HISTORICAL RECORDS
OF
AUSTRALIA.
EDITORIAL NOTE.

In this volume, the despatches, to and from Sir Charles Fitz Roy as governor of the colony of North Australia, have been omitted, and will be found in a volume in series III.

FREDK. WATSON.
INTRODUCTION.

Sir Charles Augustus Fitz Roy.

SIR CHARLES AUGUSTUS FITZ ROY was the tenth governor of New South Wales. He arrived in the colony on the 2nd of August, 1846, and took the oaths of office on the following day. He administered the government, first, as governor-in-chief and captain-general, and, secondly, as governor-general, until the 27th of January, 1855. During his administration, the colony passed through an extraordinary period of progress; the district of Port Phillip was separated and erected into an independent colony under the name of Victoria; in the year 1853, the constitution act was passed by the legislative council, and, in the year 1855, was confirmed with slight amendment by the British parliament, and by this act the colony was granted the principle of responsible government; the protest of the colonists against the revival of transportation of convicts was recognised finally by the British government; the squatting problem was reduced to an ordered system; railways were introduced; a steam postal service was inaugurated between the colony and Great Britain; the practical discovery of gold with the consequent enormous influx of population changed the prospects of the colony; the establishment of a branch of the royal mint with an Australian gold coinage was initiated; the building of the exchange and the construction of the Fitzroy dock were commenced; and the university of Sydney was founded. The influence of Sir Charles Fitz Roy on this great political, social and intellectual progress will be noted in detail in the introductions to succeeding volumes. In this introduction, it is necessary to consider the man and to note the salient features of his life.

Charles Augustus Fitz Roy was the son of general lord Charles Fitz Roy, who was the second son of the third duke of Grafton. He was born on the 10th of May, 1796.
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At the age of sixteen years, he entered the army and obtained a commission as lieutenant in the royal regiment of Horse guards on the 16th of October, 1812. He was present at the battle of Waterloo on the staff of Sir Hussey Vivian.

On the 11th of March, 1820, he was married to lady Mary Lennox, the eldest daughter of the fourth duke of Richmond; and his career was largely affected by the family influence of two ducal houses.

On the 27th of April, 1820, he obtained his commission as captain in the Horse guards; but, on the 23rd of June, 1825, he was placed on the half-pay list. On the 20th of October, 1825, he was promoted to the rank of lieut.-colonel, and was appointed deputy adjutant-general at the Cape of Good Hope.

After service at the Cape, he returned to England, and, in the year 1831, he was elected to the house of commons as member for Bury St. Edmunds. In this parliament, the Reform bill was passed, for which Fitz Roy voted. He did not, however, seek re-election, and therefore did not sit in the reformed parliament; and, in the year 1833, he retired from the army.

In the year 1837, he was knighted and appointed lieut.-governor of Prince Edward island. In the year 1841, he was appointed governor and commander-in-chief of the Leeward islands. During these administrations, he won great favour by his conciliatory demeanour. He administered the government of the Leeward islands until the year 1845, when he was selected to succeed Sir George Gipps in the government of New South Wales.

He was given two commissions, dated 20th and 21st February, 1846, respectively, the first as captain-general and governor-in-chief of the territory of New South Wales, and the second as governor and commander-in-chief over the colony of North Australia, a new colony created by letters patent, dated 17th February, 1846, north of the twenty-sixth parallel of south latitude. The effect of the two commissions was to give to Sir Charles Fitz Roy the same territorial jurisdiction as held by his predecessor.
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Accompanied by lady Mary Fitz Roy and his son George as private secretary, he sailed for the colony in H.M. ship Carysfort, and arrived in Port Jackson on the 2nd of August, 1846. He landed on the following day, took the oaths of office and assumed the administration.

A second son and a daughter, the hon. Mrs. Keith Stewart, afterwards came to the colony.

Within eighteen months of his arrival, lady Mary Fitz Roy was killed. On the 7th of December, 1847, Sir Charles Fitz Roy, driving four horses, with lieutenant C. C. Masters beside him on the box and lady Mary in the carriage, left the government house at Parramatta to proceed to Sydney. The horses almost immediately bolted, and, near the entrance to the domain, the occupants were thrown from the carriage. Lady Mary sustained a fracture of the base of the skull, and died shortly after being carried back on a sofa to the government house; C. C. Masters died about nine hours later; whilst Sir Charles Fitz Roy escaped with a severe injury to the knee. As will be noted later, this accident had great influence on Sir Charles Fitz Roy’s future career as governor.

In the year 1850, a commission was given to Sir Charles Fitz Roy, whereby he was appointed governor-general of the Australian colonies. By this commission, he was given extensive powers; but, it was neither intended nor desired that he should interfere with the administration of the governments of Tasmania, Victoria, South Australia or West Australia in any matters affecting only their internal interests. The lieut.-governors of the three former colonies and the governor of the last were to administer as formerly; but, at the same time, they were instructed to communicate with Sir Charles Fitz Roy on all matters affecting the common welfare and prosperity, and, in the absence of express instructions from the secretary of state, to accept his decision on any matter which affected more than one of the colonies. Sir Charles Fitz Roy was given this commission as governor of the largest and oldest colony, in order to initiate and foster all measures calculated to promote the interests of the Australian colonies collectively. By his commission, he was empowered, if necessity should arise, to visit any of the colonies, to assume the administration, and to retain it during the period of his residence therein. It is evident that the object of the British government
was to prevent the conflict of interests amongst virtually independent but neighbouring colonies, and to lay the foundation of a semi-federal system.

In the meantime, Sir Charles Fitz Roy’s commission as governor of North Australia was revoked in the year 1847.

Sir Charles Fitz Roy retired from the government on the 17th of January, 1855, and ten days later he embarked on the ship Madras for England.

After his return to England, he was married to Margaret Gordon on the 11th of December, 1855.

He did not long survive his return, but died on the 16th of February, 1858, in Clarges-street, Piccadilly, London.

There has been no governor of New South Wales whose personal and moral character has been more discussed than that of Sir Charles Fitz Roy; and it is difficult, therefore, to estimate the value of his influence on the political, social and intellectual progress of the colony. All his contemporaries of any standing in the community criticise adversely his moral character and his unfortunate “undue partiality for the fair sex”; and, in doing so, many of them possibly have failed to recognise any influence, which he exerted in his official character.

In his official capacity, Sir Charles Fitz Roy demonstrated a certain independence of action in the interpretation of instructions from the secretary of state, and for so doing he was severely censured by the secretary of state several times in the early part of his administration. On one occasion, however, he deviated* from his instructions owing to an informality of an order-in-council, and acted independently even of the advice of the attorney and solicitor-general; on this occasion, the secretary of state, earl Grey, refused to reply officially to the despatch of Sir Charles Fitz Roy, but, in a private despatch,† commended him for having “acted judiciously.”

During his administration, Sir Charles Fitz Roy endeavoured to become personally conversant with all the country under his jurisdiction; and, at great personal inconvenience, he undertook numerous visits of inspection in the country districts, and voyages

* See page 358 et seq.  † See page 684.
along the coast to inspect coastal districts. He was the first
governor to traverse the squatting districts, and to acquire a
personal knowledge of the conditions of colonial pioneering in
outlying areas. He was a fair and impartial administrator, and
he was never even charged with one act of harshness or partiality
towards an individual. As the head of the executive, he was
most industrious and painstaking; and it is said that no paper
of importance passed through his office without his personal
perusal and comments, when necessary.

Unfortunately he belonged to a family, the members of which
were notorious for their "undue partiality for the fair sex." This
failing had been commented on strongly by Junius in his eighty-
seventh letter to the duke of Grafton. It is undoubted that
Sir Charles Fitz Roy and his two sons, who were with him in
the colony, inherited the family failing to a marked degree. This
was more exaggerated when all restraint was removed by the
unfortunate death of lady Mary Fitz Roy. His daughter, the
hon. Mrs. Keith Stewart, who acted as chatelaine at government
house after her mother's death, had little influence over the conduct
of her father and brothers, and many scandals were whispered in
the colony.

The feeling engendered in the colony may be realised by the
action taken in the legislative council. On the 1st of December,
1854, an address of farewell was moved. The Reverend John
Dunmore Lang, thereupon, submitted an amendment that it was
the deliberate opinion of the council:

"That the moral influence, which has emanated from Govern-
ment House during His Excellency's term of office, has been
deleterious and baneful in the highest degree to the best interests
of this community; and that the evil example, which has thus
been set in the highest places of the land, has tended more than
anything else that has occurred in this colony these thirty years
past to bring Her Majesty's Government into contempt, and to
alienate from Her Majesty the affections and respect of the
Australian people."

This amendment was defeated by twenty-eight votes to six; but
the minority consisted of the mover, Charles Cowper and Henry
Parkes, who were destined to become premiers of the colony,
Robert Campbell and Edward Flood, who were destined to become
ministers of the crown, and J. W. Bligh, a magistrate of the territory. When such prominent colonists were prepared to publicly express their opinions in such unmeasured terms, it is evident that there was strong feeling against the personal failings of Sir Charles Fitz Roy and his sons amongst certain sections of the community.

It is probable that the industry and impartiality as head of the executive and the administrative ability generally of Sir Charles Fitz Roy exercised some influence on the progress of the colony during his administration; but his personal character militated against this influence being felt to the full extent. It must be remembered, at the same time, that, during this administration, the agitation against the revival of transportation, the strenuous fight for responsible government, and the excitement caused by the discovery of gold clouded most other issues, and prevented their valuation in their due proportions.

Fredk. Watson.

July, 1925.
DESPATCHES.
My Lord,

Government House, 1st April, 1846.

In obedience to the directions contained in Lord John Russell's Despatch No. 132 of the 25th August, 1840, I have the honor to forward herewith the Reports for 1845 from the Officers of this Government, employed in the protection or civilization of the Aborigines; and I very much regret that it is not in my power to notice in them any favorable alteration in the general condition of the Aborigines.

The following is a List of the Reports transmitted herewith:

- From the Commissioners of Crown Lands in the Northern and middle Districts of the Colony, namely:

- Reports from the District of Port Phillip, namely:

Crown Commissioners for the Districts of—


I also forward the usual Report from the Revd. Mr. Watson, who continues to maintain, unassisted by Government, an Establishment of a Missionary character in the neighbourhood of Wellington Valley; and a Report of rather an interesting character from the Chief Protector of Aborigines of a journey of 1,100 miles undertaken by him to the Tribes of the Country North West and Westward of Port Phillip. I have, &c.,

GEO. GIPPS.
HISTORICAL RECORDS OF AUSTRALIA.

[Enclosure No. 1.]

REPORT on the State of the Aborigines of the District of Moreton Bay for the Year 1845.

Commissioner Crown Lands Office.

Sir,

I have the honor to Report that the Aborigines of this District during the past year have been in a comparative state of quietude; it is, however, difficult to say whether it is the result of the more intimate relation which has sprung up between them and the Squatters, or the danger they encounter in carrying on those depredations in an extremely droughty season; in former years, the frequent floods rendered the operations of Squatters for the protection of their Stock extremely difficult, and the Aborigines knew well how to take advantage of it. I much fear, therefore, that the apparent calm has been the result of calculation. They are no longer at open war with the Squatters, rushing Herds of Cattle and carrying off whole flocks of Sheep, but have adopted a system of pilfering that no foresight can prevent. Everywhere indeed they adopt the same plan, visiting the Stations in small mobs under the guise of friends. They allow no opportunity to escape of pilfering the huts or destroying any stray Cattle they may meet with on their way. In several instances they have killed milking Cows close up to the Huts. without so much as being suspected, till the Bones of their victims happen to be accidentally met with some days after; in one or two instances they have even buried the Bones, a refinement in their operations which induces me to suspect that they have been put up to it by one or two White Men, said to be living with them. Even in the vicinity of Brisbane, great complaints are made of their daring Robberies, and indeed at my own Station, where we supply them plentifully with corn and sweet potatoes, they never fail to plunder when they have an opportunity, and in the course of this year carried off not less than Seven tons of sweet potatoes in a few weeks, which were grown to supply their wants in the Winter; some few of the better disposed readily give the names of these marauders, but in the present state of the law nothing can be done with them upon such evidence. I see therefore no hope of checking their lawless propensities till it shall be allowed to be received for what it is worth, especially in cases of ordinary larceny.

The German Missionaries, who had commenced forming a Station at Noonga Creek, were quickly ejected by the Coast Blacks, who carried off their produce, pillaged their Hut, and well nigh killed one of them who resisted their proceedings.

Besides some serious Assaults, three men have been killed by the Blacks, during the present year; one of them certainly a worthless fellow named Brown, who had carried off one of their Gins in his Boat on the Coast, in some measure merited his fate. Another named Williams, proceeding to Mr. Archer's Station in quest of Work, was also murdered by the Coast Tribe. We subsequently, by the instrumentality of the Blacks, found his bones and obtained the Names of his Murderers, but there is no other evidence. Finally within these few days, a Mr. John Uhr has been murdered on the Brisbane, where he was residing as Hut Keeper at a Sheep Station belonging to his brother and Mr. Ferriter. All communication had been cut off for some days by a flood in the River, so that I fear
they are commencing their usual wet-weather Campaign, as they also carried of a flock of Sheep. The Shepherd, however, made his escape by swimming the River. The body of Mr. Uhr has since been picked up on its Banks and an Inquest held upon it by Major North. The circumstances of the transaction are, however, only known to the Aborigines; and I am making enquiries amongst them on the subject, and shall proceed myself to the Spot when the River is passable for Horses. Hitherto the Station of Messrs. Ferriter and Uhr has escaped molestation and they were very kind to the Blacks; but there is, I am sorry to say, no security but in keeping a constant good lookout and a sufficient force on the Station to command respect.

Upon the whole, therefore, there is little favorable to report, as to their moral or social State. They are still wild Blacks. Permanent residence they have none, and, when frequenting the Stations, stay but a short time. Schools as yet have scarcely been attempted even by the German Mission, who have enough to do to support their Wives and families by hard labour; including the Ranges, the number of the Aborigines cannot be under 4,000, of which about a quarter are fighting Men. I have, &c,

S. SIMPSON, C.C.L.

[Enclosure No. 2.]

MR. C. ROLLESTON TO COLONIAL SECRETARY THOMSON.

Crown Commissioner’s Office,

Darling Downs, 1st January, 1846.

Sir,

It is with feelings of great satisfaction that I have the honor to report the quiet and friendly disposition evinced by the native Tribes, frequenting this District during the past year.

No act of aggression has occurred to interrupt the good feeling which is springing up between the two Colors, and I have every reason to hope that the spirit of hostility, manifested by the Blacks during the Years 1843 and 1844, has died away, and that the experience of the past year has taught them to appreciate the friendship of the Whites.

A spirit of confidence in the peaceable intentions of the Aborigines is rapidly taking the place of the distrust, with which their first attempts at reconciliation were looked upon by the Squatters and their Servants.

It has been my endeavor to promote this feeling in both classes in the absence of which any amelioration in the condition of the Blacks is hopeless.

I am inclined to think that the distribution of blankets, Flour, and Tobacco, made to the Aborigines during the Winter months of last year, contributed materially to this desirable state of things by bringing them in contact with the whites and convincing them, more substantially than by words, of our desire to be friendly.

During the Winter months, Game is less plentiful, and one of their great means of support fails them entirely, namely, Fish. It is at this period that, pinched with cold and hunger, they are led to seek for food amongst the flocks and Herds of the squatters.

A similar distribution of Flour, etc. (if it can be allowed during the ensuing Winter) will, by conducing to their comfort, ensure the continuance of tranquility, and afford me the means of further extending my influence over them and gaining their confidence and respect.
The Darling Downs District as far as I have been able to ascertain maintains six tribes, numbering from 70 to 100 for each Tribe and more than half of these are women and children; but it is impossible to arrive at an accurate estimate of their number or proportions as they amalgamate so much with the neighbouring Tribes from Moreton Bay, the Clarence River and New England.

They are a fine athletic race but shew no disposition to work, and are still too wild to attempt successfully any plan of making them useful.

As yet there are only two or three instances of their attaching themselves to a particular Station; and, for some time to come, it is not to be expected that they will forego their wandering habits.

I am inclined to hope, however, that their continued intercourse with the Europeans will work a considerable improvement in their condition and habits during the course of the present Year.

I have, &c,

CHAS. ROLLESTON, Comr.

[Enclosure No. 3.]

MR. O. FRY TO COLONIAL SECRETARY THOMSON.

Commissioner of Crown Lands Office,

Sir, Clarence River, 8th January, 1846.

In forwarding the Annual Report on the State of the Aborigines in the District of Clarence River during the Year 1845, I regret the necessity of having to enumerate a series of outrages falling nothing short, either in number or atrocity, of the melancholy catalogue furnished in my report for the year 1844.

In the month of February, a Shepherd in the employ of Mr. Archibald Boyd was murdered at that Gentleman's Station, on one of the Southern branches of the River Clarence, on which occasion between three and four hundred sheep were destroyed. In the month of March also, one of Messrs. Mann and Hook's Shepherds was killed, and a flock of one thousand sheep driven away from their Station, which is situated on the same stream as and within about thirty miles of Mr. Boyd's; by far the greater portion of the sheep were destroyed, in consequence of the overseer's delaying to send information of the occurrence to the Police, until the flock had been several days in the possession of the Natives. This was an outrage of a peculiarly distressing nature, as the unfortunate man who was murdered had but recently arrived from England and left behind him a wife and two infant children.

One of the sheep stations of Messrs. Bundock on the upper part of the Richmond River was twice attacked during the month of June: on the last occasion, the hut was plundered of all its contents, and the watchman dangerously speared in three several places. An Attack was also made in the same month on Mr. McLean's Station, but no loss or injury was sustained. In addition to the above more heinous offences, a quantity of Cattle have been killed during the year on the respective runs of the following Gentlemen:—Mr. Pawcett, Mr. Irving, Mr. Wyndham, Mr. Eaton and Mr. E. Hamilton.

As it affords reason to anticipate the discontinuance by the Natives in this locality of outrages, such as I have detailed, it is some satisfaction to me to be enabled to state that all the preceding depredations have been committed by the Tribes on the outskirts of...
GIPPS TO STANLEY.

the District, who have but recently come in contact with Europeans, and that nothing can be more peaceable than the disposition evinced by the Aboriginal inhabitants of the Interior and more settled portions of the District.

I have, &c.,

OLIVER FRY.

[Enclosure No. 4.]

MR. R. G. MASSIE TO COLONIAL SECRETARY THOMSON.

Commissioner of Crown Lands Office,

McLeay River, 24th December, 1845.

In compliance with the usual Regulations, I have the honor to forward my annual report on the state of the Aborigines of this District.

I am happy to inform you that I continue to retain the confidence of all the neighbouring Tribes by steadily adhering to the principle, which has guided me throughout in the intimate connection I have had with the native black population of this part of the Colony, and that they are as fully as ever impressed with the idea that, as the retribution will be certain and heavy if they commit the slightest aggression on the Whites, so punishment will be equally inflicted on any white person wantonly injuring or oppressing them.

In the last twelve months, there has been but one solitary instance of outrage on the part of the Natives in which an unfortunate Hutkeeper was severely illtreated and the hut robbed. Two out of the three offenders I have already been fortunate enough to secure, and they are now lying in Sydney Gaol awaiting trial. There has not been a single complaint made against any of the white population of either cruelty or oppression upon the Natives, nor has there been any ground for complaint.

The collisions between different Tribes in this neighbourhood are as constant as ever; they are, however, rarely if ever attended with loss of life. At the same time, I am anxious to suppress them as much as lies in my power, as I am not one of those who think they should be permitted the unrestricted exercise of their own customs, when not immediately in the presence of Europeans or in situations where the indulgence of them would prove dangerous to the white population. It is a palpable absurdity to suppose that any race of people will make any satisfactory steps in civilization, when they are allowed by constituted authorities the unrestricted indulgence of barbarous laws and customs, which are in themselves totally subversive of anything approaching to civilization.

Of the advancement the Aborigines of this District have made in civilization, I have little or nothing favorable to state. There is the same hopeless apathy and apparent contempt of all useful arts, the same wandering and erratic habits, the same rudeness and destitution which have been ever the distinguishing features of the native population of Australia; and they appear only to put a value upon an intercourse with their white Brethren as affording them the means of indulging in propensities and injurious habits that hitherto they have been strangers to. They have got rid of their native simplicity and in exchange have got acquainted with every vice and profligacy that can be instilled in their too willing ears by the lawless Stockmen and Shepherds, who, from the nature of the Service, are generally the forerunners of Civilization in this Colony; in fact the savage is spoiled and the civilized man is not yet formed.
1846.
1 April.

Report on aborigines in district of Macleay river;

I have again most respectfully to urge upon the attention of Her Majesty’s Government the state of the half castes, or the children of the female Natives by White fathers, many of whom are to be met with in every District of the Colony, living in the same destitute and barbarous way as their Mothers. My earnest desire is and ever has been to wean these from the wild mode of life, which in the natural course of events will be their fate, and to effect which there would not be that trouble and difficulty, which attends all attempts effectually to civilize the natives, as the half castes almost all display an aptitude to learn and a disposition to adapt themselves to European Customs and habits, encouraging to those who are most apathetic in such a cause. Those children would prove hereafter a valuable medium of communication between the white and black population and well qualified to act as Interpreters in courts of Law.

I have had a halfcaste Boy under my protection for the last three years, who displays a greater aptitude for learning than is to be met with in most white boys of his age. He was given to me by a Tribe of Blacks in this neighborhood in 1843, who stated that his Mother was dead and they knew not what to do with him; since which time he has been under my care, and, if I can be the means of rescuing one human being from that ignorant and wild life which under other circumstances would have been his fate, I shall indeed esteem myself most fortunate and consider no time or trouble I have bestowed misapplied.

I have, &c.

ROBERT GEO. MASSIE. C. C. Lands.

[Enclosure No. 5.]

MR. G. J. MACDONALD TO COLONIAL SECRETARY THOMSON.
Commissioner of Crown Lands Office.

In attention to your letter of the 2nd Ultimo, I now do myself the honor of transmitting you my Annual Report upon the condition of the Aboriginal Tribes frequenting the District of New England.

It affords me great satisfaction to be enabled again to acquaint you that, during the past year, no Act of outrage or violence has been committed by the Aborigines upon the Persons or Property of the British Population, with the exception of their occasionally spearing Cattle in the neighbourhood of the vast Ravines on the Eastern fall of the Table Land; in every other Respect, the intercourse between the Native Tribes and White population has been amicable and friendly compared with that of former years.

There is no apparent decrease in the Number of the Natives and no indication of a change for the better in Social or moral Improvement in any Shape; nor indeed does there appear to be any well grounded hope of ultimately effecting any general amelioration in the condition of so scattered, disunited, and indolent a race as the Papuas of Australia.

I beg to state in conclusion that my earnest endeavours will be continued to promote the harmony and good feeling, which at present animates the two Races in their intercourse with each other, as well as to carry out in every way, that may be in my power, the humane views and Instructions of Her Majesty’s Government on the subject of the Aborigines. I have, &c.

G. J. MACDONALD. J.P., C.C.L.
MR. F. ALLMAN, JR., TO COLONIAL SECRETARY THOMSON.

Border Police Office,
Liverpool Plains, 10th January, 1846.

According to Instructions received from your Office, dated 2nd July, 1841, covering a Despatch from Lord John Russell, I do myself the honor, for the information of Sir George Gipps, to forward a Report of the result of my observations on the habits and condition of the Aborigines in this District during the past year.

I cannot say that anything has come to my knowledge which would warrant my differing from the opinions and views expressed in my Report of the 1st January, 1845.

I may remark generally that instances of outrage on the part of the more distant Tribes are becoming less frequent. Mr. Commissioner Mitchell in the course of duty has lately entered into communication with several Tribes, who inhabit the Darling and "Fort Bourke" and who had never before seen a white man. The information afforded by this Officer I shall have the honor of placing before the Governor; but the result of all will be found to prove that the Natives have a fixed and rooted aversion to any settled habits, or to becoming available for the purposes of social life.

I can only repeat that I think any Expenditure from the Land Fund would be useless.


REPORT on the Aborigines by Graham D. Hunter, Commissioner and in district of Crown Lands, District of Bligh, for the Year 1845.

In forwarding my Report on the Aborigines of this District, required by Circular Letter of the 2nd July, 1841, for the year ending 1845, I have the honor to submit every information that I consider may be consistent with what is required by the Government.

The transactions of the past year, amongst the Aborigines in the long inhabited parts of this District, meet with little or no alteration; at almost every station, there will be found a few of the natives employed which has been the case for many years. The longer they are employed at these Stations, the more useful they become, provided they are treated kindly and without abuse.

In making this Report at present, I am sorry I cannot forward so favorable an account of those who inhabit more distant parts where new Stations are formed; for some considerable time back. I have been in constant communication with the adjoining Commissioner (at Wellington), so as to afford every protection to both the white and the black people, there being a large portion of the Districts far in the interior much disturbed; but, by keeping Mounted police on patrol constantly in the neighbourhood, we have succeeded in securing those parts from further aggression.

I cannot state with any accuracy as to the number of the Aborigines in this District; in some parts they are more numerous than in others. Where stations have been formed for any length of time, their numbers appear to decrease. I am not aware of any particular
cause this arises from. It may be said that intoxicating liquor is the reason, but in many parts of the Country seldom or ever spirits are to be found, and yet the Aborigines are on the decrease.

The prospect of the Aborigines of this Country being brought into a state of civilization, I am afraid will be a more difficult task than is generally supposed; and, without civilization, we cannot look forward to advancement. When the children are taken and put to school, their abilities are found equal to any and become soon perfectly reconciled to the customs of the white people.

I have at various times used my endeavours to cause them to part with their children (more especially as there are many half caste children amongst them) that they might be sent to some school; but in few instances am I aware of any person having succeeded in persuading them; to take their children by force would be, I consider, against the wishes of Government and my general Instructions.

Since I had had the appointment of Crown Land Commissioner, there has generally been one of the Aborigines attached to the party, who remains perfectly reconciled so long as the other blacks do not interfere or urge him to go to the bush; on such occasions it being their wish to go, I have given leave without hesitation. By so doing, I find they will return much sooner, not being longer absent in many cases than three or four days.

It would be worthy to remark by my experience for the last six years that the Aborigines can by a proper treatment be made of great benefit, more particularly at Police Stations where I consider their services almost indispensable from the character of the country and the extraordinary duties that have to be performed by Mounted Police, when on bush duty. Their services are then of great importance, without which in many instances it would be almost impossible to arrive at a satisfactory conclusion.

GRAHAM D. HUNTER, C.C.L.

[Enclosure No. 8.]

MR. W. H. WRIGHT TO COLONIAL SECRETARY THOMSON.

Commissioner of Crown Lands Office,
Wellington, 15th January, 1846.

Sir,

In compliance with the directions contained in your Letter of the 2nd July, 1841, I have the honor to forward, for the information of His Excellency the Governor, my annual Report of the State of the Aborigines in this District.

With reference to the number of Aborigines within my District, I am disposed to think that in my former Reports I have formed rather an over Estimate, and that eight hundred (800) may be considered as the actual number of those formerly included; one hundred may more properly be considered as belonging to the Districts within the boundaries of location, and the Blacks of the Bogan I do not believe so numerous as I reported. Four hundred (400) may be considered as occupying the most settled parts of the District, and in a great measure attached to the different Stations from which they derive and look for their principal subsistence. The other portion occasionally visit the Stations and obtain food
whilst they remain; but their general mode of life is little affected by the vicinity of the Whites. These generally known as “Myall” or wild Blacks are joined at certain periods by large parties of Aborigines frequenting the country westward of the settled portions as far as the Darling River, when as many as one hundred and fifty or two hundred men are sometimes assembled besides Women and Children.

The Aborigines inhabiting the settled part of the District are generally in small parties or one family at each Station, where one or more are employed by the Settlers in carrying water, herding the Milch Cows, or similar jobs, for which they receive Slops, Tobacco and food. For sheep washing or other regular employment for short periods, they are sometimes engaged and receive wages in money; but the customs of the Natives prevent a permanent engagement on their part except in one or two instances, where individuals have disregarded their old superstitions; for in general they dare not, if called upon by the Old men of the Tribe, refuse to join in their meetings for “making young men” and performing other rites. They are however extremely useful to the Settlers and receive from them kind treatment.

I regret to have to report that during the past Year the “Myall” Tribes or those of the unsettled portions of the District have committed many outrages on the persons and property of the Settlers on the Macquarie River, and have evinced a boldness and determination which I believe to have been unprecedented amongst the Aborigines.

From the time (Octr., 1844) that the Gerawhey Blacks drove Mr. Kinghorne’s Superintendent and men from his Station in the flood which then covered the Country, Aborigines of that Tribe have been constantly threatening and actually committing depredations on the persons and property of the Settlers on the Macquarie River, and have evinced a boldness and determination which I believe to have been unprecedented amongst the Aborigines.

At this juncture, a party of Mounted Police under Sergeant Anderson who had information of their intention came upon them; and, as most of the individuals named in the Warrants (which he held) were identified amongst the Tribe, he endeavoured to capture them, but being attacked and one of his party wounded he was compelled to fire. It is to be lamented that as many as ten Natives were shot in this encounter with the Police. At the same time I am convinced that, but for the appearance of the Police at this time and the Check given to the Aborigines, they would have pillaged many of the lower Stations and in all probability have murdered some of the Inhabitants.

Immediately before this a body of Blacks assembled from the Bogan, Lachlan, and country between the McQuarie and Darling Rivers, and among them I regret to say several of the Aborigines looked upon as domesticated, in all one hundred and fifty or two hundred men.
1840. On the 19th August, they came on the Macquarie, and during that and the following day plundered five Stations.

They were pursued by two of the Bligh District Border Police and a party of Settlers, who, after an obstinate resistance by the Natives, two of whom were shot, recovered some of the stolen property.

For particulars of the subject of the two last paragraphs, I beg to refer His Excellency the Governor to my Letters of the 3rd and 20th September and 20th December last.

It is impossible but that the many annoyances and alarms, to which the Settlers on the Lower Macquarie have been subjected by the "Myall" tribes, has produced a feeling of animosity and dislike towards those Aborigines; but I am happy to say that it has made them more sensible of the value of those Aborigines who have been faithful to them; and I fully hope that the detachment of police now stationed on the Macquarie River at Warran will deter the Natives from repeating outrages, whilst the Settlers, in the increased security they will feel, will be more disposed to forget injuries and carry on a friendly intercourse with the Myall Tribes if they appear at the Stations.

W. H. WEIGHT, Commr. of C. Lands.

[Enclosure No. 9.]

MR. E. BECKHAM TO COLONIAL SECRETARY THOMSON.

Commissioner of Crown Lands Office,

Sir, Binalong, 3rd January, 1846.

In compliance with the order contained in your circular of the 2nd December, 1845, I do myself the honor to forward the accompanying Annual Report on the State of the Aborigines inhabiting the Lachlan District for the Year ended the 31st December, 1845.

I have, &c.,

EDGAR BECKHAM,
C. C. Lands. Lachlan District.

Report upon the condition, etc., of the Aborigines inhabiting the Lachlan District during the year 1845.

Question 1. Relating to the condition of the Natives.

I do not consider the condition of the Aborigines in any way improving, neither do their habits change, nor do I think it probable that any improvement will take place so long as they possess their present spirit for a wandering life; and I deem it quite impossible to induce them entirely to resign and forget their natural habits. I have known instances of children, having been brought up at Stations until they attained the age of fifteen or sixteen without ever mixing with their tribe, leave their Master and adopt the wild bush life. The natives, who are termed civilized "which are those who frequent the Settlers' Huts," cannot be induced to follow any settled employment.

Question 2. Their Numbers.

There are about seven hundred Aborigines in the Lachlan District.
GIPPS TO STANLEY.

Question 3. Residence of any particular place.

The Blacks have no fixed place of residence, although each tribe have their own particular portion of a River and Country, which they seldom leave for any long period except for the purpose of attacking some neighbouring tribe or holding a Jubilee. They wander from place to place in their own district generally forming their camps in the vicinity of some Station.

Question 4. The social condition of the Natives.

The Natives lead a desultory life, both sexes mixing indiscriminately in the same camp which they form with bark or boughs. Many of the men have from four to six wives, which they call "Gins." Some few lives are lost in the engagements which often take place between the tribes of adjoining districts for the sake of the Gins.

Question 5. The present state and prospect of the natives.

Their present state is but little changed from what it originally was, and I do not consider their future prospects likely to improve so long as they continue in their present uncivilized state. The Settlers generally treat the Natives with great kindness in giving them provisions, Blankets, Tobacco, etc., which tends in a great measure to deter the natives from spearing and destroying the Stock, and prevents many disputes and collisions which might otherwise occur between the Settlers and Aborigines; as the Country becomes inhabited by Europeans, the Natives gradually disappear.

EDGAR BECKHAM,
C. C. Lands, Lachlan District.

[Enclosure No. 10.]

MR. H. BINGHAM TO COLONIAL SECRETARY THOMSON.

Sir,
Head Quarters, Tumut River, 26th December, 1845.

I do myself the honor to report, for the information of His Excellency the Governor, that the Aboriginal Natives remain at present quiet at the advanced Stations on the Murray, Edward and Murrumbidgee Rivers; and, tho' they appear at times in very large Bodies, my Division of Mounted Police stationed in that part of my District have preserved peace between the Natives and the Settlers during the very anxious period when the Rivers and Creeks are flooded. One Aboriginal Native was shot dead by two Servants of Mr. Hogg on the Logan River in this District, under circumstances which are still under continued and patient enquiry. I regret to add that a respectable young Man, a Mr. Algeo, a Superintendent, whom I had seen a short time previous, lost his life in crossing one of those numerous Creeks, having been carried away by the Strong Current; the Division of Police have lost one troop Horse by accident, from a rotten Bank overhanging the River giving way with His weight, and apparently unable to extricate himself from the rotten character of the Banks at both sides of the partially flooded Waters. An attempt was said to have been made on the lives of two Shepherds of Mr. Boyd's on the Edward River by the Aboriginal Natives, but, assistance appearing, the Natives retired without doing any injury.

I have, &c.,
HENRY BINGHAM, C.C.L.
1846.
1 April.

Report on the condition of the Aboriginal Natives of the Murrumbidgee District, January 1st, 1846.

1st. Supposed Number of Blacks in the Murrumbidgee District, Two Thousand.

2nd. Temporary Residence—

<table>
<thead>
<tr>
<th>Location</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>At Tumut</td>
<td>50</td>
</tr>
<tr>
<td>At Nerang, Pt. Phillip</td>
<td>500</td>
</tr>
<tr>
<td>Howlong</td>
<td>50</td>
</tr>
<tr>
<td>Urrumba</td>
<td>150</td>
</tr>
<tr>
<td>Mungaborema</td>
<td>50</td>
</tr>
<tr>
<td>Zangar</td>
<td>600</td>
</tr>
<tr>
<td>Gerapthana</td>
<td>300</td>
</tr>
<tr>
<td>Murray Downs</td>
<td>300</td>
</tr>
</tbody>
</table>

3rd. Change in their Social Condition.

They do not generally shew much regard to social comforts. One Aboriginal Native named "Master William" shot dead by two of Mr. Hogg’s Men Servants on the Logan River; the matter still under enquiry. An attempt was said to have been made by the Aboriginal Natives on the Lives of two Shepherds of Mr. Boyd’s on the Edward River, being one of their most advanced Stations, but timely assistance appearing no injury was done.

An overland party with Cattle going to Adelaide, under the guidance of the Proprietor, a Mr. New, a Victualler, had some disturbance near the junction of the Lachlan River, with the Aboriginal Natives, as reported to me; the Aboriginal Natives congregated in very large bodies, and crossed the Murrumbidgee River, from the Adelaide Road to Zangar Lake, the Head Station of Mr. Wentworth, situated in this district, and within about thirty Miles of the Junction of the Murray and Murrumbidgee Rivers, and his Superintendent, becoming alarmed, sent off an Express for a detachment of my Police. They arrived by forced marches, and the Natives gradually dispersed. A Runaway Prisoner of the Crown, named Edward Ellis, who was endeavouring to escape to Adelaide with Mr. New’s Party, shot an Aboriginal Native in some affray, and he, Ellis, received a Spear wound in his breast, and unable to continue his journey, was captured by the Police.

The Aboriginal Natives have continued quiet during the very anxious period when the Rivers and Creeks are flooded, and which I attribute to the constant patrolling of Eight Mounted Troopers of Police, which I have stationed in two Detachments in that portion of Country more recently taken up by Settlers. On a very recent occasion at Head Quarters, one of my Aboriginal Native Police, which I have attached to my Division, behaved remarkably well, and rescued from a Watery Grave Mrs. Surgeon Large and her Child. Both would have inevitably been swept down with the strong current of the Tumut River, had it not been for the prompt and strenuous exertions of "Ivey" the Black, and the Sergeant of Police.

4th. Schools.

No Establishment of this nature in the district. It may now, however, be a subject of consideration with the Executive Government, if a reserve for the Aboriginal Natives should not be formed at the junction of the Murray and Murrumbidgee rivers, or further West, where the Natives are so very numerous, but not a reserve of the character that some settlers would wish, viz., to confine the Blacks within that Reserve; but a Reserve that would secure to them undisturbed Fishing and Hunting Grounds.

