

1885.

NEW ZEALAND.

# CONFEDERATION AND ANNEXATION.

(FURTHER PAPERS RELATING TO THE RÉCIDIVISTE BILL.)

*Presented to both Houses of the General Assembly by Command of His Excellency.*

No. 1.

The AGENT-GENERAL to the PREMIER.

SIR,—

7, Westminster Chambers, London, S.W., 15th October, 1884.

The French Chambers reassembled yesterday, when the Senate placed the Récidiviste Bill on the order of the day for its next sitting, subject to (*sous réserve*) the advice of the Finance Committee, to which the Bill had been referred at the end of last session, as stated in my letter of the 16th August (No. 384).

To-morrow a Committee is to be named for the examination of M. Bérenger's Bill for the prevention of relapse into crime.

In the short debate that took place before placing the Récidiviste Bill on the Order Paper for the *première délibération*, the President of the Senate said that the discussion must not begin till the Finance Committee had reported. M. Schœlcher thereupon observed that, as the Government had sent a Commissioner (M. Leveillé, author of the letters to which I called your attention last July) to French Guiana to examine the question of relegation, it would be better to wait for his report. The Minister of the Interior (M. Waldeck-Rousseau), however, insisted on placing the Bill on the Order Paper. It would be seen, he said, from the Bill, as it came up from the Senate Committee with M. de Verninac's report, that the Government had admitted there must be a special system, which would necessarily be the subject of the most minute and attentive examination; that this inquiry entailed a long and complex study on the spot by the experienced gentleman to whom it had been committed; but that there was no need to wait for a report on details in order to determine principles, especially as public opinion was becoming impatient at the delay, and as there were sure to be long debates in the Senate. M. Bérenger said that, before they could discuss a Bill about relegation, they ought first to know what the place of relegation was to be; and that the long delay of more than a year which had already occurred was precisely because there was so much uncertainty, even now, about the place. New Caledonia had been spoken of, but every one had been obliged to recognize that the number of *récidivistes* who could be sent there was very small, and that the island ought to be kept for great criminals; even, therefore, if New Caledonia would serve in some measure to attain the objects of this Bill, it was not the less necessary to find another place also, and there was no other place possible but Guiana. Now, a Commissioner in whom great confidence was felt was going to inquire into the fitness of Guiana; and what was the use of having one, if the law were now voted to which the inquiry was to apply. Either it was useful or it was not; if it was, then let them wait for it. The Minister of the Interior, in reply, again insisted on the Bill going on. As to the financial question, he said certainly the Finance Committee would have to intervene, but the financial results of the Bill might vary infinitely, according to what was decided. Some provisions might entail a given expense, while others might cost fifty times as much, depending on the classes of *récidivistes* created by the Bill and what was to be done with them. The Bill was not one which had to be accepted or rejected without more or less of amendment; and, although the Government would be glad to have the Finance Committee's advice, that did not prevent the Bill itself being debated. But the President of the Senate here intervened to point out that, as the Senate had referred the Bill to the Finance Committee, the debate could not be opened till their report had been laid on the table. Thereupon, subject to that point, the Bill was placed on the Order Paper.

This short discussion seems already to promise, as I have long expected, plenty of difference of opinion when the debates really begin.

The Hon. the Premier, Wellington.

I have, &amp;c.,

F. D. BELL.

## No. 2.

The AGENT-GENERAL to the PREMIER.

SIR,—

7, Westminster Chambers, London, S.W., 20th October, 1884.

In continuation of my letter of the 15th instant (No. 448), I beg to state that the French Senate's Finance Committee, of which M. Calmon is Chairman, has reported favourably on the Récidiviste Bill. The report was yesterday ordered by the Senate to be printed, and I shall be able to send you a copy presently.

I have, &amp;c.,

The Hon. the Premier, Wellington.

F. D. BELL.

## No. 3.

The AGENT-GENERAL to the PREMIER.

SIR,—

7, Westminster Chambers, London, S.W., 24th October, 1884.

The debate on the Récidiviste Bill was renewed in the Senate the night before last, and I shall presently give you an account of what passed. In the meantime I annex a Press telegram on the subject which appeared in to-day's *Times*.

I have, &amp;c.,

The Hon. the Premier, Wellington.

F. D. BELL.

## Enclosure.

[The *Times*, Friday, 24th October, 1884.]

THE FRENCH RÉCIDIVISTES BILL.

Paris, 23rd October.

THE Récidivistes Bill came before the Senate to-day. The discussion was opened by M. Bérenger, the author of a Bill on prison discipline which has been sent down to the Chamber. He contended that the measure was simply designed to satisfy people who were crying out for transportation without knowing what they meant by it. If the convicts were to be at large, the inhabitants of the colonies in which they were landed would naturally take alarm, and it would be impossible for the criminals to earn a livelihood. The State would have to board and lodge them—a serious result, both financially and morally. If, as was now contemplated, four-fifths were to be sent to Cayenne, the climate would make it what Victor Hugo called the *guillotine sèche*; yet the other localities suggested were out of the question. The Government estimate, 9,000,000 francs per annum for the first three years, was fallacious, for the cost of the garrison and transports must be added, and the number of convicts would be double what had been calculated. For many criminals transportation would be a temptation, and some prisoners had already murdered their warders in order to be sent to New Caledonia. What, moreover, would honest artisans think on seeing all the advantages of emigration bestowed on criminals? M. Bérenger proposed that the Bill be referred back to the Committee for further information and reflection.

M. Waldeck-Rousseau, Minister of the Interior, objected to further delay, and promised to demonstrate hereafter that the problem urgently required solution, and that transportation was the only way of solving it. The debate was then adjourned.

## No. 4.

The AGENT-GENERAL to the PREMIER.

SIR,—

7, Westminster Chambers, London, S.W., 25th October, 1884.

In continuation of my letter of yesterday (No. 464) I transmit herewith a Paris telegram which appeared in to-day's *Times*, giving a summary of the further debate in the French Senate on the Récidiviste Bill. I propose to go on sending you any similar information until the debate is concluded, when I shall make a *précis* of it for you.

I have, &amp;c.,

The Hon. the Premier, Wellington.

F. D. BELL.

## Enclosure.

[The *Times*, Saturday, 25th October, 1884.]

THE FRENCH RÉCIDIVISTES.

Paris, 24th October.

IN the Senate to-day M. Bérenger again spoke against the Récidivistes Bill. He argued that, assuming the correctness of the published estimate of 10,000 convicts in the first year, the number would increase in following years. As for New Caledonia, the Governor had testified that it could not receive any further contingent; and, with regard to Guiana, he was surprised, after the sad experience of the past, that anybody could dream of transporting men to that fatal country. It would be a fate tantamount to certain death, and even criminals ought not to be thus treated, much less the Government officials who would have to take charge of them. The sanitary reports from the very commencement of the transportation system had acknowledged the unhealthiness of Guiana. He objected, moreover, to transportation as holding out an inducement to certain criminals to commit serious offences, and as not being reformatory—for these depraved persons would certainly become more depraved by living together. To inflict such a curse on the colonies would be

a gross abuse of power. The true remedy was to increase the punishment for repeated convictions, and to adopt the cellular system.

M. de Verninac, the reporter on the Bill, defended transportation as being necessitated by the increase of crime. In 1830 the number of offences was 40,000, whereas in 1882 it was 150,000; and the number of récidivistes had almost doubled. As for transportation being attractive, all but one or two criminals out of a hundred examined were afraid of New Caledonia.

M. Schœlcher, while not thinking Guiana so unhealthy as had been represented, cited the protests of the inhabitants against the Bill, and deprecated the forcing of convicts on them.

M. Faure, Under-Secretary for the Colonies, argued that the colonists would benefit by convict labour, and promised that strict supervision should be exercised. He admitted that Phu-hoc and the Marquesas Isles were unfitted for convicts; but contended that Guiana, with its fertile soil and the scarcity of labour prevalent in it, could receive four-fifths of the convicts, the other fifth being sent to New Caledonia. The latter would consist of men, picked out one by one, who had a handicraft or trade; and it was possible that, after a time, New Caledonia would solicit an increase of its quota.

Admiral Fourichon, from personal knowledge, declared Guiana uninhabitable for Europeans.

M. Milhet Fontarabie, on behalf of Réunion, suggested that some of the convicts might be sent thither, or even to Madagascar. He did not explain whether he meant them to assist in subjugating the Hovas.

The debate was adjourned.

### No. 5.

The AGENT-GENERAL to the PREMIER.

SIR,—

7, Westminster Chambers, London, S.W., 28th October, 1884.

In my letter of the 15th instant (No. 448) I sent you an account of what passed in the French Senate when the Récidiviste Bill first came up for consideration this session. I now transmit to you an account of the debate at the *première délibération* on the 23rd, 24th, and 25th instant. It may be as well for me to mention that, in preparing these notes, I have omitted large parts of the speeches containing arguments for and against transportation as a punishment, and for or against the fitness of French Guiana as a place of relegation. I have confined the notes to what seemed to be of most interest to Australasia.

The Bill will pass on to the *deuxième délibération* in a few days, and, unfortunately, it hardly seems doubtful now that it will pass the Senate.

I have, &c.,

The Hon. the Premier, Wellington.

F. D. BELL.

### Enclosure.

RÉCIDIVISTES BILL.—Notes of the Debate in the French Senate on the 23rd, 24th, and 25th October, 1884.

[NOTE.—A large part of the speeches consisted of arguments for and against the principle of transportation, and the fitness or otherwise of French Guiana as a place of relegation. Only that portion of the debate is here extracted which seemed of special interest to Australasia.]

UPON the order of the day being read for the *première délibération* on the Bill,

M. Bérenger began the debate by objecting that neither the Bill itself nor the Committee's report had given any real explanation of the character of "relegation," the method for carrying it out, the places of transportation, or the sacrifices it would impose on the Treasury. The scheme had no parallel in the criminal legislation of any country but Russia; and, while it must entail the gravest consequences, everything was to be left to the Executive, not only as to method, but even as to locality. This was nothing but a demand for a blank cheque to be given to the Government. There could only be one reason for the silence of the Committee—namely, the impossibility of fixing any principle except the single one of compulsory relegation. Could a serious debate take place on such terms? He would not discuss now whether transportation as a punishment, now abandoned everywhere, was a legitimate or efficacious one; nor whether it was just, or even possible, to attempt it in the way proposed; nor the withdrawal of all discretion, to the Magistrates; nor even the excessive powers confided to the Government. But, before resolving upon relegation, the Senate ought at least to know what the relegation was really to be: the *régime* to which the criminals were to be subjected, the place to which they were to be sent, and the cost which was to be incurred. Nothing of all this was to be seen in the Bill. For instance, M. Gerville-Réache had designed New Caledonia to receive the greatest number. Surely it would have been only natural for the Committee to have ascertained, on this point, what were the precise intentions of the Government, instead of resigning itself to a relegation in the air (*régime en l'air*). The Committee had avowed the difficulty to be insoluble, but had immediately stepped aside and remitted it to the Executive. In the same way as to the cost, the Committee had betrayed an equal impotence to fix any basis. Not choosing to take upon itself to propose anything real, it had simply advised the Senate to relieve itself from all responsibility, too, and leave everything to the Government. But there was a responsibility which was only the more taken by making-believe to fly from it. Who was to be responsible if this measure ended in seriously impairing the finances, in augmenting all their embarrassments? Take, in the first place, the *régime*: must not transportation vary essentially according as it was applied? The scheme now was that, while the criminals were to arrive in the colony free from any penalty for prior offences, they were to be subject to some *régime*, but the *régime* was not to be a reproduction of the penalties they had undergone. Were the *rélégués*, then,

to be free (*à l'état de liberté*); or were they to be kept in confinement? If they were to be free, they might, themselves, have less objection; but, then, what kind of fate would their freedom be to the colony? Would not the sending of thousands of criminals threaten its very existence? Besides, how were the criminals to supply their own wants (*suffire à eux-mêmes*) if they were free? In a thinly-peopled colony like Guiana, for instance, where were the criminals to be housed? Who was to give them work? They must have bread; for how long? And the difficulty would increase as fast as the penal population. Did the Senate suppose that work created itself, or that it must necessarily come into existence in a place because workmen were sent there? The end would be that they would have both to feed and house all the criminals. The consequences would not only be bad for the finances, but for the moral effect of relegation. What would soon be said, in the great towns and country districts, where so many honest and laborious people found the earning of their own bread from day to day so hard, when they learnt that the corrupt wretches who had been deemed unworthy to remain on the soil of France were to be housed and fed without having to work? So much for the "state of liberty." But was it really liberty that was meant? The Committee report left this point quite undecided, and the Bill itself said absolutely nothing. The report was contradictory; for, while announcing this "state of liberty," it really went on to enact the opposite. It was, in fact, a "state of confinement." Yet the Bill was dumb. Then, as to the place of transportation. Could the Senate vote for "relegation" without indicating where it was to be made? or vote for sending criminals to "a colony" without saying which? The report admitted that there ought not to be any transportation to a "prosperous" colony. This disposed of some; but what of the rest? The Chamber of Deputies, after long debates, had fixed upon four: New Caledonia was to have 20,000, and there were the Marquesas, Phu Quoc, and Guiana. Well, the Senate Committee now said it would be imprudent to select those places; but did it propose any other? Not at all. Did not that mean that there was not one of their colonies that was really fit? Victor Hugo had called transportation "the dry guillotine." Yet it was to that they were being led. The Committee said, in effect, that Guiana was the only possible colony, yet the responsibility of naming it was exactly what they would not take. Let the Senate look at the other colonies named by the Chamber of Deputies. Take New Caledonia: there were some fine illusions once. New Caledonia was "alone to suffice" for the relegation; it was a "vast territory;" it offered an unlimited field for "concessions of land;" it had a "good climate;" nothing was easier than to send 20,000 there. Well, the Governor (M. Pallu de la Barrière) had been asked, and the moment his loyally-given answer came New Caledonia had to be given up. The Governor had declared there was no work to be got there, nor land to give. The Chamber of Deputies had spoken of the "dependencies of New Caledonia," meaning the Loyalty Isles; but here, again, the Governor told them they were in face of an absolute impossibility. So much for New Caledonia and its "dependencies." As for the Marquesas, the Committee had admitted that only a few hundred criminals could ever be sent there; and as for Phu Quoc, it was even impossible to send so many. There remained the New Hebrides. The Chamber of Deputies had left these islands out, and the Senate knew very well what diplomatic difficulties would arise if France attempted to use them for such a purpose. At last the Committee, after passing all possible places in review, had divided the relegation into four-fifths for Guiana and one-fifth for New Caledonia. Such a solution was, however, impossible. But let the Senate remember that the Governor of New Caledonia had said she could not receive one single *récidiviste*; and the views of the Governor of Guiana, M. Chessé, were mere illusions. Guiana was really uninhabitable for Europeans. Everything, in fact, tended to the same conclusion, that the Senate ought not to be asked to pass the Bill without knowing the place of relegation. Lastly, there was the question of cost. The figures now given were sensibly different from those which had been given to the Chamber of Deputies. The Committee had made no real investigation into their estimates, and had simply accepted them from the Government. Well, he (M. Bérenger) absolutely denied them: they were a complete illusion. Take the question of the garrisons. The figures given might, perhaps, suffice for three or four thousand convicts; but what about 12,000, of whom a great part were free, or, rather, 30,000, as there would be in three years? The Committee had evaded its responsibility, and the Senate would be wanting to its own dignity and duty if it accepted such a position. The scheme ought to be sent back to the Committee for reconsideration.

M. Waldeck-Rousseau, Minister of the Interior, declined to follow M. Bérenger into the numerous questions he had raised, and proposed an entirely different method for the debate. The Senate was in presence of a problem which really must be solved, which involved the gravest and most complex social questions, and which could no longer be put off. It would be time enough, after having first recognized the existence of an evil that was growing each day, to discuss whether the form of treatment proposed was the right one. In the Bill there were very diverse provisions: some touched the principle of relegation, others the method of its application. The 19th section enacted that not only the place of relegation, but also the conditions of work and subsistence, in a word, the whole *régime*, should be left to Executive regulation. Now, one might be in entire accord with a principle without agreeing on legislative provision for the details. The logical and simple way was to ask, first, whether any law about the *récidivistes* was necessary to be passed at all, and, if so, whether that law should be based on relegation. Thus, he (the Minister) might well confine himself to asking the Senate, first, to decide the principle of relegation, and afterwards go on to inquire if it was not absolutely indispensable to leave the place, the conditions, and the cost of it to Executive regulation. But he would meet the objections of M. Bérenger, who was an eminent juriconsult, by telling him that the thing which would really be without precedent was to attempt, in a law on transportation, to provide for even a part of what was required. He had himself brought before the Chamber of Deputies the first proposal for relegation, which at that time was called "transportation"; and in the first draft everything was left to Executive regulation. The original scheme was really the same, therefore, in that respect, as the one now before the Senate

to-day ; and, indeed, the clause providing for Executive regulation had been taken, word for word, from the law of 1854. It was impossible, therefore, to reproach the Government for doing anything for which there was no precedent. What they had done, in fact, was nothing more than an addition to the law of 1854, by extending to other classes of criminals what that law had prescribed for the worst type. But all this might be discussed after settling the gist of the question, after looking the problem in the face and seeing what these *récidivistes* really were. Many people thought they knew what they were : every one, at any rate, was hearing about them, and suffering from them ; but very few really knew. These *récidivistes* belonged to a class of criminals so exceptional that preconceived ideas of a penal philosophy were quite inapplicable to them. A law ought to lay down principles, and, if the Government claimed the right of organizing its penitentiary régime, it was only seeking from the legislative power the requisite executive authority for it, asking not to have its hands tied, and, while safeguarding the right of Parliament, securing the elasticity which was requisite in the law. Was it not, in fact, plain that every Executive regulation must depend on a question of money ? Credits must therefore be asked from the Parliament ; and thus the regulations themselves would come under the review of the Legislature. But M. Bérenger had said there were no colonies to which the *récidivistes* could be sent ; and that, if there were, nothing was known about how many *récidivistes* would be sent there. That argument simply amounted to saying that there were some colonies which were too good for *récidivistes*, and others which were not good enough. Was a colony mentioned where trade and industry had taken root, it was objected that to send *récidivistes* there was to sacrifice the colonists. Was the colony one where there was a struggle for the means of existence, it was objected that the *récidivistes* would be sacrificed. This sensitiveness for criminals was surprising. Compassion would be better for those who suffered from crime than for those who committed it. No one, however, had ever thought of sending men, even the most guilty, where they could not live. As for New Caledonia, there was literally only a word to say. The Committee's Reporter, alike with the Government, had shown that the Government did not mean to relegate *récidivistes* there in masses, though they might, in the interests of the colony itself, choose it for individual relegation (*rélegation individuelle*). Now, there was an extremely interesting report of a Commission appointed in New Caledonia by the Governor, M. Pallu de la Barrière, in 1882. New Caledonia had often been spoken of in all these discussions by persons who had generously made themselves the advocates of the colony ; so it was well to learn the opinions and the thoughts of competent men there. Now, when these were consulted in their own interests and asked whether sending *récidivistes* there was such a sinister thing, they answered, with great wisdom, that, just as to colonize by transportation only was folly, so to colonize by free people only was delusion. These men, who represented the most respectable interests of New Caledonia, who possessed a patrimony acquired by persistent and perilous labour, declared that it was impossible to do anything in that country without convicts being sent from France. They favoured, in the most energetic terms, the same kind of mixed colonization as had made Australia : one that should comprise criminals whom the mother-country expelled, and adventurous spirits who came to take advantage of the resources of convict-labour. They said, what Governor Pallu had, indeed, already shown, that until lately very little use had been made of these resources, as was proved by the single fact that in less than two years M. Pallu had increased the number of concessions of land from 308 to 608, or double. Moreover, there had been started in New Caledonia a programme of works, for which 6,000 labourers, partly *rélégués* and partly *libérés*, would be required, and who, in ten years, would furnish 4,000 *rélégués* for concessions of land. But that was not all. It was really a pity to be at once so severe and so unjust to the colonies. The same report showed that there were in New Caledonia 263,000 hectares of land ready for cultivation, suitable for cereals or pasture ; and that, when these 4,000 men had received their land, there would still be 212,000 hectares left free for colonization. Now, although it must be acknowledged that free colonization from France had never reached the limits it had attained from England, yet in Australia only two free colonists had gone for every five convicts sent (*et cependant vous voyez qu'en Australie, pour cinq forçats ou cinq convicts, il ne se rendait que deux colons libres*). It might fairly be supposed, therefore, after allowing for the difference in national habits and instincts, that there would be even a less proportion of free colonists in New Caledonia. Well, if the Senate examined the programme of works that had been indicated by the Government—one which was only the prelude to future enterprises which the Committee had foreseen, and which imagination could easily suggest—it would be understood that individual transportation, that was to say the sending there of *récidivistes* belonging to classes whose aptitude had been proved for certain trades corresponding with the demand for labour in the colony, could only be a means of progress and increase in wealth and prosperity. So much for New Caledonia. As for Guiana, he (M. Waldeck-Rousseau) must make an even stronger protest against what M. Bérenger had said. [Here followed a mass of details about Guiana.] But now as to the number of *récidivistes*. M. Bérenger had said there would be 10,000 the first year, 20,000 the second, 30,000 the third ; happily he had stopped at the fourth. What the Government had done, on the contrary, was to subject the question for months to a laborious and exhaustive investigation by directors of prisons and other most competent authorities, bringing out at last the numbers which had been actually settled. Their conclusions would be laid before the Senate before the debates closed. Meanwhile, what the Senate had to do, first, was to ask itself these two questions : Had the relegation of *récidivistes* inexorably forced itself upon them ; and, if so, how was it to be carried out ? In the three years during which these long discussions of the subject had lasted, there had been two kinds of adversaries to the scheme. The first class objected to transportation altogether as being contrary to social rights and the rights of man ; they met the question face to face and opposed a principle to a want. The other class was not less dangerous : they did not say there should be no transportation at all, but they said that some other method than transportation ought to be tried. It was to these that the Senate would reply, by now passing to the discussion of the clauses of the Bill.

