

K. 11.998 J 54/12.201 Date 2 Nov J54/12.201

Regd 2 Nov Chief Commissioner of the Gold Fields to the Honorable The Colonial Secretary forwarding copy of letter from the Resident Commissioner Ballarat relative to a petition for the removal of Mr Assistant Commission Johnstone.

Office of Chief Commissioner of the Gold Fields Melbourne 2nd Novr. 1854

Sir I have the honor to forward for the information of His Excellency the Lieutenant Governor copy of a letter from the Resident Commissioner at Ballaarat referring to a petition from certain miners and others praying for the removal of Mr. Assistant Commissioner Johnstone. 2. I am aware that a petition alluded to has come under the notice of His Excellency The Lieutenant Governor, and in submitting for his consideration the statement

D.3193

C.S 54/419

Answered Acting CC of Police 9/11/54

Put away

54/290. 28th October 1854

One enclosure

The Honorable The Colonial Secretary Melbourne statement of Mr. Resident Commissioner Rede, I beg to add my own testimony in favor of Mr. Commissioner Johnstone whom I consider one of the most efficient officers in my department.

I have the honor to be Sir, Your most obed Servant W.H Wright Chief Commr. Of Gold Fields

Copy J54/12/207

The Resident Commissioner Ballaarat to the Chief Commissioner of the Gold Fields Melbourne reporting on a petition in course of a signature praying for the removal of Mr. Commissioner Johnston.

Resident Commissioners Office Ballarat 28th October 1854

Sir, I have the honor to inform you that a petition is in course of signature for the purpose of praying His Excellency to remove Mr Assistant Commissioner Johnstone. This is only in consequence of the affair I have communicated to you about the Priests servant Johannes McGregory and I learn Mr Johnston had nothing further to do with it than receiving bail for the man's appearance. 2 I have the honor to call to your mind the very favorable manner in which I have always spoken of that Gentleman Mr. Rede to send in a call upon the R. Catholic Priest having explained that the Li Gov sees no reason for being dissatisfied with Mr. Johnstones conduct, to say that the Li Gov relies upon the Priest using that influence he possesses over his flock to maintain the peace and stop excitement

Capt.McMahon will however remove the Police man from Ballarat. C.H

Grievance K 54/11.998 Reg 30 Oct 1854

T. Hayes Chairman of a Public Meeting of Catholics held at Ballarat forwards copies of resolutions passed in reference to the conduct of Mr Commr. Johnston and the Bench in the case of the servant of Revd. Smyth.

C.Commr. of G. Fields 31/10/54

Regd. 2/11

Refer to C.C.Gold Fields 30/10/54

Referred accordingly 31/10/54 J.Moore A.C.P

I attach copies of the reports of the Resident Commr (Rede) at Ballarat and of Mr. At. Commr. Johnston and upon these documents am of opinion that nothing has occurred which should outrage the feelings of the R. Catholic community. It would perhaps be as well to refer this Petition and the reports to the P.M requiring him to return them with a copy of the record of the Court before replying to petitioners. W.Wright 2 Nov I do not see that Mr Johnstone was at all to blame It might be politic to remove him at present from Ballarat

JL (?) 3/11/54 To the Honorable the Colonial Secretary.

We the undersigned the Committee of Deputation, appointed as such by the aggregate Catholic body at Ballarat, do most respectfully beg leave to submit the appended Resolutions for the information of the Honourable the Colonial Secretary . While we leave to himself to take what steps he may think proper to have the law of the land vindicated and the feelings of an offended people recognised, we cannot, but in justice to our cause and for the information of the Government, state what are the wishes and what the impressions of the people whom we represent. The Catholics of Ballarat are a large and influential body, comprising inhabitants of every recognised country under heaven, and especially of that land, whose children are proverbially devoted to their faith, and sensitive even to jealousy of the respect due to their pastors. Now, their impression is that a marked insult has been offered to their Pastor, in the person of his servant, as uncalled for as it is persisted in the history of the matter is brief. The servant of our Priest has been shamefully maltreated by a Trooper, and that for not having a licence from which he was legally exempt. In addition to this certain unmentionable expressions are used by the trooper in reference to the Priest. Towards the conclusion of the scene, Mr. Commissioner Johnson, rides up: the concurrent testimony of a crowd assure him of the facts of the occurrence; he is made aware of the aggrieved party being the Priests servant, yet he does that which both ignores the privilege of exemption to the servant, and casts an imputation on the Priest, in the person of his servant, of defrauding the public revenue. It may be said, that bail was exacted for the appearance of the servant next morning at court, solely on the ground of his being charged with obstructing the Police in the discharge of their duties. But in answer to this we appeal to three facts: first, that Mr Johnson never mentioned this, secondly, those who witnesses and heard the particulars were under a different impression, and thirdly, the servant was tried next morning and fined five pounds for not having a licence. It is true, that this sentence was subsequently revoked; but this we look upon as an aggravation, as being at once unjust and illegal. Against this decision we have appealed and have demanded a rehearing of the case, and have been met by the answer that the Ballarat Bench is legally incapable of entering on the matter anew. The impression, then, among the people, is, that they have been insulted; and that this insult stands against them on the public records of the country.