Acting on the general system, the Aboriginal Natives are drove back to seek for food on other Lands than those they were accustomed to Hunt and fish over, and it may be the Country of some
dangerous Rival or Hostile Tribe, to which they fall victims or suffer much loss. Some Settlers will not permit the Natives to come on their Runs, if they can deter them by violence and threats, privately administered to them; and I must here remark with much regret that to many the lives of the Aboriginal Natives are of trifling moment when placed in juxtaposition with their Runs and Stock. However there are others who act on much more Christian and liberal principles.

3rd. State and Prospects.

The admission of the Aboriginal Natives as Witnesses before the Courts would be most desirable, tho' I am well aware objections may be made to such. Some of the Juries, however, of this Country would be well able to discriminate as to what weight and reliance should be given to such evidence. I consider it would be a measure that would tend to protect the Aboriginal Natives from outrage on their persons and Lives, if their Statements were permitted to be received in Courts of Justice. Of course such statements would require the fullest corroboration. The general impression and knowledge in the Territory that such Evidence was admissible would lessen many a Dark deed; and, from my close and practical experience as an Officer of Police and Crown Commissioner of this extensive District, it appears to me that this measure is further necessary to shew the Aboriginal Natives that, when they commit violence and Bloodshed on each other, that such is contrary to the laws which afford them protection, and they must be punished for such crimes amongst themselves.

HENRY BINGHAM, C.C.L.

[Enclosure No. 11.]

MR. J. LAMBIE TO COLONIAL SECRETARY THOMSON.

Commissioner of Crown Lands Office.

Sir, Monaroo, 1st January, 1846.

In attention to your Circular of the 2nd Ultimo, requiring my Annual Report on the State of the Aborigines for transmission to the Secretary of State, I do myself the honor to report as follows:—

No material change has taken place in the condition of the Natives during the last year. Some Months ago a few of the Adult Males were attacked with Fever, and, although all received Medical treatment from one or other of the Surgeons who are resident Stock owners, those cases terminated fatally.

The Natives, as heretofore, continue to assist the Stock Owners in Sheep washing, reaping and hoeing, but their desire thus to make themselves useful does not seem to increase, notwithstanding the reward that invariably accompanies such services in articles of food and Clothing.

The Individual alluded to in former Reports as having separated himself from his Tribe and enclosed a Small piece of Ground on the right Bank of the Moruya River still lives there. He has lately erected a Hut, which he and his Wife live in, and employ themselves in cultivating the patch of ground which this season has been planted with potatoes.

The Deaths have exceeded the Births during the last year; and the accompanying Census exhibits the total Number as nearly as I could obtain it.

JOHN LAMBIE, C.C.L.
Census of the Aborigines of the District of Monaroo for the Year ended 31st December, 1845, accompanying letter to the Honorable the Colonial Secretary, dated 1st January, 1846.

| Gundary | 10 | 5 | 10 | 24 | 32 |
| Bergalia and Bootally | 31 | 33 | 4 | 1 | 69 |
| Wagonga, Tilba Tilba, and Myalia | 90 | 20 | 50 | 15 | 175 |
| Biggah | 59 | 21 | 57 | 24 | 161 |
| Twofold Bay | 36 | 17 | 21 | 12 | 68 |
| Pampoola | 9 | 1 | 3 | 1 | 14 |
| Cape Howe | 15 | 7 | 15 | 5 | 42 |
| Maharatta and Cambalong | 12 | 5 | 9 | 3 | 29 |
| Morvenhar | 12 | 5 | 9 | 4 | 30 |
| Snowy River | 20 | 7 | 19 | 3 | 49 |
| | 294 | 134 | 197 | 69 | 684 |

[Enclosures Nos. 12 to 18 and 20.]

[ Copies of these reports, which are noted in the despatch, will be found in a volume in series III. ]

Enclosure No. 19.

REVD. W. WATSON TO COLONIAL SECRETARY THOMSON.

Sir,

Apsley Aboriginal Mission, 2 January, 1846.

I do myself the honor of forwarding, herewith, a copy of the Report of this Mission for the Year 1845.

In presenting this Report, we desire to return our sincere thanks to the Governor for His Excellency's kind consideration of the Aborigines on this Establishment in granting a donation of Blankets, and a location for the Mission.

I have, &c.,

WILLIAM WATSON.

THE FIFTH ANNUAL REPORT OF THE APSLEY ABORIGINAL MISSION.

Conducted and Supported by the Reverend William Watson.

In presenting this annual report of our Missionary labours to His Excellency Sir George Gipps, Governor of New South Wales, etc., we have abundant reason to be thankful, not indeed that many have been added to our Aboriginal Family but for the grace that has been bestowed upon several members of our Aboriginal establishment. During the year 1845, Five Aboriginal Natives have been received by Baptism into the Christian Church. Of these, three are adults and two children of Christian Aborigines. Of the Adults, one, Frederick, has been connected with us since the commencement of our Mission at Wellington Valley. He is about thirty five years of age. Formerly he considered himself good enough for Baptism, and was repeatedly requesting me to baptise
GIPPS TO STANLEY. 15

him, and threatening that, if I would not, he would go to the Clergyman at Bathurst to be received into the Christian Church; but, for several months before his baptism, he appeared to have become changed in his heart and conduct. The Lion seemed to be changed into the Lamb. He has shewn a decided separation from the Heathen in His dress, and general deportment. Of the two adult females, one is about twenty four years of age, and has been with us upwards of five years. She was sent to us in July, 1845 (1840?), by John Allman, Esqr., Commissioner of Crown Lands for this District. She is the mother of three half caste children which are with her here. For some time before her baptism, she appeared to be truly penitent and to have experienced a change of heart. The Third is Charlotte, about sixteen years of age; has been six years with us, and can read fluently any work in the English language. Her mind is well stored with Scriptural knowledge, and we trust that she is a sincere Christian. Jane Marshall, who was married in 1840 to James Marshall, is still with us, though her husband is often from home. She has since her marriage become the mother of four pure Aboriginal Children, and continues to maintain her Christian profession, to our Satisfaction and to the glory of God. Knowing the Character and habits of the Aborigines of this country, we are extremely cautious in receiving any of them into the Christian Church. We endeavour to impress upon their minds the importance of the vows and promises they will have to make in Baptism, as well as the Serious consequences of receiving that Sacrament while their hearts are unchanged, or of Apostatising from the faith. We keep them many months in a state of probation, and on the appointed day, before proposing the questions in the service of the Church, they are expected to give an account of their views, feelings, etc., in their own words. We watch for their souls, as those that must give account, that we may do it with joy and not with grief. In this department of labour, I trust that we have the approbation of God and that He will grant His Special blessing to those, who in this mission have cast off their heathen customs, and become members of the Christian Church.

I am sorry to say that Jacob, the most intelligent boy I ever had, has died during the past year. He was induced to leave us and join his Mother. His mother, her husband and himself died within a very short time of each other. Jacob's death was so sudden that I had not heard of his sickness, till I heard that he was no more. Some aboriginal youths, engaged as hired servants in the neighbourhood, continue to attend Church. During the time that I have had to perform the duties of Clergyman of this District, I have travelled upwards of three thousand miles. In these journeys I have met with many Aborigines, whom I should not otherwise have seen. On such occasions I avail myself of the opportunity of conversing with them, and sometimes they are very ready to kneel down and unite with me in prayer. As we always have exposition of Scripture at family Worship when I am at home, my family does not sustain much if any loss by my absence on a Sunday, especially as Mrs. Watson takes them to Church and has reading the Scriptures singing and prayer with them when I am not at home. Our Mission is much indebted to His Excellency Sir G. Gipps for his kindness in granting us a donation of Blankets and Land for the Mission.
Without this boon, I cannot see but we must inevitably have been compelled to abandon our labours among the Aborigines of this District. The only assistance, afforded to the Mission this year, has been twenty bushels of wheat by Andrew Kerr, Esq.

During the year, my sheep were said to have become diseased, and as I had no run for them I was compelled to destroy them all. The Wheat crop on the Mission is nearly a failure, there being but a very small quantity, and from the garden we are scarcely able to raise any vegetables on account of the dryness of the season. But we trust that we shall be enabled to prosecute our Mission, and with benefit to the souls of the Aborigines, although the expenses of food, clothing, Books, etc., increase every year.

WILLIAM WATSON, Mission.

Apsley Aboriginal Mission, Wellington, N. S. Wales. 2nd January, 1846.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 76, per ship Lloyds.)

My Lord,

Government House, 4th April, 1846.

With my Despatch No. 18 of the 24th January last, I transmitted Returns of the Revenue of the Colony of New South Wales for the year 1845; but the Returns of Expenditure for the same period were not then ready for transmission.

I have now the honor to enclose Printed Returns, both of the Revenue and Expenditure of 1845, in the shape in which they are usually prepared for the Legislative Council.

In my Despatch of the 24th January, I remarked that there was an increase in the Revenue of the year 1845, as compared with 1844, of £39,184 9s. 6d. I have now the satisfaction of adding the following brief particulars:

<table>
<thead>
<tr>
<th>Description</th>
<th>1844</th>
<th>1845</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ordinary Revenue</td>
<td>£266,724 19 5</td>
<td>£283,945 16 2</td>
</tr>
<tr>
<td>Ordinary Expenditure</td>
<td>£17,220 16 5</td>
<td>£251,087 10 11</td>
</tr>
<tr>
<td>Crown Revenue</td>
<td>£6,803 19 7</td>
<td>£44,228 5 8</td>
</tr>
</tbody>
</table>

exclusive of some receipts in England, and exclusive also of the Church and School Estates.

I have, &c.,

Geo. Gipps.

[Enclosure.]

[These returns will be found in the "Votes and Proceedings" of the legislative council.]
GIPPS TO STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 77, per ship Lloyd's.)

My Lord,

Government House, 6th April, 1846.

I have the honor to enclose herewith a Return, shewing that the Revenue, collected in Sydney in the first quarter of the present year 1846, has exceeded the amount collected in the corresponding quarter of 1845, notwithstanding the great reduction which was effected in November last in the duties on Spirits, and reported in my Despatch No. 200 of the 23rd November, 1845.

The object of my present communication is simply to satisfy your Lordship that no inconvenience is likely to result from the measure in question.

I have, &c,

GEO. GIPPS.

[Enclosure.]

This was a printed abstract, dated 9th April, 1846, which will be found in the "Government Gazette."

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 78, per ship Lloyd's; acknowledged by Earl Grey, 30th August, 1846.)

My Lord,

Government House, 9th April, 1846.

In my present Despatch, I propose to report to Your Lordship, and to submit for Your Lordship's sanction, some arrangements which I have adopted for putting the Offices of Clerk of the Executive Council and Immigration Agent on a more satisfactory and permanent footing.

Mr. Francis Merewether has held the Office* of Agent for Immigration, the proper salary of which is £500 a year, since the beginning of August, 1841; and in addition to it he has, since the commencement of January, 1842, held (though without any additional salary) the Office of Clerk of the Executive Council. This arrangement was originally adopted as a temporary measure among the movements which were rendered necessary by the defalcation of Mr. Manning, and it was reported in my Despatch No. 6 of the 16th January, 1842; but it has proved so convenient that it has been continued ever since; and I now propose that the union of the two Offices shall be made permanent, at least for so long as Mr. Merewether may hold them.

During the continuance of the old Legislative Council, the Clerkships of the two Councils, Executive and Legislative, were united, both being properly held by Mr. Macpherson, though filled for a time by Mr. Merewether.

* Marginal note.—Reported in my Despatch No. 163 of the 24th August, 1841, confirmed by Lord Stanley's Despatch No. 89 of the 18th April, 1842.
Mr. Macpherson's salary was £600 a year; and though, since the meeting of the new Council in 1843, he has held only the Clerkship of the Legislative Council, he continues to receive the same salary of £600 a year, which is paid to him under the annual appropriation Act. It is no longer expedient or even I would say possible for the same individual to act as Clerk to both Councils.

Mr. Merewether has hitherto received only £500 a year, which, as above stated, is the proper Salary of the Immigration Agent alone; but I now propose, with Your Lordship's sanction, to give him an addition of £100 per annum, making the Salary of the united Office of Clerk of the Executive Council and Agent for Immigration £600 a year, or equal to that of the Clerk of the Legislative Council.

Under Schedule B of the 5th and 6th Vict., ch. 76, a provision of £600 a year is made for the Establishment of the Executive Council; and on this Schedule one half of Mr. Merewether's salary £300 a year will be charged, the other half of it being charged to Immigration and paid out of the Crown Revenue.

I beg to submit these arrangements for Your Lordship's approval.

I have, &c.,

GEO. GIPPS.

P.S.—Enclosed is a copy of the order which, on the 25th January last, I gave for carrying these arrangements into effect.

[Enclosure.]

ORDER BY SIR GEORGE GIPPS.

At the commencement of the year 1846, my attention has again been drawn to the Establishment of the Offices of the Clerk of the Executive Council and Agent for Immigration.

These Offices have since the commencement of the year 1842 been united in the Person of Mr. Francis Merewether, and I see no reason why he should not continue to hold them, though they cannot be permanently united.

During the 4 years that he has held these Offices (with the additional office for a time of Clerk of the Legislative Council), he has received the salary only of £500 a year which was allotted to him in 1841 as Agent for Immigration; it seems to me reasonable, however, that some additional allowance should now be made to him. From the 1st January, 1846, therefore, the salary of Mr. Merewether will (subject to the approval of the Secretary of State) be fixed at £600 a year, of which £300 will be charged to Schedule B and £300 to Immigration.

Two Clerks, each of the 3rd Class, will be considered the proper Establishment of Mr. Merewether's Office: Mr. Cashman and Mr. Hardy, who have been some years in the Office, will, from the 1st January be advanced to the rank of 3rd Class Clerks, provided they pass the requisite examination.
Whenever extra assistance is required in the Office, it will be allowed at the rate of 5s. a day; but a distinct authority must in every case be obtained for the employment of an Extra Clerk.

28 Jan., 1846.

G.G.

SIR GEORGE GIPPS TO LORD STANLEY.

(My Lord,

Government House, 11th April, 1846.

With reference to the first two paragraphs of my Confidential Despatch of the 12th January last, I have the honor to report to Your Lordship that I have called a meeting of the Legislative Council of this Colony for Tuesday, the 12th day of May next; and that it is my intention then to propose to the Council the simple renewal of the Squatting Act (2nd Vict., No. 27) for one year.

When, in my Despatch above referred to of the 12th January, I mentioned the probability of my calling the Council together in the month of March, I scarcely expected that my own stay in the Colony would have been prolonged, as it now seems probable that it will be, to the month of June or even July.

I have, &c.,

GEO. GIPPS.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.

(Sir,

Downing Street, 13th April, 1846.

I have the honour to transmit herewith, for your information and guidance, a Copy of an Order of the Queen in Council, of the 6th Instant, supplementary to that passed* by Her Majesty in Council on the 1st of February, 1838, relating to Salutes.

I have, &c.,

W. E. GLADSTONE.

ORDER-IN-COUNCIL.

At the Court at Buckingham Palace, The 6th day of April, 1846.

Present:—The Queen's Most Excellent Majesty in Council.

Whereas there was this day read at the Board a Report of a Committee of the Lords of Her Majesty's Most Honorable Privy Council, dated the 27th day of March last, in the words following, viz.:

"Your Majesty having been pleased, by Your Order in Council of the 18th day of March inst., to refer unto this Committee a Letter from the Right Honorable William Ewart Gladstone, One of Her Majesty's Principal Secretaries of State, to the Lord President of the Council, setting forth that the General Instructions for the regulation of Salutes, as sanctioned by Your Majesty's Order in Council of the 1st February, 1838, contain no provision for the Salutes which should be paid to Members of Foreign Royal

* Note 1.
20

HISTORICAL RECORDS OF AUSTRALIA.

1846. 13 April. Order in council re salutes.

Families, who may happen to visit Your Majesty's Possessions, and therefore recommending that there be submitted, for the approbation of Your Majesty, a Clause to be inserted between Clauses 4 and 5 of Section 1 of the said General Instructions, in the words or to the effect following, viz.:—'Whenever a Prince, Member of a Foreign Royal Family, shall arrive at or quit any place where there is a Fort or Battery from which Salutes are usually fired, such Prince shall receive a Royal Salute on his first arrival and final departure from the said Fort or Battery.' The Lords of the Committee, in obedience to Your Majesty's said Order of Reference, have taken the said Letter into consideration, and do agree humbly to report, as their opinion to Your Majesty, that it may be advisable for Your Majesty to Order and Direct that such Clause be inserted in the said General Instructions;'

Her Majesty, having taken the said Report into consideration, was pleased, by and with the advice of Her Privy Council, to approve thereof, and to Order, as it is hereby Ordered, that the Clause therein recited be inserted between Clauses 4 and 5 of Section 1 of the General Instructions for the regulation of Salutes, as sanctioned by Her Majesty's Order in Council of the 1st February, 1838. Whereof the Right Honorable the Earl of Aberdeen, the Right Honorable Sir James Graham, Bart., and the Right Honorable William Ewart Gladstone, Her Majesty's Three Principal Secretaries of State; The Most Noble the Duke of Wellington, Constable of the Tower; The Lords Commissioners of the Admiralty; The Secretary at War; The Master General of the Board of Ordnance; and The President of the Board of Control, are to take notice, and to give the necessary directions herein as to them may respectively appertain.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 80, per ship Lloyds.)

My Lord, Government House, 13th April, 1846.

I have had the honor to receive Your Lordship's Despatch, marked "Separate" of the 15th November, 1845, requesting information respecting two persons named Ellen and Mary Keany, who emigrated from Tullamore to New South Wales by the ship "Carthaginian" in 1841; and in reply I beg to refer to my Despatch No. 134 of the 16th August, 1845, in which I gave, in reply to a Despatch from your Lordship of the 10th January, 1845, all the information I could collect in respect to these persons.

I have, &c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 81, per ship Lloyds.)

My Lord, Government House, 15th April, 1846.

I have had the honor to receive Your Lordship's Despatch No. 123 of the 7th Octr., 1845, transmitting to me a copy of a letter, which had been addressed to Your Lordship by Dr.
E. D. Allison, with a view, I conclude, of obtaining Leave of absence for his son, who is employed as Clerk of the Bench at Portland in the Port Phillip District of this Colony.

Having referred this subject to Mr. La Trobe, I have received from him and transmit herewith a Copy of a letter from Mr. James Allison, in explanation of his father’s application. I regret it is not in my power to give Leave of absence to Mr. Allison.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this letter is not available.]

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.
(Despatch No. 14, per ship Berkshire.)

17 April, 1846.

With reference to Sir George Gipps’ dispatch and its enclosures, No. 163 of the 25th of Sept. last, copies of which were by my desire transmitted for the consideration of the Lords Commrs. of the Treasury, I have now to inform you that, in compliance with the request expressed in that Dispatch, their Lordships have given directions for the remission of the Surcharge made by the Commissioners of Customs against the Collector at Sydney, in respect of duties which were payable upon certain articles imported for the use of the Roman Catholic Church in that City.

Their Lordships have at the same time intimated their opinion that your Predecessor had no sufficient legal authority to dispense with the payment of those duties without previous sanction from the Board of Treasury, and that in any such case it will not be proper to do more than authorise the Collector to suspend the levy of the duty until that sanction could be applied for, taking Sufficient Security for the eventual payment of it in the event of the Sanction being withheld.

I am, &c.,

W. E. GLADSTONE.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.
(Despatch No. 15, per ship Berkshire.)

20 April, 1846.

I have to acquaint you that it has been necessary to make Application to the Lords of the Treasury to supply the Colonial Agent with the necessary funds for the payment to Mr. H. Kemp, the Post Master at Port Phillip, of the amount of Salary due to him for the period of five months previous to his return to the
Necessity to supply funds for agent-general.

Colony on the 1st proximo, the balance in the hands of the Agent having been reported to be so small as to be unequal even to so trifling a demand. I have requested the Agent to report to you the particulars of the advance, in order that a corresponding repayment may be made to the Commissariat Chest. This circumstance affords a striking illustration of the inconvenience of leaving the Agent unsupplied with the funds necessary for the Services of your Government. Your predecessor was distinctly apprised that, under the altered Government of the Colony, it would be impossible to continue, except under peculiar circumstances, to make advances of that nature. It will, therefore, be your duty to take care in future that the Agent is provided, from time to time, with funds sufficient for every service which he may be called upon to execute for your Government, with the exception of any service chargeable on the Crown Revenue, for which there will be no difficulty in making the necessary advances in this Country from the British Treasury.

I have, &c,

W. E. GLADSTONE.

Error in statement re salary voted for colonial botanist.

My Lord,

Government House, 20th April, 1846.

When, in my Despatch No. 15 of the 20th January last, I expressed a doubt whether the Legislative Council would be disposed to vote a larger sum than £140 per annum as the Salary of a Colonial Botanist, I regret to say it escaped my recollection that the Council had in the last session voted £200 as a Salary for such an Office, in the event of a scientific Botanist being appointed by Your Lordship.

I think it right to apprise Your Lordship of the mistake which I committed, and of which I have only this day become aware.

I have, &c,

GEO. GIPPS.

Advance for payment of salary of H. D. Kemp.

Sir,

Downing Street, 24 April, 1846.

With reference to my dispatch No. 15 of the 20th Inst., I have to acquaint you that the Lords Commissioners of the Treasury have intimated to me that they have given directions for the transfer from the Commissariat Chest Fund to the account of Mr. Barnard at the Bank of England, as the Colonial Agent General for Crown Colonies, of the sum of £79 3s. 4d., as an Advance on account of the Government of New South Wales for
GIPPS TO STANLEY.

the Salary of Mr. Kemp, and to be repaid to the Commissariat Chest in the Colony. You will therefore take care to make that repayment without delay.

W. E. GLADSTONE.

RIGHT HON. W. E. GLADSTONE to SIR CHARLES FITZ ROY.

Sir,

With reference to my despatch to your Predecessor No. 32, Request for the Queen's Warrant for appointing Mr. Hutchinson Hothem Brown to the Office of Registrar of the Court of Requests in New South Wales.

I have, &c.,

W. E. GLADSTONE.

SIR GEORGE GIPPS TO LORD STANLEY.

My Lord,

I had the honor to receive, on the 22d January last, Your Lordship's Despatch No. 106 of the 1st September, 1845, wherein I was directed, in consequence of an application from Her Majesty's Consul at Warsaw, to endeavour to obtain information respecting some property supposed to have been left by Anzel Davidowies Davis, a Polish Jew deceased, in New South Wales; and I am sorry now to have to report that, though I have made all the enquiry in my power, I have not been able to acquire the smallest information respecting any person named as above; and I doubt greatly whether any such person ever possessed property in New South Wales.

I have thought it right to forward a Copy of Your Lordship's despatch, and of its enclosures, to the Lieut. Governor of Van Diemen's Land.

I have, &c.,

GEO. GIPPS.

P.S.—I forward also to Van Diemen's Land a Copy of this Despatch.

SIR GEORGE GIPPS TO LORD STANLEY.

I forward herewith a Petition to Her Majesty from the Mayor and Town Council of Melbourne, praying that measures
may be taken to avert the calamities which are now, in the opinion of the Petitioners, to be apprehended from a dearth of labour in the District of Port Phillip.

Your Lordship is aware that I concur with the Petitioners in thinking that a regular supply of labour is wanted in Port Phillip, as in other parts of the Colony; but I regret I cannot concur with them in the arguments (or even the alleged facts) which are adduced in support of the prayer of the Petition.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this petition will be found in a volume in series III.]
GLADSTONE TO FITZ ROY.

SIR GEORGE GIPPS TO LORD STANLEY.  
(Despatch No. 89, per ship Lloyds.)

My Lord,

Government House, 28th April, 1846.

I have had the honor to receive Your Lordship's Despatch No. 107 of the 3d Sept., 1845, containing a Copy of a letter which appears to have been addressed to Your Lordship by a Mrs. Grazebrook, requesting information respecting her son Thos. Benjn. Grazebrook, who is supposed to be in New South Wales.

I regret that I am unable to afford any information respecting Thos. Benjn. Grazebrook, further than that I have heard of a person of that name near the Town of Goulburn in the County of Argyle in this Colony; but for some reason or other he appears unwilling to communicate with the Government.

I have, &c,

GEO. GIPPS.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.  
(Despatch per ship Berkshire; acknowledged by Sir Charles Fitz Roy, 21st October, 1846.)

Sir,

Downing Street, 29 April, 1846.

I transmit to you herewith a copy of a Letter from the person described in the margin,* containing an application for information relative to Mr. Ewen Macneil, who is stated to have been a Public Officer in the Colony under your Government, and I have to request that you will transmit to me such information as you may be able to obtain on the subject of the enquiry.

I have, &c,

W. E. GLADSTONE.

[Enclosure.]

LORD LURGAN TO RIGHT HON. W. E. GLADSTONE.

Dear Sir,

Lurgan, Ireland, 25 April, 1846.

Lady Lurgan has been made very anxious by the fact of a letter that was addressed to her Brother, Mr. Ewen Macneil at the Convicts office, Sydney, where he was Junior Clerk, being returned with the word dead on the cover. In his last letter, bearing date 24 March, 1845, he stated the probability of his being removed to the New Penal Settlement at Port Phillip, still as Clerk, and our hope is that such may be the case. I, therefore, venture to intrude on your valuable time by requesting that you will be good enough to cause me to be informed from the Colonial Office, if there is any information of Mr. Ewen Macneil's death, or of his removal to Port Phillip.

With many apologies for thus trespassing upon you,

I remain, &c.,

LURGAN.

* Marginal note.—Lord Lurgan.
Consideration by executive council of petition for separate colony at Port Phillip.

Majority opinion in favour of separate colony.

Dissent by two members of council.

Reasons of Sir G. Gipps in favour of separate colony.

1846.
39 April.

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HISTORICAL RECORDS OF AUSTRALIA.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 99, per ship Lloyds; acknowledged by earl Grey, 31st July, 1847.)

My Lord,

Government House, 29th April, 1846.

Agreeably to the instructions contained in Your Lordship's Despatch No. 58 of the 12th June, 1845, I have brought before my Executive Council the Petition addressed to the Queen by the Representatives of the Port Phillip District, praying for the entire separation of that District from the rest of New South Wales, and the erection of it into a distinct Colony.

The enquiry undertaken by the Council into the merits of this Petition has necessarily occupied a considerable time; but I am happy to have at length the honor of laying its results before Your Lordship.

The Report of the Council, contained in various Minutes of its proceedings, is transmitted herewith supported by numerous documents, and by the arguments and evidence of the parties who were examined in the course of the enquiry.

Your Lordship will perceive that the Council, by a majority of its voices, adopts the views of the Petitioners, in so far as to recommend the erection of the present District of Port Phillip into a separate Colony; but that the opinions of the Members of the Council were so evenly divided that the resolution in favor of the proposal was carried only by my own casting vote.

Two Members of the Council have, in a Paper attached to its proceedings, recorded the grounds of their dissent; and, in obedience to the instructions conveyed to me by Your Lordship's Despatch, it becomes my duty to submit to Your Lordship the reasons by which I have been led to the conclusion that the interests of Her Majesty's subjects and the cause of good Government in these Provinces will best be promoted by granting the separation, which is prayed for.

In acquitting myself of this duty, I feel it necessary to commence by stating that these reasons are all of a special nature, and are founded on circumstances peculiar either to New South Wales or Port Phillip.

On grounds of public policy, I should desire to keep the existing Colony of New South Wales entire, for I think that large Colonies are to be preferred to small ones, especially for the interests of the Colonies themselves. In some respects, indeed, small Colonies may be more easily governed than large ones; but not on this account would I advise the dismemberment of any Colony which, like New South Wales, may be of a size hereafter to become a Nation.
It has long been the policy of the British Government to interfere in the interior concerns of the Colonies in no greater degree than may be necessary to preserve harmony and due subordination among the different members of the Empire; but the occasions for interference must of necessity be more frequent where numerous small Colonies are intermingled or clustered together than where they are few, distinct and large; and, on this principle alone, were other considerations equal, I should feel greatly disinclined to recommend the dismemberment of the Colony of New South Wales.

Of the special grounds on which the separation of Port Phillip from the rest of the Colony is prayed for by the Petitioners, many are admitted as tenable by the majority of the Members of the Executive Council; and to these it may be convenient that I should first briefly advert;

They are:
1st. The very general desire for separation which exists in the District;
2. The geographical position of it, which renders it already in a great degree distinct from the rest of the Colony;
3. The Facts established or which may at least be assumed that, in point of Revenue and wealth, the District is able to bear the expense of a separate Government;
4. That, from the date of the first occupation of the District in 1836, an intention seems to have been entertained, or at least shadowed out, of forming it at no distant time into a distinct Colony, and particularly that separate Accounts have always been kept of the Revenue and Expenditure of the District, in consequence of directions given in 1836 by Her Majesty’s Government.

To each and all of these points or arguments in favor of separation, I give a degree of consideration not perhaps inferior to that which is given to them by the other Members of the Council; But I feel it right also to state that I attach nearly equal importance to the objections, which are urged against the proposed measure by the Members of the Council who have recorded their dissent. I agree with the dissentient Members in thinking that the existence has not been proved of any administrative evil of sufficient magnitude to call for so important a change; and I think with them that, by a compliance with the wishes of the inhabitants, a temporary effect only will be produced, and no permanent good, unless greater changes be promised, or at least the expectation of them be held out, than those which any Member of the Council is now prepared to recommend, or even than are now asked for by the Petitioners themselves.  

*Note 2.
But, in addition to the arguments which I have briefly recapitulated, there are two considerations in favor of separation, which are to my mind of such paramount importance that I feel it my duty to bring them more prominently before Your Lordship. One of them is, indeed, noticed in the Report of the Council, though the degree of importance is scarcely attached to it which I think it deserves; the other is not alluded to in any of the Papers now forwarded to Your Lordship.

The first is the difficulty of finding qualified persons, resident in Port Phillip, willing to act as representatives of the District in a Legislative Council sitting in Sydney, whereby the inhabitants are laid under the necessity of electing as their Representatives persons resident in or near Sydney.

The second is the fact that the Constitution intended to be given to the Colony of New South Wales by the Act of Parliament passed in 1842, 5th and 6th Vict., ch. 76, has never been carried into effect.

A very cursory consideration of that Act, and especially of the Clauses in it numbered from 41 to 50, must suffice to show that the Government, intended by the Imperial Parliament to be created in New South Wales, was essentially one of Local Administrations; that it was one in which it was intended that the local affairs of every County, District or division of the Colony should be managed by a Local Council elected in the district itself; and only what might be considered the general business of the whole Colony be transacted by a Council sitting in Sydney. For the transaction of such business, requiring only an attendance of perhaps two or three months in the year, it might have been possible to find fitting representatives among the resident inhabitants of the District; and, even if they could not have been found, the necessity of entrusting such general interests to non-resident representatives could scarcely have been complained of as a practical grievance.

District Councils are as much parts of the present Constitution of New South Wales as the Legislative Council is a part of that Constitution, and they were, moreover, called into existence simultaneously with the Legislative Council; but some supplementary powers, necessary to the due performance of their functions, were left to be supplied to them by the Legislative Council, instead of being conferred on them by the Act of Parliament itself; these powers have never been supplied; and partly from the want of them, partly from an apprehension studiously excited throughout the Colony of increased taxation, the District Councils have in Port Phillip remained to this day entirely inoperative.
During more than eight years in which I have held the chief administration of the affairs of this Colony, I have constantly expressed the opinion that it is only by giving a great extension to the principle of Local Self-government, that any Colony, at all approaching in extent to that of New South Wales, can be held together in one political body, and at the same time the representative system be safely introduced into it.

I am as strongly at this moment impressed with the correctness of these opinions* as I was in the year 1840, when I proposed to establish in each District of the Colony an elective Body, in which should be vested the Control of all matters of local interest, such as those relating to Highways, Public Works and Police; and I still entirely adhere to the opinion, which I at a later period ventured to express† to Your Lordship that, if it be determined to leave the affairs of every district or even parish of this widely extended Country to the management of a Central Authority, that authority, be it what it may, must be a strong one, stronger I would say than any authority can be, which is held under the check of an Elective body, or which can be exercised directly by any such body itself. I am still as firmly convinced as at any former period of my administration that it is only in the establishment of Local Institutions that security can be taken in any part of New South Wales for what Britons are accustomed to regard as good Government, at least in any part of New South Wales destined to remain a great Colony. Petty Colonies may exist without them, and be satisfactorily governed by a Central Body; great Colonies cannot.

That the establishment in 1840 in Port Phillip of the Institutions which I then recommended, or a full development in 1843 of the system of District Councils under the present Constitution, might have sufficed to preserve unity in the Colony of New South Wales and avert its dismemberment, I will not assert; either measure might have proved insufficient; and no advantage can now be gained by speculations on the subject; the time at which the experiment could have been tried with any prospect of success has at any rate passed away; and therefore it is that I feel myself now forced to the conclusion that I shall best perform my public duty by tendering my humble advice that the District of Port Phillip be separated from the rest of New South Wales, and erected into a distinct Colony, as prayed for by the Petitioners who have approached Her Majesty.

Assuming separation to be necessary, there is no difference of opinion among the Members of the Executive Council, nor

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* Marginal note.—Despatches of the 1st Augt., 1840, No. 98; 8th Decr., 1841, No. 229; 5th Augt., 1842, No. 139.
† Marginal note.—Despatch of the 13th Feby., 1845, No. 34.
1846.
29 April.

Unanimous opinion re form of government in new colony.

Possible demand for constitution.

Local self-government prior to establishment of legislature.

Opinion against second legislative chamber in colonies.

Opinion re existing constitution.

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indeed did there appear to be any deserving notice among the persons who gave evidence before it, as to the form of Government which should be established in the portion of the Colony to be separated from the rest.

It was not asserted by any party, whose opinion the Council was disposed to receive with any great degree of deference, that Port Phillip is now ripe for a Representative Assembly; and a form of Government, such as that which existed in New South Wales prior to the year 1848, was what seemed to be looked for by all.

It may, however, be perhaps pretty safely assumed that, though Port Phillip may for the moment be satisfied with separation, it will ere long look for and demand other changes.

In the Act of Parliament* which established the Colony of South Australia, a promise is held out that a Constitution (the nature of which, however, is not defined), shall be given to it, whenever it attain a population of 50,000 souls; and possibly some expectation of a similar nature might advantageously be held out to Port Phillip.

As, however, the District of Port Phillip will, even when separated from New South Wales, form a Colony of no inconceivable extent, I feel strongly the propriety of submitting to Your Lordship that some security should be taken for establishing in it a system of Local Self-government, before any Legislative Body be called together, founded either wholly or in part on the principle of Representation. It might perhaps suffice for this purpose to provide that the first Representatives introduced into the Legislative Council should be elected by Local Municipalities, or District Councils, themselves representing a population not less than a fixed number, perhaps not less than 5,000 souls.

Although any discussion on abstract principles, or on the best form of Government for a British Colony, might be misplaced in a Report like the present, I trust I may, if only in consideration of the deep and unremitting attention which it has been my duty here and elsewhere to give to the subject of Colonial Government, be excused by Your Lordship if I venture to add that I am disposed in no way to recommend the formation in any new British Colony of a second Legislative Chamber, or of a Legislative Council distinct from a Legislative Assembly.

The Constitution intended for New South Wales by the 5th and 6th Vict., ch. 76, appears to me to require amendment only in some few particulars, in order to be well suited to the wants and condition of the Colony; and, if it were so amended, and the principles on which it is founded fully brought into operation, it

* Marginal note.—4th and 5th Wm. IV, C. 95, S. 23.
would, I believe, be greatly to be preferred to any form of Government now existing, or which at any previous period existed in a British Colony.

It is undoubtedly the natural wish of every Briton to see the Institutions of his own Country copied, as far as circumstances will admit, in the British Colonies; but it should nevertheless be borne in mind that a Colonial Government, or one which is in its very nature secondary or dependent, can neither be founded or conducted exactly on the same principles as one which is sovereign and independent. The non-admission or the reluctant admission of this truth in the Colonies, and the constant indisposition which prevails in England to put it prominently forward even on occasions of high importance, appear to me to lie at the root of nearly all the misunderstandings which occur between Great Britain and her Colonial Dependencies.

The political position of a British Colony is no unenviable one; to be a Member of the British Empire is alone a glorious privilege; but those who enjoy it cannot be allowed to forget that the condition of a Colonist is one to which duties are attached as well as privileges; that men who claim to be Her Majesty’s subjects cannot be at the same time Members of an Independent Republic.

In respect to Boundaries (assuming separation to be desirable), there is in the Council no difference of opinion. It is unanimously recommended that the Boundary* established in the 2nd Section of the 5th and 6th Vict., ch. 76, and repeated in the 1st Section of the Local Act, 6th Vict., No. 16, be adhered to as nearly as possible.