The debate was resumed again next day (24th October), when M. Bérenger replied to M. Waldeck-Rousseau's speech. Speaking of New Caledonia, he recalled to the Senate the fact of the Governor's having expressly declared that the colony could not receive a single *récidiviste*; but, as it had been supposed to be absolutely necessary to name some place, New Caledonia had been named, notwithstanding the fact that it was well known to be impossible to send any there at all. He then went on to combat the arguments used about transportation to Australia, and to compare, to the disadvantage of the present Bill, his own Bill (now before the Chamber of Deputies) for preventing relapse into crime, which, he said, had been inspired by the example of England in her present criminal legislation and methods; but he denied that he was hostile to transportation altogether.

M. Bérenger was followed by M. de Verninac, the Committee's Reporter. For many years past, he said, there had been a growing augmentation of crime of the minor type (*petite criminalité*) in France: from 41,000, in 1830, the number had increased in 1882 to 153,000. But it was not merely this augmentation that was so formidable: the worst was the increase of relapsed and habitual criminals, at a constant progression of 1 per cent. per annum. Out of fifty-five reports of inquiries set on foot respecting the measure, forty-seven had been favourable; and all, without exception, agreed on one point—namely, the fear which it had produced in the criminal classes. Some remedy must be sought for an evil that was certain, undeniable, self-evident, imminent; and of all remedies transportation was the only one that would be efficacious.

M. Schœlcher, as a former deputy from Guiana, spoke against the Bill.

M. Félix Faure, Under-Secretary of State for the Colonies, followed. The two chief questions asked by M. Bérenger were where the transportation would take place, and what would be its cost. Now, the Government adhered to the figures of 5,000 *récidivistes* for the first year, 4,000 for the second, and 3,000 for the third. Phu Quoc had been given up as unfit; the Marquesas had also been given up; but the Minister for the Colonies had clearly shown that the Bill could be applied in the proportions of one-fifth to New Caledonia and four-fifths to Guiana. The Government had also stated that the one-fifth sent to New Caledonia would be under what was to be called "individual relegation." The Government believed, and had been so advised by the best authorities, that out of this class it would be possible to find a number desirous of working at their trades, and preferring to go separately to a colony rather than undergo the punishment of what, in Guiana, was to be called "collective relegation." This class would be engaged, not only immediately on arrival, but (at any rate, as to a large number of them) even before departure. What was wanting equally in Guiana and New Caledonia was not room, but labour; and the best proof of this was that only the other day the delegates from New Caledonia, as well as Governor Pallu himself, had demanded the re-establishment of recruiting in the New Hebrides. It was not without much apprehension that this request had been granted, and, if the steps taken in regard to it were found not to guarantee sufficiently the rights of humanity, the Government might be obliged to recall their authority; if so, New Caledonia would be seen asking for *récidivistes* to a greater extent than was proposed. New Caledonia was made a penal settlement in 1863, and from 1st January, 1864, it had been the practice to send convicts alternately there and to Guiana; until 1867, when only Arab or Asiatic criminals were sent to Guiana. The reason for the change in 1867 had been that the climate of New Caledonia was so much better than that of Guiana, and that, having to populate a new colony, it was easier to transport convicts there than to find enough free colonists willing to go. There had been no prompting of the reports of the Governors of either colony: both the Governors had been left free to advise according to their conscience. Then, as to the cost of the measure, the Government believed their estimates to be perfectly right; nothing had been omitted, and the cost of police, troops, administration, and transport had been given, not only in the colony, but in France; and not only the first expense of the establishments, but their maintenance in succeeding years. The problem before them was certainly difficult, but the Government understood their responsibility; and they wished to speak of things just as they were, or, at any rate, as they saw them, and to rest only upon the most complete evidence in favour of a law which they believed to be not only useful but absolutely indispensable.

Admiral Fourichon, who had been Governor of Guiana in 1853–54, spoke strongly against transportation. England had been forced to give it up, and why? Because, when a free and moral European population, working, producing, exchanging, had once established itself, it had declared to the Mother-country that it would receive no more convicts. Transportation thereupon ceased, and the system perished by its own success. Suppose the present scheme failed? There would be misery of all kinds, and a great waste of money. One error had been widely disseminated and credited, that the Australian Colonies owed their prosperity to transportation. He rejected this scheme absolutely; there was no right solution of the problem but one, namely, that every country should take care of its own criminals.

M. Millet-Fontarabie supported the Bill on the ground that the present system was intolerable. It was no longer possible to keep the *récidivistes* in France; they must be sent to the colonies: but the Committee had not thought right that particular colonies should be designated. The Under-Secretary (M. Faure) had said a great deal about Guiana; but there were other colonies to which the *récidivistes* could be sent. [Several members here referred to Réunion, Guadeloupe, Madagascar, the Congo. M. Testelin exclaimed, "Make yourselves quite easy; ther'll be plenty for everybody."]

The debate was renewed next day (25th October). Admiral Jauréguiberry said he had been accused of being an enemy to all relegation. This was not the case; some law to remove from France such criminals as gave signs of repentance and amendment was both desirable and necessary. But such a law must be divested of all arbitrary character; must be capable of being carried out; must not entail a cost out of proportion to the object to be attained. The Bill before them did neither. The relegation was to be compulsory, and the Judges were to be compelled to

sentence all *récidivistes* to it, whatever might be their character and antecedents. This compulsory feature of the scheme had been greatly objected to in the Chamber of Deputies. Its result would be to exile for life many who had not really become a danger to society. Then, as to the clause providing for permits to leave the place of relegation. Any conditions might be sought for in vain in the Bill on which these permits were to be granted. Was the criminal to be allowed to return to France? The Bill said nothing on that point, and discretion was left absolutely to the Governor of the colony. Now, there ought to be no place in such a measure for caprice. Another clause enabled the Government to give *récidivistes* within the colony all or some of the civil rights they had lost by their convictions: under what conditions? What proof of repentance or amendment was required? No one knew. The Government did not say what the *régime* was to which the *récidivistes* were to be subjected. According to what had passed in the Chamber of Deputies, they were to be free; and certainly both law and justice were opposed to their being detained as prisoners. Then, what was to be done with them? How were they to be made to work? If there were good reasons for not putting details on these points into the law, at least the Government ought to state their own intentions. More than a year had elapsed since the Chamber had passed the Bill, and it had even been a long time before the Senate. Surely the Government could now divulge the leading features of the *régime*, and say what the *récidivistes* would be constrained to do, what their rights would be, and how they were to be made to do any work. For, after all, it was very difficult to admit, *a priori*, that the same men who would do nothing in France would submit themselves with good will to work hard in a colony. The Senate ought to be told what were the means proposed to make them work. The silence of the Government was inexplicable; there had been ample time to lay down the chief lines of the regulations to be made. Then, as to the place of relegation. Phu Quoc and the Marquesas being given up, the Government had fallen back on New Caledonia and Guiana. He had himself no serious objection to New Caledonia, for the climate was very healthy. Probably there would not be room for the 15,000 or 20,000 *récidivistes* who would be sent there in the course of a few years; but he (Admiral Jauréguiberry) thought the colony might take about 2,000, on condition, however, that these were masons, carpenters, locksmiths, and so forth, tradesmen who were wanted there, and would be able to get work. Indeed, if the colonists could be induced to give up some of the measures they had adopted, a larger number than the 2,000 might perhaps be sent. Labour was so much wanted in New Caledonia that the colonists had been compelled to recruit native labour in the New Hebrides. But these natives had been nothing else than slaves, under the disguise of another name; and so much evil had resulted that the authority to recruit had been withdrawn in 1882. The colonists had, in fact, been told that, after all, New Caledonia was a penal colony, that they must submit to the conditions attached to that type, and that they ought to employ, if not the convicts, at any rate the men who had served their time (*libérés*). At that time there were 3,500 *libérés* absolutely idle, refusing to do real work, who were housed and fed by the Government: there were no means of making them work. They would work up to a certain point, but for this they asked wages which the colonists could not pay. So the colonists had given them up, and recruited for the labour in the New Hebrides. But so much disturbance had taken place when New Caledonia had been recalled to its duty, that lately the Government had been obliged to yield and re-establish the New Hebrides' recruiting. That was a great evil; and, if the colonists had been compelled to pay fair wages to the *libérés*, without allowing them to have recourse to savages who were all-but slaves, and had been brought from the New Hebrides without knowing what they were doing, there would have been more room for the *récidivistes* now. Both the *récidivistes* and the *libérés* must now be made to work: yet Government was without any power whatever to compel either, although the *libérés* were deemed much guiltier men than the *récidivistes*, for whom the Bill was intended. So much for New Caledonia. He knew very well that a conquest of the New Hebrides had been spoken of, in order to use the islands as a place for relegation or transportation; but they were tied by treaties which prohibited such a conquest: and, besides, there would be many difficulties in the New Hebrides themselves. The Admiral then discussed Guiana, which he also condemned as a place of relegation: and advised a reconsideration of the proposed law.

M. de Lareinty said that every one seemed to think only of the scoundrels whom it was desired to get rid of, instead of the colonists who had carried the French flag to her colonies. For his part, he held that the money and solicitude of France ought to be given to honest men, rather than be spent in providing country houses for every rogue who was to be got out of France. Let not the Senate deceive itself about the cost. If they were prepared to spend what was really necessary to employ the men properly, well and good. The colonies of France were not to be limited. It was all very well to say that some were "impossible;" presently it would be seen how others were very possible. They had now a great colonial expansion before them: they were about to conquer a portion of the world; and they might have other places of relegation.

M. de Verninac [Committee Reporter] criticised the last speeches, especially on the compulsory character of the Bill. It was easy to give instances where the law would be really severe. But it was not enough to fix the principle of a law; the question was, how it was to be worked. Now, for a criminal to incur relegation there must have been, except in certain cases, not only two, nor even three, previous convictions, but four. And for what offences? theft, swindling, breach of trust, public outrage to modesty, excitation of minors to debauchery. Could it be supposed that men who had four times committed such offences were not really incorrigible? Could they inspire much pity? But it might be said, since these criminals were incorrigible, the Judges were sure to inflict the relegation; why, then, make it compulsory? The answer was, that the only way to make the law exemplary and useful was to inscribe in it the certainty that, after a given number of offences, it would not depend on any one to prevent relegation. So long as a hope was left to the criminal of escaping that fate, so long as he did not fear the certainty of it coming to him, so long would he only use all the skill produced by prison life to evade any repression at all.



M. Albert Grévy, Chairman of the Committee, felt it his duty, before the vote was taken, to say that a minority in the Committee had never accepted the compulsory principle. This minority was at first a majority. When they came to the *deuxième délibération* they would decide what course to take.

The Minister of the Interior (M. Waldeck-Rousseau) said that, although, at their first examination of the Bill as it came up from the Deputies, the Committee had been inclined to a modification of the compulsory clause, he had himself insisted upon it as the very kernel of the Bill.

Clause 1 (relegation to be compulsory for criminals of the specified classes) was then put to the vote, when there appeared for the clause, 141; against, 38: majority, 103.

Clause 2 (relegation only to be inflicted by sentence of the ordinary Courts) was adopted after a short discussion.

Clause 3 (political offences not to incur relegation) passed without debate.

Clause 4 (specifying the classes of criminals) was adopted after a short discussion.

Clauses 5 to 12 (merely legal provisions) passed without debate.

The clause, as passed by the Chamber of Deputies, which specified New Caledonia, Marquesas, Phu Quoc, and Guiana as places of relegation was struck out.

Clauses 13 (permits to be given to leave the colony) and 14 (penalty for return to France or evasion of permit) then passed without debate, as well as the rest of the clauses—15 to 22 (legal provisions).

Lastly, the Senate resolved to pass to the *deuxième délibération* on a future day.

26th October, 1884.

F. D. BELL.

### No. 6.

The AGENT-GENERAL to the PREMIER.

SIR,—

7, Westminster Chambers, London, S.W., 3rd November, 1884.

I sent you by the Brindisi mail of the 31st October, the *précis* I had made of the debate in the French Senate on the Récidiviste Bill.

You will perhaps like to know more exactly the nature of the report, brought up to the Senate from their Finance Committee, which I mentioned in a recent letter. After briefly reciting what had been done about the Bill in the two Chambers, the Finance Committee goes on to say that M. de Verninac's report had only given vague particulars of the cost involved; that this report had been the only document submitted to it (the Finance Committee); that the estimates for the amended scheme could only be considered as approximate, though the yearly expense might perhaps be reduced from nine million francs (£360,000) to six million francs (£240,000); that the Bill itself contained no provision for ways and means, as, indeed, was to have been expected, since ways and means must be proportionate to actual cost, while the figures might vary considerably according to the methods adopted for carrying out the law; that, although the principle of relegation was affirmed by the Bill, the method of its application had been altogether left to the Executive; that it was only after the issue of decrees regulating the method that its course could be definitely fixed; that these decrees would necessarily be followed by demands for credits, on which the Parliament must pronounce, until when the question of ways and means could not be usefully examined; that, under these circumstances, and while recognizing the Bill as one responding to a necessity, and one whose cost (so far as could be foreseen now) was not out of proportion to the advantages obtained, the Committee did not oppose itself to the Bill; but, lastly, that the Committee's advice could only be usefully given after those credits had been asked for, and a statement of how the money was to be provided.

You will thus perceive that the Finance Committee of the Senate was very guarded in what it said: and this reserve has not been without its effect, as several of the most influential Paris journals are denouncing the whole scheme as worthless and illusory.

The Hon. the Premier, Wellington.

I have, &c.,

F. D. BELL.

### No. 7.

The PREMIER, Victoria, to the PREMIER, New Zealand.

SIR,—

Premier's Office, Melbourne, 18th December, 1884.

Counting on your acquiescence, I have taken the liberty of addressing to the Agent-General of New Zealand in London the brief letter of which, however, I now beg to transmit to you the enclosed copy.

I have, &c.,

JAMES SERVICE,

Premier.

The Hon. Robert Stout, M.H.R., Premier of New Zealand.

### Enclosure.

The PREMIER, Victoria, to the AGENT-GENERAL for NEW ZEALAND.

SIR,—

Premier's Office, Melbourne, 18th December, 1884.

I have the honour to acknowledge the receipt of the copy, which you transmitted to me on the 31st October, of your paper on the Récidiviste Bill, being notes on the debate in the French Senate on the 23rd, 24th, and 25th *idem*.

In thanking you for this courtesy I take the liberty of expressing my high sense of the services which you have rendered to these colonies generally in connection with the *récidiviste* and



annexation questions. I consider that the colonies are much indebted to their representatives in England, not only for the energetic action, but also for the spirit of harmonious co-operation which has happily been so very much evinced by the Agents-General.

I have, &c.,  
JAMES SERVICE,  
Premier.

Sir Francis Dillon Bell, K.C.M.G., Agent-General for New Zealand, Westminster Chambers, London, S.W.

### No. 8.

The PREMIER, New Zealand, to the PREMIER, Victoria.

SIR,—

Premier's Office, Wellington, 5th January, 1885.

I have the honour to acknowledge the receipt of your letter of the 18th December, covering copy of a letter addressed by you to the Agent-General for this colony, in acknowledgment of copies of his paper on the *récidiviste* question, being a translation of notes of a debate in the French Senate, and also expressing your appreciation of the services to Australasia rendered by him in connection with that question, and as regards annexation generally.

I have, &c.,  
ROBERT STOUT.

The Hon. James Service, Premier of Victoria.

### No. 9.

The AGENT-GENERAL to the PREMIER.

SIR,—

7, Westminster Chambers, London, S.W., 31st December, 1884.

In my letter of the 19th November (No. 533), giving you an account of the interview between Lord Derby and the Agents-General, I mentioned that a formal note would be prepared by the Agents-General of what had passed.

I have now the honour to transmit to you a copy of that note herewith.

I have, &c.,  
F. D. BELL.

The Hon. the Premier, Wellington.

### Enclosure No. 1.

NOTES of an Interview between the Earl of Derby and the Agents-General for New South Wales, Victoria, Queensland, and New Zealand on the 18th November, 1884.

SIR SAUL SAMUEL, the senior Agent-General present, introduced the Agents-General to Lord Derby, and stated that (as on previous occasions) they had requested Sir Francis Bell to open the discussion.

Lord Derby was accordingly informed that the Agents-General had waited upon him to express the views of their Governments upon the present position of the *Récidiviste* Bill, and to mention the desirability of providing a more effectual jurisdiction than at present existed over the islands in the Western Pacific not subject to the New Guinea Protectorate.

