not repugnant to the Act of 9 Geo. IV. c. 83, or to the Charter, or Letters Patent, or Orders in Council, or to the Laws of England. Over the legislative proceedings of this body, however, the Governor has, like the Monarch in respect to Acts of Parliament, a *veto*. The Governor has, likewise, the right, in common with any member nominated, or representative, of initiating a law to be submitted to the discussion of Council, and through his ministerial representative, His Excellency has the exclusive right of introducing all financial measures to the consideration of the Colonial Parliament. The Council, at the same time, has the power of cutting down, or altogether disallowing, any item presented to them in the Governor's Budget, with the exception of the sums set forth in the following Schedule, the original of which was an Appendix to the Act of Parliament:—

SCHEDULE (A.)

Governor	£5,000
Superintendent at Port Phillip.....	1,500
Chief Justice	2,000
Three Puisnè Judges.....	4,500
Salaries of the Attorney and Solicitor General, Crown Solicitors, and Contingent and Miscellaneous Expenses of Administration of Justice throughout the Colony.....	20,000
	<hr/> £33,000

SCHEDULE (B.)

Colonial Secretary and his Department	£7,000
Colonial Treasurer and his Department.....	5,000
Auditor General and his Department	3,000
Salary of Clerk, and Miscellaneous Expenses of Executive Council	600
Pensions	3,000
	<hr/> £18,600

SCHEDULE (C.)

Public Worship	£30,000
Total.....	<hr/> £81,600

The course to be pursued by the Governor and Legislature respectively, in regard to the financial legislation of the country, is perhaps most clearly stated in the Despatch of Lord Stanley, as explanatory of the Act of Parliament, when first forwarded for execution to Sir George Gipps: *

"The 34th clause is for the appropriation of the Taxes and Duties, &c., levied in the Colony. I have especially to call your attention to the provision of that clause which enacts, that it shall not be lawful for the Council to pass, or for the Governor to assent to, any Bill appropriating to the Public Service any sums or sum of money arising from such sources, unless the Governor, on Her Majesty's behalf, shall first have recommended to the Council to make provision for the specific Public Service towards which such money is to be appropriated.

"It will be your duty, through an official Member of the Council, to submit annually to the Council, a Budget, or Financial Statement, accompanied by a detailed estimate of all sums required to be voted; and you will adhere rigidly to the practice of Parliament, which does not permit any question to be put for the insertion of any new head of expenditure, or for the increase of any single item submitted in such estimates. This will not, of course, preclude you from submitting Supplementary Estimates."

* Subjoined are the names of the Electoral Districts in the Colony, together with the names of the Members returned for such Districts to the Legislative Council.

ELECTED MEMBERS.

Argyle.....	William Bradley, Esq.
Bathurst.....	Francis Lord, Esq.
Camden.....	Roger Therry, Esq.
Cook and.....	John Panton, Esq.
Westmoreland..	
Cumberland....	Charles Cowper, Esq. William Lawson, Esq.
Cumberland Bo- roughs.....	
Durham.....	Wm. Bowman, Esq.
Durham.....	Richd. Windeyer, Esq.
Gloucester.....	Alexr. M'Leay, Esq.
Macquarie and Stanley.....	
Hunter.....	
Brisbane and... Bligh.....	Wm. Dumaesq, Esq.
Melbourne.....	
Murray.....	Henry Condell, Esq.
Kiag and.....	T. A. Murray, Esq.
Georgiana.....	
Northumberland	William Foster, Esq.
Northumberland Boroughs.....	D'Arcy Wentworth, Esq.
Roxburgh.....	
Phillip and.....	Wm. H. Suttor, Esq.
Wellington.....	
St. Vincent and Auckland.....	John Coghill, Esq.
Port Phillip.....	
Parramatta.....	Chas. H. Ebden, Esq.
	Thomas Walker, Esq.
	Chas. Nicholson, Esq.
Sydney.....	Alexr. Thomson, Esq.
	John D. Lang, Esq.
Sydney.....	H. H. Macarthur, Esq.
	W. C. Wentworth, Esq.
Sydney.....	William Bland, Esq.

GOVERNMENT OFFICERS.