In laying out the Boundary, difficulties, however, will occur which, if not speedily met, may at some future time prove of importance. The exact position of the Point, which is to be taken as “Cape Howe,” is one of these; and another is the stream or watercourse to be considered “the nearest source of the River Murray.” In respect to the latter or the source of the River Murray, considerable difference of opinion may exist; and therefore I would suggest that the Boundary from Cape Howe to the frontier of South Australia should, before the separation take place, be laid down by Commissioners appointed by the Governor of New South Wales, subject of course to confirmation by Her Majesty.

Another question respecting Boundaries came incidentally before the Council, having been raised by the Governor of South Australia in a Despatch† to Your Lordship dated the 30th September, 1844.

* Note 3. † Note 4.
The proposal of Governor Grey to alter the existing boundary between South Australia and Port Phillip has been met by a counter proposal from Mr. La Trobe and Sir Thomas Mitchell, namely, that the Murray should continue to be the boundary between the two Provinces, to the point where it falls into the Sea; but to neither of these proposals could the Council, as impartial arbitrators, give the sanction of their approval.

The Boundary established by the 4th and 5th Wm. IV, ch. 95 (the 141st degree of East Longitude from Greenwich) may not be an unobjectionable one; but I am disposed to doubt whether the inconveniences of it are sufficiently great to render an alteration necessary. Should an alteration, however, be desired by the authorities of both Colonies (South Australia and Port Phillip), it is suggested that a conventional boundary be laid out by Commissioners appointed by the respective Governors of those Colonies, subject to the approval of Her Majesty.

The financial arrangements consequent on the proposed separation will require mature consideration. At present, I can suggest nothing in addition to what is proposed by the Council.

Admitting the claim of the Port Phillip District to a share of the money, which there may be in the Treasury of New South Wales on the day when the separation is effected, I consider the share to be allotted to it must be calculated, either in proportion to its population, or in proportion to the amount which it may have contributed to the common Revenue. Either of these proportions can be easily ascertained; but, if Expenditure be introduced as an element in the calculation, it will be scarcely possible to agree on the facts which ought to serve as the basis of it.

In a Paper which I laid before the Council, and which is marked A 1 in the accompanying Appendix, I found it necessary to controvert many of the assertions which have been put forward in Port Phillip, on the subject of the Finances of the District.

The simple facts of the case are that, up to the end of 1844, the ordinary Expenditure made by the Government of New South Wales, either in the District of Port Phillip, or on account of the District, as nearly as possible balanced the whole Ordinary Revenue received from it; but, up to the same date, a sum exceeding £130,000, produced by the sale of Land in Port Phillip, had been expended in bringing Emigrants to other parts of the Colony. This latter fact has never been denied, or attempted to be concealed by this Government; and as little is it denied that of late years the whole Revenue raised in Port Phillip has not been spent in the District; but it is not true that the money saved in Port Phillip has been systematically or
intentionally spent for the benefit of other parts of the Colony, or that any portion of the Colony has been favored by the Government more than Port Phillip.

What has been saved at Port Phillip is now in the public Treasury, as is also the money which has been saved in other parts of the Colony, for Economy has been observed equally in all parts of it during the last few years; and it is on this account only that Port Phillip is entitled to a share in the money which is now in the public chest.

In conclusion, I feel it right to remind Your Lordship that, in consequence of the proviso attached to the 51st clause of the 5th and 6th Vict., ch. 76, the separation of Port Phillip from the rest of New South Wales can only be effected by an Act of Parliament.

I have, &c.,
Geo. Gipps.

[Enclosure.]

Copies of these minutes will be found in a volume in series III.]

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 91, per ship Lloyds; acknowledged by earl Grey, 31st July, 1847.)

My Lord,

Government House, 29th April, 1846.

I had the honor, on the 2d October last, to receive Your Lordship's Despatch No. 50 of the 28th May, 1845, wherewith was transmitted to me a Copy of a Despatch addressed to Your Lordship by the Governor of South Australia on the 30th September, 1844, on the subject of the existing Boundary between the Provinces of South Australia and Port Phillip, and proposing an alteration in that Boundary.

On the receipt of Your Lordship's Despatch, I consulted Mr. La Trobe and the Surveyor General of this Colony on the subject of the boundary in question; and I have the honor herewith to enclose Copies of letters which I received respectively from those Officers, bringing forward as a counter proposal to that of Governor Grey a project for continuing the River Murray as the boundary between the two Provinces, throughout the whole lower portion of its course, or from the point at which it is joined by the Darling, through the centre of Lake Alexandrina to the Sea.

Feeling that I could scarcely support a proposal, which would go to deprive South Australia of a portion of its Territory lying little more than thirty miles from Adelaide, I resolved to bring the subject before my Executive Council, in conjunction with
HISTORICAL RECORDS OF AUSTRALIA.

1846. 29 April.

For the recommendations of the Council in respect to the Boundaries of Port Phillip, I beg to refer to my own Despatch No. 90 of this day's date; but I also enclose a Copy of a Minute made by the Council in respect to this particular part of the Boundary; and I will only add my recommendation that a conventional Boundary should be laid out, deviating as little as possible from the 141st Degree of Longitude East from Greenwich (the present boundary) and submitted for the approval of Her Majesty.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

Copies of these letters, dated 22nd December and 13th October, 1845, will be found in a volume in series III.]

30 April.

Statement of policy of British government re problems of transportation of convicts to colony.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZROY.

(Despatch marked "Private and Confidential," per ship Trafalgar.)

Sir, Downing Street, 30th April, 1846.

I am desirous that, at the commencement of your administrative duties as Governor of New South Wales, you should be possessed, in a form as definite as the state of the case admits, of the views of Her Majesty's Government with regard to the introduction of Convicts into that Colony.

You are aware that the practice has for some years past been to exclude New South Wales from the sentences of transportation passed in this Country; and that this practice is commonly reported to rest upon nothing less than a promise from Her Majesty's Government made on or about the year 1839, that transportation to New South Wales should cease.

I do not think it necessary to examine the origin or to question the accuracy of this opinion; for taking together the subject matter to which it refers and the extent to which it prevails, I am disposed to believe that the practical mischief of exciting jealousies by controveting it would be greater than any that can arise from acquiescence in the assumption of its correctness. It is in short the intention of Her M. Government not to alter the present practice as to the transportation of Criminals, so far as New South Wales is concerned, without the general approval of the Colony, or of the portion of it to be effected by such alteration.

At the same time, while Her M. Government are desirous to lessen the numbers of Convicts annually sent to Van Diemen's
Land, they are also disposed to doubt whether, even independently of any regard to the state of things in that Colony, it is to be desired that the absolute exclusion of transported Convicts from New South Wales should continue. And thus much at least is evident that now is the time for the consideration of the question before the sentences of the Convicts still serving their time in that Colony shall have expired, and the Establishments connected with Convict Discipline shall consequently be broken up.

Her Majesty's Government sympathise with the impatience of the Colonists of New South Wales under the system which prevailed there some years ago; and can well understand that the recurrence of that system, the resumption of transportation to that Colony on a scale even faintly resembling the former one must be regarded with a just jealousy and alarm. But the question is essentially and entirely different. Whether it might not be a measure favorable to the material fortunes of New South Wales, and unattended with injury to its higher interests to introduce either directly from England at the commencement of their sentences, or from Van D. Land at some period during their course, a number of Prisoners, small in comparison with the number which was carried to the Colony under the former system of transportation, and smaller still of course relatively to the augmented population among whom they would now be dispersed. It is moreover to be remembered that these prisoners would be employed upon a system different from that of former times, under which the abuses then complained of were generated.

I trust that the frank avowal, which I have conveyed to you of the intention of Her Majesty's Government to respect the general sense of the Colonists in their deliberations upon this important subject, will enable you with the greater care to avail yourself of any opportunity which may offer for suggesting its consideration. On the other hand, it will be acceptable to Her Majesty's Government if the Members of the Legislative Council of the Colony should shew a disposition to concur in the opinion that a modified and carefully regulated introduction of Convict Labourers into New South Wales or into some part of it may, under the present circumstances, be adviseable.

It seems probable that we may be again approaching a period, if indeed such period has not already arrived, when the supply of free labour in the Australian Provinces is on the whole below the demand. It might even happen that in Van Diemen's Land the supply of Convict labour, large as it is, might be insufficient to meet all the beneficial uses open for its application. But the
presumption is that the former contingency, namely, that of a scarcity in free labour, will both arrive sooner and endure longer. In Port Phillip, as I find from a dispatch of your Predecessor, the unequivocal signs of it have already begun to appear, and they have taken a direction not unnatural, namely, that of a desire for the introduction of Prisoners passing through the latter stages of their term from Van Diemen’s Land.

The labour of such Prisoners would be more liberally remunerated in Port Phillip than in Van Diemen’s Land. They would be much more thinly dispersed among the population, would form a scarcely perceptible element in the composition of Society, and would enjoy those favorable opportunities of improving habits and character, which transportation according to its first theory was designed to afford. And, if this disposal of them during the latter portion of their respective terms should follow upon a period of really efficient discipline in the probation Gangs (which as yet I by no means despair of their being made to yield) during the earlier portion, in such case I conceive, while the economical benefit to Port Phillip would be great, the hazard, from which such an Immigration can never perhaps be entirely set free, would be reduced to its minimum, and the hopes of ultimate reformation of the Prisoners proportionally raised.

One portion therefore of the subject, which deserves your consideration and upon which you may find it advantageous to ascertain the sentiments of the Colonists, is the question whether hereafter it may be desirable to frame arrangements by which persons, having passed through their period of probation in Van Diemen’s Land, may be introduced either under engagement or as candidates for private employment into New South Wales generally, or into the District of Port Phillip only, provided it should appear that the Colonists of that District only are desirous of such introduction.

But independently of the temporary and occasional scarcity of Agricultural labour, or even of the introduction of bondsmen to enlarge its permanent supply, it will also be for you to consider whether there are or are not certain descriptions of occupation for the sake of which it might be desirable regularly to introduce a limited number of Convicts from England into the Colony. I advert to the execution of public works generally, to the making and repair of roads for which I apprehend there is not at present found to be any adequate provision in New South Wales, and to any other descriptions of employment which from irksomeness or otherwise are not sufficiently supplied by the free
labouring population of the Colony, always presuming that they are neither destructive to health, nor essentially liable to moral objections, and therefore at variance with the reformatory principles on which it is the earnest desire of Her Majesty's Government to regulate the system of transportation. These employments ought to be of a nature so far requiring the Aggregation of a number of laborers in the same place as to give opportunity for the closest inspection, for subjecting the whole distribution of the time of the men and all their habits to a rigid discipline, and for applying to them the Agency of systematic and effective religious instruction.

I have here endeavoured to supply you not with any definite plan nor even with the essential elements or conditions of a plan, but simply with some slight and general outlines of the course into which it may be well for you to direct your reflections and enquiries upon a difficult but an important and interesting subject. As I may learn from you the progress you may make whether at once or by degrees in bringing it to maturity, I shall be prepared to communicate to you the determinate and particular views of Her M. Government regarding it; but you will not lose sight of this fundamental proposition, that, while Her Majesty's Government will receive with satisfaction any evidence of a disposition to secure the views which I have here expressed, they disclaim the intention and the desire to take any proceeding in the matter except such as may be generally conducive to the interests and agreeable to the inclinations of those whom it will most directly and intimately concern.

I have marked this dispatch as "Private and Confidential"; but I have to apprize you that it will be in your discretion to make it public, if you shall find reason to consider that such a course would be expedient.

I have, &c.,

W. E. Gladstone.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.

(A circular despatch, per ship Trafalgar.)

Sir,

Downing Street, 1st May, 1846.

Circumstances have induced me to reconsider that part of Lord Stanley's General Instructions of 7th March, 1842, which direct that the Half Salary of an Officer, absent from his duties for the last half of the leave of absence originally granted to him, should not be paid until after his return to the Colony.

I find that, since that Rule was established, almost every Officer, who has been absent on leave in this Country, has applied for a relaxation of it in his favor, and has been able to allege
such circumstances as to induce the Secretary of State to comply with the application. I infer from this that the Rule has been found either not to answer its purpose, or to effect that purpose at the expense of too much inconvenience and embarrassment to individuals, as compared with any advantage attending it, to warrant its being carried practically into operation. But, as it appears to me very undesirable that a Rule of this description should be maintained nominally, after it has become in reality a dead Letter, I have decided on abolishing it, and allowing an Officer, absent on leave in this Country, to receive here his Half Salary for the whole period of that leave, as it may from time to time become due. At the same time, the other Instructions contained in Lord Stanley’s Despatch of 7th March, 1842, and all other Regulations, established to prevent abuse in the application for or grant of leave of absence, are to be considered as in full force.

I have, &c.,

W. E. GLADSTONE.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.
(Despatch marked “Military, No. 2.” per ship Trafalgar; acknowledged by Sir Charles Fitz Roy, 21st October, 1846.)

Sir,
Downing Street, 2nd May, 1546.

I have to instruct you to report to me what may have become of James Graves, a soldier of the 28th Regiment of Foot, who is stated to have been employed, about five years ago, in the Mounted Police of New South Wales. I have, &c.,

W. E. GLADSTONE.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 93, per ship St. Vincent.)

My Lord,
Government House, 2d May, 1846.

I have had the honor to receive Your Lordship’s Despatch (not numbered) of the 28th Novr., 1845, enclosing a Copy of a letter from Mrs. Jane Moran of Manchester, requesting to be informed whether a Dr. Francis Moran, who came out to Sydney in the year 1821, is still alive; and I have the honor to report that, according to the best information I can obtain, Dr. Moran died in the Colony about ten years ago.

I enclose a copy of a letter, which has been addressed to the Colonial Secretary by the Registrar of the Diocese respecting the Certificate of the Burial of Dr. Moran. I have, &c.,

GEO. GIPPS.
MR. H. K. JAMES TO COLONIAL SECRETARY THOMSON.

Sir,

Sydney, 23rd April, 1840.

I have the honor to acknowledge the receipt of your letter of the 17th Instant, stating that, enquiry having been made from England respecting the late Dr. Francis Moran, you request that I will furnish you with a Certificate of the burial of that Gentleman; and in reply I beg leave to inform you that, as it is not stated that this Certificate is required for public purposes (in which case it has been usual for me to remit the legal charges), I presume that it may be desired by the relatives or connexions of the deceased, and therefore must prefer my claim for the expenses, which I conclude the Colonial Government is not prepared to discharge.

Under these circumstances, and to prevent disappointment to the interested parties, I shall prepare and forward to England, in duplicate, the Certificate in question (sending the same by the “Sydney” and “General Hewitt”) addressed to the care of my Agents, who will deliver the same to the applicant upon payment of the account sent therewith.

I have the honor to request that you will inform me if this course will be satisfactory, and, if so, that you will have the goodness to apprise your Correspondent accordingly.

I have, &c.,

H. KENISON JAMES, Dep. Regr.

Agent’s Address: “Messrs. Halfhide and Son, No. 7 Coventry Street, London.”

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.

(Despatch marked “Military, No. 3,” per ship Trafalgar.)

Sir,

Downing Street, 5 May, 1846.

I transmit, herewith, a copy of a Memorial which has been addressed to His Grace the Commander in Chief by Alexander Stewart, late Sergeant in the 74th Regiment, relative to his claim for Land in New South Wales.

It appears from this Memorial that the applicant received his discharge in 1836 in Antigua, with a gratuity of £18 5s., and, as he states, the promise of a grant of Land. He did not however proceed to New South Wales until 1840, four years after the alleged promise was made to him, when his claim to Land was refused on the ground that he was not discharged in the Colony.

There is no evidence beyond the applicant’s own statement that any promise of land was made to him when he received his discharge in Antigua, and indeed none could have been made to him consistently with the instructions of the Secretary of State, or with the terms of the 44th Article of the War Office Regulations, dated the 30th of July, 1830, in which it was laid down
that, if a discharged soldier obtained a Grant in any other Colony than that in which he was serving, he was to receive a Passage at the public expense, and was not to be released from military law, or finally discharged until he reached his settlement.

I have therefore to desire that you will acquaint the Memorialist that, under these circumstances, I am unable to return any other answer to his present application than that which has already been addressed to him by your direction on the same subject.

I have, &c.,

W. E. Gladstone.

[Enclosure.]

MEMORIAL to His Grace the Duke of Wellington, Commander in Chief of Her Majesty's Forces, etc., etc.

Sydney, New South Wales, 10th November, 1845.

I hope Your Grace will pardon my presumption in addressing you, but, feeling convinced that Your Grace would do justice to an old Soldier, induced me to take this liberty of writing to you, I therefore hope Your Grace will be kind enough to take my case under your gracious consideration.

The facts of my case are this (vizt.) I was discharged from the 74th Regt. of Foot in Antigua in May, 1836, after being in the service 17 years, 282 days, receiving a Gratuity of £18 5s. and the promise of a Grant of Land in any of Her Majesty's Colonies, having been a Non-Commissioned Officer for the period of 9 years. I came to this colony in 1840 for the purpose of obtaining the Grant of Land, which induced me at that time to take my discharge, bringing my family with me, consisting of my Wife and 3 Sons and 2 Daughters, which I expect will be useful in the defence of their Queen and Country. On applying for the aforementioned Grant of Land, I was denied on the plea of my not having been discharged in this Colony, as the enclosed Answer to a Memorial sent to the Governor will shew. I have repeatedly applied for the above grant through the Colonial Secretary and others, and have always been denied. I now as a last resource apply to Your Grace, feeling assured of being justified, as I need not inform your Grace that, at the time of my having been discharged, no particular Colony was specified in Her Majesty's Regulations. I beg further to inform Your Grace that there is thousands of Acres of Waste Land in this Country unoccupied, a small portion of which would be sufficient for the maintenance of myself and family, and furthermore would be a great inducement for the rising Generation to follow the footsteps of their Father in Loyalty and defence of their Country; but, if their Father cannot obtain the rights, they have toiled so long for, what the consequence might be, is hard to prognosticate. I, therefore, fully trust in Your Grace to do me justice, and you will for ever be remembered with gratitude by

Your obedt. Humble servant.

Alexander Stewart,

George's Street, Sydney. late Serjt., 74th Regt.
GLADSTONE TO FITZ ROY.

RIGHT HON. W. E. GLADSTONE to SIR CHARLES FITZ ROY.

(A circular despatch, per ship Trafalgar.)

Sir,

Downing Street, 6th May, 1846.

In reporting the Leave of Absence granted, on account of ill-health, to any Public Functionary employed under Your Government, I have to desire that you will forward to this Department the Medical Certificate, which it is required by the Colonial Regulations should be submitted to the Executive Council previously to such leave being granted.

I have, &c,

W. E. GLADSTONE

RIGHT HON. W. E. GLADSTONE to SIR CHARLES FITZ ROY.

(Despatch No. 18. per ship Trafalgar; acknowledged by Sir Charles Fitz Roy, 24th October, 1846.)

Sir,

Downing Street, 7 May, 1846.

I transmit to you an Extract of a communication which I have addressed to Mr. La Trobe, which will apprise you of the circumstances under which I have directed him to proceed at once from Port Phillip in order to assume the temporary Administration of the Government of Van Diemen's Land.

The urgency of the case prevented my conveying those instructions through you to Mr. La Trobe, who will I presume have already left Port Phillip when this Dispatch shall have reached you.

It is impossible for me at present to say with precision for what period Mr. La Trobe's services may be required in the position which he has thus been called upon to assume; but it will be necessary for you to appoint some officer, on whom you can rely, to undertake during his absence the duties of Superintendent at Port Phillip.

The officer so appointed will during the performance of those duties receive, under the general regulations of the Colonial Service, one moiety of the Salary attached to that office.

I have, &c,

W. E. GLADSTONE.

[Enclosure.]

EXTRACT of a Dispatch from Mr. Secretary Gladstone to C. J. La Trobe, Esqr., dated 6 May, 1846.

CIRCUMSTANCES,* which for my immediate purposes it is unnecessary to explain, have rendered it necessary that Sir Eardley Wilmot should be relieved with the least possible delay from the Administration of the Government of Van Diemen's Land. His Successor in that appointment (for the usual term of Service) has not yet been selected. To meet the immediate exigency, Her Majesty has been graciously pleased to address to you the accompanying Commission nominating you Administrator of the Government until the Arrival of the future Lieut. Governor.

* Note 6.
I am well aware that in adopting this measure I deviate from the usual forms of procedure, and that Her Majesty’s Government have no strict and absolute claim to your services beyond the limits of the Command, which you have actually accepted.

On the other hand, The Queen is graciously pleased to repose in your well proved zeal for Her Majesty’s Service such confidence as to entertain no hesitation in calling you thus abruptly to the discharge of a duty, which may possibly be not merely irksome and unwelcome, but productive of considerable personal inconvenience to you. Those difficulties, however, you will, I am convinced, cheerfully encounter in consideration of the motives of the Advice which has induced The Queen to impose them on you.

The arrival of the future Lieut. Governor is not to be expected till the lapse of two or three months from your receipt of this Dispatch, nor perhaps till even a later period.

You will, therefore, have the goodness to avail yourself of the earliest possible opportunity of proceeding by the most expeditious route to Hobart Town, there to assume the temporary Administration of the Government.

At the close of that Administration, you will resume your present office, receiving in the meantime the full salary and emoluments at present received by Sir Eardley Wilmot.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.

(Despatch No. 19, per ship Trafalgar.)

Sir, Downing Street, 7 May, 1846.

I herewith transmit to you the Copies of a letter and its Enclosure which have been received from the Board of Treasury, having reference to the question of the payment of a sum of £209 1s. 6d. for the freight and other expenses connected with the Conveyance to New S. Wales of a Steam Dredging Apparatus and Diving Bells for the use of your Government; and which, having been originally charged in the Agent’s Account against the Colony, had been subsequently repaid to the Colonial Treasurer from the Commissariat Chest.

As however there would appear to be no grounds for relieving the Colony from the charge in question, I have to desire that you will give effect to the wish expressed by the Lords of the Treasury that the sum of £209 1s. 6d. may be replaced in the Commissariat Chest.

I have, &c.,

W. E. GLADSTONE.

[Enclosure.]

MR. C. E. TREVESLYAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers. 24th April, 1846.

I am commanded by the Lords Commissioners of Her Majesty’s Treasury to request you will state to Mr. Secretary’s Gladstone that, on the 5th April, 1845, the Assistant Commissary General of Accounts in New South Wales reported to this Board
GLADSTONE TO FITZ ROY. 43

that he had been instructed, by letter from Mr. W. Elyard, Junior, dated 28th February preceding, to prepare a Warrant for the re-payment from the Commissariat Chest to the Colonial Treasury of the sum of £209 Is. 6d. on the ground that that sum was included in the Account of the Colonial Agent General for the Quarter to 30th June, 1843, as having been paid to Her Majesty's Paymaster General for the freight of Stores to Sydney by the "Thomas Bold," and it was presumed that the Stores in question consisted of a large quantity of Provisions for Her Majesty's Ships "Beagle," "Britomart" and "Alligator," the freight of which was of course not chargeable to the Colonial Government.

It appears however, by a report from the Commissioners of Audit of 20th Ulto., Copy of which is herewith enclosed, that the sum of £209 Is. 6d. alluded to was properly paid by Mr. Barnard for the freight of a Steam Dredging Machine and Diving Bells for the use of the Colony of New South Wales, which were sent out by the "Thomas Bold," and for compensation for cutting the Decks of that Vessel for receiving the same; and you will, therefore, move Mr. Secretary Gladstone to instruct the Governor of New South Wales to cause the said sum of £209 Is. 6d. to be replaced in the Commissariat Chest.

I am, &c.,

C. E. TREVELYAN.

[Sub-enclosure.]

AUDIT COMMISSIONERS TO LORDS COMMISSIONERS OF TREASURY.

My Lords,

We have the honor to represent to Your Lordships that a claim appears in the Account of Deputy Commissary General Ramsay, New South Wales, under date of 4th April, 1845, for the payment to the Colonial Treasurer of £209 Is. 6d. by Warrant of the Governor and Captain General Sir Geo. Gipps. This sum was paid originally by the Agent General, Mr. Barnard, to the Paymaster General on the 10th May, 1843, on account of Naval Service, and was charged on Mr. Barnard's account against the Colony of New South Wales. A letter from the Admiralty to James Stephen, Esquire, dated 27th September, 1842, which accompanies the Secretary of State's authority to Mr. Barnard to make the payment, states that an expense of £217 10s. 6d., including £8 9s., for the Colony of Van Diemen's Land, had been incurred for the Colonial Department, and the particulars of the charge against New South Wales are stated as follows:

Freight of a Steam Dredging Machine and Diving Bells shipped in the freight Ship "Thomas Bold" for the Colonial Department at New South Wales, 34 Tons at 34s. 9d. per ton per Contract, dated 14th October, 1839 £59 1 6

Compensation for cutting the Decks of the "Thomas Bold" for receiving the above .................................................. 150 0 0

We find upon reference to the account of Mr. Barnard for 1839 that the cost of the Dredging Apparatus and Diving Bells was charged against the Colony; we apprehend, therefore, that there can be no doubt that the expense of their conveyance to New South Wales had been properly charged against the Colony in Mr. Barnard's Account for 1843.

The only statement in explanation of the direction, given by the Governor's Warrant of 5th March, 1845, to the Commissary to repay the sum in question to the Colonial Treasurer from the Commissariat Chest, is that the "Thomas Bold conveyed a large quantity of provisions consigned to the Senior Officer of Her Majesty's Ships, or, in his absence, to the principal Officer of the Commissariat"; and we presume that, as the Ship was freighted for Naval or Commissariat Services, it was considered by the Governor that no charge ought to have been made against the Colonial Government for the freight of the Articles adverted to.

We beg leave however to submit to your Lordships that this is not a sufficient reason for exonerating the Colonial Government from the charge of freight; more especially as it may be inferred from the Memorandum of the Admiralty that the conveyance of the Dredging Machine, etc., was part of the contract with the owners of the Ship, dated 14th October, 1839. Vizt., "34 Tons at 34s. 9d. per Ton," and, as the expense of cutting the Decks, Viz., £150, would not have been incurred at all, except for this particular purpose.

1846.
7 May.
Payment of freight on stores.

Request for repayment of freight on commissariat chest.
1846.
7 May.

We are not aware whether the circumstances of the case have been reported by Mr. Ramsay to your Lordships; but we have thought it proper to bring the subject under your Lordships' consideration, with a view, should Your Lordships concur in the opinion we have above expressed, of instructions being given for the re-transfer of this sum from the Colonial to the Commissariat Chest.

We have, &c.,
W. L. HERBES.
H. F. LUTTRELL.
F. ORBORN.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.

(Despatch No. 20, per ship Trafalgar: acknowledged by Sir Charles Fitz Roy, 19th October, 1846.)

Sir, Downing Street, 7 May, 1846.

I transmit to you herewith the copy of a letter from Mr. G. A. Labatt, containing an enquiry relative to Mr. H. R. Labatt, whose name appears in the latest Blue Book in the Survey Department of Your Government; and I have to request that you will furnish me with the information desired by the Relatives of that Gentleman.

I have, &c.,
W. E. GLADSTONE.

[Enclosure.]

MR. G. A. LABATT TO RIGHT HON. W. E. GLADSTONE.

Sir, 51 Westland Row, Dublin, 20 April, 1846.

Mr. Hugh Roland Labatt was appointed some few years ago as a Surveyor under Government, and in that capacity he was sent out to Sydney in New South Wales, and since then he has been in the employment of the Government; and consequently I venture to hope that his name may from time to time be returned with others of his calling to the proper quarter in this Country; and therefore I am induced to take the liberty of begging that you will let me know, for the satisfaction of self and family, whether his name appears in any such return lately made out, at what date, or else may I further trespass upon you to instruct me in what office connected with the Colonial Department I can procure any certain information regarding him, as we are naturally most anxious to have some positive account of him, not having heard from him for a very long time past, although heretofore his letters were regularly received; he surveyed the Country about the Rocky Mountains.

I am, &c.,
GEORGE AUGUSTUS LABATT.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 94, per ship St. Vincent.)

My Lord, Government House, 7th May, 1846.

At the request of a Committee consisting of highly respectable gentlemen resident in Sydney, I have the honor to forward to Your Lordship printed Copies of Papers, which have been addressed by the Committee to the Directors of the
Peninsular and Oriental Steam Company, and to those of the Screw Propeller Navigation Company, with the view of engaging one or other of those Companies to send Steam Vessels to this Colony.

I have, &c.

GEO. GIPPS.

[Enclosures.]

[Copies of these papers are not available.]

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 95, per ship St. Vincent.)

My Lord, Government House, 10th May, 1846.

Herewith I have the honor to forward the Blue Book for the year ended the 31st December, 1845, with the report which, according to Your Lordship's Despatch No. 101 of the 5th May, 1842, should accompany it.

I have, &c.,

GEO. GIPPS.

[Enclosure No. 2.]

REPORT to accompany the Blue Book of the Colony, for the year ended the 31st Decr., 1845.

By the Report which accompanied the Blue Book for 1844, it was shewn that the produce of duties on Imported Spirits had decreased from £149,510 17s. 9d. in 1842 to £95,928 16s. 8d. in 1844. As this decrease in the productiveness of the duties could be attributed to no other cause than the increase of smuggling, it was resolved to reduce the duties; and accordingly, by an Act of the Local Legislature passed on the 8th November, 1845 (9th Vict., No. 20), the duty on foreign Brandy or other Spirits was reduced from 12s. to 6s., and on British or Colonial Spirits from 9s. to 3s. 6d. per gallon.

This reduction was reported in my Despatch No. 200 of the 23d Novr., 1845; the full effect of it cannot, of course, yet be told; but, in a Despatch No. 77 of the 6th April last, I reported that, as far as a judgment could be formed from the experience of the first quarter of the present year (1846), it would be satisfactory.

The total Revenue, derived from the duties on Spirits imported as well as made in the Colony, was:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1842</td>
<td>£155,026 3 9</td>
</tr>
<tr>
<td>1843</td>
<td>128,480 6 3</td>
</tr>
<tr>
<td>1844</td>
<td>110,620 7 8*</td>
</tr>
<tr>
<td>1845</td>
<td>107,056 17 4</td>
</tr>
</tbody>
</table>

In the ad-valorem duties, no alteration has been made since the year 1840, when, by an Act of the Local Legislature (4th Vict., No. 11), they were raised to their present amount.

* Marginal note.—This sum is stated in the Blue Book of 1844 as only £109,045 7s. 8d., the expense of the collection of the duties on spirits made in the Colony having been deducted from the receipts.
The Blue Book for 1844 shews that the produce of these duties had greatly decreased (owing to the distress of the Colony); but, a slight improvement took place in them in 1845, they produced:

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>1841</td>
<td>£48,368 7 8</td>
</tr>
<tr>
<td>1844 only</td>
<td>12,654 9 7</td>
</tr>
<tr>
<td>1845</td>
<td>10,471 0 2</td>
</tr>
</tbody>
</table>

The duties on Tobacco have remained unchanged since the year 1827; they produced:

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>1842</td>
<td>£51,617 0 11</td>
</tr>
<tr>
<td>1843</td>
<td>44,125 0 3</td>
</tr>
<tr>
<td>1844</td>
<td>43,390 6 3</td>
</tr>
<tr>
<td>1845</td>
<td>48,990 3 2</td>
</tr>
</tbody>
</table>

With the exception of Spirits, there has been in the year 1845 an increase in the productiveness of the duties on all imported articles, a proof, among many others which might be adduced, that the Colony is recovering from the depression under which it laboured for three years in consequence of overtrading and the excessive speculation which prevailed between 1835 and 1840.

Connected with the duties of Customs are the Wharfage and Harbour dues, wharfage being in New South Wales in reality a tax (see my Report on the Act of Council 8th Vict., No. 16, contained in a Despatch No. 7 of the 5th Jan., 1845). The Harbour dues have, however, been greatly reduced of late years, in order to attract Foreign Vessels to the Ports of the Colony, particularly French and American Whalers. These charges produced:

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>1842</td>
<td>£11,498 5 9</td>
</tr>
<tr>
<td>1843</td>
<td>7,679 5 1</td>
</tr>
<tr>
<td>1844</td>
<td>4,260 8 7</td>
</tr>
<tr>
<td>1845</td>
<td>6,282 11 11</td>
</tr>
</tbody>
</table>

Post Office.

The Post Office produces a considerable Revenue in New South Wales; but, owing to the great extent of the Colony and the dispersed state of the population, the Expenditure on account of it frequently exceeds the revenue.

The Revenue was: and the expenditure:

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue</th>
<th>Expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1843</td>
<td>£18,868 9 8</td>
<td>£19,416 10 4</td>
</tr>
<tr>
<td>1844</td>
<td>17,233 15 9</td>
<td>15,871 19 4</td>
</tr>
<tr>
<td>1845</td>
<td>18,001 11 6</td>
<td>16,335 13 4</td>
</tr>
</tbody>
</table>

By a recent Act of Parliament, the Post Office is placed under the direction of the Post Master General in England. This Act (7th and 8th Vict., ch. 49), however, is not yet in operation.

On the subject of the Post Office, a reference may be made to my Despatch No. 143 of the 28th August, 1845.

The Assessment on Stock depastured on Crown Lands is included in the revenue raised by taxation, though it is in the nature of a local and not a general impost. The amount is increasing, being in proportion to the quantity of Stock held by the persons denominated Squatters. The amount was:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1843</td>
<td>£17,844 6 11</td>
</tr>
<tr>
<td>1844</td>
<td>26,594 5 11</td>
</tr>
<tr>
<td>1845</td>
<td>31,729 12 9</td>
</tr>
</tbody>
</table>

The Local Act, however, under which it is levied, 2d Vict., No. 27, will expire on the 30th June, 1846, and possibly may not be renewed.

The Assessment under this Act is quite distinct from the Fees on Licenses to occupy Crown Land, which are part of the Crown Revenue. These Fees on Licenses, in 1845, produced £31,790 2s. 6d.
GIPPS TO STANLEY.

2. Fees of Office, Pages 17 to 38.

The Revenue derived from Fees of Office has greatly fallen off of late years; it was:

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>1842</td>
<td>£34,046 4 10</td>
</tr>
<tr>
<td>1843</td>
<td>31,987 17 0</td>
</tr>
<tr>
<td>1844</td>
<td>19,069 10 5</td>
</tr>
<tr>
<td>1845</td>
<td>9,479 11 0</td>
</tr>
</tbody>
</table>

It is to be remarked, however, that the Fees, taken in the Insolvent Courts and in the Courts of Request, which were formerly carried to the General Revenue, have been, in the year 1845, applied to defray the expenses of those courts. These Fees amounted in 1844 to:

- Insolvent Courts: £2,088 19 0
- Courts of Request: 4,413 4 10

Total: £6,502 3 10

(See my Despatch No. 26, of the 3rd Feby., 1845.)

The Fees taken in all the Courts of Justice have greatly decreased. In the Supreme Court of Sydney, they were:

In 1842: £14,460 15 7

and, in 1845, they amounted only to: 5,945 9 8

3. Revenue and Expenditure, Pages 39 to 98.

In the Report which accompanied the Blue Book for 1844, it was shown that some alterations had been rendered necessary in the mode of making up the public Accounts, by the passing of the Constitutional Act 5th and 6th Vict., ch. 76, in 1842, as well as by the fact that the Land Revenue having about the same time become charged with a debt.

The possibility was, however, shown of conducting the financial Affairs of the Colony on the principles laid down in the Constitutional Act; and it is strictly in accordance with these principles that the Accounts for the year 1845 have been made up.