The events connected with the *Récidiviste* Bill were then traced since the first interview which the Agents-General had with Lord Derby, in June, 1883. At that time, his Lordship would recollect, the Bill had just passed the Chamber of Deputies. The scheme had then three leading features. The first was, that France was to be entirely freed from large numbers of her relapsed criminals, the estimates of such numbers reaching as high as sixty and even eighty thousand. The second, that this great advantage to France would be obtained, comparatively speaking, without cost. The third, that the *récidivistes* were to be absolutely free on their arrival in the colony to which they were to be sent. His Lordship would no doubt also remember that the last feature was one which had seemed incredible at the time. Now, it was only necessary to compare the Bill as it went up from the Chamber with the Bill as just passed the *première délibération* in the Senate in order to see how great was the change that had been made. This change was undoubtedly very greatly due to the representations of Her Majesty's Government, and especially to the consummate tact with which those representations had been enforced by Lord Lyons, Her Majesty's Ambassador at Paris; and the Agents-General were glad to take this opportunity of expressing the obligation of the colonies for the spirit in which those representations had been made. All the three leading features of the original scheme were now reversed. In the first place, instead of there being sixty or eighty thousand criminals to send, there were only to be about nine thousand altogether, spread over a period of three years. In the second place, instead of the scheme being one to be carried out at little cost, the estimates for these nine thousand during the first three years exceeded one million sterling, showing that, if the original numbers had been sent, the cost would have amounted to between eight and nine millions. In the third place, instead of the *récidivistes* being free upon arrival in their colony, they were to be placed under effectual restraint, and be compelled to labour. And, in addition to this reversal of the three leading features of the original scheme, another change had been made in the proposed distribution of the *récidivistes*. His Lordship would remember that the Bill as it passed the Chamber of Deputies named four colonies for the proposed transportation; whereas in the amended Bill these had been struck out, and the place of relegation left entirely to the Executive Government. An equally marked change had occurred in French public opinion. There had always been some opposition in France as well to the principle as to the details of the original Bill; but recently this opposition had been urged so powerfully, especially in several letters by M. Jules Leveillé, that the Government

had been obliged to pay deference to it. The impossibility of giving the *récidivistes* freedom on arrival had been demonstrated, and, during the prolonged sittings of the Senate Committee, the Colonial Minister had declared the necessity of giving the Government absolute power to determine upon some system of restraint to be applied to the *récidivistes*. As to the proposed distribution of the criminals, the debates in the Deputies respecting the place of relegation had shown that it was to New Caledonia that the larger proportion of the people were to be sent. This was now completely changed, and, of the total number of nine thousand, four-fifths were to be sent to French Guiana, and only one-fifth to New Caledonia; moreover, those for New Caledonia were to be chiefly tradesmen, able to gain their living. In the first stages of the agitation which had arisen in Australia upon the Bill the French Press had evidently been inclined to treat that agitation with contempt; but representations from French residents in Australia, and from the Governor of New Caledonia, had greatly modified this attitude, and more regard was now being paid to the remonstrances of the Australasian Colonists. Several articles in leading French papers had lately referred to the subject in friendly terms, and the *Révue des Deux Mondes* now asked whether it would be worth while to carry out the scheme in the face of so determined an opposition by the English colonies?

Notwithstanding these changes, however, it was necessary to point out to his Lordship that, although differences of opinion had taken place in the colonies on other questions, there was so complete a unanimity among them about the *récidiviste* scheme that there was a strong probability of the "uniform law" proposed by the Sydney Convention being passed. If, therefore, the *Récidiviste* Bill became law, in however different a shape, the difficulty of the case would hardly be diminished. The "uniform law" might result in the fine and imprisonment of a captain of a "Messageries Maritimes" steamer, and even in a forfeiture of the vessel itself; and this must, evidently, be productive of great embarrassment. Not merely must it embroil the relations of the English and French settlers in Australia, but it might easily lead to serious international complications on this side. Her Majesty's Government would have before them the alternative of either refusing assent to the uniform law, which would cause great dissatisfaction there, or of assenting to it, which would cause at least equal dissatisfaction in France.

Mr. Garrick here stated that, as a member of the Convention, he could assure his Lordship of the unanimous and emphatic opinion of all its members upon this question; and, further, that, in view of the continuance of criminal transportation to the Pacific by France, Mr. Griffiths, the Premier of Queensland, had, in pursuance of the resolution of the Convention as to the passing by the colonies of a uniform law on the subject, prepared and submitted for their approval a "Bill to prevent the Introduction of Foreign Criminals into Queensland," under the provisions of which the master of a ship was liable to fine and imprisonment, and the ship itself to forfeiture.

Sir Francis Bell, continuing, urged that, under these circumstances, it seemed that a new and favourable opportunity had arisen for representations to the French Government before the Bill got any further. Now that the question had been so far transposed that, instead of the bulk of the *récidivistes* being sent to New Caledonia, they would go to Cayenne, and now that the place of relegation was struck out of the Bill and the choice left absolutely to the Executive, the Minister for the Colonies might, without in any way derogating from the dignity of France, now meet the wishes of the Australasian Colonies. It had been admitted in the Senate debates, not only that unexpected difficulties had to be encountered, and that costly preparations for the *récidivistes* were necessary, but that a year must at any rate elapse before the law could be brought into practical operation. Why not, then, ask the French Government to make a beginning with their scheme in the place where the bulk of the *récidivistes* were to be sent, and to delay, at any rate, the sending of any *récidivistes* to New Caledonia until the system of restraint to be actually established over them should have had some time to work? If this were done, the delay in applying the scheme to New Caledonia would no doubt cause an equal postponement of the "uniform law;" and time would thus be given for a further development of public opinion in France in the direction already taken *Révue des Deux Mondes*. The Agents-General could not doubt that the same discretion and sagacity which had already enabled Lord Lyons to make so great a change in the position in eighteen months would succeed in now persuading the French Government to delay action so far as New Caledonia was concerned; and the peculiar chance now offered was that, inasmuch as almost absolute power would now be placed in the Executive, the delay would not involve any discussions in the Senate or the Chamber which the French Government might consider hostile to itself.

Mr. Garrick stated that there appeared to be a rather general opinion here, whether correctly formed or not he did not know, that the French Ministers had not at any time been altogether indifferent to the representations of the Australasian Colonies on this matter, nor denied that there was much force and justice in those representations; but, in view of French opinion and sentiment, the Ministers there had not felt themselves at liberty to materially withdraw from the positions they had taken up. The amendment of the Bill, however, by the omission of the names of all places of relegation, and leaving these to be named by the Executive, seemed certainly to open a further way for negotiation. While, then, the Agents-General still asked the Imperial Government to continue to use such measures as should be deemed expedient to stay the further progress of the Bill, they also asked, in the event of failure in this, that negotiations might yet be continued with the object of having the islands of the Pacific exempted by the French Ministry from the operation of the Bill.

Sir Saul Samuel stated that he had recently received a cable message from his Government instructing him to represent to his Lordship that the colonists of New South Wales entertained serious apprehensions concerning the operations of the *Récidiviste* Bill, and suggested the necessity of the Imperial Government endeavouring, in a friendly way, to induce the French Government to reconsider the measure in the interests of the Australasian Colonies. Sir Saul further remarked that the present time appeared particularly opportune for again communicating with the French Government, as the views of the most influential portion of the French Press, and public opinion in

France, appeared to have undergone a change and were now favourable to a policy which would not be irritating to the Australasian Colonies.

Mr. Murray Smith begged his Lordship to consider that the Australasian Colonies could hardly be asked to abandon their proposed legislation against foreign criminals and ex-convicts, even if the *Récidiviste* Bill were not to pass. They would still continue liable to the influx of the class now transported to New Caledonia; to which, in fact, had belonged all the criminals who had escaped to Australia up to the present time. His Lordship would remember the earnest hope expressed by the Convention that transportation would not long exist in the Pacific: and, while representations were being made to the French Ministers on the *Récidiviste* Bill, an effort might also be made to induce France to give up penal transportation to New Caledonia after a certain time, and reserve what remained of that island, and the Loyalty Group, for free colonization.

Sir Francis Bell said that this was all the Agents-General had to urge so far as regarded the *Récidiviste* Bill itself; but there was a second question, which, although it might seem to take a wider range, was in reality closely allied to the *Récidiviste* scheme itself, namely, the jurisdiction which was to exist in the islands over which the New Guinea Protectorate would not extend. If the *récidiviste* law were passed and a large number of criminals sent to New Caledonia, it was hardly doubtful that the result would be the permeating of many of the worst class of the French criminals among the islands. The Agents-General begged permission to remind his Lordship that, at the last interview with which he had honoured them, they had asked whether it would not be possible to have some international arrangement with regard to these islands, and they had then understood that his Lordship would give the matter his consideration, and consult the Cabinet. It was unnecessary to advance any fresh statement respecting the inefficiency of the jurisdiction that existed under the Pacific Islands Protection Acts and the Foreign Jurisdiction Acts; and it was quite certain that the evils resulting from the want of jurisdiction were increasing in intensity. The question of the islands was not less important than it had been, and, while the Agents-General wished his Lordship to know that all the Australasian Governments, without exception, were desirous of making no representation to Her Majesty's Government which might be importunate, or might make them seem unmindful of the cares which must weigh upon Her Majesty's Government in any action connected with the islands, they might be permitted to represent how much importance was still attached in Australasia to the rescue of the islands from a condition which was fast tending towards complete anarchy. In venturing to bring this subject again before him the Agents-General must acknowledge that they were travelling over an extensive field; but they felt sure that, upon the question of preserving all the islands alike from contamination by French criminals, they had his Lordship's entire sympathy and good-will.

Lord Derby replied that it was true that a large field had been travelled over in the observations now made, but he did not find fault with that having been done. As regarded the *Récidiviste* Bill, he thought that the argument advanced was a fair one, and that the present position offered a reasonable opportunity for renewed representations to France. He would accordingly communicate with the Foreign Office, with the view, if Lord Granville concurred, of authorizing Her Majesty's Ambassador at Paris to bring the matter again before M. Ferry.

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### Enclosure No. 2.

COPY of Joint Telegram sent by the Australasian Agents-General to their respective Governments through the Agent-General for Queensland.

LORD DERBY, at an interview with Agents-General except Adelaide, day before yesterday, in respect to position of *Récidiviste* Bill, concurred that occasion had arisen for further communications with French Government, which will be made. Inform Colonial Governments.

1, Westminster Chambers, S.W., 18th November, 1884.

JAMES F. GARRICK.

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### No. 9.

The AGENT-GENERAL to the PREMIER.

SIR,—

7, Westminster Chambers, London, S.W., 1st January, 1885.

I have just received from Paris the supplementary report by M. De Verninac on the *Récidiviste* Bill, which was presented to the Senate before the session of the Chambers closed, and I will send you a *précis* of it by an early mail.

Her Majesty's Government have lately made further representations on the whole question to the French Government, which have been attended with success. The Bill is once more shelved for the present, and, for my part, I doubt more than ever whether, in its present shape, it will become law.

The Hon. the Premier, Wellington.

I have, &c.,

F. D. BELL.

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### No. 10.

The AGENT-GENERAL to the PREMIER.

SIR,—

7, Westminster Chambers, London, S.W., 12th February, 1885.

I have the honour to transmit to you herewith copy of a letter I have received from the Colonial Office, forwarding a despatch which had been received by the Foreign Office from Her Majesty's Ambassador at Paris respecting the *Récidiviste* Bill, together with copy of my reply.

I also transmit herewith copy of a *précis* which I have made of the supplementary report lately presented to the Senate by M. de Verninac, which you will read with interest, as showing how the Bill is being proceeded with in the teeth of an accumulation of evidence against the practicability of carrying it out.

The debate on the second reading is now going on in the Senate, and, as soon as it is concluded, I propose to make a *précis* of it for your information, as I did last October of the debate on the first reading. The Senate has, so far, voted the principle of transportation, and the exclusion of any territory whatever by name, leaving the choice of territory absolutely to the Executive; and they have agreed to the exaction of forced labour, and have rejected an amendment giving a discretion to the Judges to pronounce a sentence of transportation, instead of its being obligatory. One or two other proposed amendments have been referred back to the Committee for further consideration.

You will observe, from my letter to the Colonial Office, that I propose to lay before Lord Derby presently a few observations upon what seems to me to be the present position of the *récidiviste* question.

The Hon. the Premier, Wellington.

I have, &c.,

F. D. BELL.

### Enclosure No. 1.

COLONIAL OFFICE to AGENT-GENERAL for NEW ZEALAND.

SIR,—

Downing Street, 30th January, 1885.

I am directed by the Earl of Derby to transmit to you a copy of a paper lately presented to the Parliament of New Zealand, which contains a *précis* drawn up by you of a report of the French Senate Committee on the *Récidiviste* Bill.

I am to take this opportunity of forwarding to you a copy of a letter from the Foreign Office, with a despatch from Her Majesty's Ambassador at Paris, enclosing a supplementary report which was laid on the table of the Senate on the 15th ultimo by M. de Verninac on behalf of the Committee on the Bill.

If you should draw up any similar *précis* of this supplementary report for your Government, Lord Derby would be glad to receive a copy for the use of this department

I have, &c.,

The Agent-General for New Zealand.

ROBERT G. W. HERBERT.

### Enclosure No. 2.

THE FOREIGN OFFICE to the COLONIAL OFFICE.

SIR,—

Foreign Office, 6th January, 1885.

With reference to the letter from this department, of the 18th of November last, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Derby, for such observations as His Lordship may have to offer thereon, copy of a despatch from Her Majesty's Ambassador at Paris, forwarding copy of a supplementary report which was laid on the Senate on the 15th ultimo by M. de Verninac on behalf of the Committee on the *Récidiviste* Bill, and accompanied by His Excellency's remarks thereon.

I am, &c.,

The Under-Secretary of State, Colonial Office.

T. V. LISTER.

### Enclosure No. 3.

LORD LYONS to EARL GRANVILLE.

MY LORD,—

Paris, 3rd January, 1885.

With reference to my Despatch No. 652, of the 14th November last, I have the honour to transmit herewith to your Lordship two copies of a supplementary report which was laid on the table of the Senate on the 15th ultimo by M. de Verninac on behalf of the Committee on the *Récidiviste* Bill.

The 1st section (pages 3 to 7) relates to the question as to the places to which *récidivistes* shall be transported. The Committee propose that it shall be left to the Government to fix upon these places. We exclude (they say) no place—not Guiana, notwithstanding the serious objections made to it, nor do we affirm that, notwithstanding the difficulties arising from the presence of 7,000 convicts and of 3,000 freed convicts without work in New Caledonia, it will not be possible, especially if the working of mines should make a fresh start, to turn a certain number of transported *récidivistes* to good account in that colony.

The 2nd section (pages 8 to 11) deals with the system of treatment to be adopted towards the *récidivistes* in the places to which they are transported. It begins by mentioning the strong repugnance to receiving *récidivistes* manifested by the French colonies. It attributes this repugnance mainly to the defects in the system applied with regard to the convicts who are now transported to these colonies. What (the Committee asks) becomes of the freed convicts, obliged, in virtue of the law of 1854, to reside temporarily or permanently in the colony? They are, for the most part, without work, they become a burden to the State or to the colony, and, being no longer submitted to any discipline, they are a cause of disturbance and demoralization to the colonists amongst whom they live. We believe (the Committee say) in the usefulness of penal transportation, and in the possibility of making it advantageous to the colonies; but we call the attention of the Government to the necessity of making reforms in the penitentiary system in the colonies, and especially in the position of the freed

convicts. By the law which the Committee recommend it is left to the Executive Government to determine by decree the measures of police and supervision to which the transported *récidivistes* are to be subjected.

Section 4 of the report (pages 12 to 17) contains an estimate of the number of the *récidivistes* to whom the law would apply.

Section 8 (pages 28 to 34) explains, article by article, the changes proposed by the Committee in the Bill as passed by the Senate on the first reading. Pages 35 to 44 contain, in parallel columns, the Bill passed by the Chamber of Deputies, the Bill adopted by the Senate on the first reading, and the Bill now proposed by the Committee.

Among the annexes will be found—

Evidence given by Captain Pallue de la Barrière, formerly Governor of New Caledonia (page 47.)

Evidence of Messrs Schœlcher and Michaux concerning protests of the Conseils Généraux of Guyana and New Caledonia against the transportation of *récidivistes* to those colonies (page 53).

Evidence of various kinds relative to the question of the unhealthiness of Guyana (pages 57 to 91).

Suggestion by M. Chessé, Governor of Guyana, respecting the conditions as to treatment and other matters, under which, in his opinion, *récidivistes* might, with advantage, be transported to that colony (page 92).

The session of the Chambers was closed on the 29th ultimo, without the second reading of the *Récidiviste* Bill having come on in the Senate, but it will probably come on next session. According to the French parliamentary practice the close of the session does not cancel the previous proceedings respecting Bills in either Chamber: the Bills are taken up in the next session at the stage at which they had arrived in the session before.

I have, &c.,

LYONS.

The Earl Granville, K.G., &c.

#### Enclosure No. 4.

The AGENT-GENERAL for NEW ZEALAND to the COLONIAL OFFICE.

SIR,—

7, Westminster Chambers, London, S.W., 11th February, 1885.

I have the honour to acknowledge the receipt of your letter of the 30th January, relating to the *précis* I drew up of the first report of the French Senate Committee on the *Récidiviste* Bill; and I beg the Earl of Derby to be pleased to accept my thanks for communicating to me the despatch received from Her Majesty's Ambassador at Paris, with the supplementary report of the same Committee.

I now beg permission to forward to you, as desired by Lord Derby, copy of a *précis* I have made of the latter report, and of the Bill as now proposed to be amended, with the appendices to the report. I also take this opportunity of enclosing separate copies of the *précis* of the first report, and also of the debate in the French Senate on the 23rd, 24th, and 25th October last upon the first reading of the Bill.

As Lord Derby is aware, a debate is now going on in the French Senate on the second reading of the Bill, and I shall presently make a *précis* of the debate and take the liberty of submitting it for his Lordship's information, together with a few remarks upon what seems to me the present position of the matter.

I have, &c.,

The Under-Secretary of State for the Colonies.

F. D. BELL.

#### Enclosure No. 5.

##### RÉCIDIVISTE BILL.

[NOTE.—The following *précis*, like those of the First Report in August, 1884, omits much of the general argument, retaining only that which has seemed to me of most interest to Australasia.—F. D. BELL, 31st January, 1885.]

##### No. 1.

PRÉCIS of the Supplementary Report of the Senate Committee (*M. de Verninac*), January, 1885.

##### 1. Introduction.

The report begins by stating that the debates in the Senate on the first reading of the Bill (23rd–25th October) had traced the points to which the Committee had to direct their attention before the second reading.

In those debates the fact had come out that, while no one contested the imperious necessity of restraining the growing extent of relapse into crime, grave doubts had arisen as to the possibility of carrying the Bill into effect, for want of a place where the relegation of *récidivistes* could take place.

New Caledonia, it was said, was already encumbered with 10,000 *forçats* and *libérés*; and, as to Guiana, the failure of all attempts at colonization there, and the abandonment of transportation after fifteen years' experience, had shown that even incorrigible criminals could not now be sent there without inhumanity.

Besides carefully examining a variety of documents, the Committee had taken the evidence of M. Félix Faure, Under-Secretary of State for the Colonies, Captain Pallu de la Barrière, late Governor of New Caledonia, M. Franconie, Deputy for Guiana, and others; and they hoped that their present conclusions would appear to be justified.

##### 2. Place of Relegation.

As to Guiana, the Sanitary Council of the Marine Department had formally condemned any proposal to renew transportation there. This, however, had been strongly contested by the Under-Secretary of State.

As to New Caledonia, Governor de la Barrière had confirmed by his evidence the adverse opinions he had expressed in his despatch of October, 1883, appended to the Committee's first report. Though the climate of that colony was excellent and its soil fertile, the State territory there was hardly sufficient to insure to the convicts who would be sent there even up to 1888 the concessions promised by the law of 1854, and at the same time reserve land enough to enclose (*encadrer*) the penal settlement within free colonization. Besides, New Caledonia was still in its infancy as a colony. Industry did not exist there, and the 3,000 *libérés* constrained to residence had to be maintained by the State, for want of other work. The nickel mines had not recovered from the crisis caused by the failure of the Bank of New Caledonia; moreover, the owners of those mines all preferred the less costly and *quasi*-servile labour of the New Hebrides recruits. Lastly, M. Schœlcher (senator) had laid before the Committee a protest by M. Moncelon, delegate from New Caledonia, and there was a similar protest by the *Conseil Général* of Guiana, against applying the Bill to either colony.

The Committee had been last year of opinion that it would be useless, and even dangerous, to define in the Bill the colonies where relegation might take place; and now a more exhaustive study of the question had shown that, in the interest of the law itself, it was necessary to leave to the Government an even larger choice of the territories in which to put the scheme in force. With this object, the first section of the Bill had been amended by the omission of the words "colonies or possessions," thus suppressing every restriction as to the places to be selected for relegation, one condition only being made, that these places were not to be assimilated to prisons.