His Excellency Lieutenant-General Sir Maurice Charles O'Connell, commanding Her Majesty's Troops in the Colony.
The Honorable Edward Deas Thomson, Esquire, Colonial Secretary of New South Wales.
The Honorable Campbell Drummond Riddell, Esquire, Colonial Treasurer of New South Wales.
John Hubert Plunkett, Esq., Attorney General of New South Wales.
Lieutenant-Colonel John George Nathaniel Gibbes, Collector of Customs in New South Wales.
William Lithgow, Esq. Auditor General of New South Wales.

CROWN NOMINEES.

Alexander Berry, Esq.
John Blaxland, Esq.
Hastings Elwin, Esq.
Edward Hamilton, Esq.
Thomas Icely, Esq.
Richard Jones, Esq.

SPEAKER.

The Honorable Alexander M'Leay.

4th. The District Councils,* the form and duties of which are included in the provisions of the general Act aligning the new system of Government for the Colony, and the nature of which will be best understood by the subjoined abstract of the clauses in reference to the subject :

XLII. And be it enacted, That it shall be lawful for each of the said Councils in the said districts respectively to make orders and bye laws for all or any of the following purposes, (that is to say),

For making, maintaining, or improving, any new or existing road, street, or bridge, or other convenient communication and means of passage through the district, or for stopping up, altering, or diverting any road, street, or communication within the limits of the district :

For building, repairing, and furnishing public buildings :

For the purchase of such real and personal property situate within the district, as shall be required, in the opinion of the Council, for the use of the inhabitants thereof :

For the sale of such part of the real and personal property belonging to the district as shall have ceased, in the opinion of the Council, to be useful to the inhabitants.

For the management of all property belonging to the district :

For providing the means of defraying such expenses of or connected with the administration of justice and police within the district as are or shall be herein-after by law directed to be defrayed by the district, or out of the district funds.

For providing for the establishment and support of schools.

* The formation of the following District Councils, within the Middle and Northern Districts of the Colony, have been announced in the GOVERNMENT GAZETTE :

GOULBURN.—William Pitt Faithful, Esq., Warden.—John Francis Macarthur, John Morphy, George Campbell Curlewis, Francis Murphy, James Richard Styles, William Hilton Hovell, Ronald Campbell, William Shelly, and John Gore, Esqrs., Councillors.

MACQUARIE.—William Nairn Gray, Esq., Warden.—Archibald Clunes Innes, Charles George Gray, George Jobling, Robert Andrew Wauch, William Bell Carlyle, and William Winter, Esqrs. Councillors.

BATHURST AND CARCOAR.—William Stewart, Esq., Warden.—William Lawson, John Street, John Savory Rodd, George Rankin, Thomas Jarman Hawkins, David Maxwell Irving, Alexander Rodney Bligh Carter, James Byrn Richards, and William Lee, senior, Esqrs., Councillors.

YASS.—Henry O'Brien, Esq., Warden.—William Henry Broughton, Cornelius O'Brien, Peter Best, James Middleton, Moses Moses, and D. Benjamin Clayton, Esqrs., Councillors.

PATRICK'S PLAINS.—Helenus Scott, Esq., Warden.—Robert Scott, James Glennie, James Bowman, John Stephen Ferriter, Robert Barrington Dawson, and Archibald Bell, Esqrs., Councillors.

SCONE AND MURBURUNDI.—Joseph Docker, Esq., Warden.—Donald M'Intyre, John How, Stephen Coxen, John Bingle, Thomas Hall, and William Danger, Esqrs., Councillors.

HARTLEY.—James Walker, Esq., Warden.—John Maxwell, Heyward Atkins, William Hall Palmer, Andrew Brown, Thomas Brown, and Jeremiah Grant, Esqrs., Councillors.

PENRITH.—William John Gibbes, Esq., Warden.—Robert Copland Lethbridge, Edward Cox, William Russell, Henry Cox, Edward James Blaxland, and Robert Dulhunty, Esqrs., Councillors.

BERBIMA.—Charles Throsby, Esq., Warden.—John Nicholson, senior, Robert Pitt Jenkins, Henry Badgery, James Jerome Higgins, James Cowen, and William Sherwin, Esqrs., Councillors.

PARRAMATTA.—Gilbert Elliott, Esq., Warden.—Matthew Anderson, James Brindley Bettington, Patrick Hill, Thomas Forster, Andrew Murray, Nelson Simmons Lawson, James Byrnes, William Rutledge, and George Banks Suttor, Esqrs., Councillors.