From my financial Minute prepared for the Legislative Council, the following particulars are extracted, relating to the Receipts and Expenditure of the year 1845:

- The Ordinary Revenue, that is to say the Revenue derived from Taxes, Duties, Rates and Imposts, was in the year 1845: £283,945 16 2

and as that of 1844 was: 266,724 19 5

The Revenue of 1845 exceeded that of 1844 by: £17,220 16 9

The Expenditure chargeable on the ordinary Revenue was, in 1845: £251,087 10 11

And as the same expenditure was, in 1844: 257,891 10 6

The Expenditure of 1845 was less than that of 1844 by: £6,803 19 7

Again:

- The Ordinary Revenue of 1845 being: £283,945 16 2

And the Expenditure of the same year: 251,087 10 11

The Revenue of 1845 exceeded the Expenditure by: £32,858 5 3
The Ordinary Revenue of 1845, or the revenue derived from Taxes, Duties, Rates and Imposts, may be classed under the following heads:

<table>
<thead>
<tr>
<th>Description</th>
<th>1845</th>
<th>1844</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Direct Taxation</td>
<td>£25,378 17 5</td>
<td>£22,811 9 10</td>
</tr>
<tr>
<td>2. Indirect Taxation</td>
<td>189,340 8 5</td>
<td>159,051 4 11</td>
</tr>
<tr>
<td><strong>Total raised by General Taxation</strong></td>
<td>214,719 6 1</td>
<td>192,495 14 9</td>
</tr>
<tr>
<td>3. Post Office</td>
<td>18,001 11 6</td>
<td>17,238 15 9</td>
</tr>
<tr>
<td>4. Fees of Office carried to the Public Account</td>
<td>9,479 11 0</td>
<td>19,069 10 5</td>
</tr>
<tr>
<td>5. Rents and dues in the nature of local taxes including Tolls, and the assessment on Stock depastured on Crown Lands</td>
<td>37,372 2 1</td>
<td>35,007 4 4</td>
</tr>
<tr>
<td>6. Fines carried to the ordinary Revenue (not being Droits of the Crown)</td>
<td>783 6 4</td>
<td>1,450 12 0</td>
</tr>
<tr>
<td>7. Miscellaneous receipts including sales of Government Stores, repayments, surcharges, etc</td>
<td>3,589 19 2</td>
<td>1,463 2 2</td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td>£283,945 16 2</td>
<td>£266,724 19 5</td>
</tr>
</tbody>
</table>

The comparative Expenditure of the Colony, during the years 1844 and 1845, may be shown as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>1844</th>
<th>1845</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Government, etc.</td>
<td>£52,790 7 4</td>
<td>£45,352 5 6</td>
</tr>
<tr>
<td>2. Justice</td>
<td>25,035 18 9</td>
<td>24,976 14 3</td>
</tr>
<tr>
<td>3. Coroners</td>
<td>1,617 12 3</td>
<td>1,720 16 3</td>
</tr>
<tr>
<td>4. Police</td>
<td>59,718 15 1</td>
<td>60,657 18 0</td>
</tr>
<tr>
<td>5. Gaols</td>
<td>7,917 13 1</td>
<td>7,659 10 0</td>
</tr>
<tr>
<td>6. Public Works and Buildings</td>
<td>38,462 6 9</td>
<td>38,492 6 9</td>
</tr>
<tr>
<td>7. Public Worship</td>
<td>36,000 0 0</td>
<td>36,000 0 0</td>
</tr>
<tr>
<td>8. Public Schools (including Orphans)</td>
<td>10,575 18 2</td>
<td>10,551 14 3</td>
</tr>
<tr>
<td>9. Post Office</td>
<td>16,335 13 4</td>
<td>15,871 19 4</td>
</tr>
<tr>
<td>10. Public Institutions and Charities</td>
<td>5,005 6 7</td>
<td>4,566 15 4</td>
</tr>
<tr>
<td>11. Miscellaneous</td>
<td>3,228 17 9</td>
<td>4,950 10 10</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>£251,087 10 11</td>
<td>£237,891 10 6</td>
</tr>
</tbody>
</table>

The following unexpended balances are included in this sum:

<table>
<thead>
<tr>
<th>Schedule</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>£1,515 0 5</td>
</tr>
<tr>
<td>B</td>
<td>£2,459 19 2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>£4,044 13 7</td>
</tr>
</tbody>
</table>

Which sums and the balance on Schedule B for 1844 are now in the Public Treasury at the disposal of Her Majesty £6,251 8 6.

Crown Revenue.

The following is a statement of the Crown Revenue for 1845:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Territorial</strong></td>
<td></td>
</tr>
<tr>
<td>Sales of Land</td>
<td>£16,752 0 5</td>
</tr>
<tr>
<td>Quit Rents</td>
<td>8,169 13 10</td>
</tr>
<tr>
<td>Depasturing Licenses</td>
<td>31,790 2 6</td>
</tr>
<tr>
<td>Timber Licenses</td>
<td>1,063 0 0</td>
</tr>
<tr>
<td>Rents, Leases, etc., within the Boundaries</td>
<td>3,648 9 11</td>
</tr>
<tr>
<td><strong>Total Casual Revenue</strong></td>
<td>£61,423 6 8</td>
</tr>
<tr>
<td><strong>Total Crown Revenue</strong></td>
<td>£63,134 2 10</td>
</tr>
</tbody>
</table>
The charges on the Crown Revenue for the year 1845 were:

1. For the Survey, Sale, and Management of the Crown Lands £9,954 18 5
2. Aborigines £2,226 7 8
3. Immigration £9,778 5 1
4. Interest on Debentures £6,156 8 8
5. Opening new Lines of Road, under 5th and 6th Vict., ch. 36, and Lord Stanley’s instructions of the 15th September, 1842 £342 5 7

Miscellaneous charges and repayments, as returned by the Auditor General £28,458 5 5

Total amount of charges in the Colony £28,632 18 2

Leaves a balance of £36,501 4 8

The following repayments have also been credited to the Crown Revenue during the year 1845:

From South Australia £3,000 0 0
On settlement of Accounts in England by the Colonial Agent General £980 0 10

N.B.—By the Auditor General, the collections made by the Agent for the Church and School Estates are also credited to the Crown Revenue; but, as I am still without any instructions from Her Majesty's Government in respect to them, I propose still to keep them in reserve. The amount of net Revenue derived from this source amounted in 1845 to £3,079 5s. 8d.

In my Report on the Blue Book for 1844, I pointed out that fallacious conclusions might be drawn from the Returns contained in it, in consequence of the practice in the Auditor General's Office, of including as expenditure sums, which were only advances, and other sums as Revenue which were derived from Loans.

I regret to say that conclusions equally fallacious might be drawn from the Returns in the present Blue Book, for instance, at page 46, repayments from the Commissariat to the amount of £2,311 17s. 1Od. are included as Revenue; at page 48, advances unpaid are included as Revenue to the amount of £59,827 17s. 2d., and also a further sum of £3,000. This latter sum ought moreover to have been credited as a repayment to the Crown Revenue, instead of to the Revenue derived from taxes, duties, rates and imposts.

Again, at page 49, various sums appear on the debit side of the Account, which in reality do not form any part of the Expenditure of the Colony.

From these and other causes, the net Revenue, derived from Taxes, duties, rates and imposts, is made at page 52 to amount to £351,618 10 7

Instead of (as stated above) £283,945 16 2

and, at page 53, the Expenditure is made to amount to £306,170 14 1

Instead of £251,087 16 11

* This is the sum which has accrued during the year 1845. The whole sum in hand applicable towards the reduction of the debt was, on the 31st Dec., 1845, £64,585 9s. 11d.; and may now be taken at nearly £80,000.—G.G., 10 May, 1846.
Lastly, at pages 56 and 57, Debentures issued to the amount of £21,600, and others paid off to the amount of £24,100, are included; by which the Income derived from Crown Lands, as well as the Expenditure on account of them, is made to appear larger than it really was.

4. Convict expenses, or expenses defrayed out of the Military Chest, or, more properly speaking, out of funds belonging to the Home Government, Pages 101 to 109.

The expenses on account of Convict Establishments continue progressively to decrease. They were:

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Expense</th>
</tr>
</thead>
<tbody>
<tr>
<td>1842</td>
<td>£87,992 10 3</td>
</tr>
<tr>
<td>1843</td>
<td>68,403 4 9</td>
</tr>
<tr>
<td>1844</td>
<td>54,437 1 0</td>
</tr>
<tr>
<td>1845 only</td>
<td>31,582 10 0*</td>
</tr>
</tbody>
</table>

It is, however, to be remarked that a portion of the saving, exhibited in each of the years 1844 and 1845, is to be attributed to the transfer of Norfolk Island to Van Diemen's Land.

The number of Convicts in the Colony was stated in the Blue Book for 1844 to be 19,175; and, in the present Blue Book, it is 16,843; of whom 13,766 are said to hold Tickets of Leave.

5. Local Revenues, Pages 112 to 121.

The local Revenues of the City of Sydney are considerable, and may be classed under the following heads:

- Raised by Assessment or local taxation: £2,759 15 11
- Produce of Rents, dues, fees, or licenses: 4,324 10 2
- Aid from the Government: 3,107 0 3

**Total: £10,191 9 4**

The local Revenues of the Incorporated town of Melbourne were as follows:

- Raised by Assessment: £2,357 2 6
- Rents, Dues, Fees, etc: 1,168 12 8
- Aid from the Government: 443 19 6

**Total: £3,969 14 8**

District Councils.

There are in New South Wales District Councils, established under the Clauses from 41 to 50 in the 5th and 6th Vict. ch. 70; but of them one only, namely, the Council of Grant (in the Port Phillip District), has attempted to raise funds by means of local Assessment; and the sum so raised by this Council amounted only to £144 5s. 2d.

Some few of the other Councils have borrowed money: and the Council of Parramatta has received the funds derived from Turnpike Tolls taken within the District, in consideration of keeping the Roads in repair.


The only Military Expenditure defrayed out of Colonial funds is that of the Mounted Police, which is composed of Soldiers taken from the Regiments serving in the Colony.

* Against this Expenditure is to be set the Revenue derived from Convict Establishments, and which (page 100) amounts to £5,248, so that the real cost of the Convict Establishments was little more than £26,000.
The cost of supporting this very efficient was in the year 1845 £10,397 8s. 2d.
The amount of gratuities, paid out of Colonial Funds to Officers and Soldiers employed in guarding Convicts whilst employed on Colonial Public Works, was in the year 1845 £1,063 10s.
There is no Militia in the Colony.
The amount paid by the Home Government for the Military defence of the Colony, including the custody of the Convicts, was:
- In 1843: £92,333 18 1
- 1844: 90,350 18 6
- 1845: 65,821 18 9;
so that the whole expense of the Colony to Great Britain was under £100,000, including Military as well as Convict services.

7. Public Works, Pages 132 to 141.
The Expenditure on Public Works in the Colony was:
- In 1844: £26,719 7 2
- 1845: 27,561 13 7,
exclusive of advances on account of the New Military Barracks.
The detail of the expenditure is given in the Blue Book.

8. Legislation, Pages 144 to 148.
The titles of 30 Public Acts and one Private Act, passed by the Legislative Council in the Session which commenced on the 1st July and ended on the 13th Novr., 1845, are given in the Blue Book.
Of these Acts, 29 (including the Private Act) were assented to by the Governor; and two Public Acts were reserved for the signification thereon of Her Majesty's pleasure.
The Reports made by the Governor on these Acts are contained in ten Despatches, all dated the 23d Novr., 1845, and numbered from 196 to 205.

9. Councils and Assemblies, Pages 150 to 153.
The names of the persons composing the Legislative Council will be found at pages 151 to 153.
One non-elective Member only was appointed to the Council in the year 1845, namely, George Allen, Esquire, then Mayor of Sydney; and his appointment was reported to the Secretary of State in a Despatch, dated 3d August, 1845. No. 122.

10. Civil Establishment, Pages 155 to 344.
The List of Civil Officers contains 646 names, being less by 25 than the number of names contained in the Blue Book for 1844.

A question has been before the Executive Council respecting the Security, which two Officers appointed to the Supreme Court ought to give, namely, the Master in Equity and the Prothonotary; and the Council recommended that each should give security to the amount of £2,000. They have, however, each demurred this, alleging that, when appointed in England, they were not informed that security would be required of them, and that in this Country it is quite impossible for them to find securities.
This matter was brought under the notice of the Secretary of State by my Despatch No. 67 of the 20th March, 1844, to which no answer has yet been received.
Since the death of Dr. Kinchela, the annual amount of Pensions payable out of Colonial funds is only £550. The amount payable out of Convict funds is £180 19s., including a Pension of £110 to Dr. Anderson, late Colonial Surgeon, granted by the Secretary of State's Despatch No. 67 of the 30th June, 1845.

13. Recapitulation of the Establishment, Pages 358 to 360.

No observations seem necessary.


No observations seem necessary. There are but two Consuls, French and American.


The estimated population of the Colony was, on the 31st December, 1844 173,377 Souls and, on the 31st December, 1845 181,541. The estimated increase in the year being 8,164. A new Census of the Colony is to be taken in the early part of 1846. The Male population exceeds the Female in the proportion of 110 to 71.

16. Ecclesiastical Return, Pages 380 to 398.

The number of Clergymen receiving Salaries from the Government under the Colonial Church Act is as follows:—Church of England, including the Bishop, 60; Presbyterian, 20; Wesleyan, 8; Roman Catholic, 26—114; Exclusive of about eight (chiefly Baptists and Independents) who do not receive Government Salaries, and one who is paid out of Convict funds: so that the proportion of Clergymen to the Population is about one to every 1,500 souls.

By the Schedule marked C to the Constitutional Act of the Colony, the sum of £30,000 is secured for the purposes of Public Worship; and, on the manner in which this sum is to be divided, a Despatch was addressed by the Governor to the Secretary of State on the 7th August, 1845, No. 125.

17. Education, Pages 400 to 411.

No system of General Education for the lower classes has yet been established. The attempt made in 1837 to introduce the Irish and subsequently in 1839 the British and Foreign system, not having proved successful.

At present, the public schools for children of the lower classes are for the most part under the management of the Clergy of the different denominations, assistance being rendered to all equally by the Government under Regulations, dated the 24th Sept., 1841, of which a printed Copy is annexed.

These Regulations were issued in order to stop a practice, which greatly prevailed in the years 1840 and 1841 (especially in the Presbyterian Schools), of charging the Public with half the expense of educating children of persons in a condition of life not such as to require eleemosynary assistance.

On the subject of Education, I would refer to the statements attached to my Financial Minutes of the years 1839, 1840 and 1841, respectively laid before the Legislative Council on the 23d July.
1846. 10 May.

GIPPS TO STANLEY.

1839, the 29th July, 1840, and the 6th July, 1841; particularly the latter, which fully exposes the abuses to which I have alluded.

I also may refer to my Despatch No. 24 of the 1st Febry., 1845, in which I reported the proceedings in respect to public Education, which took place in the Session of 1844 in the Legislative Council.

There are three Establishments for Orphans or destitute children, maintained entirely at the expense of the Government, one for male, and one for female Protestant children, and a third for Roman Catholics of both sexes.

There is also a School for the children of Convicts in the Female Factory at Parramatta.

For children of the higher classes, there is no deficiency of places of Education.

Of the Schools which may be called public, the Sydney College (erroneously called a College) is the best. The King's School at Parramatta, founded on the principle of an English Grammar School, has, I regret to say, fallen lately into disrepute, the former Master (a Clergyman of the Church of England) having become Insolvent. It is now however, I hope, reviving. The Australian College, founded by Dr. Lang on the model of the Scotch Schools of the higher class, continues in disrepute, and has almost ceased to exist.

Of the Private Schools, many deserve to be mentioned with commendation, particularly that of Mr. Cape in Sydney, and of Mr. Woolls at Parramatta.

Of the Ladies' schools, there are also some which maintain a respectable character.

The recapitulation of private Schools at page 411, if compared with that given in the Blue Book for 1844, shows a decrease in the year of 7 Schools, but an increase of 296 Male, 206 Female Scholars.

The total number of schools of all denominations, public and private, in the Colony was:

- In 1843, 306; in 1844, 355; in 1845, 367.

The number of Scholars was:

<table>
<thead>
<tr>
<th>Year</th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1843</td>
<td>6,700</td>
<td>5,359</td>
<td>12,059</td>
</tr>
<tr>
<td>1844</td>
<td>7,857</td>
<td>6,615</td>
<td>14,472</td>
</tr>
<tr>
<td>1845</td>
<td>8,962</td>
<td>7,554</td>
<td>16,516</td>
</tr>
</tbody>
</table>

which, in a population of 181,541, gives very nearly one in eleven.

18. Exchanges, Monies, etc., Pages 414 to 431.

The Monies, weights, measures, etc., in New South Wales are the same as in England.

Exchange on London does not vary more than it is presumed to do in other Colonies. Treasury Bills may be said to be usually at a small premium.

The quantity of Coin in the Colony has greatly increased in the last few years.

It was estimated—

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1843</td>
<td>£439,772</td>
</tr>
<tr>
<td>1844</td>
<td>579,923</td>
</tr>
<tr>
<td>1845</td>
<td>875,166</td>
</tr>
</tbody>
</table>

The Paper money in circulation, or Notes issued by the several Banks, averaged:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1843</td>
<td>£155,521</td>
</tr>
<tr>
<td>1844</td>
<td>164,882</td>
</tr>
<tr>
<td>1845</td>
<td>196,810</td>
</tr>
</tbody>
</table>
At Pages 421 to 431 are given the Quarterly Returns which, under an Act of Council (4th Vict., No. 13), are made by the Banks, and published in the Colony. These Returns, however, do not show (as remarked in my previous Reports on the Blue Books) what proportion of the Bills discounted by the Banks may be considered bad. It is acknowledged that a large portion of them are renewals.

The quantity of discounted paper held collectively by the Banks was on the

<table>
<thead>
<tr>
<th>Date</th>
<th>Amount (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>30th September, 1842</td>
<td>2,562,467 0 0</td>
</tr>
<tr>
<td>31st December, 1844</td>
<td>1,583,137 0 0</td>
</tr>
<tr>
<td>1845</td>
<td>1,448,082 0 0</td>
</tr>
</tbody>
</table>

The Deposits were:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1842</td>
<td>988,555 0 0</td>
</tr>
<tr>
<td>1843</td>
<td>812,600 0 0</td>
</tr>
<tr>
<td>1844</td>
<td>1,028,677 0 0</td>
</tr>
<tr>
<td>1845</td>
<td>1,230,022 0 0</td>
</tr>
</tbody>
</table>

19. Imports and Exports, Pages 434 to 465.

The Imports (Port Phillip included) were:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1842</td>
<td>1,579,795</td>
</tr>
<tr>
<td>1843</td>
<td>1,380,481</td>
</tr>
<tr>
<td>1844</td>
<td>931,260</td>
</tr>
<tr>
<td>1845</td>
<td>1,233,854</td>
</tr>
</tbody>
</table>

The Exports (Port Phillip included) were:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1842</td>
<td>1,095,935</td>
</tr>
<tr>
<td>1843</td>
<td>1,116,525</td>
</tr>
<tr>
<td>1844</td>
<td>1,128,115</td>
</tr>
<tr>
<td>1845</td>
<td>1,553,986</td>
</tr>
</tbody>
</table>

The value of the Exports having in 1844, for the first time in the history of the Colony, exceeded the Imports.

The Export of Wool from the whole Colony was:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount (lbs)</th>
<th>Value (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1842</td>
<td>9,557,905</td>
<td>9601,055</td>
</tr>
<tr>
<td>1843</td>
<td>11,866,706</td>
<td>659,300</td>
</tr>
<tr>
<td>1844</td>
<td>13,542,173</td>
<td>645,344</td>
</tr>
<tr>
<td>1845</td>
<td>17,364,734</td>
<td>1,090,242</td>
</tr>
</tbody>
</table>

The value of Tallow Exported was:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1843</td>
<td>9.639</td>
</tr>
<tr>
<td>1844</td>
<td>82,311</td>
</tr>
<tr>
<td>1845</td>
<td>102,746</td>
</tr>
</tbody>
</table>

The Excess of Exports over Imports in 1844 and 1845 affords reason to hope that the Colonists may be able in a few years to liquidate the debts now owing by them in England.

20. Agriculture, Pages 468 to 470.

The Agricultural Returns are not, I fear, much to be relied on; they give the produce of the Colony as follows:

<table>
<thead>
<tr>
<th>Produce</th>
<th>1842</th>
<th>1843</th>
<th>1844</th>
<th>1845</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wheat, Bushels</td>
<td>823,768</td>
<td>885,232</td>
<td>1,000,395</td>
<td>1,312,655</td>
</tr>
<tr>
<td>Maize, do</td>
<td>503,593</td>
<td>500,134</td>
<td>719,388</td>
<td>675,913</td>
</tr>
<tr>
<td>Barley, do</td>
<td>90,177</td>
<td>88,774</td>
<td>90,638</td>
<td>139,612</td>
</tr>
<tr>
<td>Oats, do</td>
<td>62,704</td>
<td>86,327</td>
<td>92,268</td>
<td>70,690</td>
</tr>
<tr>
<td>Potatoes, Tons</td>
<td>11,141</td>
<td>12,561</td>
<td>16,922</td>
<td>22,745</td>
</tr>
<tr>
<td>Tobacco, do</td>
<td>132</td>
<td>100</td>
<td>305</td>
<td>319</td>
</tr>
<tr>
<td>Hay, do</td>
<td>17,178</td>
<td>15,015</td>
<td>24,166</td>
<td>28,610</td>
</tr>
</tbody>
</table>

Prices of all Colonial produce remained nearly stationary during the year 1845, but are now (May, 1846) rising.
GIPPS TO STANLEY.

Return of Grain Imported.

<table>
<thead>
<tr>
<th></th>
<th>1842</th>
<th>1843</th>
<th>1844</th>
<th>1845</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wheat, Bushels</td>
<td>174,706</td>
<td>275,441</td>
<td>265,704</td>
<td>109,355</td>
</tr>
<tr>
<td>Oats, do</td>
<td>3,170</td>
<td>1,003</td>
<td>17</td>
<td></td>
</tr>
<tr>
<td>Flour or Pease, Bushels</td>
<td>93,610</td>
<td>50,532</td>
<td>35,104</td>
<td>46,399</td>
</tr>
<tr>
<td>Rice, lbs</td>
<td>9,830,944</td>
<td>4,060,080</td>
<td>4,370,340</td>
<td>3,227,632</td>
</tr>
<tr>
<td>Potatoes, Tons</td>
<td>1,284</td>
<td>1,077</td>
<td>1,085</td>
<td>430</td>
</tr>
</tbody>
</table>

1846. 10 May.


The Manufactures of the Colony are few and unimportant; Cloth of the kind called Tweed is the one of most importance.

The only Mines are those of Coal at Newcastle. The quantity raised in 1845 was nearly the same as in the year 1844, but the price at which it was sold considerably less.

22. Grants of Land, Pages 478 to 483.

No free Grants of Land have been made during the year, except a few acres for public purposes.

The quantity sold has greatly decreased of late years; but this is not so much owing to the distressed state of the Colony, as to the increased practice of what is called "Squatting," or the feeding of Sheep and Cattle on the lands of the Crown.

The amount received for Land was only £7,402 18s. 6d. in 1844, exclusive of remission to Naval and Military Settlers; but, in 1845, it increased to £18,451.

The total number of acres sold, including those on which remission was made to Naval and Military Settlers, was 7,747.

The amount of remission to Naval and Military Settlers was £2,458 1s. 10d.

23. Gaols and Prisoners, Pages 486 to 506.

In respect to Gaols, I beg to refer to my despatch No. 219 of the 17th November, 1842.

In respect to the state of Crime in the Colony, the following Returns are interesting:—

Convictions in the Supreme Court.

Murder .......................... 12 1844. 8 1845.
Other Felonies .......................... 187 190.
Misdemeanours .......................... 38 42.

Convictions in Courts of Quarter Sessions.

Felonies .......................... 331 303.
Misdemeanours .......................... 48 51.
Criminals Executed .......................... 8 3.
Civil cases tried in the Supreme Court ... 355 178.
Of which the number of undefended or short cases was .......................... 123 26.

24. Miscellaneous Returns.

From Pages 509 to 526 are given some Miscellaneous Returns, of which the following is a List:—

Page.

509. Return of Coin in the Colony in each year from 1836 to 1845.
510. Return of the increase and decrease of the Population in 1844.
1846.
10 May.

1846.
10 May.

Miscellaneous returns.

Page.
511. Return of Land in cultivation from 1835 to 1844.
512. Return of Vineyards, Wine and Brandy, 1845.
513. Return of Live Stock in the Colony, 1st January, 1845.
514. Return of Stock Slaughtered, Tallow and Lard, 1844.
515. Return of Imports and Exports from 1835 to 1845.
517. Returns of the Import and Export of Butter and Cheese, from 1843 to 1845.
519. Returns of the Import and Export of Salt Meat from 1843 to 1845.
520. Returns of the Import and Export of Hides and Leather from 1843 to 1845.
521. Returns of the Export of Wool, Tallow and Bark.
523. Returns of Shipping Inwards from 1835 to 1845.
524. Return of Shipping Outwards from 1835 to 1845.
525. Returns of Vessels Registered, of Land Sales, and of Auction duty, from 1835 to 1845.
526. Return of the value of Imports and Exports, 1844.

Government House, Sydney, 10th May, 1846. GEO. GIPPS.

[Sub-enclosure.]

[This was a copy of the regulations for public education, dated 21st September, 1811, which will be found on pages 121 and 128, volume XXII.]

13 May.

Despatches acknowledged.

Alteration in conditions of conditional pardons.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.

(Despatch No. 21, per ship Trafalgar.)

Sir,

Downing Street, 13 May, 1846.

I have had under my consideration Sir G. Gipps' despatches of the numbers and dates specified in the Margin,* in which he has adverted to the difficulties and the evils likely to arise from the resort to New S. Wales of a large number of Convicts from Van D. Land, holding Conditional Pardons. I have also received similar representations with regard to the resort of the same description of Convicts to the other Australian Colonies; and I have to acquaint you that it has been decided by Her M.'s Government to qualify, in the Pardons granted to Convicts in Australia, that condition which confined the effect of the Pardon to the Australian Colonies, and to give to the Convict, either Colonial or British, the power of removing to any place which he may desire, provided he should not return to the Country or Colony from which he had been transported. This arrangement will have a retrospective effect, and will apply to all Conditional Pardons now in force.

* Marginal note.—No. 109, 2d July, 45; No. 132, 13 Aug., 45; No. 175.

20 Oct., 45.
There is one part of Sir G. Gipps' Dispatch No. 173 of the 20th of Oct., 1845, to which it is necessary that I should advert.

He proposes that the holders of Conditional Pardons in Van D. Land should be in New S. Wales subjected in some manner to the surveillance of the Police; and that, for crimes committed after their arrival in New S. Wales, they should be made liable to punishment in the way in which persons are punishable who may have received Conditional Pardons in the Colony. He observes that the fact of having arrived in the Colony, under a Sentence of Transportation, fixes on a man in New S. Wales a character, of which, in after life, he never can entirely divest himself. Though he become perfectly free by the expiration of his Sentence or by virtue of a Pardon from the Crown, he is liable to be punished for subsequent offences in a manner, in which a man, who came free to the Colony or who was born in it, cannot be punished; that is to say, he may be worked in Irons, and, if he commit transportable offence, he is transported to a penal Settlement (either Norfolk Island, or Tasman's Peninsula) instead of being sent to what is called a Probation Gang in Van D. Land. These differential punishments, Sir G. Gipps states, are sanctioned by the 3d Clause of the local Act of New S. Wales, 3d Wm. 4, No. 3; and he adds that, by the first Clause of the local Vagrant Act, 6 Wm. 4, No. 6, persons, who came originally as Convicts to the Colony, though they may have become entirely free, are nevertheless required to register their place of abode, if, subsequent to their arrival in the Colony, they may have been convicted of a transportable Offence Committed in it.

Having referred to the local Acts mentioned by Sir G. Gipps it appears to me that he has not correctly apprehended the Effect of those Laws.

1st. The liability to punishments, from which others are exempt, attaches in New S. Wales not to all persons transported from Great Britain as Convicts, but to all persons transported to New South Wales.

2d. That liability arises only in the case of the Commission by such persons of transportable offences.

3d. It attaches, so far as I am able to judge, only to such persons while in their Convict State, not to those whose time has expired, or whose offences have been pardoned.

It does not therefore appear to me that the Laws, to which Sir G. Gipps has referred, afford any precedent for such further Legislation as that which he proposes, nor do I consider that the measure is one to which, in principle, it would be proper to assent.
I trust that the alteration in the Pardons, which I now announce to you, will tend in some degree to remove the evil complained of.

I have, &c.,

W. E. GLADSTONE.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.

(Despatch No. 23, per ship Trafalgar; acknowledged by Sir Charles Fitz Roy, 8th January, 1847.)

Sir, Downing Street, 17 May, 1846.

I transmit to you the Copy of a note, which has been addressed to the Earl of Aberdeen by the Wurtemburg Minister at this Court, enclosing a legal document which he wishes to be forwarded to T. G. Ehle, a Wurtemberg subject in the Service of Mr. G. Ranken of Bathurst, and I have to request that you will cause this paper to be delivered to the Party concerned, and that you will obtain and forward to me a receipt for the same.

I have, &c.,

W. E. GLADSTONE.

[Enclosure.]

LE BARON DE FLUGEL TO EARL OF ABERDEEN.

LE BARON DE FLUGEL se presénte ses compliments a M Le Comte d'Aberdeen et a l'honneur de reclamer, par ordre de son Gouv. des bons offices de S.E. l'effet de fair parvenir par l'entremise du Ministre des Colonies la decret ci-joint a T. G. Ehle, au service de M. G. Ranken, à Bathurst, dans la Colonie Anglaise. “New South Wales,” dans la Nouvelle Hollande; et depuis S.E. de vouloir bien lui faire obtenir plus tard l'accusé de reception du dit individu pour le document, qui a rapport a une affaire de succession.

5 May, /46.

S.E.

M. le Comte d'Aberdeen, etc., etc., etc.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 96, per ship St. Vincent.)

Sir,

Government House, 17th May, 1846.

I beg to report that I have this day had the honor of receiving Your Despatch dated the 23d December last, informing me that Her Majesty has been pleased to deliver to you the Seals of the Colonial Department.

My Despatches will consequently in future be addressed to you; and it will be my endeavour to meet in the fullest manner the invitation with which you have honored me.

I have, &c.,

GEO. GIPPS.
GIPPS TO GLADSTONE.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.
(Despatch No. 24, per ship Trafalgar.)

Sir, Downing Street, 18 May, 1846.

I have to acknowledge the receipt of Sir George Gipps' Dispatch No. 187 of the 14th Novr. last, reporting that he had prorogated on the previous day prorogued the Legislative Council of New South Wales, and enclosing a Copy of the Speech which he had addressed to the Members of the Council on that occasion.

I have, &c,

W. E. GLADSTONE.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.
(Despatch No. 97, per ship St. Vincent; acknowledged by earl Grey, 10th October, 1846.)

Sir, Government House, 18th May, 1846.

I have the honor to report to you that, on the 12th instant, the Legislative Council of this Colony met for the despatch business; and I enclose a Copy of the Speech with which I opened their Session.

I further enclose a Copy of the Address which, in reply, was presented to me by the Council on the 15th instant.

I have, &c,

GEO. GIPPS.

[Enclosures.]

[These two papers will be found in the "Votes and Proceedings" of the legislative council.]

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.
(Despatch No. 98, per ship St. Vincent; acknowledged by earl Grey, 26th February, 1847.)

Sir, Government House, 19th May, 1846.

I have the honor to report that I was waited on yesterday by a number of highly respectable gentlemen,* who sought to ascertain from me the extent to which the introduction of Railways into the Colony would be patronized or aided by Her Majesty's Government, especially in respect to the grant or purchase of the Land belonging to the Crown, over which it may be necessary to conduct a Railway.

It appeared to be the opinion of the gentlemen, who waited on me, that a strip of land varying from 100 to 200 yards in width would be required for the formation of any Railway; and a quantity of about a square mile (640 acres) at each station on the line. An opinion was further expressed that, wherever a Railway may pass through a fertile district, it would be desirable

* Note 7.
1846.

19 May.

Proposed grant or purchase of lands by railway company.

Encouragement promised by Sir G. Gipps.

Request for permission to purchase land at minimum price.

Conditions proposed by Sir G. Gipps.

Reply to proposed purchases on speculation.

Railways proposed from Sydney to Goulburn and to Windsor.

for the Railway Company to be put in possession, either by grant or purchase, of considerable quantities of land, with the view of selling the same at some future period at an advanced price, and thereby defraying some portion of the Expense of the Work.

I replied that I considered Her Majesty's Government would encourage the formation of Railways, though it was a matter in which the local Executive must, for very obvious reasons, proceed with the greatest caution, and that the gentlemen must be well aware that, without an Act of Parliament, nothing could be done inconsistent with the Land Sales Act, 5th and 6th Vict., ch. 36.

Consistently with the sixth clause of the Act just mentioned, no land can be acquired by any one except by purchase at Auction; and the chief object of the gentlemen, who waited on me, seems to be to obtain permission to purchase such land as they may require at the fixed Minimum price of £1 per acre.

I promised that I would submit their application to Her Majesty's Government, which I accordingly now do; and, considering how much the introduction of Railways will not only contribute to the general improvement of the Colony, but also increase the value of the Crown Lands through which they pass, I venture to recommend that any Railway Company, which may be sanctioned by an Act of the Local Legislature, may be exempted from the competition of the Auction Room in the purchase of Crown Lands, and allowed to take such lands as are necessary for the formation of the Railway, either at the fixed price of £1 per acre, or at such higher price as may be agreed on.

I beg to add, however, that I would confine this privilege to the land required for the formation of the Railway, and to a quantity not exceeding in any case 640 acres at each Station on the Railway, such Stations being at distances of not less than twenty miles from each other.

I fully explained to the gentlemen, who waited on me, that I could not recommend that they should be exempted from competition in respect to lands which they might desire to purchase on speculation, or with a view to profit by a resale of them at an enhanced price.

Two Railways are at present projected in the Colony, one from Sydney to Goulburn in the County of Argyle (that is to say in the direction of Port Phillip), a distance of about 130 miles, and the other from Sydney to Windsor in the County of Cumberland, a distance only of about 40 miles; but the success of these undertakings must, I apprehend, depend mainly on the extent to which it may be possible to dispose of Shares in England.
I also apprehend that no Railway Act will be passed by the Local Legislature without a Clause requiring the Company to bring to the Colony a number of labourers (Emigrants) proportioned to the magnitude of the undertaking, a condition which I think very necessary.

I enclose a sketch or draft of an Act, which it would be necessary to introduce into Parliament, in order to carry out the views which I have herein developed.

I consider it very essential that the Governor (as is proposed in this Draft) be empowered, with the advice of His Executive Council, to demand a higher price than £1 per acre for valuable land, or to refuse altogether to sell any particular portion of land; otherwise he may be compelled in some places to sell land at a very insufficient price; as for instance Grose Farm in the neighbourhood of Sydney, which may be considered to be worth from £100 to £1,000 per acre.

I have, &c,

GEO. GIPPS.

[Enclosure.]

DRAFT OF ACT FOR RAILWAYS.

WHEREAS it is expedient to encourage the formation of Railways in the Colony of New South Wales, Be it enacted, etc., etc., etc.

That, whenever an Act shall have been passed by the Legislature of the said Colony, authorizing the formation of any Railway, and proof shall have been afforded, to the satisfaction of the Governor and Executive Council of the said Colony, that a sum has been paid up equal to one Fifth part of the estimated Cost of the Railway, and be at the disposal of the Directors or persons authorized to form the same, it shall be lawful for the said Governor to grant to such Directors, or other persons, any portion of the Lands of the Crown through which the Railway may be intended to pass, not exceeding fifty acres per mile, for every mile of such Railway passing through such Crown Land, at the fixed price of £1 per acre, or at such price as may be agreed on, and a further quantity of Land at each Station on the same Railway, not exceeding 640 acres, at the fixed rate of £1 per acre, or such other rate as may be agreed on; provided, however, that the Stations, in respect to which these further lands are granted, be not situated at a less distance from each other than 20 miles measured on the Railway.

Provided, however, and be it enacted that nothing herein contained shall be taken or held to compel such Governor to grant such Lands or any portions of them at the fixed price of £1 per acre, or at any other price, if he be advised by His Executive Council not to grant them, or to grant them only at a higher price.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZROY.

(Despatch No. 25, per ship Trafalgar.)

Sir,

Downing Street, 20 May, 1846.

I have laid before the Queen your Predecessor's Dispatch No. 203 of the 23d Novr. last, enclosing an Ordinance (No. 25...
of 1845) enacted by him with the advice and consent of the Legislative Council of New South Wales relating to the Savings Banks of New S. Wales and Port Phillip respectively, and "to make further provision for the investment of the funds thereof."

I have received the Queen’s commands to inform you that Her Majesty has been pleased to confirm and allow this ordinance, and you will communicate Her Majesty’s decision to the inhabitants of the Colony under your Government by a Proclamation to be published in the usual and most authentic manner.

I have, &c.,

W. E. GLADSTONE.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 99, per ship St. Vincent; acknowledged by Earl Grey, 15th January, 1847.)

Sir,

Government House, 20th May, 1846.

The papers, which accompany this Despatch, relate to certain surcharges which have been made against the Treasurer of New South Wales by the Commissioners of Audit in London; and my object in addressing is to recommend that, under all the circumstances of the case, the surcharges in question may be removed. The case briefly is as follows:—

In the years 1836 and 1837, overpayments to the amount of £193 12s. 2d. were made by the Treasurer of New South Wales to persons employed in the Department of the Surveyor General; but these overpayments were not discovered or at any rate were not noticed, until after a lapse of six years, nor were the surcharges, consequent on the discovery of them, made against Mr. Riddell the Treasurer, until some time in the year 1845.

Mr. Riddell having, towards the end of that year, brought the surcharges under my notice in a letter of which I enclose a Copy, I thought it right to appoint a Board for the investigation of the circumstances which led to them, and accordingly a Board was assembled in February last composed of the Officers named in the margin,* the Deputy Commissary General of Accounts acting as a Member of it with the permission of the Lieut. General Commanding Her Majesty’s Troops in the Colony.

A copy of the Report of the Board is enclosed; and I feel that I can do no more than request it may be referred to the Commissioners of Audit, with the recommendation, which I have already ventured to express, that the surcharges may be removed in consideration of the circumstances reported by the Board, namely, the time which has elapsed since the overpayments were

* Marginal note.—The Collector of Customs; The Assistant Commissary General of Accounts; The Clerk of the Legislative Council.
made, the death of one of the parties principally concerned in the transaction (Mr. John Wallace the Treasurer's first Clerk), and the impossibility of ascertaining at this distance of time, who were the parties who received the money, and who consequently ought now to be called on to refund it.