It would of course be said that this was giving the Executive a blank cheque (*blanc-seing*). Certainly that was not to be denied. But Parliament would each year be able to exercise a control through the estimates; and, besides, in presence of difficulties which it would be puerile to dissemble, and in view of the large numbers which, especially at first, would come under the law, the Committee had thought it wisest to leave to the Executive the fullest latitude in selecting the places where this crowd of malefactors might be utilized, who, if accumulated at one point, would certainly constitute there a great embarrassment if not a public danger.

The Committee did not, however, exclude any place; and, notwithstanding the grave objections made against Guiana, they did not mean to say that the Government could not, or ought not, to make the attempt there. Nor did the Committee even hold that in New Caledonia, notwithstanding the embarrassment already caused by the presence of 7,000 *forçats* and 3,000 *libérés*, it would not be possible to send a certain number of *relégués*. And perhaps at Senegal, or some other French possession, *récidivistes* might be employed upon public works for which free workmen were now imported at a great cost.

Profoundly convinced still of the necessity of the law, the Committee could not admit that any difficulties should be allowed to prevent or suspend its effect; and they therefore hoped that the Senate, sharing in that feeling, would adopt their present proposals.

### 3. Régime to be applied to the *Relégués*.

While public opinion in France had manifested a legitimate impatience for the banishment of incorrigible criminals who made a trade of violating every social law, it must be admitted that, in the colonies threatened with the reception of these criminals, public opinion had declared itself with undeniable energy against the scheme. The Chamber of Commerce of Noumea and the delegate of New Caledonia emulated the Council and the member for Guiana in protests against this new kind of transportation. Was there any right to be surprised at this? Neither past history nor present circumstances could give much confidence about the future. It must be acknowledged that the transportation which began in 1852 had not, in thirty-two years, produced, from the colonial point of view of either New Caledonia or Guiana, the results which had been expected. [Here follows an account of the ruinous failure at Guiana.] At New Caledonia, after fifteen years of transportation, and with an *effectif* of ten thousand people, hardly fifty miles of road had been constructed, and the Harbour of Noumea was still without facilities which its geographical position and its prospective importance demanded. At best a few hundreds, out of the thousands transported, had become attached to the soil in either of the penal colonies. What had become of the *libérés* constrained to temporary or perpetual residence under the law of 1854? For the most part without work, falling back on the State for support, subject to no discipline, they had only been a source of disturbance and demoralization to the free colonists. Such results, established by all the information before the Committee, now justified them in saying that, if the law of 1854 had solved one side of the problem by averting the progress of graver crimes, its colonial side yet awaited solution. Did this mean that a solution was impossible? Far be it from the Committee to think so. They still believed in the utility of transportation, and in the possibility of turning it to the advantage of the colonies. But the Government must give their attention to the reforms required in the whole penal system beyond sea, and especially to the position, hitherto ill-defined, of the *libérés*.

The necessity for these reforms had doubtless been a chief cause of the alarm in New Caledonia and Guiana; but another cause lay in the fact of its having been proposed to leave the *récidivistes*, when once relegated under the condition of not leaving the colony, in a state of absolute liberty and in the possession of common rights. This idea, embodied in the original report of M. Gerville-Réache and the debates in the Chamber of Deputies, had never been shared by the Senate Committee. A régime of absolute liberty and of common rights to be possessed by incorrigible malefactors had always seemed to them to constitute a peril for any colony so great that the law could not have been really carried out. Those convicts only who could provide for their own wants ought to enjoy liberty, limited by police measures necessary for the public safety. As for those who, without the means of existence, became chargeable to the State, the right to require forced labour from them was undeniable. This had always been the opinion of the Committee, and their renewed investigation had now led them to declare, in more express terms, in the very first section of the Bill, not only the meaning of relegation, but the consequences it must entail upon the convicts.

The Committee, when examining more closely the application of the system, had asked themselves whether it would not be well to unify the two penal administrations, metropolitan and colonial. It seemed, indeed, that officials who had seen what the *récidivistes* were in the prisons and in the central and country penitentiaries must best be competent to control (*surveiller*) them in the place of relegation. The Committee of the Chamber of Deputies had originally thought so, too, but the prospect of conflicts between the two Ministerial departments concerned had caused the rejection of the plan. The Senate Committee, while admitting the question to be a delicate one, must content themselves by saying that it was one which must be left to the Government to solve.

#### 4. Number to whom the Law would be applicable.

A return from the Ministry of the Interior had shown that on the 1st October, 1883, the various penal establishments in France, Corsica, and Algiers contained 5,293 criminals who would have come under the Bill as voted by the Chamber of Deputies. The Senate Committee had accordingly taken 5,000 at that time as the approximate number for the first year, and 3,000 or 4,000 for the second; and a later return, dated last September, had shown that about 4,660 would be the number for the third year. A further return, however, now made by the Minister of Justice, at the instance of the Committee, had shown that not less than 30,000 criminals would have come under the original Bill, and about 21,000 under the amended Bill. But it had been argued within the Committee that even this number would turn out to be much less than the reality; that the growing augmentation of *récidive* had not been taken into account; that sentences of military and naval tribunals entailing relegation had been altogether left out; that various offences had also been omitted; that even now more than 30,000 *récidivistes* would come immediately under the law; that even this number only included criminals who would have to be relegated by a first sentence after the promulgation of the law, leaving out entirely numbers who, by reason of previous sentences, would be in the same category as the first; that it must now be admitted that there were more than 60,000 criminals on whom a fresh sentence would entail relegation; and that, as it was notorious that the incorrigibles among them were never long without reappearing before a tribunal, it was not 12,000 but perhaps 30,000 who would have to be relegated in the first three years.

But of what value was the return from the penal establishments? The data were altogether insufficient. The figures really wanted were not those of criminals who would in a single year come under relegation, but of those who, having undergone previous sentences, would yet have to be relegated. If it was evidently correct that the 21,000 indicated by the Minister must be very much increased, still there was nothing to show the particular time when the criminals would come into the hands of justice, or when sentences would expire. The Committee did not pretend that the return from the penal establishments gave an exact estimate of the number that would be relegated in the first year after the passing of the Bill, but it afforded a sufficient indication, and, all things considered, it was not impossible to admit that the Government estimate approached the truth.

But, even supposing that estimate to be too low, what then? It was said that the figures proved that a law so rigorous must in a short time compel the State to relegate a total number not only much in excess of any that had been foreseen, but one all the more embarrassing because nobody could even say where or how the relegation was to be carried out. But such criticisms, if once admitted, must go to nothing less than a declaration that the law was an impossible one, and to its consequent rejection. The majority of the Committee could not subscribe to that. Even were the option of sentencing to relegation left to the Courts, it could not be admitted that, when a Judge pronounced a sentence, he had to concern himself with any difficulties in its application. Undoubtedly, the greater the number of criminals to be relegated the costlier and more difficult must be the execution of the law; but it was precisely for that reason that the Committee thought the Government must be left to provide for the difficulties. On the other hand, the more proofs were accumulated of the number of habitual malefactors being three or four times what had been foreseen the more was the gravity established of the peril they were to society, and the clearer was the necessity for such a measure of public safety as was now before the Senate.

#### 5. Counter Project of M. Béranger.

[It is unnecessary to transcribe here the arguments by which the Committee condemn M. Béranger's scheme for combating relapse into crime instead of resorting to transportation.]

#### 6. Amendments moved in the Committee.

One of these amendments (by M. Labiche), making a sentence of relegation optional with the Courts, had been rejected, upon a division in the Committee of six votes to three, as being contrary to the whole character of the Bill. Another (by General Robert), preventing the relegation from having the effect of removing the *relégué* from the army and so releasing him from military service, had received the general assent of the Committee in principle, and had been met by a provision for the purpose; but the Government must be left to regulate its application, pending some specific provision in the recruiting laws.

#### 8. New Amendments in the Bill explained.

[Section 1, as reconstructed, defines more completely the meaning of relegation, as involving (1) *internement* within territories to be selected by the Government, (2) a *régime* to which the *relégués* are to be subjected, and (3) enforced labour by all who remain chargeable to the State.

Amendments in sections 8 and 12 meet the preceding proposals of Senators Labiche and Robert. Amendments in sections 2, 4, 6, 13, 14, 15, 19; and 23 are either not material or are consequential.]



Section 22 (new clause). In their first report the Committee had named one year as the earliest time for the Act coming into operation. They still thought it impossible for the Legislature to retreat from the passing of a law which it had, rightly, deemed urgent. Nevertheless, it must be evident that the law could not be put in force before establishments (*installations*) had been prepared for the reception of the *relégués*. After a new examination of this question—one of the most delicate which the Committee had had to consider—they had asked themselves whether any law of this kind could be perfect at first. The proposed remission of all the regulations to the Executive must seem to subordinate the law itself to the promulgation of the regulations, without which it could not be carried out. But where could any relegation be made at all, if the place of relegation was not first determined? How could the *relégués* be made to work when even the *régime* of their workshops was not fixed? How could the public safety be assured if measures to that end were not first taken? It therefore seemed indispensable to declare in set terms what was really in the nature of things, that the law should not come into force until after issue of the regulations. Six months would be allowed to the Government for this purpose; a date, however, which could easily be shortened if the Executive were really imbued with the necessity of giving prompt satisfaction to public opinion.

True *Précis*.

F. D. BELL.

31st January, 1885.

## No. 2.

## COMPARISON of the Bill as now amended with the Bills as formerly proposed.

Chamber of Deputies Bill of 1883.	Senate Bill of August, 1884.	Senate Bill of January, 1885.
<p>1. Relegation consists in the perpetual <i>internement</i> of criminals to be removed from France, and applies to the <i>récidivistes</i> specified in sections 4, 5, 6, and 7.</p>	<p>1. <i>Récidivistes</i> specified in section 4 shall, at the expiry of their sentence, be relegated in perpetuity to such colonies or possessions as shall be determined by the Government.</p>	<p>1. Relegation shall consist in the perpetual <i>internement</i> of those convicts to whom the law is made applicable. Executive regulations shall determine the territories where the relegation is to take place, also the measures of police and <i>surveillance</i> to which the <i>relégués</i> are to be subject.</p>
<p>2. Relegation may only be inflicted after sentence by the ordinary tribunals, and not by special and exceptional jurisdictions.</p>	<p>2. Relegation may only be inflicted by the ordinary tribunals as a consequence of sentences already incurred, and not by special and exceptional jurisdictions. The tribunals may take into account sentences by military Courts for offences outside of war or of a state of siege.</p>	<p><i>Relégués</i> who have no means of existence, or who cannot obtain a regular engagement at some trade or profession, shall be subject to a <i>régime</i> of forced labour, under conditions to be fixed by Executive regulation.</p> <p>2. Slightly amended, to provide for military sentences.</p>
<p>3. Sentences for political crimes or offences may not be counted for relegation.</p>	<p>3. Verbally amended.</p>	<p>3. Unaltered.</p>
<p>4, 5, 6, 7, and 8. The following criminals shall be relegated for life:— (Offences specified.)</p>	<p>4. The following criminals shall be relegated:— (Offences specified: Theft, swindling, breach of trust, public outrage against modesty, habitual excitation of minors to debauchery, and vagabondage or mendicity.)</p>	<p>4. Declares what <i>récidivistes</i> shall be relegated. (Clause amended, but offences not altered.)</p>
<p>12. (<i>This section is taken out of its place, presumably for comparison with the Senate section opposite.</i>) Sentences which have been remitted or commuted shall be counted for relegation, but not any which have been effaced by rehabilitation of the criminals.</p>	<p>5. Relegation shall be incurred by any criminal who has been sentenced for the offences specified in the preceding section.</p>	<p>(5.) Struck out.</p>
<p>9. Relegation may not be applied to criminals over 60 or under 21 except in certain cases.</p>	<p>6. Section 12 of the Chamber Bill is incorporated here, with slight verbal amendment.</p>	<p>5. As section 6, unaltered.</p>
<p>7. Same as Chamber section 9.</p>	<p>7. Same as Chamber section 9.</p>	<p>6. Slightly amended.</p>
		<p>7. (<i>New Clause</i>.) Convicts who have incurred relegation shall continue subject to all the obligations incumbent on them by virtue of the laws on the recruiting of the army. An Executive regulation shall determine the conditions under which such obligations are to be fulfilled.</p>

COMPARISON of the Bill as now amended with the Bills as formerly proposed—*continued.*

<i>Chamber of Deputies Bill—continued.</i>	<i>Senate Bill of August—continued.</i>	<i>Senate Bill of January—continued.</i>
10. Sentences incurred prior to the promulgation of this Act shall be counted for relegation, subject to certain exceptions.	8. Further provisions as to criminals over 60 and under 21. 9. Same as Chamber section 10.	8. Unaltered. 9. Unaltered.
11. Legal provisions as to inflicting relegation.	10, 11. Chamber section 11 amended verbally, and divided into two sections.	10. Unaltered. 11. Unaltered.
[12. <i>See ante.</i> ]	12. Same object as Chamber section 13, but amended in several points.	12. Slightly amended.
13. Relegation may only be inflicted after the expiry of the last penalty to be undergone by a criminal (subject to certain powers to the Executive, and to certain exceptions).	Struck out.	13. Unaltered.
14. Relegation may take effect in New Caledonia, Marquesas, Phu-Quoc, or Guiana.	13. A <i>relégué</i> may leave the colony for a short time ( <i>momentanément</i> ) upon a special permit by the superior local authority; but the Minister alone can give a permit for longer than six months, or renew it, and the Minister alone may authorize a return to France, in exceptional cases, and for not more than six months.	14. Consequential amendment only, as to place of relegation.
15. The Administration may permit, in exceptional cases, a <i>relégué</i> to leave the place of relegation for a period of six months; but such permit may only be renewed by Ministerial authority, and a Ministerial decision alone may authorize the return of a <i>relégué</i> to France, and then for not more than six months.	14. A <i>relégué</i> who, after the expiry of his sentence, is guilty of escaping or attempting to escape, or who returns to France or leaves the colony without a permit, or who exceeds the time to which his permit extends, shall be brought before the tribunal of the place where he was arrested or of the colony, and, upon identification, shall be imprisoned, within the territory, for a term not exceeding two years, and on a second offence may be imprisoned for five years.	15. Unaltered.
16. A <i>relégué</i> escaping or attempting to escape out of the territory of the relegation shall be brought before the tribunal of the place where he was arrested, and sentenced to imprisonment for a term not exceeding two years, within the territory; and on a second offence may be imprisoned for not exceeding five years.	15. Same as Chamber section 18, verbally amended.	16. Unaltered.
18. A criminal sentenced to relegation may only have his sentence remitted upon terms specially defined.	16. A <i>relégué</i> may, after six years, petition to be relieved from his relegation, for good conduct or services rendered to colonization.	17. Consequential amendment as to place of relegation.
17. A <i>relégué</i> may obtain, within the territory of the relegation, the rights of which he was deprived by his sentence.	17. The Government may grant to <i>relégués</i> , within the colony, all or any of the rights of which they were deprived by their sentences.	18. Unaltered.
19. Within six months a decree shall be issued for making regulations to give effect to this Act. (Numerous provisions follow.)	18. Sections 13 to 17 are made applicable to criminals who are already <i>libérés</i> under the law of 1854.	19. Amended in several points, with power to regulate the imposition of forced labour. The first regulation must be issued within six months of the promulgation of the law.
20. Repeal of certain previous Acts, and other legal provisions.	19. Decrees shall be issued for determining the places where relegation shall take place, the conditions on which work and means of subsistence shall be given to any <i>relégués</i> , the engagements to be thereupon entered into by them, the <i>régime</i> of the penal establishments, workshops, &c., destined for them, and generally for measures of order and police necessary to insure their existence and the common safety. Within six months, &c. (same as Chamber section 19, with amendments).	20. Unaltered.
21. The Act to take effect in Algeria and the colonies, subject to certain provisos.	20. The same, slightly amended.	21. Unaltered.
22. Repeal of all Acts contrary to the present one.	21. The same, slightly amended.	22. ( <i>New Clause.</i> ) This law shall come into force immediately after the promulgation of the first regulation, as mentioned in section 19.
	22. The same.	23. As section 22, unaltered.

31st January, 1885.

True *précis.*  
F. D. BELL.

## APPENDICES to the Report.

## 1. Evidence of the Governor Pallu de la Barrière.

IN 1882, out of 10,000 *forçats* and *libérés*, only 309 had obtained concessions of land, and 1,500 petitions for concessions remained unanswered, a few of these having been made as far back as ten years. When Governor Pallu left, 600 concessions had been granted. The *libérés* constituted the great difficulty of transportation. It was difficult for them to get work, and if they had not been attached to the soil during their sentence, while the Executive had control over them, they were apt to abuse their liberty when they got it. New Caledonia could in no way receive any *récidivistes*. They would not find work any more than the *libérés*. There were no industries of the colony, which was in its infancy, and the *libérés* furnished more workmen than were wanted; while the free colonists would always prefer, for agricultural purposes, recruits from the New Hebrides, who only cost 45 francs per month, or *forçats* at 65 francs, to *libérés*, who required 8 to 10 francs per day. The *relégués* would have to be paid the same, though they would be more dangerous and less apt to work than the *forçats*; and if they did not get work, they would, perforce, come back upon the State, as the *libérés* did, for sustenance.

As to concessions of land, the free lands in New Caledonia were already on the point of failing:—

The colony comprised	...	...	...	2,100,000 hectares.
The aborigines occupied	...	...	316,000	
Concessions to colonists	...	...	236,000	
Reserves for penal purposes	...	...	38,000	
Forests	...	...	127,000	
Unavailable lands	...	...	1,100,000	
			1,817,000	,,
Leaving only	...	...	283,000	hectares.

Now, out of these 283,000 hectares, 200,000 consisted of pasturage, leaving only 83,000 fit for cultivation, of which 17,000 were gently-wooded slopes, where coffee might be grown; only that ground being counted as arable which was situated in valleys where the soil was from 8 to 10 *mètres* deep. These 83,000 acres would barely suffice for the normal operation of the law of 1854 up to 1888—that is to say, for the necessary concession, to convicts, and also for the free emigration which was the indispensable counterpoise to transportation. This acreage must be halved between penal and free colonization; so that, in order to allow of concessions to *relégués*, either the time (even now not far distant) for ceasing all transportation to New Caledonia must be shortened, or any allotment of land to free colonists must be given up, which meant the ruin of the colony.

Besides, relegation and transportation could not be set down side by side without immense inconvenience. New Caledonia was a colony of the first importance, which the mother-country ought to do everything to foster. [Then follow details of the system put in force by the Governor during his administration.] The number of free colonists could not be exactly stated, but there were perhaps 4,000, chiefly Frenchmen. The capital employed in the colony was French, Australian, and Scotch. The country was something like New South Wales; the minerals chiefly nickel, though there was also copper and silver, and even some gold. The interior of the island had not been touched; the mines had been only prospected, not worked, for want of means of communication. The colony was amply endowed with water, and there was no fear of droughts; but the pasturage was not suited for sheep, on account of some poisonous herb. The cattle were a very poor sort, and only preserved Australian milk was to be had.

There were 27,000 kanakas in New Caledonia, and 13,000 at the Loyalty Isles: a vigorous, intelligent race, wholly different from Australian blacks, and very independent; they would not submit to regular work, but it might be got out of them by arrangement with the chiefs; they were good cultivators, and understood irrigation perfectly. No more land could be got from the natives; what they occupied was indispensable to them, as crops could not be raised often on the same soil for want of manure, except with more or less fallow. Attempts at educating them had entirely failed at first, but by sending teachers among the tribes the Governor had made a perfect success, the kanakas easily learning to read and write.