The Catholics at Ballarat, actuated by a laudable desire to have the law vindicated, and the ends of Justice obtained, have resolved to appeal to the Government and to lay their appeal before the Honorable the Colonial Secretary. They simply ask that the case be again reheard; and of the evidence addressed be such as to warrant a revision of the sentence, that such be done as publicly as the occasion requires. And furthermore, if the evidence on the case inculpate both the trooper and Mr. Commissioner Johnson, that the one meet that punishment which the law assigns, and the other be at least removed from the gold commission department of this place. In conclusion, we beg leave to observe that the constitutional means taken to obtain a redress of the wrong here complained of, evinces our respect for the law, and merit for us its protection. Honoured Sir, we have the honour to subscribe ourselves Your obedient servants, Timothy Hayes The Honourable the Colonial Secretary Dennis Theys

Michael Bourke Timothy Shanahan Patrick Curtain Michael Quinlan John Hynes John Manning

A copy of the Resolutions passed and adopted by the Roman Catholics of Ballarat, at a meeting convened and held at the Catholic Chapel on Wednesday the 25th inst.

Resolved, That it is of the opinion of this meeting, that the decision of the Ballarat Bench, was wrong, in the case of James Lord versus Johannes McGregory, for an alleged assault, and do call upon the Government to institute an ongoing enquiry into, and a rehearing of the case.

Resolved, That it is the opinion of this meeting that the conduct of Mr. Commissioner Johnson towards the Reverend Father Smyth has been calculated to awaken the highest feelings of indignation in the breasts of his devoted flock; and they do call upon the Government to institute an inquiry into his character, and do desire to have him at once removed from Ballarat.

Timothy Hayes Chairman John Manning The above resolutions are the ones referred to in the next page, continuing an authentic copy of what it states to be.

Timothy Hayes A copy of a paper read and adopted at the same meeting.

Ballarat. October 25th 1854 To the Honourable the Colonial Secretary &c Melbourne. Sir We are authorised by the unanimous approbation of a public meeting, convened this day at Ballarat, to forward to his Excellency, the Lieutenant Governor, for his conduct in the following statement and resolutions, adopted and carried at the meeting. Whereas, that Johannes McGregory, the servant of the Rev. Mr. Smyth, Catholic Pastor, Ballarat, has been most shamefully, and in a most unwarrantable and cruel manner, maltreated and trampled upon by a trooper, named James Lord, while demanding a Licence from him, from which he was legally exempt as being the Priests servant: and that Mr. Commissioner Johnson, and the Ballarat Bench, to shield and protect the unjustifiable conduct of the trooper, have outraged the laws of the land, as well as the best feelings of humanity, by fining the Rev. Mr. Smyth the sum of five pounds sterling, for an alleged case of assault, on the part of his servant towards the trooper, in the execution of his duty: and as in the opinion of this meeting the foregoing fine and chase in an unjust and illegal, as also that the conduct of Mr. Commissioner Johnston has highly incensed not only the Roman Catholics of Ballarat, but has rendered himself obnoxious to the digging community by his ungentlemanly and overbearing demeanor: and that at a former meeting held on Sunday, the 22nd inst, resolutions had been passed, demanding of the Ballarat Bench to reconsider their judgement, to which the Bench replied that they had not power to reconsider the case without further information from higher authority, the meeting here assembled therefore requests that his Excellency, the Lieutenant Governor, will please to take into consideration the subjoined resolutions and cease immediate enquiry to be made into the conduct of the officers immediately concerned in the matter. " "The Resident Commissioner Ballarat to The Chief Commissioner of The Gold Fields Melbourne – forwarding a Report on the case of a servant of the Roman Catholic Priest and endorsing a letter from Mr. Commr. Johnston

Copy Resident Commissioners' Office Ballarat 26th October 1854

Sir, Hearing on Friday last the 20th Instant that there was to be a meeting on the following Sunday to take into consideration the treatment received by a servant of the Catholic Priest from a mounted Constable (Lord), I made enquiries into the affair by calling on Mr. Smith, the Catholic Priest and questioning Mr Johnston who was out with the Police on the subject. The Priest said he did not wish to press the charge, and promised that he would keep the people so late at Chapel that they would not have time to assemble.

2. I spoke to Captain McMahon on the subject and requested him to investigate the circumstance which he promised to do. He sent the trooper to Melbourne.

3. On Monday a deputation waited on Mr. Sturt and myself requesting the case might be reheard. This being impossible they were told they had better lay the case before The Honorable The Colonial Secretary which I believe they intend doing. The real grievance seems to be a hasty and improper expression on the part of the Trooper, who is reported to have said "I don't care a damn for you or the Priest"

4.

The Honorable the Colonial Secretary