The Treasurer informs me that he has also himself communicated upon this subject with the Commissioners of Audit.

I have, &c.,

GEO. GIPPS.

[Enclosure No. 1.]

MR. C. D. RIDDELL TO COLONIAL SECRETARY THOMSON.

Sir, Colonial Treasury, 10th December, 1845.

I have the honor to inform you that I have received a letter from the Commissioners for Auditing Public Accounts (a copy of which is hereto annexed), by which you will observe that I am conditionally surcharged with certain Sums of money arising out of the transactions of my Department with that of the Surveyor General so long ago as the years 1836 and 1837.

In the course of the investigation which I have been able to make into matters of so old a date, I find that I shall have to rest my defence in a great measure on the characters of the Clerks, who were at that time in the capacities respectively of Chief Clerk in the Treasury and Money Clerk in the Office of the Surveyor General. There are also other circumstances connected with the surcharges of a nature to render it advisable that they be laid before some Board of Enquiry in order that, if they can be established, I may make use of them in my appeal to the Lords of the Treasury, to whom I am informed I must address my defence against the decision of the Commissioners of Audit.

May I, therefore, request you to be so kind as to bring this case under the notice of His Excellency the Governor, in order that the nature of the surcharges brought against me may be enquired into.

I have, &c.,

C. D. RIDDELL.

[Enclosure No. 2.]

REPORT BY BOARD.

The Board, appointed by the Honorable the Colonial Secretary's letter, dated 16th February, 1846, to enquire into and report upon certain double entries of payments occurring in the Accounts of the Honorable the Colonial Treasurer for the year 1836, which have caused corresponding surcharges to be made on that Officer by the Board of Audit in England, beg to state that, from the great difficulty of tracing the double payments after a lapse of nine years and a half, during which time some of the parties who could throw light upon them have died, and others have left the Colony, they have found it almost impossible to come to any satisfactory conclusion.

The Board beg leave to state, however, that it is quite clear that the payments in question have been twice made by the Colonial Treasurer, but it is by no means shewn, nor do the Board suppose, that the Salaries of Mr. Lennox and others were received a second time by those persons, although it is clear that the sum of £112
was twice received by Mr. Estall, viz., once from the Surveyor General, and again from the Colonial Treasurer, under circumstances of much want of caution on his part, if Estall's Statement is to be relied on; but it is scarcely credible that so great an error could occur in the Treasury Office as to pay the full amount of £239, after being told by the person claiming the balance that £112 10s. had already been received. The matter is enveloped in a mystery which the Board have been unable to solve.

As regards the system of issuing Warrants for payment of the Salaries of the Roads' Departments, and of the work of Contractors, the Board find, by explanations of the Colonial Treasurer and of the Auditor General, that it has been the practice to issue the so-called "Advance Warrants" authorities addressed to the Colonial Treasurer to issue certain sums of money to Departments, to be charged by him in his accounts as Issues to be subsequently accounted for; and that, in accordance with this practice, certain Advance Warrants for the payment of Salaries, etc., in the Roads Department, estimated for specific periods, were issued to the Surveyor General or his Deputy, who was to be held responsible to account for the same to the Colonial Treasurer.

On this branch of the enquiry, the Board beg to remark that, had the applications containing the particulars of the services for which the Advances were required been forwarded to the Treasury Office together with the Advance Warrants, no difficulty would have occurred in the adjustment of the accounts, as the Surveyor General would, on the completion of the Services, have produced to the Treasurer Vouchers or Pay Abstracts in Support of the payments under such Advances, and the responsibility of both Departments would thus have ceased. Advance Warrants are followed by the issue of what are termed "Trial Warrants" for the adjustment of the estimated claims to meet which the Advance Warrants were issued. Now as the Treasurer had not been furnished with the particulars of the payments made by the Surveyor General under the advance Warrants, for the adjustment of which the Final Warrant under which the double payments were made were issued, it is not surprising that some confusion in the accounts has been the result, and for which, in the opinion of the Board, the System rather than the Treasurer is to blame.

On inspection of some of these Final Warrants instead of including, as it is imagined they should have done, accounts for Salaries and services similar to those for which the Advance Warrants were granted, and of which balances might be outstanding, or for which the Estimates might have been in excess of the actual expenditure, and which required adjustment, the Board find that they comprehended accounts for other services and services dissimilar to those for which the Advance Warrants had been previously granted, and which had already been wholly, or in part, paid by the Surveyor General. Although these Final Warrants accompanied by Accounts and Abstracts were eventually forwarded to the Treasurer, yet, as the Advance Warrants did not contain information sufficient to enable the Treasurer to know to which of the Final Warrants they respectively applied, the Board conceive that he may be held excused if confusion in the adjustment of such Warrants did sometimes occur.

To shew the extent of transactions under this system of Advance Warrants, the Board beg to annex a Statement, furnished to them by the Auditor General, of the sums paid from the Colonial Treasury.
under Advance Warrants on account of the Public Service in each year, from 1st September, 1830 (the date of Mr. Riddell's taking charge of the Treasury Department), to the 31st of December, 1845.

Having offered these observations on what appear to the Board to be defects in the system of issue of Advance and Final Warrants, it is now their duty to Report whether the Salaries for which the two Advance Warrants, respectively dated 2nd March and 6th July, 1836, were granted, were also subsequently paid direct from the Colonial Treasury, and were thus twice paid, either to the parties or to some person or persons obtaining them for the alleged purpose, it is presumed, of paying the amounts to the parties. Upon this branch of the subject, the Board have to offer it as their opinion, founded on the enquiries they have made and on the explanations afforded to them by the Colonial Treasurer and the Auditor General, that the Colonial Treasurer has not only paid to the Surveyor General the Advance Warrants of March and July, above mentioned, comprising the sums of £95 3s. 4d. and £98 7s. 10d. respectively, and brought the same to account, but has also issued direct from the Treasury (but to whom they have been unable to ascertain) cheques comprising the very Salaries which the two sums above mentioned were intended to meet. One of these cheques drawn on the Bank of Australia, dated 30th August, 1836, for the sum of £95 7s. 10d., being payable to "Parker, Agnew and Lennox, or Bearer," and the other, a cheque on the Bank of Australasia, dated 17th September, 1836, for the sum of £95 3s. 4d. to "Roads and Bridges, or Bearer," These cheques bear no endorsement; and although the Board have made every enquiry in their power for the purpose of ascertaining to whom they were paid, their enquiries have proved ineffectual, notwithstanding every facility was afforded to them by the Officers of the Banks in question.

The Surveyor General is, in the opinion of the Board, clearly acquitted of any omission, as far as he was concerned, that would hold him responsible for those sums; he appears not to have received any portion of the "Final Warrants" in these cases: and, from his Bank Pass Books and Cheque Books, and other corroborating evidence, he would seem to be exonerated from any responsibility attaching to the transactions under investigation.

After a most careful and elaborate investigation of the points to which the attention of the Board has been directed, although they have been able to shew when and by whom the said sums were issued, yet they have been unable to ascertain the parties to whom those Sums were paid, and it appears to them that the "Advance Warrants" not only did not contain information sufficient to enable the Treasurer to adjust the Final Warrants, but did not even contain information sufficient to raise a doubt in his mind as to whether the adjustment of the Advance and Final Warrants had been attended to at the Audit Office, previously to the issue to him of the Final Warrant; but whether he should have considered it his duty to ascertain that the Surveyor General had accounted for the Advances made to him, the Board cannot satisfactorily determine.

Considering, however, the objections to the routine of the Departments connected with the issue of money and accounting for the same, and bearing in mind the very long period that elapsed...
(nearly seven years) before a final Audit of these accounts was accomplished, which put it out of the power of the Treasurer to recover from the individuals who might be found to have occasioned or received the double payments in question, owing to the Insolvency of one, and the death or absence from the Colony of the others; considering also the promptness of the steps taken by the Colonial Treasurer against the Insolvent Estate, by whom one of the double payments was acknowledged, although explained as having arisen out of the faulty routine observed with regard to the “Advance and Final Warrants” already commented upon, the Board are in hope that, under the whole circumstances of the case, His Excellency the Governor will see reasonable ground for recommending to the Home Authorities, that the Colonial Treasurer be relieved from the Surcharges in question.

J. GIBBES, President.
H. C. DARLING, A.C.G. Accts.
W.M. MACPHERSON.

Sydney, 15th April, 1846.

[Sub-enclosure.]

STATEMENTS of Sums paid from the Colonial Treasury as Advances on account of the Public Service, in each year from 1st September, 1830 (the date of the Honble. C. D. Riddell’s taking charge of the Department) to the 31st December, 1845.

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1830</td>
<td>£ 1,055 0 0</td>
</tr>
<tr>
<td>1831</td>
<td>£13,609 17 0</td>
</tr>
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<td>£12,665 5 4</td>
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<tr>
<td>1835</td>
<td>£14,559 7 11</td>
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<td>1836</td>
<td>£26,584 15 24</td>
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<td>1837</td>
<td>£39,657 11 4</td>
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<td>1838</td>
<td>£48,036 3 7</td>
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<tr>
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<td>£121,512 11 10</td>
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<td>£123,580 5 9</td>
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<tr>
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<td>£73,516 1 7</td>
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<tr>
<td>1844</td>
<td>£60,354 19 6</td>
</tr>
<tr>
<td>1845</td>
<td>£58,697 1 10</td>
</tr>
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</table>

£747,322 15 04

Audit Office, Sydney, 31st March, 1846.

Sir George Gipps to Right Hon. W. E. Gladstone.

(Despatch No. 102, per ship St. Vincent.)

Sir,

Government House, 23rd May, 1846.

I have the honor to report that, on the 19th instant, Mr. Alexander Macleay resigned the Office of Speaker of the Legislative Council of this Colony, and that on the same day Dr. Nicholson was elected to succeed him.
On the 20th instant, Dr. Nicholson was presented to me for my allowance of his election, agreeably to the 23rd clause* of the 5th and 6th Vict., ch. 76, and, as I saw no reason to disallow his election, he was then confirmed as Speaker.

Dr. Nicholson is a Physician, and one of the Members representing the District of Port Phillip.

I have, &c.,

Geo. Gipps.

Right Hon. W. E. Gladstone to Sir Charles Fitz Roy.

(Despatch No. 26, per ship Trafalgar.)

Sir,

Downing Street, 24 May, 1846.

At the request of the Lords Commissioners of the Treasury, I transmit, for your information and guidance, the accompanying Extract of a Minute of their Lordships, containing the directions which they have given for the abolition of the Department of Accounts in the Colony under your Government.

I have, &c.,

W. E. Gladstone.

[Enclosure.]

Extract of a Treasury Minute, dated 12th May, 1846.

My Lords have before them their Minute of the 11th July, 1843, in which the following notice is recorded:—

"As the expenditure in New South Wales in consequence of a change of system in regard to the Accounts has been much reduced, and is gradually diminishing, My Lords are of opinion that four persons are sufficient for conducting satisfactorily all the business of the Department of Accounts upon that Station, and my Lords look forward to the probability of their being enabled at no distant period to dispense altogether with this branch of the Department in New South Wales."

My Lords have already directed the transfer of one of the four persons above alluded to as forming the Department of Accounts in New South Wales, and their Lordships consider that the time has arrived when this Establishment may be broken up without inconvenience to the public Service.

My Lords, therefore, desire that a letter may be written to assistant Commissary General Darling referring him to the Communication addressed to him by this board on the 21st July, 1843, and state that, in conformity with the intention therein expressed, their Lordships have had under their consideration the state of the Commissariat business in New South Wales, the reduced Amount of the Expenditure, the improved system of Account, and the facilities thereby afforded for a prompt and final Audit by the Commissioners of Audit of the pecuniary transactions of the Commissariat, and their Lordships are of opinion that they may now direct the abolition of the Department of Accounts in New South Wales without any detriment to the public Service.

My Lords desire that, immediately on the receipt of this despatch, Mr. Darling will take the necessary steps for forwarding to the Commissioners of Audit all the Accounts remaining in his office, which have undergone a complete examination, and that he will forthwith return to the Accountants the remaining Accounts

* Note 8.
which have been rendered to him by them, in order that they may forward the said Accounts to the Commissioners of Audit for examination and Audit.

Mr. Darling will furnish the Accountant with Schedules of the Accounts so returned to them, and he will forward Duplicates thereof to this Board.

The remaining Papers, Official Books, Furniture, etc., belonging to the Office of Accounts, Mr. Darling will deliver over to the Officer in charge of the Commissariat at Sydney, with a specification thereof, and he will transmit to this Board a copy of the specification and a Receipt for the delivery of the articles.

Upon the occasion of the abolition of the Department of Accounts in New South Wales, it is satisfactory to my Lords that they are enabled to avail themselves of the further Services of Assistant Commissary General Darling in a new sphere of usefulness, in which they have no doubt that his experience and zeal will be evinced with credit to himself and advantage to the public; and they refer him to a separate Despatch for the particulars of his appointment to the charge of a Department of the Commissariat about to be formed at a new Settlement* in North Australia, upon which he will receive the Orders of the Governor and the Officer Commanding in New South Wales.

My Lords have already directed, by their letter of the 23d December, 1845, the transfer of Deputy Assistant Commissary General Mitchell to the Account Department of Van Diemen's Land, and Mr. Darling will select one of the two Deputy Assistants now under his orders to assist him in the duties confided to him in North Australia. The other Deputy Assistant, he will transfer to the Department of Accounts at Van Diemen's Land under the orders of a Deputy Commissary General Hayward, to whom he should be instructed to report himself on his arrival at Hobart Town.

Transmit copy of the foregoing Minute to Deputy Commissary General Ramsay for his information and guidance.

State to Mr. Ramsay that, as the General Instructions of the Commissariat provide for the performance of some points of duty hitherto performed by the Officer of the Account Department, for instance, the certifying of Tenders for Bills, the Countersignature of Warrants and Bills, etc., it is not necessary to give any special directions upon these matters, and their Lordships' rely upon Mr. Ramsay's zeal and activity for a careful observance of the injunctions contained in the Commissariat Instructions with regard to the mode of accounting, and the early transmission of the Accounts to the Commissioners of Audit.

As the abolition of the Department of Accounts will probably require of Mr. Ramsay a more close and attentive examination of the Accounts before they are transmitted, than might have been deemed necessary when they were rendered for examination by that Department upon the spot, My Lords will not object to the additional assistance of a temporary Clerk, if Mr. Ramsay should find such assistance to be necessary; and, in that case, he will offer the appointment to Mr. William Turner, who is at present serving as Clerk to the Bench of Magistrates at Wellington Valley, and whose Brother, Deputy Assistant Commissary General Turner, has entitled himself to their Lordships' approbation by the zeal and activity displayed by him in providing for the wants of the Troops in New Zealand.

* Note 9.
Right Hon. W. E. Gladstone to Sir Charles Fitz Roy.

(Despatch No. 27. per ship Trafalgar.)

Sir, Downing Street, 24 May, 1846.

I have to acknowledge the receipt of your Predecessor’s Despatch No. 200 of the 25th of November last, accompanied by two Acts (Nos. 20 and 26 of 1845), enacted by him with the advice and consent of the Legislative Council of New South Wales, the one Entitled, “An Act to reduce for a limited time the Duties on Spirits imported into or distilled in the Colony,” and the other Entitled “An Act to amend the Acts now in force respecting the distillation of Spirits, and more effectually to prevent illicit distillation.”

Having laid the last mentioned Ordinance before The Queen, I have received Her Majesty’s commands to inform you that Her Majesty has been pleased to confirm and allow the same, and you will communicate Her Majesty’s decision to the Inhabitants of the Colony under your Government by a Proclamation to be published in the usual and most authentic manner.

With respect to the first of these ordinances (No. 20 of 1845), I shall postpone further addressing you until I shall be in possession of the opinion of the Lords of the Committee of Privy Council for Trade, whom I have consulted on the subject.

I have, &c.,

W. E. Gladstone.

Sir George Gipps to Right Hon. W. E. Gladstone.

(Despatch No. 103. per ship St. Vincent; acknowledged by earl Grey, 16th November, 1846.)

Sir, Government House, 24th May, 1846.

At the request of the Judges of this Colony, I have the honor to solicit authority to charge on the fund, created by Schedule B of the 5th and 6th Vict., ch. 76, a Pension of £73 per annum (4s. per diem) in favor of Mr. Joshua Allott, formerly a Serjeant in the 11th Regiment, but employed for the last 22 years either as Tipstaff or Crier in the Supreme Court of New South Wales, and now aged 86 years.

By Schedule B of the Act above mentioned, the annual sum of £3,000 is provided for the payment of Pensions; and on the fund so secured there are chargeable at present Pensions amounting only to £550, namely, a pension to—

Mrs. E. Smith, £200; Mrs. M. A. Lewin, £50; Mr. J. Nicholson, £200; Mrs. S. Mileham, £100—£550.

On the subject of this proposed Pension, I beg to enclose Copies of two letters from the Chief Justice, and a statement of the age and services of Mr. Allott.

I have, &c.,

Geo. Gipps.
CHIEF JUSTICE STEPHEN to SIR GEORGE GIPPS.

Sir,

Supreme Court, 30 March, 1846.

I have humbly to apply to your Excellency that our old and faithful Public Servant Joshua Allott, who has been attached to the Supreme Court above 20 years, and is now 80 years of age, may be permitted to retire on a pension; which I earnestly hope may not be less, under the circumstances, than the full amount of his present pay.

Mr. Allott entered the 11th Regiment, now quartered in this Colony, in 1775, and served in it at Toulon, Ostend and Corsica, at the first mentioned of which places he was taken Prisoner. On his liberation he was made a Sergeant. He left the 11th Regiment in the year 1800, and came to this Colony under Governor King in the 102nd Regiment in charge of Convicts.

He was Tipstaff to Sir Francis Forbes in the year 1824, and soon afterwards became Crier, in which situation he has at all times (since my acquaintance with the Court, and invariably up to that period as all who have known him testify) conducted himself in the most admirable manner. About 9 years ago, Mr. Attorney General Plunkett, in the name of the Bar, presented him with a silver cup in testimony of their estimation of his services and character. He has of late, however, suffered much from deafness, and once or twice he has been assisted out of Court in a State of fainting from (as he says) dizziness in the head.

His Salary is 4s. per diem; with 2s. 6d. fee on every Civil trial, and 6d. for every Witness Sworn. During the last 10 years, the amount of these has varied greatly; and, for the last few years, he has shared them with an Assistant.

Considering the principle avowed by Her Majesty's Government, as I understand, that the Pension List is mainly designated to enable the Local Government to keep its Offices efficiently filled by the removal of deserving Functionaries, incapacitated for active Service, I venture to think that Your Excellency will look on this application favorably; and, considering Mr. Allott's advanced age, excellent conduct, and very long service, I trust that the Pension may be such as to enable him and his Wife to pass the remainder of their days in Comfort.

I have. &c.

ALFRED STEPHEN.

CHIEF JUSTICE STEPHEN to COLONIAL SECRETARY THOMSON.

Sir,

Supreme Court, 2nd May, 1846.

In compliance with your request. I have obtained from Mr. Allott a Statement, confirmed by Solemn Declaration, of his age and services, which Statement. I transmit in Duplicate herewith.

I regret that any circumstances should have the effect of postponing a pension to so worthy an object, whose great age makes delay unusually dangerous; and, on the other hand, of rendering it impossible for the Judges of the Supreme Court to expect that degree of attendance in the daily exercise of their functions, which an Officer in full health or strength would afford them, and which is so important to themselves and the profession for the long period of delay contemplated.

I am. &c.

ALFRED STEPHEN.
STATEMENT by Joshua Allott (now Crier of the Supreme Court of New South Wales, but formerly a Sergeant, first in His Majesty's 11th, and then in the 102nd Regiment) of his age and services.

1. My age will be in June now coming Eighty six.
2. I entered the 11th Regiment in the year 1777, and was for eighteen years Drill Serjeant to that Corps. I was present with the Regiment at Ostend in Action, where I was taken prisoner. I was at Gibraltar for twelve years; and in prison at Dorray for two years. I exchanged into the 102nd Regiment on its coming out to this country forty five years ago; and was discharged from it, at my own request, about thirty eight years ago.
3. On my discharge, I was given sixty acres of bush land; and that is all I ever have received for my services (beyond my ordinary pay) at any time. I never had a pension or gratuity from the Government in my life.
4. I was appointed Tipstaff of the Court, about twenty two years ago by Sir Francis Forbes. A year or two afterwards, I was appointed Crier; in which situation I have been ever since on a salary of 4s. a day, with a Fee of 2s. 6d. on every Trial, and of 6d. for each Witness sworn.

I, Joshua Allott, do solemnly and sincerely declare that the preceding statement is in all respects true. And I make this Solemn Declaration, under the provisions of the Act of Council in such case made.

Joshua Allott
29th April, 1846.

Declared at Sydney the twenty-ninth day of April, A.D. 1846, Before me—

J. N. Dickinson,
Judge of Supreme Court.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.
(Despatch No. 28, per ship Trafalgar.)

Sir,
Downing Street, 25 May, 1846.

I have to acknowledge the receipt of your Predecessor's Dispatch No. 190 of the 17 of Novr. last, enclosing an Extract from the Minutes of the Executive Council of New South Wales, shewing the circumstances under which leave of absence for 18 months had been granted to Mr. John Burke, an Assistant Surveyor in that Colony, and recommending that authority should be given for the payment of his half Salary out of the Crown Revenue of New South Wales.

In reply, I have to convey to you my approval of the leave which has been given to Mr. Burke, and of the arrangements proposed for the payment of his Salary.

I have, &c.,
W. E. Gladstone.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.
(Despatch No. 29, per ship Trafalgar.)

Sir,
Downing Street, 26 May, 1846.

I have to acknowledge the receipt of your Predecessor's Dispatch No. 198 of the 23d of Novr. last, enclosing a private Act passed by him with the advice and consent of the Legislative Council of New South Wales, entitled "An Act to simplify
Allowance of Australian General Assurance Company's Act.

Proceedings at Law or in Equity by or against the Australian General Assurance Company, and for other purposes therein mentioned."

Having laid this Act before the Queen, I have now to acquaint you that Her Majesty has been pleased to confirm and allow the same.

You will communicate Her Majesty's decision to the inhabitants of the Colony under your Government by a Proclamation in the usual and most authentic manner.

I have, &c.,

W. E. Gladstone.

Sir George Gipps to Right Hon. W. E. Gladstone.

(Despatch No. 105, per ship St. Vincent: acknowledged by Earl Grey, 23rd October, 1846.)

Sir,

Government House, 26th May, 1846.

I have the honor to report that, previous to the meeting on the 12th instant of the Legislative Council, Mr. Hamilton resigned the seat which he held in the Council as a Nominee of the Crown; and that, subject to Her Majesty's approval, I appointed Mr. Henry Watson Parker to succeed him.

Mr. Parker accompanied me from England as my Private Secretary, and continued to hold that Office to the time of his appointment to the Legislative Council, when he resigned it, as by the proviso attached to the 12th clause of the 5th and 6th Vict., ch. 76, he could not, as a Crown Nominee, hold an Office of emolument within the Colony.

Mr. Parker, about two years ago, married a sister of Mr. James Macarthur of Camden, and by his marriage has acquired a fixed interest in the Colony.

I beg respectfully to express a hope that, on your recommendation, my appointment of Mr. Parker may be confirmed by Her Majesty.

I have, &c.,

Geo. Gipps.

P.S.—Mr. Hamilton, I am happy to say, resigned solely on account of the inconvenience which an attendance in Council at a very great distance from his residence, occasioned to him.

Geo. Gipps.

29 May.

G.G.
GIPPS TO GLADSTONE.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.

(A circular despatch, per ship Trafalgar; acknowledged by Sir Charles Fitz Roy, 19th October, 1846.)

Sir Charles Fitz Roy, 19th October, 1846.

It is my pleasing duty to announce to you that, on the Afternoon of the 25th Instant at 5 minutes before 3 o’Clock, the Queen was happily delivered of a Princess, to the great joy of the Nation and of all the Royal Family.

Her Majesty and the Infant Princess have, through Divine Mercy, continued to do well up to the present time.

I have, &c.,

W. E. GLADSTONE.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 106, per ship St. Vincent.)

Sir Charles Fitz Roy, 19th October, 1846.

I have the honor to report that, on the application of the Establishment Collector of Customs, and the recommendation of Mr. Barnes, who is now at Sydney on a special mission from the Commissioners of Customs, I have established a Branch of the Customs Department at Moreton Bay; and that I have appointed, subject to the approval of the Lords of the Treasury, the two gentlemen named in the margin* to the situations of Sub-Collector and Landing Waiter.

I beg leave to express my hope that, on your recommendation, these gentlemen may be confirmed in the Offices to which I have appointed them.

In addition to these appointments, I have (equally on the recommendation of the Collector and Mr. Barnes) sanctioned the employment of a Coxswain and Boat’s Crew.

I have, &c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch marked “Separate,” per ship St. Vincent.)

Sir, Government House, 28th May, 1846.

With reference to my Despatch of this day’s date No. 106, in which I have reported the establishment of a branch of the Department of Customs at Moreton Bay, and solicited the confirmation of two gentlemen in the Offices to which I have appointed them, I beg in this separate Despatch earnestly, and

* Marginal note.—Mr. Wm. Augustus Duncan, Sub-Collector; Mr. Wm. Thornton, Landing Waiter.
1846.
28 May.

Support of squatting regulations by W. A. Duncan.

Mr. Duncan is a young man of very great ability and assiduity; and was lately editor of a Periodical,* called the "Weekly Register," at Sydney. As Editor of this Paper, he, alone of all persons connected with the public press of the Colony, supported the policy of the Government in the issue of the Squatting Regulations of the 2d April, 1844, of which Regulations he demonstrated the importance and fairness in a series of very able articles, some of which have, I believe, reached the Colonial Office.

It is within my knowledge that large offers were made to Mr. Duncan by the Pastoral Association or its Agents to induce him to alter the politics of his Paper; and that, on his refusing to do so, it was determined if possible to ruin him; and in fact he was obliged a few months ago to discontinue his Paper.

It may here be necessary to repeat a declaration, I have frequently already made to Lord Stanley, namely, that, during the time I have held the administration of this Government, I have never directly or indirectly connected myself with any newspaper; to which I may now add that I never inserted, or caused to be inserted, any article in Mr. Duncan's Paper, neither did I ever see any article published in it before it was printed; nor had I any communication, direct or indirect, with Mr. Duncan until after he had ceased to Edit the Paper.

Feeling that Mr. Duncan deserves the support of Government, and that he is beyond doubt competent to fill the situation to which I have appointed him, I beg leave to repeat my earnest hope that he will be confirmed in it.

I have, &c.,

GEO. GIPPS.

30 May.

Previous regulations re incorporation of banking companies.

Right Hon. W. E. Gladstone to Sir Charles Fitz Roy.

(A circular despatch, per ship Thomas Lowry.)

Sir,

Downing Street, 30th May, 1846.

On the 4th May, 1840, Lord J. Russell transmitted to you a copy of certain Regulations, the observance of which, in all Charters or Legislative Enactments relating to the Incorporation of Banking Companies in the Colonies, Her Majesty's Government then considered of much importance.

The Correspondence, which has since taken place on subjects of this nature, and the arrangements, adopted by Parliament in

* Note 10.
regard to Banks of Issue in the United Kingdom, appear to Her Majesty's Government to have rendered necessary some modification of those Regulations, with a view to bring them into exact accordance with the principles on these subjects established in this Country. I accordingly transmit to you herewith a series of Regulations, revised with that object, to be substituted for those of May, 1840.

These Regulations are forwarded to you, not of course as inflexible rules to be in all cases insisted on, but as embodying the general principles to be observed in the preparation of Colonial Acts for the Incorporation of Banking Companies; and Her Majesty's Government consider a compliance with all the more material conditions and restrictions as of much importance to the security of the Communities in which such Banks may be established, and more especially to the poorer classes of such Communities. I must, therefore, impress on you the necessity of using all your legitimate influence to procure their introduction into any Bills, which may be brought into the Legislature of the Colony under your Government, for the Incorporation of Banking Companies; and with this view it might be well that you should communicate with the Promoters of any such Bills, in which these conditions may be omitted, and point out to them that the instructions, which you have received from Her Majesty's Government, would place you under considerable difficulty in assenting to any such Bill, should it pass the Legislature in its actual form. I can hardly doubt that such a communication, aided by an explanation of the grounds on which Her Majesty's Government have proceeded in drawing up these Regulations, would have the desired effect; but if not, and you should nevertheless feel it your duty to assent to the Act, it would be necessary, in transmitting that Act for the signification of Her Majesty's pleasure, that you should accompany it by a full report of the grounds on which you have proceeded.

I have, &c.,

W. E. GLADSTONE.

[Enclosure.]

Regulations and Conditions for the Observance of which Provision should be made in Charters or Legislative Enactments Relating to the Incorporation of Banking Companies in the Colonies.

1st. The Amount of the Capital of the Company and Number of Shares to be determined; and the whole of such determined amount to be subscribed for within a limited period, not exceeding Eighteen Months from the date of the Charter or Act of Incorporation.
Regulations and conditions re incorporation of banking companies.

2nd. Shareholders to be declared a Body Corporate, with common seal and perpetual succession, and other usual corporate powers; and with any requisite proviso that judgment against the Corporation shall attach to all additional liability of the Shareholders, as well as to paid-up Capital and other property of the Company.

3rd. Provision to be made, either by Recital and Confirmation of any Deed of Settlement in these respects or otherwise, for the due Management of the Company’s Affairs by Appointment of Directors, and so forth, so far as shall seem necessary for the security of the Public.

4th. No bye-law of the Company to be repugnant to the conditions of the Charter or Act of Incorporation, or to the Laws of any Colony in which the Company’s Establishments may be placed.

5th. The Corporate Body thus constituted to be specially empowered, subject to the conditions hereafter mentioned, to carry on for and during a limited term of years (not to exceed Twenty-One Years unless under particular circumstances), and within the Colony or Colonies specified in the Charter or Act of Incorporation, but not elsewhere, the business of Banker; and for and during the like term to issue and circulate within the said Colony or Colonies, but in such manner only as shall not be at variance with any general Law of the Colony, Promissory Notes payable in Specie on Demand.

6th. Such Banking Business or Issue of Notes not to commence or take place until the whole of the Fixed Capital of the Company has been subscribed for, and a moiety at least of the Subscription paid up.

7th. The remaining moiety of the Capital to be paid up within a given period from the date of the Charter or Act of Incorporation such period not in general to exceed Two Years.

8th. In all cases in which Shares in the Company’s Stock are transferred between the period of the Grant of the Charter or Act of Incorporation and the actual commencing of business by the Bank, the responsibility of the original holder of the transferred Shares to continue for Six Months at least after the date of the transfer.

9th. The Company not to advance Money on Security of Lands or Houses or Ships, or on pledge of Merchandize, nor to hold Lands or Houses, except for the transaction of its business, nor own ships, or be engaged in Trade, except as dealers in Bullion or Bills of Exchange; but to confine its transactions to discounting Commercial Paper and negotiable Securities, and other legitimate Banking business.

10th. The Company not to hold Shares in its own Stock, nor to make advances on the security of those Shares.

11th. The Discounts or Advances by the Company, on Securities bearing the name of any Director or Officer thereof, as drawer, accepter, or endorser, not to exceed at any time one-third of the total Advances and Discounts of the Bank.

12th. The Dividends to Shareholders to be made out of Profits only, and not out of the subscribed Capital of the Company.
13th. The total amount of the Debts and Liabilities of the Company, whether upon Bonds, Bills, Promissory Notes, or otherwise contracted, and above the amount of Deposits on Banking Accounts with the Company's Establishments, not to exceed at any time three times the amount of the Capital Stock subscribed and actually paid up.

14th. No Promissory or other Notes to be issued for sums under £1 sterling (or in the North American Colonies £1 Halifax currency), or the equivalent thereof in any other local currency, and not for fractional portions of such Pound or other equivalent amount.

15th. All Promissory Notes of the Company, whether issued from the Principal Establishment or from Branch Banks, to bear date at the place of issue, and to be payable on demand in Specie at the place of date.

16th. The total amount of the Promissory Notes payable on demand, issued, and in circulation, not at any time to exceed the amount of the Capital Stock of the Company actually paid up.

17th. In the event of the assets of the Company being insufficient to meet its engagements, the Shareholders to be responsible to the extent of twice the amount of their subscribed Shares (that is, for the amount subscribed, and for a further and additional amount equal thereto).

18th. Suspension of Specie Payments on Demand at any of the Company's Banking Establishments, for a given number of days (not in any case exceeding sixty) within any one year, either consecutively or at intervals, or other breach of the Special Conditions upon which the Company is empowered to open Banking Establishments or to issue and circulate Promissory Notes to forfeit those privileges, which shall cease and determine upon such forfeiture as if the period for which they had been granted had expired.

19th. The Company to make up and publish periodical Statements of its Assets and Liabilities half-yearly or yearly; showing, under the heads specified in the annexed form, the average of the amount of its Notes in circulation, and other Liabilities, at the termination of each week or month, during the period to which the Statement refers, and the average amount of Specie or other Assets that were available to meet the same. Copies of these Statements to be submitted to the Government of the Colony within which the Company may be established; and the Company to be prepared, if called upon, to verify such Statements by the production, as confidential documents, of the Weekly or Monthly Balance Sheets from which the same are compiled. And also to be prepared, upon requisition from the Lords Commissioners of Her Majesty's Treasury, to furnish, in like manner, such further information respecting the state or proceedings of its Banking Establishments as their Lordships may see fit to call for.

20th. The Charter or Act of Incorporation may provide for an addition to the Capital of the Company within specified limits, with the sanction of the Lords Commissioners of the Treasury; such additional Capital, and the Shares and Subscriptions that may constitute the same, to be subject in every respect, from and after the date of the signification of such sanction, to conditions and regulations similar to those applying to the original Capital.
Form for periodical return of assets and liabilities.

1846.
30 May.

Return of the Average amount of Liabilities and Assets of the Bank of during the periods from (1st January) to (30th June 1846), viz.:

Liabilities.
- Promissory Notes in circulation not bearing Interest £
- Bills of Exchange in circulation not bearing Interest £
- Bills and Notes in circulation bearing Interest £
- Balances due to other Banks £
- Cash Deposits not bearing Interest £
- Cash Deposits bearing interest £
- To Shareholders for Capital paid up £
- To Ditto for Additions declared to Shares (if any) £
- To Ditto for Dividends remaining unpaid (if any) £

Total Average Liabilities £

Assets.
- Coin and Bullion £
- Landed or other Property of the Corporation £
- Government Securities £
- Promissory Notes or Bills of other Banks £
- Balances due from other Banks £
- Notes and Bills Discounted, or other Debts due to the Corporation, not included under the foregoing heads, and exclusive of Debts abandoned as bad £

Total Average Assets £

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RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.
(Despatch per ship Thomas Lowry: acknowledged by Sir Charles Fitz Roy, 31st March, 1847.)

Sir,
Downing Street, 30 May, 1846.

I transmit to you herewith a Copy of a Letter from the person described in the margin,* containing an application for information relative to Henry and Wm. Hughes, who are stated to have Emigrated to the Colony under your Government, and I have to request that you will transmit to me such information as you may be able to obtain on the subject of the enquiry.

I have, &c.,

[Enclosure.] W. E. GLADSTONE.

MR. J. HUGHES TO EARL OF ABERDEEN.
No. 23 Earl Street.

Honorable Sir,
South Dublin, 18 May, 1846.

I most respectfully beg leave to state that my two Sons, Henry and William Hughes, emigrated from the City of Dublin.

* Marginal note.—The margin is blank.
Ireland, and sailed from the Cove of Cork on the 4th of September, 1841; and it appears that they arrived in Sidney, New South Wales, on the 10th January, 1842. Honorable Sir, I beg leave to inform your Honor that I have not heard any account whatsoever of or from them since the 1st April, 1843, at which period they were working as Shepherds at Mr. Hugh Ross, Oaky Creek, Darling Downs, New South Wales. Honorable Sir, I am quite anxious to hear from them, and I have written more than once after them, but I was not answered, which leaves me very uneasy; and in consequence I am of opinion something must have occurred, and that all is not right with them. Under these circumstances, I most humbly entreat your Honor will have the goodness and kindness to be graciously pleased to cause a diligent search and enquiry to be made after them, in order to ascertain whether they be living or dead at this time, and, if they be living, to be graciously pleased to inform me where they are residing in that Colony, and, if they be dead, to have the goodness to inform me accordingly. Honorable Sir, by your kind compliance with the request, I will be sincerely thankful, and as in duty bound will ever pray.

I have, &c.,

JOHN HUGHES.

Care of Mr. John Walsh, No. 23 Earl Street, South Dublin.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 107, per ship St. Vincent; acknowledged by Earl Grey, 17th October, 1846.)

Sir,

Government House, 30th May, 1846.