The committee of twenty-eight colonists, appointed to study the subject generally, had not considered the present Bill. They accepted transportation, but only on the condition of its ceasing on the day when no more land was available, and also of a counterpoise being secured by free colonization. The Chamber of Commerce had rejected the scheme of relegation. A few colonists, it was true, wanted *récidivistes* to be sent; but they were a small minority of stockowners, who saw in it an increased consumption of meat. Not more than forty or fifty *libérés* occupied their concessions. About 450 convicts were married, and fifty more lived with native women. Wheat could be grown, but it ripened so unequally that its cultivation had been, so far, impossible. As for the concessions which remained unworked, there was no reservation in the grants, and therefore no legal means of getting them back except by taxing all uncultivated ground; a step, however, which would make the position of any Governor adopting it very difficult. There was nothing fixed as to maximum or minimum of concession; but a colonist, to be able to live with his family, ought to have from fifteen to twenty hectares, four to be arable, and the rest in pasture.

## 2. Evidence of MM. Schœlcher and Michaux.

M. Schœlcher presented protests from Guiana and New Caledonia, confirming all that the Governors of those colonies had said. The protest by the delegate from New Caledonia adjured the Government and Legislature of the mother-country, after having inflicted upon the colony one scourge in the *libérés*, not to inflict upon it another yet worse in the *relégués*. M. Michaux refused his assent to the Bill, especially on account of the effect it would have in Guiana. A decree in

1863 had established the penal settlement of New Caledonia, and in 1867 a Ministerial decision had appointed it as the place where all convicts should be transported; but there was no trace of any report or other document from the colony to justify that decision; if any had ever existed, they were lost or destroyed.

3. *Statement by the Sanitary Council of the Marine Department.*

4. *Evidence of M. Franconie, Deputy for Guiana.*

5. *Minute by M. Félix Faure, Under-Secretary of State.*

6. *Minute by the Governor of Guiana (M. Chessé).*

All these papers relate chiefly to Guiana; but the last is a powerful and sustained argument against the whole scheme of relegation as originally proposed, and especially against the *relégués* being free. In 1878, 3,656 convicts transported to Guiana had cost 219,865 francs (£9,599); in 1884, only 2,443 had cost 441,900 francs (£17,676). The cost of the scheme might begin at hundreds of thousands of francs, but would soon be counted by millions. Out of 22,000 convicts transported since 1854 perhaps ten *libérés* might be counted as having established themselves, and these were old soldiers who really had only the name of *forçats*. So, after all the cost that would be lavished, the *récidiviste* would be neither punished nor reformed; but he would have that done for him which many poor but honest families in France herself might envy. Governor Chessé then went on to propose a system under which relegation might be carried out, provided that the law itself laid down that every *relégué* who was a charge to the State should be constrained to forced labour and subjected to discipline and to military jurisdiction. [This system would really be one of rigorous repression, essentially antagonistic to the scheme as voted by the Chamber of Deputies.]

True *précis*.

F. D. BELL.

31st January, 1885.

## No. 11.

The AGENT-GENERAL to the PREMIER.

SIR,—

7, Westminster Chambers, London, S.W., 16th February, 1885.

In my letter of the 12th instant (No. 185) I sent you a *précis* I had made of the report of the French Senate Committee on the *Récidiviste* Bill. I now beg to enclose some notes of the debate on the second reading, which, you will see, was passed by a majority of 178 against 20.

The debate was of great length, extending over six days, from the 5th to the 13th February, and travelling over the whole ground of transportation as a punishment. I have only extracted so much of it from the *Journal Officiel* as seemed of interest to Australasia.

I have, &c.,

F. D. BELL.

The Hon. the Premier, Wellington.

## Enclosure.

RÉCIDIVISTE BILL.—Notes of Debates in the French Senate on the second reading of the Bill, from the 5th to the 13th February, 1885.

[NOTE.—It is impossible to give more than a mere sketch of a debate which extended over six days, and travelled over the whole ground of the transportation question.]

5TH FEBRUARY.—M. Bérenger renewed the arguments he had advanced in the debates of October, 1884, in favour of his scheme for combating relapse into crime, and criticised adversely the whole scope of the present Bill. The evidence of the Governors of New Caledonia and Guiana had now shown that it was impossible to send *récidivistes* to New Caledonia, and inhuman to send them to Guiana. The Committee had thereupon devised the idea of leaving everything to the Executive. But to vote relegation and then leave it in the air; to acknowledge that it was impossible to say where it could be applied; to reject every place one after the other as inadmissible—to do this was a somewhat daring imposition on serious men. The scheme would entail an enormous expense. It was now clear that the estimate of the criminals to be transported must be doubled or trebled. After reading the first twenty pages of the report the decision seemed inevitable against going on with the Bill. The Committee knew that there was no more to be said about New Caledonia or Guiana, and that they could not maintain their former opinions. They had practically renounced their scheme: they had even struck out the word “colony” from the Bill; relegation was now to be simply defined as *internement*. *Internement* where? The Minister might interpret the Bill in any sense he pleased. No one had ever supposed that such colonies as Réunion or Martinique could be used, still less any others that might be conquered or annexed hereafter; and who would dare from that tribune to suggest Tunis, or Tonkin, or Corsica, or Algiers? Then, as to numbers and cost, the old figure of 5,000 had vanished: they had now got to 21,000 as the lowest; but certain classes of criminals had yet to be counted in, and 30,000 was the least number. The estimate had been ten million francs a year: they would find thirty millions too little. As to the exaction of forced labour, it really meant perpetual imprisonment. That was, again, another innovation. But a penal law ought not to sanction a punishment which it neither named nor defined. [M. Bérenger then went on to argue in favour of his own alternative scheme.]

M. Waldeck-Rousseau (Minister of the Interior) replied to M. Bérenger. The Government still insisted on the necessity of the Bill. Public opinion demanded it, and it was justified by the immense results produced by English transportation. He knew there was a conflict of opinion about Australia. “Convicts made Australia,” said some; “ruined her,” said others. But it was only when Australia had become powerful and flourishing that she refused to receive any more criminals.

He only wished for the colonies of France, where *récidivistes* were to be sent, that the same state of things existed. As to numbers, the total number of *récidivistes*, which had in 1856 been only 40,000, had risen to 75,000 in 1880, or nearly double; but 5,000 was still the probable number that would come under relegation in the first years, for, although there would be some 20,000 criminals to be dealt with, only 5,000 would have to be relegated. The great cities, Paris and Lyons, had been said to demand the Bill; but it was the country-folk who (though with less noise, perhaps) demanded it most. The question of cost must not stop the Senate: but it had been overestimated; for the expense of *récidivistes*, if kept in France, must be taken into account. Then, as to the place of relegation, he admitted that an answer must be given to M. Bérenger's criticism. There could be no question of choosing Corsica or Algiers. At a later period of the debate it would be easy for him to show that it was not colonies that were wanting; for, on the contrary, some could be immediately named. As to a *régime* of restraint, the reason for asking that regulating powers should be given to the Executive was that it would be futile to lay down any programme at once: the *régime* must be one capable of easy modification, very elastic, and subject to revision after experience. In like manner the exaction of forced labour required a whole executive mechanism, which could not possibly find its place in clauses of a Bill.

6th February.—The debate was resumed by M. de Gavardie. The Bill had originated in the threat of Gambetta at Belleville, "We shall know how to find you in your lairs." The Bill would cost sixty million francs to carry out. Every juriconsult of any authority—M. Lucas, M. Desjardins, M. Picot, M. Chevrier—had pronounced against it. It was one that could never be carried out. As to numbers, the Government estimate was 5,000; but the Committee's was now 21,000, and the report went as high as 60,000. Even 60,000 was not certain; it might perhaps reach 100,000. It would certainly not be less than 24,000, and 30,000 was probably the lowest. The evidence of the Governor of Guiana was alone sufficient to show that the scheme could never be carried out. As to the cost the Finance Committee had admitted the impossibility of estimating it, even at 5,000: what would it be if the number was 30,000?

M. Schœlcher said that the fact of the Committee having proposed to strike out the word "colonies" proved how questionable they thought the policy of choosing any colonies at all for the relegation; yet the Minister had said in yesterday's debate that it was precisely colonies that ought to be chosen. New Caledonia was already full. Guiana was the only colony that could receive any of the *récidivistes*; yet every one who knew Guiana united in objecting to its being chosen. Throughout the debates in the Chamber of Deputies it had been declared that the *récidivistes* were to have absolute liberty. Now the Minister had wisely renounced so baneful a proposal. Neither reason, right, nor equity allowed the mother-country to inflict such an evil upon her colonies. New Caledonia objected as strongly as Guiana, and the delegate of that colony [*délégué au Conseil Supérieur des Colonies*] had protested in the name of the colonists, on the ground that New Caledonia was already afflicted by the scourge of the *libérés*; and what would become of it if to this scourge were added bands of incorrigible malefactors? Why destroy colonies that were developing themselves gradually by free immigration? Why should not the *récidivistes* be sent to the sparsely-inhabited but fertile islands of the New Hebrides?

M. Labiche described the changes now proposed in the Bill. There had been originally two fundamental conditions. The first was, that the *récidivistes* should be left in absolute liberty: it had been asserted in every page of M. Gerville-Réache's report, and confirmed anew in the debates, especially by the Minister of the Interior (M. Waldeck-Rousseau) himself. The Committee had decided against leaving the criminals at liberty: they had acknowledged it to be a utopian idea to send 5,000, 10,000, 20,000, 30,000 criminals to a colony to be free. The silence of the Bill about the suppression of that liberty did not permit it to be suppressed by mere Executive regulation. As to the argument that the prodigious development of Australian prosperity was due to transportation, the contrary had been demonstrated. The hopes of the Minister of the Interior were only generous illusions. Let the Senate study the appendices to the Committee's supplementary report. The Minister had spoken of employing the *récidivistes* upon farms, in working forests, in keeping sheep. It was to be wished that he had studied better the evidence and the documents laid before the Committee. The *récidivistes* would not be employed upon farms, for there were none; nor in keeping sheep and cattle, for there were none; nor in any forestry work, for there was none. The cardinal innovation now made by the Committee was the abolition of this "state of liberty." There could be no doubt of what the Chamber of Deputies had intended. He might recall the words of M. Gerville-Réache, and the Articles published by M. Leveillé, but it was enough to quote the Minister's own declaration, "Liberty was the right of the *relégués*." Upon this declaration the Chamber of Deputies had voted; it was incontestable that the Chamber's Bill was based upon it. Not being able, in face of the evidence before them, to share the illusions of the Chamber, the Committee had not hesitated to say, "No more liberty," and had expressly substituted for it a state of forced labour. Now, deprivation of liberty and exaction of forced labour were things too grave to depend on mere Executive regulation. The Committee did not prohibit relegation to French colonies; they contented themselves with not imposing it. As for the cost, the most competent judges had told them that, while it was easy to *intern* 1,000 men, the cost must be tripled for 2,000, and multiplied ten times for 4,000.

M. de Verninac (Reporter) pointed out that the speech of M. Labiche was not an explanation but a condemnation of the Bill, and M. Labiche must be understood as having expressed his own individual opinions, not those of the Committee.

M. Waldeck-Rousseau (Minister of the Interior) said that the course taken by the debate made it necessary for the Government to give a clear explanation on several points. The Committee proposed to enact in the first section of the Bill that relegation was to consist in perpetual *internement* in some place not named. Then where was it to be? The Government wished to give a fair hearing to the protests of the colonies; but the colonies had been told that 5,000 criminals were to be thrown on their shores in a state of complete liberty, and that they were to be subject to an in-

vasion of barbarians. This was all mere misapprehension of the Bill. The criminals would be constrained to work if they had no regular means of existence; they would be subjected to a *régime* and to control. As to the cost, the Government adhered to their estimates; but, even if the expense were much greater, it ought not to be an objection when compared with the results to be attained and the evil in face of which they all were. The Government objected to any ambiguity of terms that would allow relegation to take place in France, Corsica, or Algiers, and now asked the Senate to restore the condition that it should take place in "colonies or other possessions."

7th February.—M. Labiche renewed his arguments of the previous day.

M. Buffet said it was not necessary to be an expert in criminal law to show that the Bill in its present shape ought not to pass. The Bill might be described in a few words by saying that certain classes of habitual criminals were to be sent wherever it might please the Government, and be subjected there to any *régime* the Executive might think fit. Could that be called law? The legislative power ought not to delegate to the Executive the right of determining punishments or changing the penal code. What right except that of force had the mother-country to say to her colonies, "I have so many incorrigible malefactors, and I send them to you?" The colonists would be perfectly right in replying, "We will not have them; we also have our crime. Let each of us keep its own." This was a grave question, which the legislative power ought to settle. Why did it not do so? It only needed to glance at the Committee's reports to see why. No colony or territory was to be designated, simply because there was none to designate. Whatever colony was mentioned, a crowd of peremptory objections presented themselves against sending any *récidivistes* there. So, in order to get out of their embarrassment, the Committee asked the Senate not even to indicate any place at all. Did the Government know where they meant to send these criminals? If they did, they could tell the Senate as well to-day as the Council of State to-morrow. But, if they did not know it now, could the Senate be sure they would know it in another six months? Surely here was a first step which was essentially legislative, and ought not to be left to the Executive. Then, as to the *régime*. Surely here, again, relegation was a punishment which might be light or severe according to the *régime*, and ought to be fixed by the Legislature. The Chamber of Deputies had said the *récidivistes* were to be free; and it was this prospect of 30,000 criminals at liberty and in possession of common rights which had really alarmed the colonies, and would have provoked a revolt if they had been strong enough for one. There were to be various classes of criminals, so that for crimes of unequal guilt there was to be a uniform punishment of penal servitude for life (*travaux forcés à perpétuité*). But there were to be some from whom this forced labour was not exacted. Were these to be the most guilty? No; they were to be men who had some personal resources. Now, it was revolting to argue that the least guilty might be treated more hardly than the most, merely because the latter had private means.

M. Laroze (Under-Secretary of State for the Interior) defended the Government.

M. Bérenger pointed out that the Minister of the Interior had now given a precise definition to the term "colonies:" it was only to mean Guiana.

M. Waldeck-Rousseau (Minister of the Interior): Chiefly (*notamment*) Guiana.

M. Bérenger: "Chiefly;" but, as it had been abundantly demonstrated that there was no other colony possible, the Senate would understand the true signification of the present vote to be the adoption of Guiana. But under the Empire they had been obliged to give up transportation to Guiana, and the sole question now was whether the Republic of 1855 would do what the Empire of 1868 had abandoned.

The President then explained the question to be voted upon, being the first paragraph of clause 1.

Clause 1 of the original Bill as passed by the Chamber of Deputies was that "relegation should consist in the perpetual *internement* within French colonies or possessions of the convicts which it was the object of the law to remove from France." The Senate Committee proposed to amend this by providing that relegation should consist in "the perpetual *internement* of the criminals to whom the law was to be applicable."

The Senate divided—For the Committee clause, 15; against, 227: majority against, 212.

The President then put the first paragraph of the clause in the shape passed by the Chamber of Deputies.

The Senate divided—Ayes, 182; Noes, 39: majority, 143.

The other two paragraphs of the clause, as proposed by the Senate Committee (Executive regulations to decide the place of relegation and the *régime* of enforced labour), were then agreed to, and clause 1 passed as amended.

9th February.—Clause 2 (relegation to be by sentence of tribunals) passed after a short debate respecting military sentences.

Clause 3 (political crimes excluded) agreed to.

On clause 4 (classes subject to relegation) M. Labiche moved an amendment leaving a discretion to the Judges to inflict relegation. The amendment was strongly supported by M. de Pressensé, but rejected by M. Waldeck-Rousseau. The Senate divided—For the amendment, 77; against, 170: majority, 93.

10th February.—The debate was resumed on clause 4. Ultimately part was agreed to, and the remainder referred back to the Committee.

Clause 5 (formerly 6, commuted sentences) agreed to.

Clause 6 (limit of age) agreed to.

Clause 7 (new clause, relegation not to release from army) agreed to.

Clause 8 (provisions respecting age) postponed.

Clause 9 (certain sentences to count) agreed to.

Clauses 10 to 17 (legal provisions) agreed to.

Next clause (sentences under law of 1854) negatived.

Clause 18 (formerly 19, Executive regulations to be made) agreed to with amendment.

Clauses 19 and 20 (legal provisions) agreed to.

Clause 21 (formerly 20, law to come into force on promulgation of first regulation) agreed to.

Clause 22 (formerly 23, repeal of provisions contrary to Bill in other Acts) agreed to.

New clause 23 (a report to be made to President of Republic on working of law) agreed to.

13th February.—The Senate resumed the consideration of clause 4. Put as a whole, and agreed to. Also clause 8 (postponed), agreed to.

On the question, "That the Bill as amended be agreed to," the Senate divided—For the Bill, 198; against, 20: majority, 178.

16th February, 1885.

F. D. BELL.

## No. 12.

The AGENT-GENERAL to the PREMIER.

SIR,—  
7, Westminster Chambers, London, S.W., 25th February, 1885.  
Upon thinking carefully over the debate in the French Senate on the second reading of the *Récidiviste* Bill, it seemed to me that the new facts which had come to light, and the change made in the structure of the Bill, afforded a fair opportunity for a fresh remonstrance to the Government of the Republic before the Bill could get down again to the Chamber of Deputies. The Agents-General thereupon asked for an interview with Lord Derby on the subject, which took place on the 18th instant.

As on previous occasions, my colleagues asked me to explain the position of the matter to Lord Derby. His Lordship concurred with us in thinking that, under the circumstances which had occurred, the Foreign Office might make a new representation to the French Government. He desired us, however, to put what we had said in writing, and I accordingly prepared a joint letter, at the request of my colleagues, which we have sent in to Lord Derby, and of which I transmit a copy herewith.

You will no doubt have noticed the significant statement in the Senate Committee's report, which I sent you the other day, that what is left of the State domain in New Caledonia will barely suffice, during the next three years, for the concessions of land which are required by the law of 1854. Just after the Bill was before the Senate last August the French Government issued a decree for the limitation of the penal territory in that colony, setting aside 50,000 acres for the operation of the *récidiviste* scheme. This decree caused vehement protests in New Caledonia; but at a meeting of the Conseil Supérieur des Colonies, a few days ago, the Under-Secretary of State for the French Colonies said that these protests were much exaggerated, that the decree had been issued because it was necessary, under penalty of soon coming to the time when the law of 1854 could no longer be applied, and that, if the penal reserve turned out to be too large, it could be remedied.

Desiring to confine the letter of the Agents-General as much as possible to what had taken place in the Senate, I thought it better to omit any mention of the tendency of public opinion in France against the Bill; but it may interest you if I briefly refer to statements which have appeared in some of the leading papers. The *Justice* says that the Bill, although it had been got through the Senate with the utmost difficulty after two years, merely satisfied a Ministerial phantasy, and even now decided nothing. The *Temps* says that the Senate had refused to follow the Chamber of Deputies in its Utopias, or to let itself be seduced by a dream of the regeneration of habitual criminals. The *France* says that the debate had demonstrated the foolishness of the Bill and the futility of any hope of free colonization; that the explanations of the Government had not met the arguments of their opponents; that the evidence proved there was no room left in New Caledonia; that it was no use to vote for relegation "in colonies or possessions," when there were none at the disposal of the Executive; that the cost would be tens of millions of francs every year; that what was taking place in every English colony at the mere mention of *récidivistes* being sent to New Caledonia ought to be a lesson; and that the Chambers ought not to pass a law which could never be carried out, and would be promulgated in vain. The *Economiste Français*, while supporting the principle of transporting great criminals, disapproves of the *récidiviste* scheme, and declares that it must yet be profoundly altered. The *Journal des Débats* says that the Chambers will have performed a *tour de force* if they pass a law which does not say where the *récidivistes* are to go, what they are to do, how many of them there are to be, or what they are to cost; that the Senate did not know what it was doing; that the estimates were mere suppositions; that it was impossible to estimate the cost within millions; and that a legislator fails in his duty when he votes, merely to have the air of doing something, for a law which he knows can never be carried out, and when he seeks to shield himself by throwing upon the Government the responsibility of enormous financial sacrifices and an inevitable failure. It is to be hoped that such expressions of public opinion, taking place within the last few days, will help any new representation which the Foreign Office may make in accordance with the letter of the Agents-General.