I have the honor to report that, on the 15th instant, three days after the meeting of the Legislative Council, I laid before that Body a copy of Lord Stanley's Despatch No. 72 of the 17th July, 1845, replying to my own Despatch No. 202, of the 12th September, 1844, on the subject of Mr. Manning's defalcation; and I have to add that, on Thursday last, the enclosed Address from the Council to the Queen was delivered to me by the Speaker and Mr. Lamb, with a request that I would forward it to you for presentation to Her Most Gracious Majesty.

The object of the Address is to request that the amount of Mr. Manning's defalcations may be made good by Her Majesty's Government, on the ground (apparently) that Mr. Manning had been Insolvent in England in the year 1823, and therefore ought to have been regarded as a person disqualified for any situation of trust, at the time he was appointed Registrar of the Supreme Court of this Colony in 1828.

I have, &c.,

Geo. Gipps.

[Enclosure.]

[A copy of this address will be found in the "Votes and Proceedings" of the legislative council.]
1846.
1 June.

Instructions re classification of recommendations for pardons.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.

(Despatch No. 30, per ship Trafalgar.)

Sir,

Downing Street, 1 June, 1846.

With reference to my Dispatch No. 21 of the 13th Inst., I have to request that, in submitting the names of Convicts whom you may consider deserving of Conditional Pardons, you will take care so to arrange the Lists as to separate those who may have been convicted in the United Kingdom from such as may have received their Sentence in other places; the object of such classification being to enable the Secretary of State to signify with greater precision the Country or Colony in which the Pardon shall not be available.

I have, &c.,

W. E. GLADSTONE.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 108, per ship St. Vincent.)

Sir,

Government House, 1st June, 1846.

With reference to my Despatch No. 34 of the 11th Feby. last, wherein I reported the arrival at Port Phillip of the Ship "Stratheden," with 51 Exiles from the Pentonville Prison; I have the satisfaction now to report that these Exiles were disposed of without any expense to the Government.

The net sum of £183 1s. 6d. was realized by the sale (by Auction) of the ship fittings and surplus Stores of the "Stratheden," which sum was paid into the Military Chest.

In my Despatch No. 94 of the 31st May, 1845, I reported that, in the disposal of the Exiles by the ship "Sir George Seymour," an expense had been incurred of £34 16s. 3d. I have, &c.

GEO. GIPPS.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.

(Despatch marked "Military, No. 4," per ship Thomas Lowry.)

Sir,

Downing Street, 2nd June, 1846.

I transmit, herewith, for your information, a copy of a Petition from John Toole, late of the 22nd Foot.

The request which he makes is one that cannot, of course, be complied with; but if, as there is reason for believing, he is a Commuted Pensioner, he would be entitled to claim relief under Lord Stanley's instruction of the 4th of June last to Sir George Gipps.

I have, &c.

W. E. GLADSTONE.
GLADSTONE TO FITZ ROY.

[Enclosure.]

The Humble Petition of John Toole, late Out Pensioner, 22d Foot,

The Right Honble. the Secretary of State for the Colonies,

Humbly sheweth,

That, Petitioner from the many flattering Reports circulated by Letters through the United Kingdom representing the great advantages to be met in this Colony, Petitioner commuted his Pension, 1s. 4d. per day, and with his family a Wife and two Children embarked on board the Hibernia for his destination, in hopes to better his condition and to obtain one hundred acres of Land according to promise.

But at the elapse of two months at sea, the Ship (5th Feb., 1833) took fire in 5 S.L. and 20 W. Londe. and destroyed all Property with one hundred and fifty two Persons; thus was Petitioner deprived of all hopes in life, losing his Property £185 in property and twenty nine Sovereigns, not including the several changes of dress to suit himself and family.

Petitioner had a small remuneration from the Inhabitants of Rio de Ja Neiro and this Colony, but a part of the contribution made in this Colony was held over and remains so.

Petitioner applied for a remuneration for his loss, first to Governor Bourke and after to the Secretary at War, and meeting with no redress Petitioner petitioned Our Most Gracious Majesty The Queen in September, 1844.

Petitioner received an answer from the Right Honble. Secretary Sir James Graham, 6th May last, that his Petition was laid before The Queen and the matter was referred for your Lordship's consideration. Under these circumstances, Petitioner begs your Lordship to take his case into consideration, and grant him some ground, as his Children with a portion of his own assistance would be able to cultivate a part, and what should remain can be for grazing ground and other purposes.

Petitioner hopes to be taken into consideration, on account of his loss and hardships in an open boat for seven days with his family, under privations, hardships and dangers and losing his pension, the promise of land that was the occasion of his emigrating, in order to leave his Children something to live on, and to be disappointed in every respect, throwing up a situation in Tullamore, King's County, Ireland, as Supt. of the Night Watch and Collector of Taxes, and under the most respectable characters from Gentlemen of the first respect. Petitioner hopes from the many good actions your Lordship has done that he and his family may not be forgot.

And Petitioner will ever pray,

JOHN TOOLE,
late Pensioner, 22d Foot.

Singleton, Hunter's River, New South Wales, 29th January, 1846.

Petitioner was informed by Sir James Graham that, if any further application was necessary, it should be addressed to Your Lordship.
HISTORICAL RECORDS OF AUSTRALIA.

1846.
2 June.

Abolition of house of correction.

Transfer of treadmill to gaol.

4 June.

Despatch acknowledged.

Reference to former despatch re bishoprics.

Inability to grant request of A. Mackenzie.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 109, per ship Royal Saxon; acknowledged by earl Grey, 17th November, 1846.)

Sir,

Government House, 2d June, 1846.

I have to apologise for not having earlier reported that, at the commencement of the present year, I reduced the Establishment called “the House of Correction,” or the Treadmill in Sydney, by which a saving will be effected of about £500 per annum in the Expenditure on account of Convicts in this Colony.

I beg further to report that, in conformity with what has been done on former occasions of the same nature, I transferred the Machinery of the Treadmill to the Colonial Government, and that it is now erected in the enclosure of the Principal Gaol in Sydney.

The Treadmill will, therefore, in future be a Colonial Establishment, attached to the Gaol, about a mile out of Sydney, instead of a Convict Establishment supported at the expense of the Home Government, and situate within the Town of Sydney.

I have, &c.

GEO. GIPPS.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZROY.

(Despatch No. 32, per ship Thomas Lowry.)

Sir,

Downing Street, 4 June, 1846.

I have received your Predecessor’s Dispatch No. 3 of the 19th of January last, enclosing a copy of a letter from the Bishop of Australia, relative to the proposed division of that Diocese.

Having already, in my Dispatch No. 13 of the 30th of March last, communicated fully with you on that subject, it is only now necessary that I should refer you to that Dispatch. From it you will have learned that any difficulty with regard to the measure in question is now at an end.

I have, &c.

W. E. GLADSTONE.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZROY.

(Despatch No. 33, per ship Thomas Lowry.)

Sir,

Downing Street, 4 June, 1846.

Inability to I have received your Predecessor’s Dispatch No. 20 of the 26th of January last, enclosing a letter from Mr. Alastair Mackenzie, the Deputy Sheriff at Port Phillip, in which he requests that he may be removed to some other Office, in which permanence of Income may be secured to him, and he may be free from the preliminary risks attendant on his present appointment.
In reply, I have to request that you will convey to Mr. Mackenzie the expression of my regret that it is not in my power to render him any assistance in the attainment of his object.

I have, &c,

W. E. GLADSTONE.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.

(Despatch No. 34, per ship Thomas Lowry.)

Sir, Downing Street, 4 June, 1846.

I have received Sir George Gipps' Dispatch No. 14 of the 19th of January last, reporting the three following Appointments which he had made in the course of the year 1845, but which he had previously omitted to mention.

1st. John Buchanan to be Colonial Storekeeper. 2d. J. McCrae to be first Clerk in the Office of the Sub Treasurer at Melbourne; and 3d. Alexander C. Maxwell to be Chief Inspector of Distilleries. I have to convey to you my Sanction of these Appointments.

I have, &c,

W. E. GLADSTONE.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.

(Despatch No. 35, per ship Thomas Lowry.)

Sir, Downing Street, 4 June, 1846.

I have received Sir G. Gipps' Dispatch No. 186 of the 13th of Novr. last, forwarding a Copy of an Address from the Legislative Council of New South Wales, requesting him to allot out of the funds, provided by Schedule C of the Constitutional Act, the sum of £1,000 towards liquidating a debt due for the construction of the Jews' Synagogue in Sydney, together with the annual Sum of £150 as a Salary for the Minister of the Synagogue.

I approve of the answer returned by Sir G. Gipps that no funds, provided by Schedule C, could legally be applied to any other purpose than that of Christian Worship.

I have, &c,

W. E. GLADSTONE.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 110, per ship Royal Saxon; acknowledged by earl Grey, 25th September, 1847.)

Sir, Government House, 4th June, 1846.

I have the honor to request authority to issue Letters of Denization to a person named Dominique Popolare, a Native of the Kingdom of Naples, and of whose application for this favor I herewith enclose a Copy.
1846
4 June.

Recommendation in favour of D. Popolare.

As Dominique Popolare came to this Colony a Convict in the year 1810, I do not think it right to forward this application without referring to Lord Stanley’s Despatch No. 20 of the 13th March, 1845 (answered by my Despatch No. 161 of the 21st Sept., 1845), wherein a doubt is expressed as to the propriety of extending this indulgence to persons who have been Convicts; but, as even in the case then under consideration no positive prohibition was implied, I feel justified in recommending the case of Dominique Popolare for favorable consideration, as no misconduct of any sort is recorded against him in New South Wales, and his original offence was a military one, committed so long ago as the year 1808, when he was serving as a Soldier in the garrison of Malta.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

D. POPOLARE TO COLONIAL SECRETARY THOMSON.

Sir, Bathurst, 21st May, 1846.

I have the honor to apply to you to request your assistance in order that I may become a British Subject, having a Wife and family in this Colony and being possessed of landed property here. I am a native of Calabria in the Kingdom of Naples, and was transported to this Colony from Malta in the year 1806 and arrived here in 1809.

I have, &c.,

DOMINIQUE X POPOLARE.

Despatch No. 111, per ship Royal Saxon.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

Sir, Government House, 5th June, 1846.

In a Despatch dated the 28th Febry. last. No. 53, I forwarded to Lord Stanley a Report from the Attorney General of this Colony of the failure of the proceedings, which had been taken against Mr. Bell and Mr. Hamilton, the late House Steward and Contractor of the Female Factory at Parramatta; but I added that these parties would again be brought to trial in the month of April. I have now the honor to report that the Attorney General has recently informed me that, owing to the absence from the Colony of one of the most material witnesses, he will not be able to bring the parties again to trial, so that I regret to say, there is every prospect that, in the case both of Mr. Bell and Mr. Hamilton, the ends of justice will be defeated.

I have, &c.,

GEO. GIPPS.
SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 112, per ship Royal Saxon; acknowledged by earl Grey, 7th December, 1846.)

Sir,

Government House, 5th June, 1846.

Having, in my Despatch of this day's date No. 111, reported that there is no longer any prospect of bringing to a successful issue the prosecution which, more than two and a half years ago, was commenced against Mr. Bell and Mr. Hamilton for fraud and embezzlement at the Female Factory at Parramatta, I have now the honor to submit for your approval that I have caused to be paid out of Convict funds a gratuity of £25 to Alexander Cameron, the person by whose information and exertions the malpractices of Mr. Bell and Mr. Hamilton were principally brought to light.

Alexander Cameron, at the time when suspicion was first awakened against Mr. Bell, was employed as a writing Clerk at the Factory, being then in the condition of a Convict. He obtained a Ticket of Leave on the 1st April, 1844, and a Conditional Pardon on the 15th March, 1845; but still remains at the Factory in the situation of a Clerk, and now receives a salary of 3s. 6d. per diem (without Rations).

I enclose a copy of a letter in his favor from the Visiting Magistrate, Mr. Elliott, covering a Petition from Alexander Cameron himself; and it is within my own knowledge that Cameron has long been very useful at the Factory, and that, at the time when Mr. Bell was dismissed, his services were extremely valuable.

In expressing a hope that this gratuity will be allowed, I have only to add that I should have granted it to Cameron more than two years ago, but that I thought it not right to do so while proceedings were still pending in the case of Mr. Bell, against whom he was a material witness.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

MR. G. ELIOTT TO PRIVATE SECRETARY.

Sir,

Parramatta, 27th May, 1846.

I do myself the honor to forward a petition to His Excellency the Governor from Alexander Cameron, one of the Clerks of the Female Factory, and to request you will be pleased to bring the same under the notice of His Excellency.

At the time Mr. and Mrs. Bell were suspended from their duties, involving a very considerable degree of responsibility, which he performed with the utmost zeal for the Public service, entirely to my satisfaction; and, even since the appointment of Mr. and Mrs. Smyth, he has evinced the greatest desire that the duties of the Establishment should be conducted in an efficient manner, and
1840.
6 June.

Exposure of frauds at female factory by A. Cameron.

has always given more than ordinary assistance in order to accomplish that object. I beg to add it was chiefly through him that the frauds practised at the Factory during Mr. Bell’s time were detected, and, also in consequence of having been obliged to attend 15 days at the Supreme Court in Sydney during Mr. Bell’s trial, he is out of pocket, somewhere about £4, on that account.

Under all the circumstances of the case, I beg to recommend the prayer of the petition to the favorable consideration of His Excellency, that He may be pleased to grant such a pecuniary remuneration, as, in the opinion of His Excellency, Cameron’s services may appear to deserve.

I have, &c.,

GILBERT ELIOTT, V.J.

[Sub-enclosure.]

The Petition of Alexander Cameron,

To His Excellency Sir George Gipps, Knt., Captain General and Governor in Chief of the Territory of New South Wales, and its Dependencies, and Vice Admiral of the same, etc., etc., etc.,

Humbly Sheweth,

That the Petitioner has been employed as Clerk to the Female Factory, Parramatta, for the last Six Years, and on all occasions he has endeavoured to discharge his duties with fidelity and zeal.

That, at the time Mr. and Mrs. Bell and others were removed from the superintendence of that Establishment, the petitioner was requested in a particular manner by the Visiting Justice to exercise the most careful vigilance and exertion in order to the maintenance of strict order and regularity among the prisoners, and see that the various requirements for the due fulfilment of the daily routine of business was efficiently performed, until new appointments should be made.

Before new appointments took place, an interval of about five months elapsed. Meanwhile the petitioner in compliance with his instructions was most assiduous in carrying into effect the requirements so imposed on him, and he believes the success attending such efforts gave satisfaction.

The Petitioner, some months ago, addressed the Visiting Justice, in a memorandum, recalling to his recollection the facts just stated; and shortly thereafter was informed by that Officer that he would bring the matter under the notice of Your Excellency. Here the petitioner begs respectfully to remark that the kind of services, to which he refers, was afforded not only during the time of the non-appointment of Storekeeper and Matron; but its continuance became necessary afterwards, and, even up to the present, the petitioner feels bound to state that, notwithstanding the experience which time may be supposed to have brought along with it to his superior officers in immediate charge, it has been insufficient to dispense with calls on the exercise of his judgment in matters clearly beyond the sphere of his own duties. Independently of such circumstances the petitioner solicits the attention of Your Excellency to other facts, namely, that, for the interval of 5 months alluded to, a sum of about £250 for salaries, and a like sum for commission on work done by the prisoners which was to have been allowed to Mr. Bell and Mrs. Corcoran, were saved to the Government, and whatever merit may be due for such, the petitioner conceives he ought to share in it.

Such briefly, is a relation of the facts and of the nature of services on which he ventures thus to ground pretences for a pecuniary gratuity; and, in submitting the same, the petitioner most respectfully prays Your Excellency may be pleased to take the premises into favorable consideration, along with the circumstances of the comparative disproportionate rate of his salary, feeling assured they will come so recommended to Your Excellency’s attention as to be deemed not unworthy of being marked with substantial approval for which as etc., etc.,

25 May, 1846.

ALEX. CAMERON.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.

(Despatch No. 36, per ship Thomas Lowry.)

Sir,

Downing Street, 6 June, 1846.

I have received Sir George Gipps’ despatches Nos. 22 and 23 of the 29th and 30th of January last, the one enclosing a letter from Captain McLean, the Principal Superintendent of
Convicts in New South Wales; the other forwarding a letter from Mr. Gilbert Elliot, the Police Magistrate of Paramatta, the object of those letters being in each case to solicit the Office of Comptroller General of Convicts in Van D. Land; and I have to request that you will inform the Applicants that the Appointment in question had been filled up previously to the receipt of their Communications.

I have, &c.,
W. E. Gladstone.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.
(Despatch No. 38, per ship Thomas Lowry.)
Sir, Downing Street, 8 June, 1846.
I have caused a copy of your Predecessor's Dispatch No. 189 of the 16 Novr. last, wherein he states the reasons for the request made by the Colonial Secretary to be supplied with a copy of the Queen's Regulations for the Naval Service, to be sent to the Lords Commrs. of the Admiralty; and I now transmit to you a copy of the answer returned by their Lordships' direction, in which, as you will perceive, they adhere to their former opinion that it would be inexpedient to place those Instructions in the hands of the Governors of Colonies.

I have, &c.,
W. E. Gladstone.

[Enclosure.]
CAPTAIN HAMILTON TO UNDER SECRETARY STEPHEN.
Sir, Admiralty, 28th May, 1846.
Having laid before my Lords Commissioners of the Admiralty your Letter of the 26th Instant, with an explanation from the Governor of New South Wales of his reasons for requesting to be supplied with a copy of the Queen's Regulations and Naval Instructions, I am commanded to request you will acquaint Mr. Secretary Gladstone that my Lords adhere to the opinion they formerly expressed that it would be inexpedient to place these Instructions in the hands of the Governors of Colonies.

I have, &c.,
W. A. B. HAMILTON.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.
(Despatch No. 114, per ship Royal Saxon.)
Sir, Government House, 9th June, 1846.
With reference to my Despatch to Lord Stanley No. 44 of the 19th February, 1846, on the subject of the erection of Lighthouses in Bass' Straits, in which I reported that, by an arrangement between this Government and that of Van Diemen's Land, one of the Lanterns demanded from England was to be
1846.
9 June.
Request for shipment of lantern to Tasmania.

erected on an Island in Kent's Group within the limits of the Government of Van Diemen's Land, I have now the honor to enclose a copy of a letter, recently received from the Colonial Secretary of Van Diemen's Land, expressing the desire of Lieut. Governor Sir Eardley Wilmot that the Lantern intended for Kent's Group may be sent direct from England to Van Diemen's Land, and I beg leave to express my concurrence in this desire.

The Light is to be a revolving one, and one of the four which, in my Despatch of the 21st November, 1845, No. 194, I requested might be supplied at the expense of this Government.

I have, &c.,

[Enclosure.]

GEO. GIPPS.

[Enclosure No. 1.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZROY.
(Despatch No. 39, per ship Thomas Lowry.)

Sir, Downing Street, 10th June, 1846.

I have received your Predecessor's Despatch, No. 185 of the 12th November last, accompanied by the Copy of an Address presented to him by the Members of the Legislative Council, setting forth the great advantages to be derived by the Colonists, from the construction at Sydney of a Dry Dock capable of holding Men-of-War, and suggesting the employment of Convicts for that purpose.

Having referred the Subject for the consideration of the Lords of the Admiralty, I now transmit to you a copy of that reference, together with a copy of the reply returned by their Lordships' direction, from which you will observe that, while they approve of the work itself, as well as of the locality pointed out by Sir George Gipps, they are not prepared to recommend that the expense of the undertaking should be borne by the British Treasury.

I have, &c.,

W. E. GLADSTONE.

10 June.
Proposal for dry dock at Sydney.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZROY.
(Despatch No. 39, per ship Thomas Lowry.)

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I have, &c.,

W. E. GLADSTONE.

10 June.
Proposal for dry dock at Sydney.

General approval of proposal.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZROY.
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10 June.
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General approval of proposal.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZROY.
(Despatch No. 39, per ship Thomas Lowry.)

Sir, Downing Street, 10th June, 1846.

I have received your Predecessor's Despatch, No. 185 of the 12th November last, accompanied by the Copy of an Address presented to him by the Members of the Legislative Council, setting forth the great advantages to be derived by the Colonists, from the construction at Sydney of a Dry Dock capable of holding Men-of-War, and suggesting the employment of Convicts for that purpose.

Having referred the Subject for the consideration of the Lords of the Admiralty, I now transmit to you a copy of that reference, together with a copy of the reply returned by their Lordships' direction, from which you will observe that, while they approve of the work itself, as well as of the locality pointed out by Sir George Gipps, they are not prepared to recommend that the expense of the undertaking should be borne by the British Treasury.

I have, &c.,

W. E. GLADSTONE.

10 June.
Proposal for dry dock at Sydney.

General approval of proposal.
GIPPS TO GLADSTONE.

The Lords Commissioners will observe that the work in question has for some time been projected by the Governor himself, who now supports, by his recommendation, the request preferred by the Council. Before, however, answering this Despatch, Mr. Gladstone would be glad to be apprized of the opinion entertained by their Lordships in respect of the expediency of adopting the proposed measure.

I have, &c.

[Enclosure No. 2.] JAMES STEPHEN.

CAPTAIN HAMILTON TO UNDER SECRETARY STEPHEN.

Sir, Admiralty, 28th May, 1846.

I have laid before my Lords Commissioners of the Admiralty, your letter of the 26th instant, transmitting by desire of Mr. Secretary Gladstone, a copy of a Despatch from the Governor of New South Wales, with an Address to him by the Members of the Legislative Council, setting forth the great advantages to be derived from the construction of a Dry Dock at Sydney, and suggesting the employment of convicts for that purpose; and I am commanded by their Lordships to request you will state to Mr. Secretary Gladstone that my Lords consider the situation of Cockatoo Island, which has been indicated, as well adapted to the construction of a Dry Dock, and that great accommodation would doubtless be derived from such a work, but that if it is intended by the Colonial Legislature that the expense should be borne by the Naval Department, they are not prepared at present to recommend the Treasury to undertake it.

I have, &c.

W. A. B. HAMILTON.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 115, per ship Royal Saxon.)

Sir, Government House, 11th June, 1846.

In my Despatch No. 13 of the 18th Jany., 1846, I partially replied to the enquiries contained in Lord Stanley's Despatch No. 82 of the 16th August, 1845, on the subject of the proposed admission of Leaseholders to the Elective Franchise in New South Wales, and I added that I had taken measures for obtaining further information from the Benches of Magistrates throughout the Colony. I have now to report that I availed myself of the facilities, afforded by the recent taking of a Census of the Colony, to obtain as far as possible the information required; and I have the honor to submit to Your consideration the result of the enquiries then made.

There are in New South Wales (including Port Phillip) forty one Benches of Magistrates; and to each Bench a Circular was written, of which a Copy is enclosed. From thirty four Benches, answers were received as full and satisfactory as could reasonably have been expected; but from the other seven Benches either no answers were received, or answers which did not convey any satisfactory information. Making, however, due allowance for these seven Benches or rather Districts, the answers received
1846.
11 June.
Increase of electors due to extension of franchise.

Opinions re character and status of leaseholders.

Summary of reports transmitted.

Opinion of Sir G. Gipps.

lead to the conclusion that, by the admission to the Elective Franchise of Leaseholders, paying rent to the amount of £30 a year, and holding Leases originally granted for not less than five years, an addition would be made to the general Constituency of the Colony of about 288 persons.

Should, however, the amount of rent, which is to confer the Franchise, be fixed at £20 instead of £30, the addition to the general Constituency would be about 613 instead of 288; and, as the constituency of the whole Colony was, in the year 1845-6, 8,232, it follows that the admission of the £30 Leaseholders would increase the Constituency about in the proportion of 3½ per cent., and the admission of £20 Leaseholders would increase it in the proportion of nearly 7½ per cent. This is on the supposition that the Franchise is to be extended to persons only who hold Leases originally granted for not less than five years; should this restriction be deemed unnecessary, and the Franchise be granted to persons holding even annual Leases, provided they pay a rent of £20 or £30 per annum, the number of persons admitted to the franchise, not at present enjoying it, would be increased by the addition of about one fifth, making, in the case of £20 Leaseholders, the entire increase about 9 per cent. on the whole Constituency.

In respect to the character or standing in Society of Leaseholders either of £30 or £20, compared with the character or standing of persons now in the enjoyment of the Franchise, the result of the returns, making allowance for some trifling differences in the mode of expression, is that, of 26 Benches who offered an opinion on this point,

20 Benches consider the Leaseholders equal,
3 Benches consider them superior,
3 Benches consider them inferior

in character and standing to the persons now in the enjoyment of the Franchise.

I scarcely think it necessary to burthen this Despatch with copies of all the answers received from the various Districts or Benches; but I enclose Copies of two documents compiled from them by a very intelligent gentleman (Mr. Fitzpatrick), a clerk in the Office of the Colonial Secretary.

I beg leave, in conclusion, to state that, after taking into full consideration the results herein communicated, I see no reason to alter the opinions originally expressed by me on the subject of the admission of Leaseholders to the Elective Franchise, in my Despatch to Lord Stanley No. 249 of the 29th November, 1844.

I have, &c.,

GEO. GIPPS.
GIPPS TO GLADSTONE.

[Enclosure No. 1.]

CIRCULAR LETTER TO BENCHES OF MAGISTRATES.

Colonial Secretary's Office, Sydney, 6th February, 1846.

Gentlemen,

His Excellency the Governor being desirous of obtaining information on the undermentioned points, which have been referred to His Excellency by the Right Honorable the Secretary of State for the Colonies, I do myself the honor to request that you will have the goodness to afford me such information as it may be in your power to offer in reply to the following queries:

1. What is the probable number of Leaseholders in your District, paying rent for land, or for house and land together, to the amount of £30 per annum, who are not at present qualified, either as Freeholders or Householders, to vote in the Election of Members for the Legislative Council?

2. What is the probable number of persons of the same class paying rent to the amount of £20, but less than £30 per annum?

3. How many of these Leaseholders hold their lands on annual lease, and how many for a term of years?

4. What is the average duration of leases granted for a term of years?

5. Are the general character and standing in society of persons holding leases, granted originally for not less than five years, equal or inferior to the character and standing of persons who now enjoy the Elective Franchise, under the fifth clause of the Constitutional Act of the Colony, 5 and 6 Vict., c. 76?

I have, &c,

The Bench of Magistrates.

[Enclosure No. 2.]

STATEMENT.

Enclosed are the results brought out in a tabular form of the several replies received from the various Benches of Magistrates relative to Leaseholders.

The Circular was sent in all to 41 Benches. Of these 23 have given the information sought, 11 state definitely that the queries do not apply to their Districts, either by reason of there being no such Leaseholders or of the Leaseholders being otherwise qualified Electors. 3 state that they cannot obtain the required information, and 4 have not replied at all.

As therefore 7 Districts are thus not brought to account, it is conceived that, to arrive at a correct conclusion, the amounts shewn at the foot of the Table should be proportionably increased more especially as the omitted Districts are those, chiefly in which it might be expected that Leaseholders abound (See margin).*

Thus, of the 34 Districts from which definite replies have been received, there are Leaseholders in 23 and none in the other 11, that is at the rate of 2 to 1. Following this proportion, it is fair to assume that, of the 7 Districts from which no definite replies have been received, there will be Leaseholders in (say) 5, and none in the remainder.

* Marginal note.—No replies from Sydney, Queanbeyan, Carcoar, Paterson. Unsatisfactory from Penrith, Bathurst, Melbourne.
Again the numbers actually returned by the 23 Districts are:

<table>
<thead>
<tr>
<th>Leaseholders</th>
<th>Number or Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>£30</td>
<td>286 or 12 each</td>
</tr>
<tr>
<td>£20</td>
<td>320 or 14 each</td>
</tr>
</tbody>
</table>

shewing 606 as the total of the 23 Districts, or at the rate of 26 each District.

According to this average, the numbers in the 5 Districts will be:

<table>
<thead>
<tr>
<th>Leaseholders</th>
<th>Number or Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>£30</td>
<td>5 x 12 = 60</td>
</tr>
<tr>
<td>£20</td>
<td>5 x 14 = 70</td>
</tr>
</tbody>
</table>

which added to former totals make, £30 Leaseholders 286
add 60 —346
£20 Leaseholders 320
add 70 —390
—736

making a grand total of 736 Leaseholders above £20 per annum, who do not possess the franchise.

It will be seen that the proportion between annual Leases and those granted for a term of years is as 1 to 5, there being 103 of the former and 503 of the latter.

Again, the average duration of Leases is given by 2s Benches. The aggregate amount of these averages is 159, which divided by 28 gives 7 years nearly as the average duration throughout the Colony of Leases granted for a term of years.

Finally, 26 Benches have given their opinions relative to the general character and standing in Society of these Leaseholders as compared with those persons who already enjoy the franchise. Allowing for some trifling differences in the modes of expression, the result is that Twenty Benches consider the Leaseholders “equal,” three Benches consider them “superior,” and 3 consider them “inferior” to freeholders or householders.

It will be observed that in two or three cases the average duration of Leases is stated by the Magistrates in Districts* where they report that there are no Leases. In every such case, I have retained the average as it appeared to me that the opinion thus given by the Magistrates from, no doubt, personal knowledge was entitled to the same consideration as the opinions of other Benches. It will likewise be perceived that, in many cases where definite averages have not been named, but merely the probable extremes given, the averages have for the sake of computation been fixed to a certain extent arbitrarily. I beg particularly to call attention to the case of “Belfast,” which differs from all the others. The Bench state that 14 years is the minimum of leases in the Country, and 21 years the minimum in the Town. I have supposed the average to be 21 years, on the principle that the Country Leases will range from 14 to 21, and (it may be) upwards, whilst the Town Leases of course range from 21 upwards to an uncertain extent.

In the case of Campbell Town, the Bench do not state the proportion between annual Leases and Leases for a term of years. It has therefore been arbitrarily fixed at 3 to 12, which is the nearest approach that can be made, by an integral division of the entire number (15) to the average in the other Districts, namely 1 to 5.

6th June, 1846.

* Marginal note.—Bungonia, Yass, Newcastle.
### Tabular Summary of Reports of Benches of Magistrates

<table>
<thead>
<tr>
<th>Benches of Magistrates to whom the enquiry has been addressed</th>
<th>Probable number of shareholders paying dividends not entitled to the Elective Franchise</th>
<th>Probable number of shareholders paying dividends less than £200 who are entitled to the Elective Franchise</th>
<th>Number of the foregoing who hold their lands</th>
<th>Average duration of Leases granted for a term of Years</th>
<th>Standing in Society of Persons holding Leases granted for not less than five years, as compared with that of Persons who now enjoy the Elective Franchise</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney (Commissioner of Police)</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>No reply received.</td>
</tr>
<tr>
<td>Parramatta</td>
<td>16</td>
<td>14</td>
<td>10</td>
<td>17</td>
<td>2 to 25 (say) 14</td>
<td></td>
</tr>
<tr>
<td>Liverpool</td>
<td>17</td>
<td>14</td>
<td>8</td>
<td>9</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>Campbell Town</td>
<td>7</td>
<td>8</td>
<td>(say) 3</td>
<td>(say) 12</td>
<td>3 to 5 (say) 4</td>
<td></td>
</tr>
<tr>
<td>Picton</td>
<td>1</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Camden and Narran</td>
<td>34</td>
<td>62</td>
<td>1</td>
<td>90</td>
<td>(say) 16</td>
<td></td>
</tr>
<tr>
<td>Illawarra</td>
<td>20</td>
<td>20</td>
<td>40</td>
<td>5 to 8 (say) 6</td>
<td>&quot;quite equal&quot;</td>
<td></td>
</tr>
<tr>
<td>Berrima</td>
<td>10</td>
<td>8</td>
<td>18</td>
<td>5</td>
<td>&quot;equal&quot;</td>
<td></td>
</tr>
<tr>
<td>Goulburn</td>
<td>3</td>
<td>5</td>
<td>6</td>
<td>6</td>
<td>&quot;inferior&quot;</td>
<td></td>
</tr>
<tr>
<td>Bogong</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>&quot;fully equal,&quot; in many cases superior.</td>
<td></td>
</tr>
<tr>
<td>Braidwood</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td></td>
</tr>
<tr>
<td>Broulee</td>
<td>2</td>
<td>15</td>
<td>6</td>
<td>11</td>
<td>&quot;generally not equal&quot;</td>
<td></td>
</tr>
<tr>
<td>Queanbeyan</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td></td>
</tr>
<tr>
<td>Yass</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>&quot;fully equal&quot;</td>
<td></td>
</tr>
<tr>
<td>Windsor</td>
<td>30</td>
<td>50</td>
<td>25</td>
<td>55</td>
<td>&quot;quite equal&quot;</td>
<td></td>
</tr>
<tr>
<td>Penrith</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td></td>
</tr>
<tr>
<td>Hartley</td>
<td>5</td>
<td>8</td>
<td>13</td>
<td>3</td>
<td>&quot;equal&quot;</td>
<td></td>
</tr>
<tr>
<td>Bathurst</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td></td>
</tr>
</tbody>
</table>

The Bench at Camden state that of the 95 Leases for terms, 60 are for 21 years and the remainder for terms varying from 5 to 10. I calculate the average therefore to be 16 years.

There are no less holders in the Braidwood District except those who are also freeholders, and as such enjoy the Elective Franchise.

The Penrith Bench state they cannot obtain the other information required.

Cannot obtain the information.
[Sub-enclosure]—continued.

Tabular Summary of Reports of Benches of Magistrates—continued.

<table>
<thead>
<tr>
<th>Benches of Magistrates to whom the enquiry has been addressed</th>
<th>Number of the fore­going who hold their lands</th>
<th>Average duration of Leases, granted for a term of Years</th>
<th>Standing in Society of Persons holding Leases granted for not less than five years, as compared with that of Persons who now enjoy the Elective Franchise</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Caramar ........................................................................</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Wellington ......................................................................</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Mudgee ..........................................................................</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Gosford .........................................................................</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Newcastle ......................................................................</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Raymond Terrace ................................................................</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Dunmore .........................................................................</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Maitland .......................................................................</td>
<td>47</td>
<td>37</td>
<td>20 (say) 58</td>
<td>&quot;about equal&quot;</td>
</tr>
<tr>
<td>Wollombi .......................................................................</td>
<td>10</td>
<td>17</td>
<td>8 (say) 10</td>
<td>&quot;equal&quot;</td>
</tr>
<tr>
<td>Paterson ........................................................................</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Patrick's Plains ................................................................</td>
<td>7</td>
<td>5</td>
<td>2 (say) 8</td>
<td>&quot;equal&quot;</td>
</tr>
<tr>
<td>Merton ..........................................................................</td>
<td>1</td>
<td>6</td>
<td>3 (say) 7</td>
<td>&quot;equal&quot;</td>
</tr>
<tr>
<td>Muswell Brook ..................................................................</td>
<td>1</td>
<td>11</td>
<td>4 (say) 7</td>
<td>&quot;more than equal&quot;</td>
</tr>
<tr>
<td>Scone ...........................................................................</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Murrurundi .....................................................................</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Casella .........................................................................</td>
<td>...</td>
<td>Do</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Macquarie ......................................................................</td>
<td>...</td>
<td>Do</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Moreton Bay ....................................................................</td>
<td>...</td>
<td>Do</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Melbourne .....................................................................</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Geelong ........................................................................</td>
<td>40</td>
<td>10</td>
<td>60 (say) 7</td>
<td>&quot;decidedly superior&quot;</td>
</tr>
<tr>
<td>Portland ........................................................................</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Holford .........................................................................</td>
<td>1</td>
<td>8</td>
<td>21 (say) 21</td>
<td>1 equal</td>
</tr>
<tr>
<td>Alberton ........................................................................</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
</tbody>
</table>

Total 399 + 28 = 7 nearly general average.

HISTORICAL RECORDS OF AUSTRALIA.

1846.

11 June.

Tabular summary of reports of benches of magistrates.
[Enclosure No. 3.]

Return showing the Number of Electors on the Electoral Roll, in each of the Electoral Districts of the Colony of New South Wales for each year since the passing of the Act, 6th Victoria, No. 16.