I have, &c.,

The Hon. the Premier, Wellington.

F. D. BELL.

## Enclosure.

THE AGENTS-GENERAL for NEW SOUTH WALES, VICTORIA, SOUTH AUSTRALIA, QUEENSLAND, and NEW ZEALAND to the COLONIAL OFFICE.

### *Récidiviste Bill.*

MY LORD,—

London, 25th February, 1885.

In compliance with your Lordship's desire, we beg now to place before you, in writing, the representations we made to you at our interview of the 18th instant on the subject of the *Récidiviste* Bill.



It will be in your Lordship's recollection that, at the interview with which you honoured some of us on the 19th November last, we traced the changes that had been made in the Bill from the time when it passed the Chamber of Deputies in June, 1883, to its first reading in the Senate in October, 1884. The scheme had recommended itself to the Chamber of Deputies by four leading features: the colonies to which the *récidivistes* were to be transported were expressly named, France was to be rid of 60,000 or even 80,000 of her most dangerous criminals, this riddance was to be effected at a very small cost, and the *récidivistes* were to be absolutely free on their arrival in the colony. Your Lordship will remember that this last feature seemed so incredible to you that you required the Agent-General for New Zealand to supply you with clear evidence of it, which was at once supplied, and has since been abundantly verified in the Senate debates.

The Bill as it left the Chamber of Deputies was largely amended at its first reading in the Senate last October. All the leading features of the original scheme were reversed. The names of colonies were struck out; transportation was to be limited to Guiana and New Caledonia; instead of 60,000 or 80,000 *récidivistes* there were only to be 12,000; instead of the scheme costing little, the estimate for the first three years was to exceed £1,000,000; lastly, instead of the *récidivistes* being free, they were to be under effectual restraint, and be liable to forced labour. These changes reflected one which was not less significant in French public opinion. There had always been serious objections to the Bill in France, but in the interval between the passing of the Bill in the Chamber of Deputies and its coming up to the Senate, these objections had been so powerfully urged, especially in regard to the "state of liberty," that the Government had been obliged to defer to them.

The Bill had only got as far as the first reading in the Senate, when the session was prorogued. In the interval between the prorogation and the reassembling of the Chambers in January the Senate Committee reinvestigated the whole subject, and they presented an elaborate supplementary report, by which the character of the Bill was again to be largely modified. They admitted that grave doubts now existed whether it was possible to carry out the law at all, for want of any colony where the "relegation" could take place. They allowed that the evidence laid before them had established the fact of there being no more room in New Caledonia, where there were already 10,000 convicts, and 3,000 *libérés*, who had to be supported by the State for want of work. The late Governor, M. Pallu de la Barrière, declared in emphatic terms that New Caledonia could not receive any *récidivistes*. They would not be able to find work, any more than the *libérés*. There were no industries in the colony, and the *libérés* furnished more workmen than were wanted; while the free colonists would always prefer recruits from the New Hebrides at 45 francs per month, or *forçats* at 65 francs, to *libérés* who would not work under 8 to 10 francs a day. The *relégués* would require the same wages, though they would be more dangerous and less apt to work than the *forçats*; and if they did not get work they would, perforce, come back to the State, as the *libérés* did, for sustenance. As to concessions of land, what remained of the State domain would barely suffice up to 1888 for the concessions to *libérés* required by the law of 1854, or for the free emigration which was the indispensable counterpoise of any scheme of transportation; so that, in order to allow of any concessions being made to the *relégués* at all, either transportation must very soon cease or the allocation of land to free colonists must come to an end, which meant the ruin of the colony. The Governor of Guiana, M. Chessé, advanced a sustained and powerful argument against the whole scheme of relegation as originally proposed, and especially against the *relégués* being free on arrival. He warned the Government that, although the cost of the scheme might begin at a few hundred thousand francs, it would soon have to be counted by millions; he showed that, out of 22,000 convicts transported to Guiana since 1854, perhaps ten *libérés* might be counted as having established themselves, and even these were all old soldiers, who had nothing about them of the *forçat* but the name; and he then went on to propose a rigorous system of restraint, under which he thought relegation might be possible, provided the law itself laid down that every *relégué* who did not get his own living should be held to forced labour, and subjected to military jurisdiction and discipline. M. Schœlcher, a member of the Senate and Vice-President of the *Conseil Supérieur des Prisons*, presented protests from Guiana and New Caledonia, confirming all that the Governors of those colonies had said. New Caledonia has no representative in the French Parliament; but its delegate to the *Conseil Supérieur des Colonies* entreated the Government of the mother-country, after having inflicted upon the colony one scourge in the *libérés*, not to inflict another yet worse in the *relégués*.

The Senate Committee confirmed the evidence of the Governor of New Caledonia. After a renewed and exhaustive study of the question, showing that there was really no colony in which it could be said with certainty that the law could be safely put in force, they advised the Senate to leave the choice of territory entirely to the Government. They admitted that the possession of absolute liberty and common rights by incorrigible malefactors constituted a peril so great that the law could never have been really carried out. They showed that the number spoken of at the first reading of the Bill in October, 1884, must be now largely increased. According to the earlier returns, they had been willing to accept the estimate of 5,000 for the first year, 4,000 for the second, and 3,000 for the third; but a later return, supplied to them by the Minister of Justice, showed that not less than 30,000 would have come under the original Bill, and 21,000 under the present one. It was argued within the Committee that even this number might turn out to be much less than the reality; that the growing augmentation of *récidive* had not been taken into account; that sentences of military and naval tribunals entailing relegation had been altogether left out; that various offences had also been omitted; that, in addition to the 30,000 who would come immediately under the law, there were large numbers whom previous sentences would place in the same category; that there were really more than 60,000 on whom a fresh sentence would entail relegation; and that it was not 12,000, but perhaps 30,000, who would have to be relegated in the first three years. The Committee admitted that the 21,000 indicated by the Minister must be very much increased. They did not pretend that there was any more than an approximate estimate of the number to be

relegated. All they would say was that "it was not impossible to admit that the Government estimate approached the truth." Nevertheless, they still urged that, the greater was the number the greater was the gravity of the peril to society and the clearer the necessity for the Bill.

The debate on the second reading extended from the 5th to the 13th February. The Bill was denounced by several Senators in unmeasured terms; but the Minister of the Interior (M. Waldeck-Rousseau) repeated the official arguments as to the absolute necessity of transportation, and announced the determination of the Government to go on with the scheme in Guiana. In none of the speeches was any attempt made to meet the objections to its application to New Caledonia. A general feeling, indeed, seems to have arisen that the Ministers had given up New Caledonia, and an endeavour was made to pin the Government to this, on the ground that it was now impossible to mistake M. Waldeck-Rousseau's meaning, and that for the term "colonies" the Senate must read "Guiana only;" but the Minister would only say it was to be chiefly Guiana (*notamment la Guyane*).

The Senate was evidently determined to pass the Bill in some shape, and on a division the second reading was carried by the large majority of 178. But everything was left to the Executive: the place of relegation, the numbers to be sent, the *régime* to be applied, and the cost. All this was to be fixed by Executive regulation, six months being allowed to the Government for promulgating the first regulation, after which the law was to come into force.

It is at this stage that we have ventured to ask your Lordship to make another appeal to the French Government, before the Bill goes back to the Chamber of Deputies. We have more than once acknowledged the obligations of the colonies to Her Majesty's Ambassador at Paris for the manner in which he has so often pressed their wishes upon M. Ferry; and we hope Lord Lyons may see, in the present state of the Bill, a fair opportunity for renewing his efforts, and inducing the French Ministers to concede what Australasia so earnestly desires. There can no longer be a pretence that New Caledonia is able to take any *récidivistes*. Surely it would be a wanton thing to send them there now, in the face of the evidence that has come to light, and of the repeated protests of the French colonists themselves. In the confident hope that their own reiterated remonstrances would not be always rejected by a great and friendly nation, the English colonies have refrained as yet from passing those measures of self-protection to which the Imperial Government has acknowledged that assent could not now be refused. They desire nothing better than to live in amity with the French settlers, and to see the French colony flourish. The Government of the Republic can now do what the free colonists of both nations alike have asked, without giving up the point which M. Ferry refused to yield; and the change in the structure of the Bill, which leaves absolute power to the Executive, may enable a friendly understanding to be come to that New Caledonia should not be chosen for the relegation, without derogating in any way from the honour or the dignity of France.

We have, &c.,

ARTHUR BLYTH.	R. MURRAY-SMITH.
SAUL SAMUEL.	J. F. GARRICK.
F. D. BELL.	

The Right Hon. the Earl of Derby, K.G., &c.

### No. 13.

The AGENT-GENERAL to the PREMIER.

7, Westminster Chambers, London, S.W., 12th March, 1885.

SIR,— I transmit herewith copies of a letter I have received from the Colonial Office on the subject of the Récidiviste Bill, and of my reply.

I am unable to send you the enclosures mentioned by the Colonial Office, as they were in original, and I had to return them immediately after perusal. They consist, however, of communications from the Foreign Office to the Colonial Office, enclosing despatches from Lord Lyons, of which I annex a list. You will appreciate these new proofs of the constant interest which has been manifested throughout by Her Majesty's Ambassador at Paris.

In one of his letters Lord Lyons says: "The Bill sent up by the Chamber of Deputies has, as your Lordship will have observed, been so much modified by the Senate as to have become, in fact, almost a new Bill. It will now go back to the Chamber with the Senate amendments, and it is not certain that those amendments will be agreed to."

The Hon. the Premier, Wellington.

I have, &c.,

F. D. BELL.

### Enclosure No. 1.

The COLONIAL OFFICE to the AGENT-GENERAL for New Zealand.

SIR,— Colonial Office, Downing Street, 11th March, 1885.

I am directed by the Earl of Derby to acknowledge with thanks the receipt of your letters of the 11th and 20th ultimo, forwarding a *précis* of the supplementary report of the French Senate Committee on the Récidiviste Bill and notes of debates in the Senate on the second reading of the Bill.

I am also to transmit to you for your perusal copies of three letters, with their enclosures, on the same subject, from the Foreign Office, which it is requested may be returned at your earliest convenience.

I have, &c.,

The Agent-General for New Zealand.

JOHN BRAMSTON.

## Enclosure No. 2.

The AGENT-GENERAL for New Zealand to the COLONIAL OFFICE.

SIR,—

7, Westminster Chambers, London, S.W., 12th March, 1885.

I have the honour to acknowledge the receipt of your letter of yesterday's date, transmitting for my perusal copies of three letters from the Foreign Office, with their enclosures, on the subject of the Récidiviste Bill.

I beg permission to offer my thanks to the Earl of Derby for allowing me to peruse these papers, and to say that I am taking care to make known to the New Zealand Government these new proofs of the constant regard for the interests of Australasia shown by Her Majesty's Ambassador at Paris.

In accordance with Lord Derby's desire, I beg to return the papers herewith.

The Under-Secretary of State for the Colonies.

I have, &c.,

F. D. BELL.

## Enclosure No. 3.

LIST of DESPATCHES from the FOREIGN OFFICE to the COLONIAL OFFICE relating to the Récidiviste Bill.

1. 6th January, 1885.—Foreign Office to Colonial Office, enclosing letter from the Ambassador forwarding Supplemental Report of the Senate Committee:—

Lord Lyons, 3rd January, to Lord Granville, describing the various sections of annexed report.

2. Foreign Office to Colonial Office, 16th February, enclosing despatches from the Ambassador:—

Lord Lyons, 6th February.—Commencement of the Senate debate. Sketch of the speeches.

8th February.—Continuance of the debate.

10th February.—Continuance of the debate.

3. Foreign Office to Colonial Office, 23rd February, enclosing despatches from the Ambassador, dated 7th February, 11th February, 13th February, and 14th February.

Lord Lyons, 7th February.—Continuance of Senate debate on the Bill.

11th February.—The same.

13th February.—The same.

14th February.—Conclusion of Senate debate.

## No. 14.

The AGENT-GENERAL to the PREMIER.

SIR,—

7, Westminster Chambers, London, S.W., 26th March, 1885.

I have the honour to transmit herewith copy of a letter which I have received from the Colonial Office, enclosing copy of a despatch addressed by Earl Granville to Her Majesty's Ambassador at Paris, instructing His Excellency to make another urgent appeal to the French Government in order to bring about an understanding between Her Majesty's Government and the Government of the Republic that New Caledonia shall not be chosen as one of the places of transportation under the Récidiviste Bill.

I also transmit herewith two telegrams from the *Times* relating to the action of the Deputies' Committee on the Bill. You will observe that the Committee yesterday adopted the Bill in the shape agreed to by the Senate. The debate in the Chamber will take place after Easter.

The Hon. the Premier, Wellington.

I have, &c.,

F. D. BELL.

## Enclosure No. 1.

The COLONIAL OFFICE to the AGENT-GENERAL for NEW ZEALAND.

SIR,—

Colonial Office, Downing Street, 23rd March, 1885.

I am directed by the Earl of Derby to acquaint you that his Lordship referred to the Secretary of State for Foreign Affairs a copy of the joint letter signed by yourself and the Agents-General for the Australian Colonies, requesting that another appeal may be made to the French Government, urging that New Caledonia may not be chosen as one of the places of transportation under the Habitual Criminals Bill.

Lord Derby desires me to enclose, for your information, a despatch received through the Foreign Office, which Lord Granville has addressed to Her Majesty's Ambassador at Paris upon this subject.

The Agent-General for New Zealand.

I have, &c.,

R. H. MEADE.

## Enclosure No. 2.

Lord GRANVILLE to Lord LYONS.

MY LORD,—

Foreign Office, 16th March, 1885.

In compliance with a request which I have received from Her Majesty's Secretary of State for the Colonies, I transmit to your Excellency herewith copy of a letter which has been addressed to the Colonial Office by the Agents-General of the Australasian Colonies, and which

contains renewed representations on the subject of the Habitual Criminals Bill, now before the French Legislature; and I have to request that your Excellency will, in the manner you think most judicious, make an urgent appeal to the French Government, in the sense suggested, in order to bring about an understanding with Her Majesty's Government, both in the interests of the Australian Colonies and for the better preservation of peace and order in the Pacific, that New Caledonia shall not be chosen as one of the places of transportation under the Bill.

His Excellency Viscount Lyons, G.C.B., &c.

I have, &c.,  
GRANVILLE.

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### Enclosure No. 3.

[The Times, Saturday, 21st March, 1885.]

Paris, 20th March.

THE Committee on the Récidivistes Bill agreed to-day to the Senatorial amendments except those relating to the specifying of the localities, conditions of labour, and police supervision. On these points it will confer with the Ministers of the Interior and Marine, and it will not report until after the Easter recess.

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### Enclosure No. 4.

[The Times, Saturday, 26th March, 1885.]

The French Récidivistes Bill.

Paris, 25th March.

THE Committee on the Récidivistes Bill has adopted the measure in the form voted by the Senate. M. Waldeck-Rousseau, conferring to-day with the Récidivistes Bill Committee, intimated that the worst class of convicts would be sent to Cayenne, while others would be sent to colonies in want of workmen, or in which their aptitudes or handicrafts would render them useful.

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### No. 15.

The AGENT-GENERAL to the PREMIER.

SIR,—

7, Westminster Chambers, London, S.W., 9th April, 1885.

I transmit herewith a letter from the Colonial Office, enclosing one from the Foreign Office covering a despatch from Her Majesty's Ambassador at Paris, with the account of a conversation between himself and M. Jules Ferry, on the 18th March, on the subject of the Récidiviste Bill.

You will perceive with regret that, notwithstanding the renewed remonstrances of Lord Lyons, the French Minister declared that his Government could not abdicate freedom of action with regard to a French colony by any engagement with a foreign Power.

The Bill was brought down from the Senate to the Chamber of Deputies by the Minister of the Interior (M. Waldeck-Rousseau) on the 17th March.

A Committee had been appointed by the Chamber to report upon the Bill, and on the 19th this Committee adopted the four first clauses as amended by the Senate. They had, in fact, practically made up their minds to accept all the Senate amendments, on the ground that the measure ought to be passed before the dissolution, which must soon take place.

On the 21st March the Committee sat again, and decided to examine the Government upon these two points: First, the Chamber had decided that the *récidivistes* should be free on arrival, whereas the Senate now desired that they should be constrained to labour; and the Committee wanted to know by what means the Senate's decision was to be carried out. Second, the Chamber had decided that only free pardon could put an end to relegation, whereas the Senate now proposed that, after six years, a colonial tribunal might remit the sentence; the Committee wanted to know exactly how this would be regulated.

At the same sitting the Committee expressed the desire that New Caledonia should be chosen as the place of relegation instead of Guiana. On the 26th March the Committee heard M. Waldeck-Rousseau, who was accompanied by M. Larose (formerly a member of the Committee, but now Under-Secretary for the Interior) and by M. Herbette (Director of Penal Services).

As to place of relegation, the *récidivistes* would first be interned in French penitentiaries, and then be divided into three classes: (a.) Criminals condemned for light offences, and capable of following their trades in the colony. These would be sent to colonies which asked for them, and their position as *relégués* would not be divulged. (b.) *Récidivistes* possessing no resources. These would be specially relegated to Guiana and New Caledonia, where they would be brigaded and employed by the State on public works. (c.) *Récidivistes* who, having belonged to the preceding class, created for themselves some personal resources in the colony, or were engaged by private employers; these would not be brigaded at all.

Upon hearing these explanations from the Minister, the Committee determined to adopt all the Senate amendments in the Bill. They further decided that the business of relegation as well as transportation, hitherto attached to the Ministry of Marine and Colonies, should be transferred to the Ministry of the Interior.

M. Gerville-Réache was then ordered to draw up the report, which was adopted by the Committee on the 28th March, and brought up to the Senate on the 29th.

I have sent to Paris for copies of the report, and as soon as I receive them will make a *précis* thereof, as I did in the case of the previous reports.

The Hon. the Premier, Wellington.

I have, &c.,  
F. D. BELL.

## Enclosure.

The COLONIAL OFFICE to the AGENT-GENERAL for NEW ZEALAND.

SIR,—

Colonial Office, Downing Street, 2nd April, 1885.

With reference to the joint letter signed by yourself and the Agents-General for the other Australasian Colonies on the 25th of February, and to the reply from this department of the 23rd ultimo, respecting the French *Récidivistes* Bill, I am directed by the Earl of Derby to transmit to you, for your information, a copy of a letter from the Foreign Office, enclosing a despatch from Lord Lyons, in which he reports the steps which he has taken in the matter.

The Agent-General for New Zealand.

I have, &c.,

JOHN BRAMSTON.

## Sub-Enclosure.

The UNDER-SECRETARY of STATE, Foreign Office, to the UNDER-SECRETARY of STATE, Colonial Office.

SIR,—

Foreign Office, 23rd March, 1885.

With reference to my letter of the 16th instant, I am directed by Earl Granville to transmit to you the accompanying copy of a despatch from Her Majesty's Ambassador at Paris, reporting the steps taken by His Excellency in pursuance of his instructions to address an urgent appeal to the French Government against the transportation of habitual criminals to New Caledonia, and recording the substance of a conversation which has taken place between M. Jules Ferry and himself upon this subject.

In laying this paper before the Earl of Derby, I am to suggest that you should move his Lordship to cause it to be communicated to the Agents-General of the Australasian Colonies.

I have, &c.,

J. PAUNCEFOTE.

The Under-Secretary of State, Colonial Office.

## Sub-Enclosure.

HER MAJESTY'S AMBASSADOR at Paris to the FOREIGN OFFICE.

MY LORD,—

Paris, 18th March, 1885.