<table>
<thead>
<tr>
<th>Electoral District</th>
<th>1843-4</th>
<th>1844-5</th>
<th>1845-6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argyle, County of</td>
<td>133</td>
<td>152</td>
<td>111*</td>
</tr>
<tr>
<td>Bathurst, County of</td>
<td>172</td>
<td>152</td>
<td>218</td>
</tr>
<tr>
<td>Camden, County of</td>
<td>385</td>
<td>396</td>
<td>400</td>
</tr>
<tr>
<td>Cook and Westmoreland (united)</td>
<td>249</td>
<td>235</td>
<td>235</td>
</tr>
<tr>
<td>Cumberland, County of</td>
<td>1,391</td>
<td>1,344</td>
<td>1,359</td>
</tr>
<tr>
<td>Cumberland Boroughs</td>
<td>297</td>
<td>278</td>
<td>251</td>
</tr>
<tr>
<td>Durham, County of</td>
<td>353</td>
<td>346</td>
<td>317</td>
</tr>
<tr>
<td>Gloucester, Macquarie and Stanley</td>
<td>244</td>
<td>239</td>
<td>241</td>
</tr>
<tr>
<td>Hunter, Brisbane and Bligh</td>
<td>212</td>
<td>197</td>
<td>204</td>
</tr>
<tr>
<td>Melbourne, Town of</td>
<td>859</td>
<td>591</td>
<td>525</td>
</tr>
<tr>
<td>Murray, King and Georgiana</td>
<td>154</td>
<td>172</td>
<td>237</td>
</tr>
<tr>
<td>Northumberland, County of</td>
<td>392</td>
<td>360</td>
<td>357</td>
</tr>
<tr>
<td>Northumberland Boroughs</td>
<td>270</td>
<td>227</td>
<td>274</td>
</tr>
<tr>
<td>Parramatta, Town of</td>
<td>270</td>
<td>233</td>
<td>230</td>
</tr>
<tr>
<td>Port Phillip, District of</td>
<td>470</td>
<td>475</td>
<td>470</td>
</tr>
<tr>
<td>Roxburgh, Phillip and Wellington</td>
<td>133</td>
<td>159</td>
<td>146</td>
</tr>
<tr>
<td>St. Vincent and Auckland</td>
<td>73</td>
<td>60</td>
<td>60*</td>
</tr>
<tr>
<td>Sydney, City of</td>
<td>3,319</td>
<td>2,823</td>
<td>2,218</td>
</tr>
</tbody>
</table>

* The Returning Officer for the Electoral District of the County of Argyle states that this number includes only the Electors in the Police District of Goulburn, the Clerk of the Bench at Bungonia not having this Year forwarded a Roll for that Police District.

† The Return from St. Vincent and Auckland has not yet been received. The Number of Electors on last Year's Roll has therefore been returned.

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Right Hon. W. E. Gladstone to Sir Charles Fitz Roy.

(Despatch No. 40, per ship Thomas Lowry.)

Sir,

Downing Street, 14 June, 1846.

I have received your Predecessor's Dispatch marked Separate of the 21st January last, on the subject of the disposal of the Government House and Grounds at Paramatta; and, in reply, I have to refer you to Lord Stanley's Dispatch No. 130 of the 9th of Novr., 1845, as shewing the terms on which it was permitted that the House should be retained for the Governor's use.

I have, &c.,

W. E. Gladstone.

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Right Hon. W. E. Gladstone to Sir Charles Fitz Roy.

(Despatch No. 41, per ship Thomas Lowry.)

Sir,

Downing Street, 15 June, 1846.

I have received Sir George Gipps' Dispatch No. 205 of the 23d of Novr. last, containing a review of the principal occurrences of the Session of the Legislative Council, which had then just arrived at a close.

---

Return of number of electors enrolled.
The Council, I perceive, renewed their request that the whole of the Police charges, and also the Charges for primary Schools should be defrayed entirely out of the general Revenue, and Sir G. Gipps consented for a third time to set aside those provisions* of the Constitutional Act, which regulate and prescribe the payment of those charges from local funds.

Under all the difficulties of the case, and without expressing any opinion as to the mode of dealing with this question in future, I do not perceive that Sir G. Gipps could have adopted any other course than that which he did pursue.

The next question, to which reference is made in the Dispatch before me, relates to the practice adopted by the Legislative Council of presenting frequent Addresses to the Governor requesting him to incur numerous expenses, which had not been provided for in the Estimates laid before that Body. The obvious tendency of such Addresses is, as Sir G. Gipps observes, to nullify the provision in the 34th Clause of the 5 and 6 Vict., C. 76, which enacts that it shall not be lawful for the Council to pass or for the Governor to assent to any Bill appropriating money to the Public Service, unless the Governor shall first have recommended such payment.

I am disposed to concur with Sir G. Gipps in thinking that the best course for the Governor to pursue is not to return a specific answer to each Address of that nature, but to insert such of the Sums asked for, as may be considered reasonable in a Supplementary Estimate to be presented towards the end of the Session, leaving the rest unnoticed except in particular cases, which might be considered worthy of special remark.

On the question, which is most particularly adverted to in the Dispatches Nos. 199 and 204, of the claim of the Council to have all fines, forfeitures and penalties, paid to the Colonial Treasurer instead of to the Queen, I have caused a reference to be made to the Law Officers of the Crown, and, when I shall have received their opinion, I shall be better prepared to address you further on the Subject.

I have, &c.,

W. E. Gladstone.

Despatch acknowledged.

Right Hon. W. E. Gladstone to Sir Charles Fitz Roy.

(Despatch No. 42, per ship Thomas Lowry.)

Sir,

Downing Street, 15 June, 1846.

I have received Your Predecessor's Dispatch No. 206 of the 23d Novr. last, containing a general report of the Financial condition of New South Wales.

* Note 11.
I have read with great satisfaction the statement there made as giving evidence of the increasing prosperity of the Colony.

The question of raising a Loan for the purpose of Immigration is one which may be most properly considered in connection with the report of the Committee of the Legislative Council on Immigration, which was transmitted with your Dispatch No. 179 of the 27th Octr., 1844, and on which I shall address you on a future occasion.

I have, &c,

W. E. Gladstone.

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RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.

(A circular despatch, per ship Thomas Lowry.)

Sir,

Downing Street, 15th June, 1846.

It has recently been brought to my notice that, in some if not in all of the British Colonies, there exists a material defect in the Law. Persons committing Crimes in any one such Colony, and escaping to another, are, it is said, not liable in the Colony at which they may so arrive to be arrested and imprisoned for the Offence, or to be sent back to the Colony from which they may have escaped. This proposition may, perhaps, be too broadly stated, and I have not the means of narrowing it within the precise limits of the fact. But I believe that it is, at least, very generally true, at least in these Colonies in which the Law of England prevails.

It is, however, evidently unreasonable that, by merely passing the limits which separate from each other different parts of the same Empire, Criminals should escape with impunity. Even when taking refuge in Foreign States, they are in many cases deprived of that impunity by international Treaties. Within Her Majesty's Dominions, they ought apparently to be deprived of it in all cases. This defect of the Law, wherever it exists, is remediable to a certain extent by Enactments of the various Colonial Legislatures. Such Enactments would, indeed, provide a complete remedy, were it not for the difficulty of giving effect to them while the restored Convict might be on the High Seas on his way back to the Colony from which he had fled. To that extent it would be necessary that the unavoidable deficiency in the range of Local Legislation should be supplied by the Authority of Parliament. There can, I conceive, be no reason to doubt that Parliament would so exercise their Authority, if the several Local Legislatures should first put in force all the Powers vested in them for the purpose.

The Act, 6 and 7 Vict., ch. 75, for giving effect to the Treaty for the mutual restitution of Convicts of a certain class between this Kingdom and the United States of America, though not
advancing as far as it would seem necessary to proceed in the case of inter-Colonial restitution of fugitive Criminals, might yet be found useful in suggesting some of the more material provisions of an Act for that purpose.

If in the Colony under your Government the defect of Law, to which I have adverted, should be found to exist, you will suggest to the Legislature of that Colony the enactment of a Law to provide the necessary remedy for that defect, so far as the local limits of their jurisdiction may enable them to do so.

I have, &c.,

W. E. GLADSTONE.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.
(Despatch No. 116, per ship Royal Saxon.)

Sir,

Government House, 15th June, 1846.

I have the honor to report that, having every reason to suppose that my successor Sir Charles Fitz Roy will arrive in New South Wales in the course of the month of July, I have taken my passage to England in the ship "Palestine," under an engagement that she is to sail on any day which I may appoint, not earlier than the 10th, nor later than the 31st of that month.

I regret to say that circumstances have obliged me to give up the intention (once expressed to Lord Stanley) of returning by way of India. The "Palestine" proceeds by the ordinary course round Cape Horn, and may I hope arrive in England before the end of November.

I have, &c.,

GEO. GIPPS.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.
(Despatch No. 43, per ship Thomas Lowry; acknowledged by Sir Charles Fitz Roy, 27th February, 1847.)

Sir,

Downing Street, 16 June, 1846.

I have received Sir George Gipps' Despatch No. 15 of the 20th of January last, reporting on the state of the Botanical Garden at Sydney, and notifying the Appointment of Mr. Kidd to the charge of that Garden.

I regret to perceive, from Sir G. Gipps' report, that the Garden has lost the scientific character which it originally had; and I should wish you to bring the subject before your Executive Council, and obtain from them a report, how far in their opinion it might be practicable to restore that character to the institution, without a Sacrifice of the purposes of recreation, to which it appears to have been of late wholly devoted.

I am inclined to believe that there exists such an intention already on the part of the Council, for I perceive from the Financial Estimates, which accompanied your Despatch No. 202 of the
23d Nov., 1845, that the Salary of the Superintendent was raised on the Motion of the Colonial Secretary to its former amount of £200 a year, in anticipation of a Scientific person being sent from England to hold that Office.

As that circumstance is not adverted to in Sir G. Gipps subsequent report, I am in some doubt as to the actual position of the question. I have not considered myself justified in taking any measures for the Selection of such a person; but I should wish to be informed whether that Vote is, as I hope it may be, to be considered as intimating the desire of the Legislative Council that the Office of Superintendent should be restored to its former footing; and you will advert to that proceeding in bringing the subject before your Executive Council.

I have, &c.,
W. E. GLADSTONE.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.
(Despatch No. 117, per ship Royal Saxon; acknowledged by Earl Grey, 29th June, 1847.)

My Lord,

Government House, 16th June, 1846.

In the month of August, 1845, a barque called the "Coringa Packet" was wrecked on her passage from Sydney to Ceylon, and twenty four Lascar Seamen were left on a desert Island, or rather Sandbank in Latitude 16° 52' S. and Longitude 149° 56' East.

Immediately on the news of this occurrence reaching Sydney, a Schooner was sent to the rescue of the unfortunate Lascars by this Government; and, in the performance of this service, an Expense was incurred of £294 19s. 11d.

As I have every reason to suppose that the Directors of the Anticipated East India Company will gratefully take this charge upon themselves, I have the honor to request that the accompanying documents may be forwarded to their Court, and that the money may be received by Mr. Barnard, the Agent of New South Wales in London.

The documents, which I enclose, are the following:—

1. A precis of the case, shewing the circumstances under which the Schooner "Frolic" was hired, and the services performed by her.

2. A letter from the Resident Councillor at Singapore to the Secretary of New South Wales, reporting the arrival at Singapore of the Schooner "Frolic," and certifying that the Master and Owners of her had satisfactorily performed their engagement.

* Marginal note.—See my Despatch to Lord Stanley, No. 146 of the 3d Septr., 1845.
3. A declaration made by the Treasurer and Auditor of New South Wales that the expense, incurred by this Government in the hire of the "Frolic," amounted to the sum above stated, namely, £294 19s. 11d. I have, &c.

[Enclosures.]

Geo. Gipps.

[Copies of these papers are not available.]

Sir George Gipps to Right Hon. W. E. Gladstone.

(Despatch No. 118, per ship Royal Saxon; acknowledged by Earl Grey, 4th September, 1847.)

Sir, Government House, 17th June, 1843.

Referring to my Despatch No. 106 of the 28th ultimo, wherein I reported the establishment of a branch of the Customs at Moreton Bay, I have now the honor further to report that, equally on the application of the Collector of Customs and on the recommendation of Mr. Barnes, I have established a similar branch of the same Department at the Township of Eden (County of Auckland) in Twofold Bay, and have appointed the two gentlemen named in the margin* to the situations of Sub-collector and Landing Waiter.

Mr. Hamon Massie was recommended to me for employment in the Colony by Lord Stanley in a letter, dated 31st May, 1842. Mr. Edmund Gibbes is a son of the Collector at Sydney, and already a Clerk in the Department of Customs.

I beg leave to express my hope that, on your recommendation, these gentlemen may be confirmed in the situations to which I have appointed them.

I have, &c.

Geo. Gipps.

Right Hon. W. E. Gladstone to Sir Charles Fitz Roy.

(Despatch No. 44, per ship Thomas Lowry; acknowledged by Sir Charles Fitz Roy, 1st February, 1847.)

Sir, Downing Street, 18 June, 1846.

I have received your Predecessor's Dispatch No. 207 of the 25th of Novr. last, with a Requisition for Medicines, Stationery, Printed Forms, etc., for the Convict Service in New South Wales for the year ending 31st March, 1846, accompanied by the Copy of an explanatory letter from the principal Medical Officer in that Colony.

Having referred that Requisition for the revision of the Director General of Military Hospitals, I now transmit to you an Extract of the answer which has been received from Sir

* Marginal note.—Hamon Massie, Sub-Collector; Edmund Gibbes, Landing Waiter.
J. McGrigor; and I have to desire that you will call upon the Principal Medical Officer for the explanation suggested by Sir J. McGrigor, and communicate to me the result.

I have to add that I have recommended the Lords Commissioners of the Treasury to comply with the Requisition which you have forwarded, subject to certain alterations which have been suggested by Sir J. McGrigor. I have, &c.,

W. E. Gladstone.

[Enclosure.]

EXTRACT of letter from Army Medical Department, dated 6 June, 1846.

In regard to one of the items in this list, Vizt.: 20 Gross of Vials in sorts, I would suggest that the Principal Medical officer be called upon to explain upon what data he made this demand for Vials, as it appears from his returns that above 48 Gross of those Articles remained in store 31st March, 1845, and that 11½ Gross of them were issued during the previous year; consequently the demand for Twenty Gross added to the quantity in store (48 Gross) would be equal to Six years' consumption at the rates of the previous years' issues; and this unexplained excess of demand over previous issues is further increased by taking into account the Six Gross of Vials included in the last annual supply of Medicines from London, dated 5 Septr., 1845.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 119, per ship Royal Saxon; acknowledged by earl Grey, 25th September, 1847.)

Sir,

Government House, 18th June, 1846.

I have the honor to request permission to issue Letters of Denization to Augustus Dreutler, a Native of Germany, who emigrated to this Colony about four years ago, and is desirous of enjoying in it the advantages of a British Subject.

Mr. Dreutler is a Protestant, aged 33 years, and carries on business as a Warehouseman in the City of Sydney.

His application, which I enclose, is recommended by persons of great respectability. I have, &c.,

GEO. GIPPS.

[Enclosure.]

THE Petition of Augustus Dreutler of Pitt Street in the City of Sydney, in the Territory aforesaid, Warehouseman,

To His Excellency Sir George Gipps, Knight, Captain General and Governor in chief of the Territory of New South Wales and its Dependencies,

Sheweth,

That your Petitioner is a native of Germany from which country he emigrated to this Colony upwards of four years ago. That your Petitioner, since his arrival in the said Colony, has resided in the City of Sydney aforesaid and has kept a Warehouse there for the sale of Foreign Goods of his own importation.
1846.
18 June.

Petition of A. Dreutler.

That your Petitioner is in the thirty fourth year of his age, and is of the Protestant Religion.

That your Petitioner, being possessed of considerable property and desirous of settling in the said Colony, is anxious that such of the privileges and advantages enjoyed by Her Majesty's natural born subjects, as your Excellency may have the power of granting with the sanction of Her Majesty, may be extended to him.

Your Petitioner, therefore, humbly prays that your Excellency will submit this his humble Petition to the favorable consideration of Her Majesty the Queen in order that your Excellency may have the power of granting with the sanction of Her Majesty, may be extended to him.

And your Petitioner will ever pray. etc., AUGUSTUS DREUTLER.

Certificate.

We certify we have known the above named Augustus Dreutler for some years; that his conduct, as far as it has come under our observation, has been exemplary; and that to the best of our belief the several particulars set forth in the above Petition are true.

WM. HAMILTON HART,
Supt. of the Bank of Australia.

GEORGE ALLEN.

CHAS. FALCONER, J.P.

19 June.

Request for letters of denization for C. Bath.

Sir GEORGE GIPPS to RIGHT HON. W. E. GLADSTONE.

(Despatch No. 120, per ship Royal Saxon; acknowledged by earl Grey, 25th September, 1847.)

Sir,

Government House, 19th June, 1846.

I have the honor to request permission to issue Letters of Denization to Charles Bath, a Native of Germany, who emigrated to this Colony upwards of ten years ago, and is married to a Scotch Emigrant.

Mr. Bath is a Protestant, 37 years of age, and carries on business as a Licensed Victualler in the City of Sydney.

His application, which I enclose, is very respectfully recommended.

I have, &c.,

Geo. Gipps.

[Enclosure.]

The Petition of Charles Bath of George Street, in the City of Sydney, in the Territory aforesaid, Innkeeper,

To His Excellency Sir George Gipps, Knight, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies,

Sheweth,

That your Petitioner is a native of Germany, from which country he emigrated to this Colony upwards of ten years ago.

That your Petitioner, since his arrival in the said Colony, has resided in the City of Sydney aforesaid; and, for the last five years of his residence there, has held a Publican's General License.
GLADSTONE TO FITZ ROY.

That your Petitioner about nine years ago married in the said Colony a Scotch Emigrant, by whom he has had issue one child.

That your Petitioner is in the thirty eighth year of his age, and is of the Protestant Religion.

That your Petitioner, having acquired Property and being desirous of settling in the said Colony, is anxious that such of the privileges and advantages enjoyed by Her Majesty's natural born Subjects, as your Excellency may have the power of granting with the authority of Her Majesty, may be extended to him.

Your Petitioner therefore humbly prays that your Excellency will submit this his humble Petition to the favorable consideration of Her Majesty the Queen, in order that your Excellency may have the power of granting with the authority of Her Majesty, may be extended to him.

And your Petitioner will ever pray, etc., CHARLES BATH.

CERTIFICATE.

We certify that we have known the above named Charles Bath for several years, during which period his conduct, as far as it has come under our observation, has been exemplary and that to the best of our belief the several particulars set forth in the above Petition are true.

CHAS. WINDLEY,
Senr. Police Magistrate.

J. LONG INNES, J.P.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.

(Despatch No. 45, per ship Thomas Lowry.)

Sir, Downing Street, 20th June, 1846.

With reference to Sir George Gipps' Despatch No. 56 of the 21 April, 1843, reporting the circumstances under which he had sanctioned the temporary Establishment of a Custom House Station at Broken Bay Harbour in New South Wales, and to Lord Stanley's reply, with its Enclosure, of the 18th November of the same year, I now transmit, for your information and guidance, the Copy of a Report, which has been addressed to the Lords Commissioners of the Treasury by the Commissioners of Customs, from which you will perceive that, for the reasons assigned by them, they consider that it will be desirable to continue the Custom House in question, and that they await the Report of the Collector at Sydney in order to enable them to decide upon the nature and extent of the Establishment which may ultimately be required at Broken Bay. I have, &c., W. E. GLADSTONE.

[Enclosure.]

MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 3rd June, 1846.

With reference to the communication made to this Department by direction of Lord Stanley on the 18th September, 1843, I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit herewith, in order that it may be submitted
MAY it please your Lordships,

Your Lordships having referred to us the annexed letter from Mr. Stephen, transmitting by desire of Lord Stanley a Copy of a Despatch from the Governor of New South Wales, reporting the circumstances under which he had sanctioned a Custom House Station at Broken Bay,

We beg to refer to our report to your Lordships of the 4th October, 1843, No. 1539, upon this subject, and to state that we have recently received a report from the Collector of this Revenue at Sydney in return to our order of Inquiry, from which it would appear that the Customs Establishment stationed at Broken Bay had been successful in checking the smuggling, which had been formerly carried on at that place, and that it is desirable that it should be continued; previously however to reporting to Your Lordships our opinion as to the extent of establishment that should be ultimately stationed at Broken Bay, we have directed the Collector at Sydney to report to us in detail the duties which have been performed by the Coast waiter and Boat's Crew at Broken Bay since 1843, and to transmit to us a statement shewing the description and value of the seizures, which have been made at that place since the period above referred to; and we have directed the Collector to report at the same time, after conferring with the Governor, his opinion as to the nature and extent of Customs Establishment that should be permanently stationed at Broken Bay: and, upon the receipt of that Officer's reply, we will report further to Your Lordships upon the subject.

R B DEANE  
W LESHINGTON.

Customs House, 21 May, 1846.  
CULLING CHAS. SMITH.  J. GODBER.
29th April, 1846, in a Despatch No. 90, I think it right to forward a copy of a Memorial recently addressed to me by the Mayor and Town Council of Melbourne, praying that I will use my influence to prevent the "implacement of the Lands and Revenues" of Port Phillip in conjunction with those of the middle district; and will further promote the separation of the Port Phillip District from the rest of the Colony.

The Memorial is without date, but was received by me on the 19th instant. I have, &c., Geo. Gipps.

[A copy of this memorial will be found in a volume in series III.]

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 123, per ship Royal Saxon.)

Sir, Government House, 22d June, 1846. I have the honor to report that, on the recommendation of the Principal Medical Officer, contained in a letter of which I enclose a Copy, I have authorized the payment to Mr. Croft, acting in the Colony as Apothecary to the Convict and Military Medical Depot, the issue from the 5th instant of an allowance for Lodging money at the rate of £108 per annum, being apparently the rate to which he is entitled by the Regulations of the Army; and I further beg leave to request, as suggested in the letter of the Principal Medical Officer, that I may have authority to pay Mr. Croft the sum of £124 7s. 6d., being the amount to which he appears to be entitled for arrears.

I enclose a copy also of letter which was addressed by Mr. Croft to the Principal Medical Officer. I have, &c., Geo. Gipps.

[Enclosures.]

[Copies of these letters are not available.]

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.

(Despatch per ship Thomas Lowry; acknowledged by Sir Charles Fitz Roy, 30th January, 1847.)

Sir, Downing Street, 23 June, 1846. I have received from Patrick Glissan, Esqr., M.D., of Windsor, N. S. Wales, a Memorial, dated the 1st of Decr., 1845, bringing under my consideration his desire to obtain some employment in the service of H.M.'s Government.
This communication having been sent to me from the Colony by the writer, and not having been transmitted through you, I have to desire that you would apply to the writer for a Copy of it, and that you would forward that Copy to me, accompanied by such a report as the case may appear to you to require.

I have, &c.,

W. E. Gladstone.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 124, per ship Royal Saxon; acknowledged by Earl Grey, 13th December, 1846.)

Sir,

Government House, 23d June, 1846.

In a Despatch to Lord Stanley dated the 29th March, No. 72, I reported the return to this Colony of Dr. Leichhardt and his companions, after having successfully achieved an Expedition to Port Essington, and I added that they had, on their unexpected reappearance, been greeted with the warmest expressions of satisfaction and congratulation by all classes of Her Majesty's subjects.

I have now the honor, in continuation, to report that a sum amounting to upwards of £1,400 has been raised by public subscription for the purpose of affording to Dr. Leichhardt and his companions a lasting proof of the estimation, in which their fortitude and perseverance are held by their fellow Colonists; and that a Petition was presented to me on the 11th instant, most respectably and numerously signed, praying that a sum of money might be granted to the same parties out of the public Revenue. Prior, however, to the presentation of this Petition, a motion had been made in the Legislative Council (by Mr. Cowper, a representative Member) for an Address to myself, praying that I would place on the Estimates a sum of £1,000 as a gratuity to Dr. Leichhardt and his party, to be paid out of the fund raised by taxes, duties, rates and imposts, and which is at the disposal of the Governor and Council.

Feeling that, for many reasons, a gratuity of this nature should rather be paid out of the Crown Revenue than out of the general funds of the Colony, I instructed the Colonial Secretary to inform the Council, when the discussion on this proposal was to come on, that I would take on myself the responsibility of making the payment out of the Crown Revenue instead of the general funds of the Colony; and I have now to report that I have done so, and humbly to submit what I have done for approval.
GIPPS TO GLADSTONE.

I enclose herewith copies of the following documents:—
No. 1. A copy of the Petition, praying that Dr. Leichhardt and his party may receive a gratuity out of the public funds.
2. Copy of the “Votes and Proceedings” of the Legislative Council on the 9th inst., shewing the nature of the motion brought forward by Mr. Cowper.
3. Plan of distribution of the Leichhardt Fund raised by public subscription, and amounting to £1,400.
4. Copy of the order given by myself on the 20th inst. for the payment of a gratuity of £1,000 to Dr. Leichhardt and his companions, and shewing the manner in which the money is to be divided.

GEO. GIPPS.

[Enclosures Nos. 1, 3 and 4.]
[Copies of these papers will be found in a volume in series V.]

[Enclosure No. 2.]
[A copy of this paper will be found in the “Votes and Proceedings” of the Legislative Council.]

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch marked “Separate,” per ship Royal Saxon.)

Sir,

Government House, 23d June, 1846.

With reference to my Despatch No. 124 of this day’s date, in which I have had the honor to report to You the payment of £1,000 out of the Crown Revenue to Dr. Leichhardt and his companions, I consider it right to state separately the reasons which induced me to pay this money out of the Crown Revenue, contrary to the precedent which it may appear I myself established, in allowing the expenses attendant on the expedition of Sir Thomas Mitchell to be paid out of the Ordinary Revenue, as reported in the Despatches marked and numbered as in the margin.*

1. The gratuity to Dr. Leichhardt is one for services actually performed, and for services which in all former cases (except those now in progress under Sir Thomas Mitchell) have always been paid out of the Crown Revenue, and are, I would submit, legitimately chargeable on it.

2. The Expedition, now in progress under Sir Thomas Mitchell, is one which I never approved of, and for which consequently I could not take on myself any responsibility, as I should have done, had I recommended the payment of the cost of it out of the Crown Revenue.

* Marginal note.—No. 203, 7th Decr., 1843; No. 134, 11th Novr., 1845.
3. I think it right to discourage as far as possible the presentation to the Governor of Addresses from the Legislative Council, asking for appropriations of the public money, on which subject I may refer to what I have said in my Despatch to Lord Stanley No. 205 of the 23d November, 1845.

4. I scarcely expect that the Territory passed over by Dr. Leichhardt will be allowed long to continue a part of New South Wales; and I can but apprehend that, had I allowed this money to be paid by the Legislative Council, a grievance might at some future period be established on the allegation that territory was taken from them, the discovery of which had been paid for out of their own Revenue.

Trusting that for these reasons you will approve of my conduct in this matter, I have only respectfully to request that the Expenditure in question may receive your sanction.

I have, &c,

GEO. GLPPS.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 125, per ship Royal Saxon; acknowledged by earl Grey, 11th November, 1846, and 31st July, 1847.)

Sir,

Government House, 24th June, 1846.

With reference to my Despatches on the subject of the proposed separation of Port Phillip from the rest of the Colony, I have the honor herewith to forward another Petition to the Queen, which reached me on the 18th instant.

It is intituled:

"The humble Petition of the undersigned inhabitants of the District of Port Phillip in the Colony of New South Wales," and the prayer of it is,

"That Her Majesty will adopt such votes and resolutions as should be best calculated in the judgment of Her Majesty to prevent the indiscriminate pledging of the land funds of the two Districts, as security for a joint debt, and obtain for the District of Port Phillip entire separation from the Government of the Colony of New South Wales."

In acknowledging the receipt of this Petition, I have caused it to be intimated to the Petitioners, that, as the signatures are for the most part on unconnected sheets, I greatly fear it can only be officially received as the Petition of those who have signed the first sheet of it.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this petition will be found in a volume in series III.]
Sir George Gipps to Right Hon. W. E. Gladstone.

(Despatch No. 126, per ship Royal Saxon; acknowledged by Earl Grey, 18th November, 1846.)

Sir, Government House, 25th June, 1846.

With my Despatch No. 97 of the 18th ultimo, I enclosed a Copy of the Speech with which I, on the 12th May, opened the Session of the Legislative Council. I have now the honor to report that on the 13th instant I closed the Session* by Proclamation; and to submit to you a short statement of the occurrences of the Session.

2. Shortly after its commencement, namely, on the 15th May, I presented to the Council a Bill (Copy enclosed), the object of which was simply to continue the present Squatting Act (2d Vict., No. 27) for one year.

3. The debate on this Bill took place on the 3d and 4th June; and on the latter day it was rejected, all the representative Members present (the whole of them Squatters except four I believe) voting against it.

4. On the same day, an Address to myself was adopted by the Council (Copy enclosed), in explanation of the reasons why the Council would not pass the Bill.

5. To this Address, which was presented to me on the 9th June, I did not think it right to return any written or formal answer, though on receiving it from the Speaker I addressed to him a few words which will be alluded to in another Despatch (see my Despatch No. 127 of this day's date).

6. On the same day, namely, the 9th instant, I sent down to the Council my Financial Minute for the year; and, in this Minute, I explained, as far as I judged it necessary to do so, the course which I intended to pursue in consequence of the rejection of the Bill to continue the Squatting Act. This Financial minute is forwarded with my Despatch No. 129 of this day's date.

7. Two days afterwards or on the 11th June, Mr. Wentworth gave notice that he should on the next day move that the House do adjourn until the 21st day of July (or for five weeks and four days), with the avowed intention† of not meeting again for the despatch of business until after I should have left to the Colony.

8. On the 12th, Mr. Wentworth's motion for an adjournment was carried; on the 13th I prorogued the Council by Proclamation (Copy enclosed) until Tuesday, the 25th August.

9. In the meantime, other proceedings, which, though of minor importance, were strongly indicative of the temper of the

* Note 12.
† Marginal note.—See the printed "Votes and Proceedings" of the Council ad diem, page 52, No. 9.
dominant party in the Council, had taken place, as will be seen by reference to the printed Journal of its proceedings enclosed herewith.

10. On the 5th June, Mr. Windeyer brought forward a motion* for an "Address of thanks to Her Majesty for the change she has been graciously pleased to make in the head of the Colonial Department of Her Government." On this occasion, the House was counted out.

11. The same motion was, however, again brought forward on Friday, the 12th day of June (the last day of the Session); but, after much abuse of Lord Stanley, and particularly with reference to the answers to the Addresses of the Council contained in His Lordship's Despatches marked in the margin,† which I laid before the Council on the 15th May, the motion for an Address of thanks was withdrawn, and one carried, which was substituted for it by the Opposition themselves, for "an Address to Her Majesty, and Petitions to both Houses of Parliament, that they will be pleased to reform the system, upon which the Colonial Department of Government is conducted."

12. On the last day but one of the Session, namely, on the 11th June, other Resolutions‡ respecting an alleged illegal appropriation of public moneys were brought forward by Mr. Lowe; but, as these Resolutions were aimed more particularly at myself, I shall report on them in a separate Despatch (see No. 128 of this day's date).

I have, &c.,

[Enclosure No. 1.]

GEORGE GIPPS.

[A copy of this bill will be found in a volume in series IV.]

[Enclosures Nos. 2 and 4.]

[Copies of these papers will be found in the "Votes and Proceedings" of the legislative council.]

[Enclosure No. 3.]

[This was a copy of the "Government Gazette Extraordinary," dated 18th June, 1846.]

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 127, per ship Royal Saxon; acknowledged by earl Grey, 18th November, 1846.)

Sir,

Government House, 25th June, 1846.

In the 5th Paragraph of my Despatch No. 126 of this day's date, I have stated that I did not think it right to give any written or formal answer to the Address from the Legislative

* Marginal note.—"Votes and Proceedings" ad diem, page 41.
† Marginal note.—18th, 19th and 20th August and 1st and 5th Sept., 1845.
‡ Marginal note.—"Votes and Proceedings" ad diem, page 51, No. 6.
Council respecting the non-renewal of the Squatting Act, which was presented to me on the 9th instant by a Deputation, consisting of the Speaker and the Mover and Seconder of the Address (Mr. Windeyer and Mr. Lord); but that I, on receiving the Address from the Speaker, said to him a few words which I should allude to in another Despatch.

These words were reported by the Speaker to the Council, and I have no doubt as correctly as he could remember them; but I had taken the precaution, immediately after the Speaker left my room, of writing down in the presence of my private Secretary and Aide de Camp, who were also present at my interview with the Speaker, the words which I actually used; and, on comparing them with the words reported by the Speaker to the House, a slight and not quite an immaterial difference will be perceived; the latter words, taken from the printed Proceedings® of the day, are placed in the accompanying paper (No. 1) in juxta position, with my own words.

The second Paper, which I have the honor to enclose, is a Copy of a Memorandum which I have thought it right to place on Record in the Office of the Colonial Secretary, and which it is my intention (in some manner or other) to make public before I leave the Colony.

I need scarcely observe that my chief object in publishing this Memorandum will be to make known to the Colony my sense of the very offensive imputations intended to be conveyed in the Address.

I have, &c.,

Geo. Gipps.

[Enclosure No. 1.]

STATEMENT by the Speaker of the words used by the Governor.

"Mr. Speaker,

"I am happy to say that this is an Address which requires no reply, nor do I intend to give it any. I thought it right to give the Council the opportunity of passing the Bill, if they thought fit. Perhaps I thought they would not pass it, and they have not; but I do not see why, on that account, responsibility should be cast on me."

STATEMENT by the Governor of the words actually used by him.

"Mr. Speaker,

"I am happy in thinking that this Address does not require any Answer from me, and it is not my intention to make any.

"I thought it right to give the Council an opportunity of renewing this Act, though I did not much expect that they would renew it. I have given them that opportunity, and they have refused to renew it. Whatever may be the consequences to the Colony of their rejection of it, those consequences will rest with them."

*Marginal note.—See page 43 of the Votes and Proceedings forming Enclosure No. 4 to my Despatch No. 126 of this day's date.

†Marginal note.—Meaning any formal or written Answer.
MEMORANDUM No. 2, Placed on Record in the Office of the Colonial Secretary on the 25th day of June, 1846.

1. I think it right, before I quit this Colony, to place on record the words (as far as I can recollect them) which I addressed to the Speaker of the Legislative Council, on the 9th instant, when he presented to me the Address voted by the Council, in explanation of the reasons why the Council would not renew the Crown Lands Occupation Act (2nd Vict., No. 27).

As soon as the Speaker had retired, I committed these words to paper in the presence of my Private Secretary and Aid-de-Camp, who were also present at my interview with the Speaker. The words were

"Mr. Speaker,

"I am happy in thinking that this Address does not require any answer from me, and it is not my intention to make any."

"I thought it right to give the Council an opportunity of renewing the Act. though I did not much expect that they would renew it. I have given them the opportunity, and they have refused to renew it.

"Whatever may be the consequences to the Colony of their rejection of it, those consequences will rest with them."

2. I deem it proper also to leave on record in the Colony a statement of the reasons why I did not deem it necessary or proper to give a written or formal reply to the Address of the Council.

3. Passing by the studied discourtesy of the Address, there were expressions in it, which, had I returned any formal answer to it, I must have expressly declared to be untrue. I will refer only to the following:—

"Because we are not disposed to continue summary powers, which have been used to support a claim to tax by Prerogative alone, the validity of which, we, as the Representatives of the People, can never recognize."

4. No constitutional lawyer, whose opinion is entitled to any respect, has, I believe, ever asserted that to take a payment for the use of Crown Land is to impose a Tax. The contrary has been maintained, down to the most recent times, by lawyers of the highest eminence in England, by the British Government, and by the British Parliament.

5. I have never, to my knowledge, claimed for the Crown any right or power, which is not recognised by the Act of Parliament expressly passed for the Government of New South Wales, or which will not, as I at least confidently expect, be confirmed by the Act now under the consideration of Parliament to regulate the administration of the public Lands in the Australian Colonies.

Government House, Sydney, 25 June, 1846. GEORGE GIPPS.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 128, per ship Royal Saxon; acknowledged by earl Grey, 18th November, 1846.)

Sir,

Government House, 25th June, 1846.

In the last paragraph of my Despatch No. 126 of this day's date, I stated that I should notice in a separate Despatch
some Resolutions brought forward on the 11th inst. in the Legislative Council by Mr. Lowe, intended to charge on me the illegal appropriation of a portion of the public Revenue of this Colony.

Being, by the prorogation of the Council, deprived of any other means of replying, before I leave the Colony, to the allegations contained in these Resolutions, of which, however, I should remark that the first only was carried, I have thought it right to place on Record in the Office of the Colonial Secretary a Memorandum, which I shall most probably in some shape or other publish to the Colony before I embark for England. Of this Memorandum, I have now the honor to enclose a copy.

In addition to what is contained in it, I feel it necessary only to refer to my Despatch to Lord Stanley No. 26 of the 3d Feb., 1845, and to His Lordship's reply No. 79 of the 5th August, 1845.

I have the honor herewith to enclose the following documents:

1. A printed Copy of the Votes and Proceedings of the Legislative Council on the 10th instant, containing the Resolutions which Mr. Lowe on that day gave notice that he would bring forward on the morrow.

2. A printed copy of the Votes and Proceedings of the next day, the 11th instant, shewing that Mr. Lowe on that day did bring forward his proposed Resolutions, and that the first only of them was carried, the Resolution, which alone contained direct charges of misappropriation of the public money, being rejected, and an amendment carried which, though moved by a Member opposed to Government, virtually admitted the right of the Government to appropriate these monies, so long as certain Acts of the Old Council remained unrepealed.

3. The Memorandum referred to, as having been placed by me on Record in the Office of the Colonial Secretary.

I have, &c.,

[Enclosures Nos. 1 and 2.] GEO. GIPPS.

[These were copies of the "Votes and Proceedings" of the legislative council.]

[Enclosure No. 3.]

MEMORANDUM No. 1, Placed on Record in the Office of the Colonial Secretary, 25th June, 1846.