With your Despatch No. 230, of the day before yesterday, your Lordship did me the honour to send me a copy of a letter on the subject of the Habitual Criminals Bill, which was addressed, on the 25th ultimo, by the Agents-General of the Australian Colonies to Her Majesty's Secretary of State for the Colonial Department.

I went this afternoon to M. Jules Ferry and told him that, in pursuance of instructions from your Lordship, I had come to appeal to him once more against the transportation of habitual criminals to New Caledonia. I said that I had seen with great satisfaction that the Bill, as amended by the Senate, left the selection of the places to which these criminals were to be transported absolutely in the hands of the Executive Government; and I added that, this being the case, I could not help hoping that, in the interest of the Australian Colonies and for the better preservation of peace and order in the Pacific, the French Government would be willing to come to an understanding with the Government of Her Majesty that New Caledonia shall not be chosen as one of the places.

I argued that the proceedings in the Senate Committee and in the Senate itself showed that there was, in truth, no room in New Caledonia for the relapsed criminals, that their presence would be hurtful to the colony, and that it was far from being desired by the French colonists themselves. I used the arguments set forth in the letter of the Agents-General, as well as those suggested by my own acquaintance with the subject. I pointed out in particular that, in the confident hope that their remonstrances would be considered by the great and friendly nation of France, the Australian Colonies had hitherto refrained from adopting legislative measures for self-protection. It would, I said, be a matter for deep regret if the very satisfactory growth of commercial intercourse between France and the British Colonies were to be checked by such measures. The Australian colonists desired nothing better than to live in cordial friendship with their French neighbours in New Caledonia, and to see that French possession flourish. It was now, I observed, entirely within the power of the French Government to strengthen these good dispositions and to relieve the alarm and anxiety which the Bill had caused. Nothing more was wanted than an assurance which, as matters now stood, would entail no sacrifice—a promise, in fact, or understanding that relapsed criminals should not be sent to New Caledonia.

M. Jules Ferry replied that it would be difficult to avoid sending some few *récidivistes* to New Caledonia, but that it was far from being intended by the French Government that that should be the principal place of transportation. On the contrary, the number would be small, and the individuals would be selected from classes not likely to be dangerous. It, moreover, was to be remembered that, under the Bill as amended by the Senate, the relegated *récidivistes* would be subjected to restraint, and would be under strict control. Under these circumstances, he could not conceive that their presence in New Caledonia would be a greater inconvenience to the Australian Colonies than was that of the ordinary criminals already transported to that French possession.

I observed to M. Jules Ferry that I had from time to time furnished him with evidence that the transportation of ordinary criminals to New Caledonia had been productive of evil consequences to Australia; and I urged that, if the number of habitual criminals sent to New Caledonia was, in fact, to be very small, it could not be a very great sacrifice to give up sending any at all thither.

After some further discussion M. Jules Ferry said that I could not fail to understand that, as a matter of principle, the French Government could not abdicate its freedom of action with regard to a French colony by an engagement with a foreign Power,

I begged M. Ferry, nevertheless, to bear in mind the representation I had just made by your Lordship's order; and, in order that it might serve as a memento, I put into his hands a paper giving, in a few lines, the substance of the last paragraph in your Lordship's despatch.

The Habitual Criminals Bill, as amended by the Senate, was brought back to the Chamber of Deputies the day before yesterday by the Minister of the Interior.

I have, &c.,  
LYONS.

The Earl Granville, K.G., &c.

## No. 16.

The AGENT-GENERAL to the PREMIER.

SIR,—

7, Westminster Chambers, London, S.W., 22nd April, 1885.

In continuation of my letter of the 9th instant, No. 420, I now transmit to you herewith *précis* of the report of the Deputies' Committee on the *Récidiviste* Bill. You will be kept informed in due course of the progress of the Bill through the Chamber.

I have, &c.,

The Hon. the Premier, Wellington.

F. D. BELL.

## Enclosure.

### RÉCIDIVISTE BILL.

NOTE.—The following *précis* of the Deputies' Committee report, like those of the Senate Committee's reports of August, 1884, and January, 1885, omits much of the general argument, retaining only that which has seemed to me of special interest to Australasia.—F. D. BELL, 15th April, 1885.

PRÉCIS of the Report of the Chamber of Deputies' Committee (M. Gerville-Réache), 28th March, 1885.

#### 1. Introduction.

THE report begins by stating that the Bill had come down from the Senate in order to hasten and facilitate the reform of the penitentiary system in France, and goes on to describe the amendments made by the Senate.

The Senate had seen that the Bill was desired by the whole country, without distinction of political party, and that if it was skilfully applied the measure would produce a double result—first, that of purging the mother-country of dangerous criminals, and then that of transforming the solitudes of New Caledonia and the marshes and forests of Guiana into rich and prosperous countries.

The Committee thought it their duty to remind the Chamber that they had never ceased to profess the opinion that repressive measures against habitual criminals must form part of a series of reforms which could only be really effectual if the whole series was carried into effect at an early period.

#### 2. Examination of the Clauses.

The previous reports of the Committee had sufficiently expressed their views: they would therefore confine themselves now to the questions raised by the Senate's amendments.

In the first place, the Senate had suppressed the names of places where relegation was to take place. Now, on looking at the Senate debates, the Committee observed that the Government, although agreeing to the suppression of names, had very clear intentions on the subject, the Minister of the Interior having announced that the *récidivistes* would be relegated to New Caledonia and Guiana, in the proportion of one-fifth to the former and four-fifths to the latter.

If the places of relegation were not to be inscribed in the Bill, the choice of place became part of the ordinary execution of the law, belonging exclusively to the Government, under its responsibility to the Chambers. The opinions of Admiral Jauréguiberry, M. Billet, and M. Brun had led the Committee to invite the Department of Marine and Colonies to state precisely the number of *récidivistes* capable of being sent to New Caledonia; but they had never been able to obtain the exact information that was desired. The Department had always confined itself to giving the area and population of the island. The figures so given seemed to show that New Caledonia could receive a considerable number of colonists, whether *relégués* or free; and the fact that there was plenty of available territory for relegation was beyond all contradiction. [Here follow quotations from a report of the Local Commission, dated 4th April, 1883, showing that New Caledonia possessed a large extent of available land, and citing a number of official facts to demonstrate this; with the recommendation that a tax should be imposed upon unoccupied concessions of land, with the view of either obtaining money for the Treasury or restitution of the land to the State. The report then goes into long details with respect to Guiana, and into sanitary comparisons between that colony and other countries.]

Whatever might be thought about Guiana, however, and whether that colony was fit for relegation or not, ought to make no difference in voting the Bill. As to the protestations which had been sent in from Guiana and New Caledonia, they had been addressed neither to the Chamber nor to the Committee. The Guiana protest had emanated from the Conseil-Général; the New Caledonia protest had been made by the delegate from that colony to the Conseil Supérieur. The reasons alleged against the Bill simply amounted to a fear that in New Caledonia the *relégués*, if left to themselves, would resort to pillage. The protest had concluded with the suggestion that some of the islands of the New Hebrides Group should be chosen for relegation. This would certainly be a desirable solution, but it could not be dealt with at all until the international questions still pending with regard to those islands had been decided.

The other chief amendment by the Senate related to the *régime* of the relegation. Now, no question had been more fully considered by the Committee. They had over and over again called

the attention of the Ministers of the Interior, of Justice, and of Marine to its importance; and it was upon their proposition, and in absolute accord with them, that the Committee had pronounced in favour of what had been called the "*état de liberté*." The agitation which had since arisen now imposed upon the Committee the duty of a complete explanation. [The report then goes on to describe the views of the Senate as well as of the Chamber, and to examine in what consisted the difference between them.] Up to a certain point, even if the views of the Senate differed in any way from those of the Chamber, that difference was only in a few passages of their reports, and existed more in appearance than in reality. The Deputies' Committee as well as the Senate Committee had always foreseen that the greater number of *relégués* would demand work from the State, and had declared the corresponding right of the State to lay down the conditions under which it should be granted. Between the first and second reading of the Bill in the Senate the Committee of that body had criticised the "state of liberty" as being one resulting from the original report of M. Gerville-Réache, and had said they had never been favourable to it; but the Senate Committee had, in reality, mistaken the ideas and the wishes of the Deputies' Committee, whose reports had always shown a foresight of the measures that must be taken for the security of the colonies, and an appreciation of the duty to subject the *récidivistes* to a supervision more or less prolonged before even sending them out to the colony. They were to be divided into two series: First, *relégués* who could immediately take up land or obtain employment for themselves; and, secondly, *relégués* sent collectively to colonies properly prepared for their reception by large establishments as well as a sufficient number of guards.

The Senate had now, however, gone further, in deciding that *relégués* who had no means of existence should be constrained to forced labour. It was quite understood, nevertheless, that whenever a *relégué* could gain his own livelihood he was free to dispose of himself as he pleased. The Senate amendment, therefore, only gave the Executive the right to keep in State establishments those *relégués* who had neither employment nor personal resources, and was merely the corollary of a duty in the State to provide a *relégué* with the means of subsistence. This was really the only difference between the two Chambers, and the Committee were the more willing now to agree to the Senate amendment, as their object was the same—namely, to reassure the inhabitants of penal colonies and shelter them from the dangers they feared. It still remained settled, under the amendment as well as before, that relegation must not be confused with transportation. The essence of transportation was the entire deprivation of liberty, coupled with the imposition of the hardest labour; while the essence of relegation was only *internement* in some colony. The *relégué* would arrive free in the colony; he would not be constrained to forced labour if he had any means of existence of his own or could obtain employment. This must be taken in a sense favourable to the *relégué*: it would not be in the least necessary for the engagement to be for a long period, otherwise it would be a kind of disguised servitude; on the contrary, an engagement might either be by the year, or month, or week, or only by the day, so long as it was genuine. The single thing required was that the *relégué* should show that he had means of existence by his own labour. [The report then goes on to discuss what would be the most profitable system of relegation to a colony, and to give the reasons for so small an amount of public works having been constructed in New Caledonia or Guiana; also how both transportation and relegation ought to be put at the service of the penal colonies, and the free settlers be preserved from contact with the criminals.]

The Committee had thought it their duty to hear again what the Government had to say on both the place and the *régime* of relegation. The ministers had explained that those of the *récidivistes* who were good tradesmen would be sent to colonies which asked for them; that the great majority would be sent to New Caledonia and Guiana, in two groups, one being employed in State establishments, and the other obtaining private employment. M. Leveillé, Professor of the Faculty of Law in Paris, who had been sent to Guiana by the Department of Marine and Colonies, had returned with the conviction that that colony was fit to receive *récidivistes*; and he would shortly send in a report to that effect, which the Committee hoped would be made public before the Bill was again debated in the Chamber. [The report then deals with legal points in various clauses in the Bill.]

The Committee conclude with the following words: "These, then, are the amendments made by the Senate in the Bill, and to these we now ask the Chamber to consent, in order not to expose the Bill to parliamentary delays always too great for the country, whose patience is being exhausted by the offences of the habitual criminals whom we are now asking you to repress."

True *précis*.

F. D. BELL.

15th April, 1885.

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## No. 17.

The AGENT GENERAL to the PREMIER.

SIR,— 7, Westminster Chambers, London, S.W., 20th May, 1885.

I have to inform you, with great regret, that the *Récidiviste* Bill has passed the Chamber of Deputies without amendment, in the shape it came down from the Senate, by 383 votes to 52, a majority of 331.

I transmit to you herewith some notes of the debate, which occupied three sittings. I am taking out a few notices that have appeared upon the Bill in the French papers, and will then address you again.

I have, &c.,

The Hon. the Premier, Wellington.

F. D. BELL.

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## Enclosure.

RÉCIDIVISTE BILL.—Notes of the Debates in the Chamber of Deputies, on the 9th, 11th, and 12th May, 1885, on the Bill as brought down from the Senate.

*Sitting of 9th May*: A decree of the President of the Republic was read, designating M. Herbette Councillor of State and Director of Penal Administration, to assist the Minister of the Interior in the debate on the Bill.

M. Nadaud wished the Bill to be postponed until the penal system should be amended. It was a sacrilege to pass such an abominable law.

M. Freppel (Bishop of Angers) said that it was evident the Chamber wanted to have done with the Bill. He was not hostile to its principle, but the punishment of relegation ought only to be inflicted for grave crimes, whereas it was to be inflicted for offences bearing no proportion to the penalty.

M. Amouroux said that, instead of the Bill being one against relapse into crime, it was, on the contrary, one to encourage it. When criminals found that all they had to do in order to get to the colonies was to commit a slight offence punishable by a year's imprisonment, the number of *récidivistes* would increase. The Committee Reporter pretended that there was plenty of land available in New Caledonia. [M. Gerville-Réache: No, it was not I who said so, but a Commission which investigated the matter on the spot.] Well, at any rate, the statement was entirely incorrect; there was no land there at all. The insurrection of 1878 had taken place because there was none; and, even if only fifteen hundred to two thousand *récidivistes* were to be sent now, there would be another insurrection within three years.

M. Lelièvre supported the Bill, and M. Franconie opposed it.

M. Allain Targé, Minister of the Interior, defended the Bill. The [new] Government asked the Chamber to vote the Bill. The country had strongly expressed its will that the "army of crime" should be expelled *en masse* from France. It was not pretended that the Bill was perfect: it could not even be said to be complete, since it required executive regulation to make its execution possible. There was an immense task before the country, of which the Bill was only the first tentative step, and it would require successive measures, some of which [M. Berenger's being one] were already under consideration. Relegation had been described as perpetual, but it might be remitted after six years. He (the Minister) had asked for power not to apply the penalty in all its rigour; whereupon it had immediately been said that the Ministry was seeking arbitrary powers; and the Committee had refused because the Parliament must soon be dissolved, and amendments must be avoided that necessitated the Bill being returned again to the Senate. As to the cost of the measure, the Government would have to come for a vote; but, as to the executive regulations, he would take the responsibility of them in the Council of State. What had decided him was not only the desire to carry out the will of the country, but the impossibility of receding before crime. During two years, in the central prisons, in the world of vice and of crime, the law had been spoken of with terror. His predecessor (M. Waldeck-Rousseau) had cited the evidence of every director of the central prisons to show how terrifying had been the effect of the announcement that the law would pass; and, if the criminals now heard that it was to be subjected to fresh discussions and delays, there would certainly be a cry of triumph throughout the army of crime. He therefore called upon the Chamber to adopt the Bill in the shape now before them, not to send it back to the Senate, not to stop at criticisms about details which could be easily answered. The law must be definitively settled, so that no one could ever again put in question the principle of relegation.

M. Perin renewed his arguments in former sessions against the Bill. The Minister had just admitted it to be so imperfect that as soon as it was voted he must make another law himself; and on the day that he tried to apply the law he would find how impossible it was, and then public opinion, to which the Government was so imprudently yielding, would turn against him.

M. Gerville-Réache (Reporter of the Committee) said that the Committee had defended, at the first and second readings of the original Bill, their designation of the places of relegation; but the Senate had struck out the places altogether. It was not to the Committee that the objection ought to be addressed that one place or another was incapable of receiving *récidivistes*; the Committee would take no responsibility now, the places of relegation having been left to the Government alone to decide.

M. Rousseau (Under-Secretary for the Colonies) said that, although the Bill as amended did not designate places of relegation, it offered less difficulties than the original one. The Chamber had originally voted in principle the liberty of the *récidivistes*: under that condition of liberty the designation of particular colonies involved many difficulties, as well as fears on the part of the colonies themselves. But when the Bill went up to the Senate opinion had pronounced itself in a different sense. The liberty of the *récidiviste* remained the principle, but in its application there must be recourse to *internement* and forced labour for the greater number. The Government were not suppressing the liberty of the *récidivistes*, nor condemning all to a forced *internement*. All those of good conduct or who could get work would still be left in liberty, and the principle embodied in the [original] Bill was therefore respected. But as any men who could not get private employment must of necessity be maintained in some place of *internement*, these would be held to labour on public works. The Committee's report had shown that there were now 100,000 *hectares* of land available in New Caledonia, which was much more than sufficient. The discussions had been limited to New Caledonia and Guiana; but the Government were by no means prevented from designating other places, notably those accepted by the Chamber in the original Bill. As to Guiana, Professor Léveillé, who had very adversely criticised the Bill, and who had been sent there to inquire, now admitted it to be possible to attempt relegation there under prudent conditions.

M. de Lanessan opposed the Bill. Free relegation was now given up; they all knew it was

impossible to transport, either to New Caledonia or Guiana, or indeed anywhere else, any number, however small, to be free on arrival. The term "relegation" was a mere euphemism. Having renounced the idea of free relegation, they were now in face another difficulty. Of two things, one: either they were going to maintain their *relégués* without making them work, or they were going to have forced labour, which was the same as the galleys. It had been said just now by the Under-Secretary that the *relégués* to New Caledonia or New Guinea would be free to choose a means of living, and would get employment if they chose to work; but from the day that the *libérés* had undergone their sentence they were free to seek employment, and they could get none. Every Governor of New Caledonia and Guiana had declared it. Now the *libérés* were exactly like the *récidivistes*; no one knew what to do with the *libérés*, because they could not be held to forced labour, and it would be just the same with the *relégués*: they would not choose to work, and they would get none if they did. The Under-Secretary knew this perfectly well; and he would very likely be obliged to cancel the agreements made with proprietors of mines, because they were unable to employ the men placed at their disposal. Every one knew that there were already too many convicts in New Caledonia; Governor Pallu de la Barrière had declared that in a few years, and at latest in 1888, she could take no more. If labour was possible for Europeans in New Caledonia, it was almost impossible in Guiana; and neither in New Caledonia nor in Guiana could the law be put in force.

Count Albert de Mun said that surely the Government could not leave M. de Lanessan's speech without reply. The Chamber was indeed in a singular position. The only result of the debate, and especially of the Minister's speech, was to prove that the Bill was one that could not be put in force by itself, but must be transformed into another to be made by the Minister himself. He could understand that the executive regulations could not be laid on the table at once; but surely the Government had some ideas and plans already prepared? Here was a whole population about to be relegated somewhere in perpetuity, by virtue of an executive regulation of which the Chamber knew not a word. Just now a member of the Government had spoken of M. Léveillé's mission to Guiana. Now, M. Léveillé was an opponent of the Bill, and had published some very interesting articles on the subject. Surely his mission must have ended in a report? Where was it? [A member of the Committee: It does not exist.] Very well, then, let the Chamber wait for it before voting the Bill. It was not enough to want to rid the country of *récidivistes*; it must also be known what was to be done with them: and M. Léveillé had said, "You want to make a law about sweeping, and you don't know what you are going to do with your sweepings."

M. Delattre invited the Government to publish M. Léveillé's report.

The Minister of the Interior: There is none.

M. Delattre: Then let him be appointed a Commissary of the Government, to give explanations at the tribune.

*Sitting of 11th May*: M. Pierre Alype said that in Guiana they would not have *récidivistes* at any price. The *Conseil Général* there had rejected the scheme with indignation.

M. Herbette (Commissary of the Government and Director of Prisons) gave a long explanation of the penal system in French prisons, and a history of all that had led up to the present Bill. Relegation differed from transportation, in that every criminal relegated must have undergone a "principal sentence" in some penal establishment in the Mother-country. Relegation consisted in a state of *internement* outside France, after a series of previous sentences; it was not like transportation, a punishment that ought to be dreaded only next to death. Under existing conditions, transportation had been transformed into a kind of impunity. Had it not been necessary to pass a special law to prevent offenders from getting themselves sent to New Caledonia? This was because they hoped to find there comparative liberty, and to create for themselves in a few years a pleasant existence. When criminals were condemned to reclusion in the central prisons, they lamented not having been sent as *forçats* to New Caledonia. Under the existing conditions, any increase of transportation to New Caledonia would only aggravate the evil, and this had led to the idea of "relegation." [M. Herbette then explained the process by which a criminal would incur the sentence.] Relegation being thus made clear in principle, how was it to be applied? The voting of relegation entailed a revision of the whole system of transportation, and an official commission must carefully study the proper conditions both of relegation and transportation; which was a work belonging not to a law, but to executive administration. Under the existing law [of 1854] convicts had been transported *en bloc*, first to Guiana and then to New Caledonia, without any previous classification. The course now to be taken would be to examine one by one every criminal capable of being relegated, before sending him to his place of relegation. The first thing was to distinguish between "collective" and "individual" relegation. In several colonies and possessions there was a scarcity of labour; why not supply this want by a selection among the criminals to be relegated? Where a demand existed for artisans, if some of the criminals deserved to be sent there, why could it not be done? There would be a selection made, after which there would remain those who had not chosen to learn any trade or to do any work; this would probably be a large proportion. What was to be the *régime* of the relegation? It was supposed that the Government had been hesitating between two contrary theories, that of absolute liberty to the *relégués*, and that of forced labour; but, if the debates in both Chambers were examined, it would be seen how gradually these ideas had become defined. At first there was the idea of transportation; then relegation was substituted: the question was how to differentiate between the two. Now, what would be the position of the *relégué*? In a number of cases it would have been marked out for him before he was sent. So long as he could live by his labour, there would be no difficulty; and, as for any who refused to work, they must at any rate be clothed and fed, in return for which labour would be exacted from them. Could any one hesitate at this? The obligation of the State to provide means of existence implied a corresponding obligation of the *relégué* to give his labour. A grave question remained as to the places of relegation and the establishments to be created. One thing at the outset was certain, that no one complained of the fate of convicts transported to New

Caledonia; there the country and climate were so favourable that the *forçats* did not suffer; then, if there were a revision of the system, could not room be found in New Caledonia for relegation? There was no necessity to give a premium to assassins by sending them to New Caledonia while mere thieves were sent to Guiana. Thus, the Under-Secretary for the Colonies in the late Ministry had declared, as soon as the Bill came down from the Senate, that the first effect of the new law would be to revise the *régime* of transportation by ceasing to send convicts to New Caledonia who had not been passed through a careful selection. It had been represented to the Government, though in an indirect way, that, if transportation to New Caledonia was suspended, and the colony was reserved for the better class of relegation both "collective" and "individual," the free colonists would no longer be discontented. Suppose that only those who could be most utilized were sent to New Caledonia, and subjected to labour; and suppose, further, that in groups, in detachments carefully chosen, certain islands could be successively colonized by them. He (M. Herbet) did not mean to say that twenty thousand could be sent to the Loyalty Isles; but there were other possessions sufficient to receive, after careful and prudent selection, individual criminals who would not have to be looked after like the worst class. As for the more embarrassing question of what to do with the class that would not work, there were other places to send them to besides Guiana. [Here followed a number of details about Guiana.] As to the cost to be entailed by the law, the maximum was capable of being pretty closely estimated. An examination made for two successive years, in all the penal establishments of France and Algiers, of the criminals who would come under the law, had shown that there would be from four to five thousand; but the tendency would be to diminish rather than increase that estimate. The Government had now endeavoured to state loyally and without reserve everything that could throw light upon the subject.

M. Freppel replied to a passage in M. Herbet's speech reflecting on certain acts of the Catholics.

Count Albert de Mun said that H. Herbet's explanations had not enlightened him any more than he was before. The Chamber still knew nothing of either the character of the intended relegation or the place where it was to be made. Everything was left to the arbitrary power of the Executive. The fundamental point in the scheme was the place of relegation, and on this M. Herbet had said hardly anything. His speech had travelled over the penal system, which was worthy of all attention, but was not the question now before them: he had passed more rapidly over the place of relegation than anything else, though it was just the point on which the Chamber had looked for a clear and definite statement. There had been a panegyric of New Caledonia, and explanations about Guiana evidently meant to be reassuring; but nothing had been said as to the place to be really chosen. Now, either the Government knew what they could do and what they meant to do, in which case they ought to disclose it, or they did not, in which case the Bill ought to be subjected to fresh examination. What was inadmissible was that the Chamber, following the example of the Committee, should repudiate its own responsibility and throw it upon the Executive. It was true that the Government were ready to accept this responsibility; but the duty of the Chamber was not to abandon it to them. What had happened about the place of relegation? At first only New Caledonia had been talked about with universal confidence and ardour; New Caledonia was an El Dorado where the transportation of the *récidivistes* could be made, not only without inconvenience, but to the great good of both the convicts and the colony itself; but no sooner was the matter really examined than those illusions were utterly dispelled; the Governor had plainly said there was neither room there, nor work to be found, nor land to be granted. So New Caledonia was given up. Next the same thing followed with the Loyalty Isles, the Marquesas, and Phu-Quoc; then the New Hebrides were dropped on account of diplomatic difficulties; and at last they were in face of a single place for their relegation, Guiana. Guiana alone was hidden behind all their reticences and embarrassments, behind the silence of the Committee and the indecisions of the Government. The law had no longer its original character; the *relégué* was no longer to be at liberty. This liberty had been the principle on which the distinction was drawn between transportation and relegation. But difficulties of all sorts had arisen; the Senate had changed the Bill; the Government had accepted the change; and now the Committee had done for the *régime* of relegation what it had done for the colony: it had retired altogether, throwing the whole responsibility on the Executive. It was a new forced-labour scheme; relegation had once more become transportation. It was a pity that the Government would not give the Chamber M. Léveillé's report; but happily M. Léveillé had supplied this want by his own letters, and, in one published only yesterday, he had said, "I have just come from Guiana, and no *relégués* will be employed there because there are no employers. . . . Enforced labour for those who have no means of existence means a *villegiatura* for assassins, and the galleys for vagabonds." [M. Herbet: An epigram!] No, but evidence which leapt to the eyes of all, and made every conscience cry out. It was urged that public opinion was pressing the Chambers. This was the fundamental vice of the Bill; they were making a law to satisfy this pressure of opinion, without even knowing how they were going to apply it. Members only wanted to be able to say to their constituents, "We have passed a law against the *récidivistes*;" but they were doing nothing beyond passing a law which they knew only too well could not, and which they confessed could not, be put in force. A member of the Government had said to him, yesterday, "Give us the law, if only for a moral effect, to make crime recede." But would it recede? Certainly not by anything the Government-Commissary (M. Herbet) had said, with his charming pictures of life in New Caledonia, "rehabilitation" in Guiana, and confidences about the eagerness of criminals for their own deportation. That was not the language to inspire the salutary terror in criminals on which the advocates of the Bill so much relied. The army of crime would learn soon enough that the law was inapplicable financially or materially, and instead of its intimidating them it would only give them greater confidence. The Chamber were forging for themselves a worthless arm, and could not vote such a Bill.

[Here the *clôture* was called for ; but the President ruled that it could not be put, because a member of the Government wished to speak.]

M. Rousseau (Under-Secretary of State for the Colonies) excused himself for making so short a speech in the debate on the 9th, as he had not expected a discussion on the place of relegation to be renewed at such length. He had said that it was evident their difficulties had become less. Formerly a number of places of relegation had been named, and now there were none; instead of only four, they could choose among all the colonies. As to M. Léveillé's mission to Guiana, he (M. Léveillé) had declared that relegation could be made there, so that the Chamber was now able to accept Guiana as one of the places. As to New Caledonia a good deal of stress had been laid on the reports of Governor Pallu de la Barrière. But since Governor Pallu had left the colony researches had been made into the question of the available land, and there were 110,000 *hectares* disposable for transportation, besides other reserves that could be used later on. Out of these *hectares*, 10,000 were in occupation, leaving 100,000 available. But he did not admit that under the existing law any calculation had to be based on the number of *hectares* available. As soon as there was power to intern the *relégués*, which would be the case with the greater number, they could be employed upon roads and other public works much wanted in New Caledonia; and perhaps most of the colonies which had protested against *récidivistes* being sent there, while the fear existed of the criminals being free on arrival, would accept them now if they were interned and employed on public works. The Chamber might vote the Bill with confidence that means would be found to afford that employment.

M. Vernhes supported the Bill. When France conquered New Caledonia it ought to have been reserved as a penal settlement, and no free colonists allowed to go there. They should not hesitate to expropriate the landowners in order to place five or six thousand *récidivistes* on the land.

[Here the *clôture* was again called for.]

M. de Lanessan, repeating his former arguments, proposed a counter-project.

*Sitting of 12th May.*—M. de Lanessan resumed his speech in support of his counter-proposal.

M. Gerville-Réache replied that it was impossible even to consider such a counter-proposal without giving a check to a Bill which had now been debated for more than three years. If the Chamber entertained it, they would simply say that there was to be no law against *récidivistes* at all.

The Chamber divided: For M. de Lanessan's counter-proposal, 168; against, 300: majority, 132. So it passed in the negative.

The Chamber then divided on the first paragraph of clause 1: Ayes, 407; noes, 47: majority, 360.

Clause 1 then passed, also clauses 2 and 3. Clause 4 was proposed to be amended so as to leave discretion to the Judges to inflict the sentence of relegation.

The Chamber divided: For the amendment, 178; against, 282: majority, 104.

On a further amendment, to omit the classes of vagabondage and mendicity from the Bill, the Chamber divided: For the amendment, 70; against, 334: majority, 264.

Clause 4 then passed, also all the remaining clauses, without any further division.

The Bill was then put as a whole, and the Chamber divided: For the Bill, 383; against, 52: majority, 331.

The Bill then passed.

16th May, 1885.

F. D. BELL.

By Authority: GEORGE DIDSBUY, Government Printer, Wellington.—1885.



1885.

NEW ZEALAND.

# FEDERATION AND ANNEXATION.

(FURTHER PAPERS RELATING TO THE RÉCIDIVISTE BILL.)

[In Continuation of A.—4, 1885.]

*Presented to both Houses of the General Assembly by Command of His Excellency.*

No. 18.

The AGENT-GENERAL to the PREMIER.

SIR,—

7, Westminster Chambers, London, S.W., 25th June, 1885.

Having regard to possible legislation in the Australasian Colonies upon the *récidiviste* question, it seemed to me necessary to make a careful translation of the law just passed by the French Chambers; and I now transmit to you a number of copies thereof, together with a translation of the decree just issued by the President of the Republic, appointing a special Commission to prepare draft Executive regulations under the law.

The Hon. the Premier, Wellington.

I have, &amp;c.,

F. D. BELL.

## Enclosure No. 1.

### RÉCIDIVISTE ACT.

*Translation of the Notification by the President of the French Republic promulgating the Act, in the Journal Officiel of the 28th May, 1885.*

#### LAW CONCERNING RÉCIDIVISTES.

THE Senate and the Chamber of Deputies have adopted, and the President of the Republic now promulgates, the law of which the following is the tenor:—

Article 1. Relegation shall consist in the perpetual internment, in the territory of French colonies or possessions, of the convicted criminals whose removal from France is the object of the present law.

Decrees in the shape of Executive regulations shall determine the places in which relegation shall take place, the measures of order and control to which the *relégués* may be subjected for the public safety, and the conditions under which their subsistence shall be provided for, with the obligation of labour in default of proof of means of subsistence.

Article 2. Relegation shall only be pronounced by the ordinary Courts and Tribunals as a consequence of convictions before them, and to the exclusion of all special and exceptional jurisdictions. But such Courts and Tribunals may take into account sentences pronounced by military and naval tribunals, other than during a state of siege or war, for crimes and offences specified in the present law,

Article 3. Convictions for political crimes or offences, or for crimes or offences connected with them, shall not in any case be taken into account for relegation.

Article 4. Criminals shall be relegated who, in whatever order, and within ten years, not counting the duration of any penalty undergone, shall have been convicted as hereinafter mentioned:—

1. Two sentences to the galleys (*travaux forcés*) or to reclusion in a penitentiary, but not so as to interfere with paragraphs 1 and 2 of Article 6 of the law of the 30th May, 1884:
2. One of the sentences as specified in the preceding paragraph, and two sentences to any term of imprisonment for offences designated as crimes, or to more than three months of imprisonment for theft, swindling, breach of trust, public outrage against modesty, habitual excitation of minors to debauchery, or vagabondage or mendicity under Articles 277 and 279 of the Penal Code:

3. Four sentences to any term of imprisonment for offences designated as crimes, or to more than three months' imprisonment for offences specified in paragraph 2;
4. Seven sentences, of which at least two must have been as specified in the two preceding paragraphs, and the others for vagabondage or for breach of interdict of residence under Article 19 of the present law, provided that two of these other sentences shall have been to more than three months' imprisonment. All individuals who, whether or not they have a fixed certain domicile, habitually get their living by practising or assisting, in a public place, in illicit games, or the prostitution of others, shall be subject to the penalties against vagabondage.

Article 5. Sentences which have been remitted, commuted, or reduced, shall nevertheless be taken into account for relegation, except any which have been cancelled by rehabilitation.

Article 6. Criminals who at the expiry of their sentence shall be more than sixty or less than twenty-one years of age shall not be subject to relegation; but sentences incurred by a minor under twenty-one years shall count for relegation if such minor, after having attained that age, shall be convicted afresh under the present law.

Article 7. Criminals having incurred relegation shall remain subject to all the obligations incumbent upon them under the laws relating to the recruiting of the army. An Executive regulation shall appoint the conditions under which such obligations shall be fulfilled.

Article 8. Criminals under sixty years of age, having incurred relegation under Article 4, shall, after the expiry of their sentence, be subject in perpetuity to the interdict of residence hereinafter provided in Article 19. Minors under twenty-one years shall, after the expiration of their sentence, be retained in a house of correction until attaining their majority.

Article 9. Convictions prior to the promulgation of the present law shall be counted for relegation conformably to the preceding articles; but criminals convicted before such promulgation for offences entailing relegation after the passing of this Act shall only be subject thereto in case of convictions for new offences as hereinbefore provided.

Article 10. The judgment of the Court shall pronounce relegation at the same time as the principal sentence, and shall expressly have regard to anterior convictions entailing relegation.

Article 11. When a prosecution before a Tribunal Correctionnel shall involve relegation, such prosecution shall not be proceeded with in the manner provided by the law of the 28th May, 1863. Counsel for the defence shall be appointed.

Article 12. Relegation shall not take place until the expiry of the last sentence to be undergone by the criminal. Nevertheless the Government may anticipate that period in order to cause the transference of a *relégué*, or may compel him to undergo the whole or part of his sentence in a penitentiary. Penitentiaries may be made *dépôts* for *libérés*, who may be maintained there until the next time of departure for the place of their relegation.

Article 13. A *relégué* may temporarily leave the territory of the relegation under a special permit of the superior local authority. A Minister alone may give a permit for a term exceeding six months, or renew the same, or authorize a *relégué*, under exceptional circumstances and for not more than six months, to return to France.

Article 14. A *relégué* who, after the expiry of his sentence, shall be guilty of evasion or attempted evasion, or shall without permit return to France, or leave the territory of the relegation, or exceed the time fixed by his permit, shall, upon being brought before the Tribunal Correctionnel at the place of arrest or the place of relegation, be liable to imprisonment not exceeding two years, and in case of repeated offence five years, within the place of relegation.

Article 15. In cases of remission of sentence, criminals sentenced to relegation shall only be dispensed therefrom by a special order, and such dispensation may take place after the expiry of the principal sentence.

Article 16. A *relégué* may, after six years, petition the local tribunal for relief from relegation, by reason of good conduct, services rendered to colonization, or proof of possessing means of subsistence. Such petitions shall be made pursuant to Executive regulation under Article 18.

Article 17. The Government may accord to *relégués* the exercise, within the place of relegation, of all or part of the civil rights of which they shall have been deprived by their convictions.

Article 18. Executive regulations shall appoint the conditions under which *relégués* shall fulfil their military obligations; the organization of penitentiaries under Article 12; the conditions under which a criminal may (provisionally or definitively) be dispensed from relegation on account of infirmity or illness; the measures of assistance to be granted to *relégués* or their families; the conditions under which provisional or definitive concessions of land shall be granted to them; the advances to be made for their first establishment, and the repayment of such advances; the rights of married persons surviving, and of heirs or third parties interested in the lands conceded; the facilities to be given to families of *relégués* to rejoin them; the conditions under which forced labour may be exacted; the *régime* and discipline in establishments where *relégués* without means of subsistence or private engagements may be held to forced labour; and generally all other measures necessary to ensure the execution of the present law.



The first Executive regulation shall be published within six months from the promulgation of this law.

Article 19. The law of the 9th July, 1852, relating to the interdict from residence in the Department of the Seine and the Lyonese Communes, is hereby repealed. The penalty of *surveillance de la haute police* is repealed, and, instead thereof, criminals are prohibited from appearing in places the interdict whereof shall be signified to them by the Government before their liberation. All other obligations and formalities under Article 44 of the Penal Code are repealed from the date of the promulgation of the present law, except the provisions of Article 635 of the Code of Criminal Instruction. The provisions formerly existing will, therefore, regulate the application of *surveillance de la haute police*, and the penalties for contravening the same, pursuant to Article 45 of the Penal Code. Within three months after the promulgation of the present law the Government shall notify to criminals, actually subject to such surveillance, the places in which they are interdicted from appearing during the remainder of their sentences.

Article 20. This Act shall extend to Algeria and the colonies. In Algeria, notwithstanding Article 2, councils of war may pronounce relegation against aboriginal inhabitants of any territory within a military command, who shall have incurred the sentences provided by Article 4.

Article 21. This Act shall be put in execution from the date of the promulgation of the first Executive regulation to be issued pursuant to the last paragraph of Article 18.

Article 22. A report upon the execution of this Act shall be presented annually by the Minister to the President of the Republic.

Article 23. So much of any provisions now in force as may be contrary to the present law is hereby repealed.

This Act, deliberated upon and adopted by the Senate and Chamber of Deputies, shall be executed as a Law of the State.

By the President of the Republic :—  
The Minister of the Interior,  
H. ALLAIN-TARGÉ.

Done at Paris, 27th May, 1885.  
JULES GRÉVY.

### Enclosure No. 2.

*Translation of the Decree appointing a Special Commission to draft Executive Regulations.*

[Extracted from the *Journal Officiel* of 7th June, 1885.]

THE President of the French Republic, on the proposition of the Minister of the Interior and the Minister of Marine and Colonies, decrees :—

Article 1. A special Commission is constituted for the preparation of the draft decrees for executing regulations under the Récidiviste Act.

Article 2. The Minister of the Interior, or in his absence the Under-Secretary of State for Marine and Colonies, shall be President of the Commission. In their absence the sittings shall be presided over by the President of the Section of the Council of State for the Interior, Public Worship, Public Instruction, and Fine Arts, or by the Senior Councillor of State present.

Article 3. The following persons are appointed members of the Commission : [Here follow the names.]

Article 4. [Appoints the Secretaries.]

Article 5. The Minister of the Interior and the Minister of Marine and Colonies are charged, each in what concerns him, with the execution of the present decree.

By the President of the Republic :—  
The Minister of the Interior,  
H. ALLAIN-TARGÉ.

Done at Paris, 4th June, 1885.  
JULES GRÉVY.

The Minister of the Marine and Colonies,  
GALIBER.

[True translations.—20th June, 1885.—F. D. BELL.]

### No. 19.

The AGENT-GENERAL to the PREMIER.

Sir,—  
7, Westminster Chambers, London, S.W., 2nd July, 1885.  
Lord Salisbury's Ministry having now taken office, the High Commissioner for Canada, and the several Agents-General, propose to have an early interview with Colonel Stanley, Secretary of State for the Colonies, respecting the *récidivistes* question as it now stands after the promulgation of the Récidiviste Act. I propose to take as early an opportunity as I can afterwards to see Colonel Stanley separately upon the Samoan question, and other matters relating to the Central and Eastern Pacific.

The Hon. the Premier, Wellington.

I have, &c.,  
F. D. BELL.