1. By the Votes and Proceedings of the Legislative Council of the 11th June, 1846, it appears that the following Resolution was adopted by the Council on that day:—

"That, subject to the three Schedules, A, B and C, it is the undoubted right of this Council, and of Her Majesty's Subjects within the Colony of New South Wales, to have all taxes, rates, duties, and imposts, levied on the said subjects, whether with the advice and consent of this or any former Council, appropriated to
1846.
26 June.

Memorandum by
Sir G. Gipps in
reply to resolution
of legislative council.

the public service within the said Colony, by Ordinances to be for
that purpose enacted by the Governor, with the advice and consent
of this Council, and in no other manner."

2. I feel it necessary, before I quit the Colony, to record my dis-
sent from the claim so comprehensively put forth in this Resolution;
and I dissent, because I consider that, after the words "subject
to the three Schedules A, B and C." the Resolution ought to
have gone on to say, and consistently with the other provisions,
conditions and intentions of the Constitutional Act, passed by Par-
liament for the government of the Colony.

I consider it to be the undoubted intention of the Constitu-
tional Act that District Councils should be established in the
Colony, no less than ten clauses of the Act* being taken up in
defining the constitution, duties and powers of those Councils.

4. I consider it to be the undoubted intention of the 42nd clause
of the same Act, that the making, maintaining, and improving any-
new or existing road, street, bridge, or other communication.
through any District of the Colony, should be provided for by the
local Council of that District, and that all tolls, rates or assess-
ments, within any District, should be raised, collected and expended
under the authority of the same Council.

5. Believing such to be the intention of the Constitutional Act;
and believing it not to be the intention of that Act that moneys,
raised by turnpike tolls, should be appropriated by Acts or Or-
dinances of the Governor and Legislative Council. I cannot assent
to the doctrine so comprehensively attempted to be laid down in the
Resolution passed by the Council on the 11th instant; and I must
consider it to be the duty of the Governor of this Colony, so long
as the clauses relating to District Councils in the Constitutional
Act remain unrepealed, to withhold his assent from any Act passed
by the Legislative Council, declaring or implying that the Council
has a right to appropriate moneys arising from turnpike tolls.

6. The case, however, appears to me to be different in respect
to moneys arising from fees taken in the Courts of Request or in
the Insolvent Courts, and I see no reason, of a constitutional
nature, why these should not be appropriated by annual Acts of
the Governor and Legislative Council, provided only the Acts or
the parts of the Acts, which authorise the application of them to
the support of the Officers of the Courts, be previously repealed.
Nothing, certainly, was ever farther from my wishes than to have
the sole power of appropriating these moneys vested in the
Governor.

7. It will be remembered that, in the Session of 1844, the Council
refused to make any provision for the Administration of Justice,
beyond that which is made by Schedule A, and that, in consequence
of their refusal. I, in the speech with which I, on the 30th Decem-
ber, 1844, closed that Session, made use of the following words:—
"As you have, gentlemen, declined to take into consideration the
Estimates, which early in the Session I laid before you, for the
Administration of Justice in the year which is now ensuing, I have
only to express my hope that the funds, which the Law had previ-
ously placed at my disposal, may be found sufficient to keep open
the ordinary tribunals of the Colony. The resources which are
within my reach, I shall rigorously devote to the purposes to which
they are applicable; but I shall not suffer myself to exceed, in any
manner, the authority which I constitutionally hold, nor to set
aside the instructions of Her Majesty."

* Marginal note.—Clauses 41 to 50.
GIPPS TO GLADSTONE.

8. In consequence of the pledge, which I thus gave, to exert all my lawful authority in order to keep open the Courts of the Colony, I applied the Fees, taken in the Insolvent Court and in the Courts of Request, to the payment of the Officers of those Courts, having been previously assured by the Judges and the Law Officers of the Crown that it was lawful for me so to do; and I may here observe that the Council itself has virtually admitted such an application of them to be lawful by the rejection of the second Resolution, proposed for their adoption on the 11th instant.

9. At the commencement of the year 1844, had I not made the use I did of those Fees, I must have shut up the Insolvent Courts and Courts of Request, and I preferred exercising a power, which I was assured I lawfully possessed, to shutting up these Courts, which I knew would be prejudicial to the Colony.

10. It does not seem to me necessary here to enter into the question, whether I might or might not have assented to an Act, had one been passed by the Legislative Council, declaring the appropriation of these Fees to be vested in the Governor and Council; it may be sufficient for my present purpose to observe that, had such an Act contained no permanent provision for the support of the Courts, I might possibly have withheld from it my assent.

Government House, Sydney, 25 June, 1846. GEORGE GIPPS.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 129, per ship Royal Saxon; acknowledged by Earl Grey, 18th November, 1846.)

Sir, Government House, 25th June, 1846.

I have the honor herewith to enclose Copies (printed) of the Financial papers, which, pursuant to custom, I laid before the Legislative Council on the 9th instant; they consist of,

1. My Annual Financial Minute, containing an exposition of the financial state of the Colony.

2. The Estimates of Expenditure for the year 1847.

3. The several Returns relating to Expenditure under the Schedules A, B and C, required by the 38th and 39th Sections of the Constitutional Act of the Colony, 5th and 6th Vict., ch. 76.

The Accounts, prepared by the Auditor General of the Revenue and Expenditure of 1845, and which were forwarded in my Despatch to Lord Stanley No. 76 of the 4th April, 1846, were also laid before the Council with the financial papers above mentioned.

At page 3 of the Financial Minute (Enclosure No. 1), the passages are marked which relate to the measures rendered necessary by the refusal of the Council to renew the Squatting Act, reported in my Despatch No. 128 of this day's date.

I have, &c., GEO. GIPPS.

[Enclosures.]

[Copies of these papers will be found in the "Votes and Proceedings" of the Legislative Council.]
SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch marked "Private and Confidential," per ship Royal Saxon; acknowledged by earl Grey, 18th November, 1846.)

Sir,

Government House, 25th June, 1846.

In my public Despatches* of this day's date, I trust I have sufficiently vindicated my proceedings during the recent short Session of the Legislative Council, as well as the step I took on the 13th instant in proroguing the Council until a time beyond that at which my successor may be expected to arrive in the Colony.

The adjournment of the Council from the 12th June to the 21st July, though doubtless intended to perplex me, was in reality a measure of great convenience to me, for it gave me what I thought a fair opportunity of proroguing them; and I shall, if necessary, before I give up the Government, extend the prorogation, so as to relieve Sir Charles Fitz Roy from the necessity of meeting them immediately on his arrival in the Colony. The state of public business will not require them to meet until the middle of October, or even the beginning of November. I am assured (though it is scarcely credible) that the opposition party did not expect I should prorogue the Council.

The rejection of the Bill to continue the Squatting Act will not be productive of any real inconvenience to the Government. Indeed I feel well satisfied with the course which events have taken during the last six weeks; and I am sure that I occupy at the present moment a very strong position in the Colony, as strong at least, I may venture to say, as at any previous period of my Government.

I have, &c.

GEO. GIPPS.

P.S.—The intelligence from New Zealand, which will be conveyed to England by this Packet, is distressing. Captain Grey wrote to me, after his return to Auckland from Wellington, in good spirits (his letter† was a private one); but he did not then know of the attack which the Natives made on our Troops in the Valley of the Hutt on the 16th May. I do not apprehend that any ill consequences will result from that attack, further than some additional discontent, perhaps, on the part of the Company's Settlers; but, from accounts which reach me (indirectly), I cannot but apprehend that our own Soldiers are becoming dissatisfied; desertions certainly are not uncommon.

The duty on the men is, I understand, very hard; and they are without barracks or comforts of any sort; even insufficiently supplied, it is said, with clothing in a climate which is both wet and cold, they are, however, not unhealthy.

* Marginal note.—Nos. 126, 127, 128, 129.
† Marginal note.—14th May, 1846.
The "Castor," Capt. Graham, is at Sydney refitting, but will return as soon as possible.

We shall send to Auckland by the "Castor" £15,000 in specie, of which £10,000 will be for the Troops, and £5,000 for the Civil Government, on account of the money which Captn. Grey is authorized to draw on the Lords of the Treasury.

I cannot conclude without expressing my apprehension that the expenditure of British money in New Zealand may shortly come to be reckoned in sums vastly larger than fives or tens of thousands.

Geo. Gipps.

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RIGHT HON. W. E. GLADSTONE TO ACTING SUPERINTENDENT OF PORT PHILLIP.

(Despatch No. 31, received via Melbourne; acknowledged by Sir Charles Fitz Roy, 30th December, 1846.)

Sir,

Downing Street, 26th June, 1846.

On the 27th of July, 1844, Lord Stanley conveyed to your Predecessor general instructions, with regard to the disposal of a party of Exiles from Pentonville and Parkhurst Prisons. I have now to acquaint you that a party of Two hundred and Ninety Nine Exiles from Milbank, Parkhurst and Pentonville Prisons proceed to Port Phillip by the Ship which carries this Dispatch.

It is the desire of Her Majesty’s Government that so many of these Exiles as may be able to obtain employment and subsistence at Port Phillip should be retained there under arrangements precisely similar to those detailed in Lord Stanley’s Dispatch above referred to. And that, if there should be still any number of them for whom it may not be possible to find employment, they should be
forthwith sent on to Sydney, arrangements having been made with the owners of the Ship for their conveyance thither if necessary. In that event, you will forward with them the accompanying Dispatch addressed to the Governor of New South Wales.

I am, &c.,

W. E. Gladstone.

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SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 130, per ship Royal Saxon: acknowledged by Earl Grey, 26th November, 1846.)

Sir,

Government House, 26th June, 1846.

I have the honor to forward herewith, for Her Majesty's most gracious allowance, engrossed Copies on Parchment of Four Acts, passed by the Legislative Council and assented to by myself, in the short Session which commenced on the 12th May last and ended on the 13th instant; The Acts are:

9th Vict., No. 31. "An Act to continue for two years, 'An Act to facilitate the apprehension of transported felons, and offenders illegally at large, and of persons found with arms, and suspected to be robbers.'"

The object of this Act is to continue, for two years longer, the Act known in the Colony by the name of the "Bushrangers Act," which I regret to say cannot yet be dispensed with. It was introduced by the Attorney General with my concurrence.

9th Vict., No. 32. "An Act to continue for a limited time an Act, intituled, 'An Act for regulating the constitution of Juries, and for the trial of issues in certain cases in the Supreme Court of New South Wales,' and further to amend the law relating to trial by Jury."

The object of this Act is simply to continue the existing Jury Laws, which would otherwise expire on the 30th of the present month.

A permanent Jury Law has been prepared by the Attorney General; but the consideration of it could not be entered on in the late Session.

9th Vict., No. 33. "An Act to amend an Act, intituled, 'An Act to amend the laws relating to the Savings Bank of New South Wales and Port Phillip respectively.'"

By the Savings Bank Act of 1843 (7th Vict., No. 6), interest at the rate of 3½ per cent. was guaranteed to persons who withdraw their money from the Savings Bank before the 31st December in any year; but, in the year 1845, this rate of interest was found to be too high, and thence arose the necessity for the present Act, repealing the part of the former Act which made it compulsory on the Trustees to pay interest at the rate of 3½ per cent., even though the state of the funds of the
Bank might not be such as to warrant it. Interest will neverth­
less, I am happy to say, be paid for the present year at a rate of
not less than 3½ per cent.; and I may take this opportunity of
adding that I consider the Savings Bank to be in a very satis­
factory condition, notwithstanding the difficulty, which I have on
some former occasions alluded to,* of finding profitable employ­
ment for the sums deposited in it.

9th Vict., No. 34. "An Act to amend an Act, intituled, 'An
Act to make provision for the safe custody of, and prevention of
offences by, persons dangerously insane, and for the care and
maintenance of persons of unsound mind.'"

The Lunatic Asylum of New South Wales is a Colonial Estab­
lishment, and the Convicts, who are maintained in it as patients,
have hitherto been paid for out of Convict funds. The Asylum,
however, became of late so crowded, that it was necessary either
to remove the Convicts or to add to the Building. The former
was considered most advantageous to the Home Government,
as the Convict patients so removed can now be maintained at less
cost (the males in the Hospital at Liverpool, the Females in the
Factory at Parramatta) than in the Asylum; whereas, when the
arrangement for placing the Convicts in the Asylum was adopted
eight years ago, the Convict buildings were all so crowded that
there was no room in them for Lunatics.

It being found, however, among the Convict Lunatics in the
Asylum, there were some whose sentences had expired since their
admission, a doubt was started as to the legality of their removal.
The Act was therefore introduced by the Attorney General to
remove the doubt, and it is removed by the 2d clause; the 1st
and 3d clauses meet minor inconveniences, on which it can
scarcely be necessary to offer any explanation.

I beg leave to recommend that these four Acts may be left to
their operation.

I have, &c,
GEO. GIPPS.

[Enclosures.]
[These were copies of the acts of council.]

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Sir George Gipps to Right Hon. W. E. Gladstone.
(Despatch No. 133, per ship Royal Saxon; acknowledged by
earl Grey, 23rd March, 1847.)

Sir,
Government House, 28th June, 1846.

I have the honor to enclose a Copy of a Government Order
which I issued on the 1st May last, with a view to expedite, as
far as I judged it right and proper, the clearing off of the Con­
vict Establishment in the Colony.

* Marginal note.—See my Despatch No. 203, 23rd Nov., 1845.
This Order or Notice holds out the expectation (not of absolute promise) of a Ticket of Leave to every Convict, who may have behaved well during three consecutive years, and a Conditional Pardon to any one, who may have held his Ticket of Leave with good conduct during three further consecutive years.

I have purposely delayed reporting the issue of this Order until the present time, in order that before doing so I might have some experience of the working of it; and I am happy now to be able to add that I expect the operation of it will be safe and salutary.

I have, &c,

GEO. GIPPS.

[Enclosure.]  

[A copy of this order, dated 1st May, 1846, will be found in the "Government Gazette."]

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.  
(Despatch No. 134, per ship Royal Saxon: acknowledged by earl Grey, 27th November, 1846.)

Sir,

Government House, 29th June, 1846.

I have the honor to forward herewith Copies of certain documents explanatory of the course which has been adopted by this Government, in consequence of the refusal of the Legislative Council to renew the Squatting Act, 2d Vict., No. 27.

Enclosure No. 1 contains Copies of three Circulars issued to the Commissioners of Crown Lands in the Squatting Districts: the 1st of them was issued on the 3d April, and of course before it could be known whether the Act would be renewed or not; in fact it was only a preparatory one. The 3d is a Confidential document, issued as well as the 2nd on the 20th instant.

Enclosure No. 2 contains copies of certain Minutes of the Executive Council respecting the renewal of Licenses for the occupation of Crown Lands, made on the 17th and 23d instant, when this subject was brought by me under the consideration of the Council.

I have, &c,

GEO. GIPPS.

[Enclosure No. 1.]

MR. W. ELYARD, JR., TO COMMISSIONERS OF CROWN LANDS.  
Colonial Secretary's Office.

Sir,

Sydney, 3rd April, 1846.

I am directed by His Excellency the Governor to draw your attention to the fact that the Crown Lands Act, 2 Vict., No. 27, as continued by the 5 Vict., No. 1, will expire on the 30th day of June next: and consequently that the duties which are assigned to you by the first of these Acts, and the peculiar powers which you possess under it will cease on that Day, unless the Act be in the mean time renewed.
With reference to my Circular of the 23rd December last, I am also to remind you that, by the appropriation Act passed in the last Session of the Legislative Council, 9 Vict., No. 24, provision is made for the payment of the Border Police only until the 30th June next, after which Date it is doubtful whether His Excellency will have any funds at His disposal applicable to the maintenance of that force.

You will take the earliest opportunity of making this known amongst the men serving in the Border Police, who receive pay from the Government; and you will warn them that, unless previously renewed, their engagements with the Government will cease on the said 30th June next.

You will understand that the granting of Licenses for the occupation of Crown Lands and the charging of Fees on such Licenses will in no way be affected by the expiration of the abovementioned Acts; nor the duties with which you are charged in respect to recommending the renewal or the withholding of Licenses.

I have, &c,

for the Colonial Secretary.

W. Elyard, J.C.


Colonial Secretary’s Office,
Sydney, 20th June, 1846.

Sir,

In my Circular letter of the 3rd April last, I adverted to the fact that the Crown Lands Act, 2nd Victoria, No. 27, as continued by the 5th Victoria, No. 1, would expire on the 30th Day of the present Month, and I reminded you that, by the Appropriation Act passed in the then last Session of Council, 9 Victoria, No. 24, provision was made for the payment of the Border Police only until the 30th Instant, after which date it was doubtful whether His Excellency the Governor would have any funds at His disposal, applicable to the maintenance of that force.

I am now directed to inform you that, as no Act has been passed for continuing the Crown Lands Act, and as His Excellency has no funds on which He can charge the expense of the Border Police after the above Date, such of the Men forming your party of Border Police, as receive pay from the Government, must, on the 30th Day of the present month, be discharged in accordance with the intimation contained in my former letter. But it will be competent for you to retain, until further orders, a portion not exceeding one half of the Division, if any collision has recently taken place between the White population and the Aborigines, or any such collision may appear to you to be apprehended, reporting, however, in such case your proceedings immediately for the approval of the Governor, and furnishing a full statement of the grounds on which you have deemed it necessary to act on the discretion thus given to you.

I have to request that you will immediately report to me the number of men attached to your Party (including Aborigines) who do not receive pay from the Government.

These you will supply with Rations until you receive directions to the contrary.
I am also instructed to intimate to you that you will continue in the receipt of your present Salary and allowances, which, however, as well as all other necessary expenses of your Establishment, will, from the 1st Proximo, be paid out of the Crown Revenues.

I have, &c.,

E. Deas Thomson.


Colonial Secretary's Office.
Sydney, 20th June, 1846.

Sir,

In my separate Circular letter of this Date, I have apprised you that no Act has been passed to continue the provisions of the Crown Lands Occupation Act, 2 Vic., No. 27; and I am directed by His Excellency the Governor to call your attention to the altered position, in which you will be placed by the expiration of that Act.

You will of course understand that all the powers will cease, which you have been accustomed to exercise under the 2nd Victoria, No. 27, but that the powers will remain which you hold as a Bailiff or Agent of the Crown, or under the provisions of the 4th William IV, No. 10, as amended by the 5 William IV, No. 12.

It is conceived that you will have no power whatsoever to settle Disputes between the occupiers of Crown Lands, or to call for any Returns of Stock, etc., and it will scarcely be safe for you to endeavor to remove Intruders. But, on the other hand, it will still be unlawful for anyone to occupy Crown Lands without a License from the Government.

It is scarcely necessary for me to remind you that it is your duty to report to the Government the case of every person in your District, who may be in the occupation of a Station or Run without a License, in conformity with the Notice of 14 September, 1840.

You will bear in mind that a Bill for the regulation of Crown Lands in this Colony is now before the Imperial Parliament, and that it may be expected to pass into a Law and arrive in the Colony in the course of the next six Months. Although the entire provisions of this Bill or Act cannot be known until it arrive in the Colony, there is reason to believe that it will restore to Commissioners of Crown Lands the power of removing Intruders, given to them by the 2nd Clause of the Colonial Act now about to expire.

The suspension therefore of the most important of your powers will in all probability be but temporary.

I enclose a Copy of the Bill introduced into Parliament by Mr. Hope in August last, which, although it is not yet law, will enable you to form a tolerable estimate of the powers which you will enjoy under it, when it shall have been passed in England and become operative in the Colony.

I would in a particular manner draw your attention to the 7th Clause of this Bill, which proposes to authorize the Governor to grant a Lease without competition to any person, who may have been in continued authorised occupation of his Run for five years. You will observe, and will not fail to make it known in your District, that any person, who may for a time however short be in
unauthorised that is to say unlicensed occupation of his Run, will forfeit the claim which he might otherwise be entitled to prefer for a Lease of his Run or of any part of it without competition under the Clause referred to. You will, however, make this known in your District rather in the way of friendly information or advice to the Squatters, than in the manner of a threat.

It is intended to issue a Public Notice in the course of a few days, declaratory of the terms on which Licenses will be issued for the year commencing 1st July, 1846; and these terms will, in all probability, be the same as those on which Licenses were issued for the current year as set forth in the Notice of 10th July last.

With reference to the duties devolving on you in your Magisterial capacity, I am to observe that, although you will be in no greater degree answerable for the preservation of order in your District than other Individual Magistrates, it is nevertheless expected of you that you will use your most strenuous efforts for the preservation of the public peace.

On the subject of the Aborigines, I may possibly have occasion again to address you; at present, however, I am to remind you of the anxious solicitude, which is felt for their protection by Her Majesty's Government and Parliament, and to refer you to what I have said on this head in my public letter of this Date.

I have, &c., [Unsigned.]

[Enclosure No. 2.]

Minutes of executive council relative to the terms on which Pasturage Licenses should be granted for the year commencing the 1st July, 1846.

PROCEEDINGS of the Executive Council on the 17th and 23rd June, 1846, relative to the terms on which Pasturage Licenses should be granted for the year commencing on the 1st July next.

Members present:—His Excellency the Governor; The Right Rev. the Lord Bishop of Australia; The Honorable the Colonial Secretary; The Honorable the Colonial Treasurer.

Referring the Council to the Notice, issued by their advice on the 10th July, 1845, and remarking that final and complete Regulations respecting the occupation of Crown Lands beyond the Boundaries of location could not be framed, pending the decision of Parliament on Mr. Hope's Bill for the amendment of the Crown Land Sales Act, 5 and 6 Vict., cap. 36, His Excellency the Governor desired the opinion of the Council as to the terms on which Pasturage Licenses should be granted for the year about to commence on the 1st July next.

The Council advised that Licenses for the ensuing year should be issued on the same terms as those upon which they have been granted during the current year, which terms are laid down in the Notice on the 10th July, 1845; it being however understood that, as, in consequence of the non-renewal of the Act of Council 2 Vict., No. 27, no further Returns of Stock will be rendered to the Government, the prices which will be charged for Licenses must of necessity be regulated by the last Returns received from the Commissioners.
The Council, however, desired that, before this advice be acted upon, the opinion of the Law Officers of the Crown should be taken as to whether there are any legal objections to the adoption of their recommendation.

**Extract from Minute No. 46/13, dated 23 June, 1846.**

Members present as before.

With reference to the Proceedings on the 17th June Instant, when the Council recommended, subject to the opinion of the Law Officers, that Pasturage Licenses for the ensuing year should be issued on the same terms as those upon which they have been granted during the current year, His Excellency the Governor stated to the Council that, in accordance with His directions, the Clerk had communicated to the Attorney and Solicitor General the nature of the Council’s recommendation, and had requested them to wait on the Council this day for the purpose of giving their opinion. The Attorney and Solicitor General were in attendance accordingly.

The Attorney and Solicitor General were introduced and stated to the Council that they saw no objection to the issue of a Notice declaring that Licenses for the occupation of Crown Lands beyond the limits of location for the ensuing year will be granted upon the same terms as those set forth in the Notice of the 10th July, 1845; but, on reference to the language used in the 17th section of the Crown Lands Act, 5 and 6 Vict., cap. 36, they recommended that all such licenses should in future be signed by the Governor. And in order to place any person, retaining possession of a run without a written License therefor,* in the undoubted position of an intruder against the will of the Crown, and thus to deprive him of all right to maintain an action of trespass by virtue of his possession, as well as to render him a trespasser himself against the Crown, or any individual having a License from the Crown for the occupation of the lands in his holding, the Attorney and Solicitor General recommended the introduction into the Notice of a Clause to the following effect:

"That such licenses must be taken out by all occupiers of such lands; and that every person, who shall after the 30th September next occupy any such lands by his stock or otherwise, without holding a written license for the occupation of the same lands, under the hand of the Governor of the Colony, will be and be deemed to be an Intruder upon the lands and possession of Her Majesty the Queen and will hold the same against the will of the Crown; and all cattle, sheep or other stock found on any such lands, and which shall not belong to a person or persons holding such license as aforesaid for the occupation of the same lands will be and be deemed to be trespassing thereon and will be liable to be removed and impounded accordingly."

The Attorney and Solicitor General having withdrawn, the Council advised that a Notice in accordance with their recommendation of the 17th June should be forthwith issued, and that the clause proposed by the Law Officers should form part of such Notice.

**FRANCIS L. S. MEREWETHER,**

Clerk of the Council.

*Marginal note.—The Attorney and Solicitor General referred to the case of Harper v. Charlesworth, 4 Burnewall and Cresswell’s Reports, P. 574.*
GIPPS TO GLADSTONE.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 135, per ship Royal Saxon; acknowledged by earl Grey, 20th November, 1846.)

Sir,

Government House, 30th June, 1846.

I have the honor herewith to enclose a Petition, which Mr. Thomas Bell has, by the extraordinary termination of his trial reported in my Despatch No. 111 of the 5th instant, been emboldened to address to you.

Having frequently and fully reported on Mr. Bell's case in the Despatches numbered and dated as in the margin,* I feel that, in transmitting this Petition, it remains for me only to state that, though during the early years of Mr. Bell's employment at the Factory I considered him an active, a zealous, and a very useful Officer, I have every reason to believe that, in the years 1842 and 1843, he fell into bad practices; and since that time I have considered him entirely unworthy of confidence, or of any indulgence from Her Majesty's Government; indeed I cannot but be of opinion (as stated in the last of the Despatches quoted in the margin), that in his case the ends of justice have been signally defeated.

I have, &c,

GEO. GIPPS.

[Enclosure.]

[A copy of this petition is not available.]

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 136, per ship Royal Saxon.)

Sir,

Government House, 30th June, 1846.

I had the honor on the 13th inst. to receive by the Post Office Packet "Agincourt" Your Despatches numbered from 25 to 37, written in the month of February; I also at the same time received the Duplicates of Your Despatches numbered from 8 to 24 (except No. 19), of which I presume that the Originals must have been sent by the Packet ship "Abel Gower," which is supposed to have left England in the early part of February, but which has not reached this Colony.

I regret that I shall, on account of my approaching embarkation for England, be obliged, I fear, to leave the greater part of these Despatches to be answered by my successor.

I have, &c,

GEO. GIPPS.

* Marginal note.—Nos. 185, 43, 53, 111, 13th Nov., 1843, 18th Feb'y., 1844, 28th Feb'y. and 5th June, 1846.
1846.

30 June.

Report re appointment of T. Callaghan.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 137, per ship Royal Saxon.)

Sir,

Government House, 30th June, 1846.

I had the honor to receive, on the 25th instant, Your Despatch No. 9 of the 3rd January, 1846, wherein it is mentioned that you had not succeeded in finding, in my Despatch No. 129 of the 10th August last, any report of Mr. Callaghan's appointment to the Office of Crown Prosecutor at Quarter Sessions; I consequently beg leave to state that Mr. Callaghan's appointment was reported in my Despatch to Lord Stanley No. 29 of the 6th February, 1845.

Mr. Callaghan has now held the appointment of Crown Prosecutor since January, 1845, and has performed the duties of the Office to the entire satisfaction of the Government and the Public. I therefore venture to repeat my recommendation that he may be confirmed in it.

I have, &c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 138, per ship Palestine; acknowledged by earl Grey, 18th January, 1847.)

1 July.

Correspondence re allowances to itinerant clergy.

Sir,

Government House, 1st July, 1846.

I feel it right, before I give up this Government, to transmit to you a Copy of a letter which was lately addressed by the Assistant Commissary of Accounts to the Secretary of this Colony, on the subject of certain allowances made to Clergymen in this Colony under the authority of a Despatch from Lord Glenelg, dated the 12th May, 1836, No. 154, as also a Copy of the answer which by my direction was returned to Mr. Darling's letter.

Looking at the small amount ever contributed by the Home Government towards the religious instruction of the Convict or other population of New South Wales, since the first foundation of the Colony in the year 1788, I can scarcely think the Lords of Her Majesty's Treasury will desire to withdraw the allowance made by them on the recommendation of Lord Glenelg in 1836.

I have, &c.,

[Enclosures.]

[Copies of these papers are not available.]

GEO. GIPPS.

3 July.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 140, per ship Palestine.)

Sir,

Government House, 3d July, 1846.

On the receipt of Lord Stanley's Despatch No. 103 of the 31st August, 1845, I took measures for procuring from Mr.
GLADSTONE TO FITZ ROY.

La Trobe the explanation required by that Despatch, in respect to various transactions alluded to in the Report from the Chief Protector of Aborigines, which was forwarded with my Despatch No. 41 of the 23d Feby., 1845; and I have the honor herewith to forward a Copy of a letter from Mr. La Trobe, giving the Explanation required.

I have, &c.,

[Enclosure.]

GEO. GIPPS.

[A copy of this letter, dated 18th June, 1846, will be found in a volume in series III.]

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.
(Despatch No. 46, per ship Tasmania.)

Sir, Downing Street, 4 July, 1846.

I transmit to you herewith Copies of a correspondence with the Board of Treasury from which you will perceive that the sum of two Thousand Pounds has been recovered from the Surety of Mr. Manning, and that it will be paid under the directions of the Lords Commissioners into the Local Treasury. It will then be placed at the disposal of the Supreme Court, to be applied as that Court may direct, for the relief of the Sufferers by Mr. Manning's default.

I have, &c.,

W. E. GLADSTONE.

[Enclosure No. 1.]

MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 15 June, 1846.

With reference to the communications from this Department of 23d June and 3d January last, respecting the Security of Mr. Manning, the late Registrar of the Supreme Court at New South Wales, I am commanded by the Lords Commissioners of Her Majesty's Treasury to state to you for the information of Mr. Secretary Gladstone that the sum of £2,000 has been recovered from Mr. Manning's Surety, and to request that you will move Mr. Gladstone to cause my Lords to be informed whether he sees any objection to the payment of the said sum to the Agent General for New South Wales on account of the Colonial Government.

I am, &c.,

C. E. TREVELYAN.

[Enclosure No. 2.]

UNDER SECRETARY STEPHEN TO MR. C. E. TREVELYAN.

Sir, Downing Street, 2oth June, 1846.

I have laid before Mr. Secretary Gladstone your Letter of the 15th instant, and I am directed to acquaint you in reply, for the information of the Lords Commissioners of the Treasury, that Mr. Gladstone conceives that the money which has been recovered from Mr. Manning's Surety should be placed at the disposal of the Supreme Court of New South Wales, to be applied as that Court may direct for the relief of the sufferers by Mr. Manning's default.

I am, &c.,

JAS. STEPHEN.
1846.
4 July.

Correspondence re disposal of money recovered.

[Enclosure No. 3.]

MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.

TREASURY Chambers, 29th June, 1846.

Sir,

With reference to your Letter dated the 20th instant, I have it in command to acquaint you, for the information of Mr. Secretary Gladstone, that the Lords Commissioners of Her Majesty's Treasury see no reason to dissent from the proposition therein submitted to them in regard to the disposition of the amount that has been received from Mr. Manning's Surety; and you will further state that my Lords will be prepared to give Directions for the payment of the said amount either to the Colonial Treasury at New South Wales, or to the Agent General in this Country on account of the Colonial Government, as Mr. Gladstone may see fit to suggest.

I am, &c.,

C. E. TREVELYAN.

UNDER SECRETARY STEPHEN TO MR. C. E. TREVELYAN.

Sir,

Downing Street, 4 July, 1846.

Having laid before Mr. Secretary Gladstone your letter of the 29th Ultimo, I am directed to acquaint you in reply, for the information of the Lords Commissioners of the Treasury, that Mr. Gladstone would suggest that the sum of money which has been recovered from Mr. Manning's Surety should be paid to the Colonial Treasury in New South Wales, and Mr. Gladstone will give directions to the Governor for the appropriation of it in the manner pointed out in my Letter of 20th ulto.

I am, &c.,

J. STEPHEN.

[Enclosure No. 4.]

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.

(Despatch No. 47, per ship Tasmania.)

Sir,

Downing Street, 4 July, 1846.

I have received your Predecessor's Despatch No. 19 of the 25th of January last, reporting that, in consequence of the opinion expressed to him by Mr. Barnes, the Collector of Customs in Van D. Land, that the present Establishment of Landing Waiters in the Customs Department at Sydney was inadequate to the business of the Port, he had made two new Appointments to that branch of the Public Service in the persons of Mr. Henry Callander and Mr. De Courcy Bremer, at a Salary in each instance of £200 per annum.

Having communicated a Copy of that Dispatch to the Lords Commissioners of the Treasury, their Lordships have apprised me that they await the receipt of further reports and information respecting the state of the Customs Department at Sydney, before they can form an opinion as to the necessity for a permanent addition to it of two Landing Waiters. In the meantime, therefore, you will understand that the arrangements in question are to be considered as entirely temporary.

I have, &c.,

W. E. GLADSTONE.
RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.  
(Despatch No. 48, per ship Tasmania.)  
Sir, Downing Street, 4 July, 1846.

I have received your Predecessor's Dispatch No. 10 of the 15th of January last, requesting permission to issue Letters of Denization to Frederick Brequet and Louis Petavel, Natives of Switzerland, who have been for the last four years settled at Port Phillip; and I have to authorise a compliance with that application.

I have, &c,

W. E. GLADSTONE.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.  
(Despatch No. 49, per ship Tasmania.)  
Sir, Downing Street, 4 July, 1846.

I have received Sir George Gipps' Dispatch No. 33 of the 8th of Feb. last, requesting permission to issue Letters of Denization to Edward Austin, a Native of Bavaria, who had been for seven years resident in the Town of Bathurst, and I have to authorise a compliance with that recommendation.

I have, &c,

W. E. GLADSTONE.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.  
(Despatch No. 50, per ship Tasmania.)  
Sir, Downing Street, 4 July, 1846.

I have laid before The Queen your Predecessor's Dispatch No. 201 of the 23d Novr. accompanied by an Act which had been passed by yourself and Council, entitled, "An Act to exempt from duty for a limited time Metallic Ores imported into New South Wales," and I have received Her M.'s Commands to inform you that Her Majesty has been graciously pleased to confirm and allow the same.

You will communicate Her Majesty's decision to the inhabitants of the Colony under your Government by a Proclamation to be published in the usual and most authentic manner.

I have, &c,

W. E. GLADSTONE.

RIGHT HON. W. E. GLADSTONE TO SIR CHARLES FITZ ROY.  
(Despatch No. 51, per ship Tasmania; acknowledged by Sir Charles Fitz Roy, 17th February, 1847.)  
Sir, Downing Street, 4th July, 1846.

I have received your Predecessor's Despatch, dated the 23d November, 1845, and numbered 196, accompanied by the transcripts of two Acts passed by the Legislature of New South Wales in the same Month, intitled No. 28 "An Act to give to valid Mortgages of Sheep, Cattle and horses, priority for a
limited period according to the date of the Registration thereof, and for other purposes therein mentioned”; and No. 30 “An Act to repeal an Act, entitled, ‘An Act to give a preferable lien on Wool from Season to Season, and to make Mortgages of Sheep, Cattle, and Horses valid, without delivery to the Mortgagee,’ and to substitute for a limited time other provisions in lieu thereof.”

Her Majesty has been pleased to confirm and allow both of these Acts.

Her Majesty in Council will, in pursuance of the Statute 5 and 6 Victoria, C. 76, Sec. 32, disallow the Act passed by the Legislature of New South Wales, in the 7th year of Her Majesty’s Reign, intituled “An Act to give a preferable lien on Wool from Season to Season and to make Mortgages of Sheep, Cattle and Horses valid without delivery to the Mortgagee.”

The effect of these Measures will be to sanction until the end of the year 1848 and no longer, in the present new and modified form, the system of mortgaging Wool and Sheep, to which, as a permanent system and in its original form, Lord Stanley expressed so decided an objection. The disallowance of the Act so objected to had become inevitable, since, otherwise, it would have revived on the expiration in the year 1848 of the repealing Act.

Under the arrangement as it will now stand, it will be open to you to bring the subject of a further continuance of these, or any equivalent measures, under the consideration of the Government, in case you shall hereafter see cause to think that the decision of Lord Stanley should be reviewed.

The provision in the 5th Clause* of the Act, No. 28, respecting the effect of the disallowance of the original Act is, I think, superfluous, if not improper. It is a well established rule that the disallowance of a Colonial Act operates prospectively from the receipt by the Governor of the order of disallowance, and does not operate retrospectively so as to invalidate any Act which may have been done in pursuance of the disallowed Law. But, as a different opinion appears to have been expressed in New South Wales, and as the property affected by any such question is of such serious magnitude, I have not thought it right to insist on this objection. At the same time, I am unwilling to part with the subject without thus recording my opinion that this enactment is unnecessary, as it might be very inconvenient, in some future case, if Her Majesty’s Government were understood to have acquiesced in the supposed necessity for it.

I have, &c.,

W. E. Gladstone.

* Note 14.
Sir, Downing Street, 4 July, 1846.

I have received a Memorial from Mrs. J. Caroline Carrington, dated Sydney, 21st October, 1845, praying for Compensation for the losses and injuries alleged to have been sustained by her late husband,* a Member of the legal profession at Port Phillip, from the proceedings of Mr. Justice Willis in his Judicial capacity; and I have to request that you will acquaint the Memorialist that this is a case in which it is beyond the province of the Executive Government to interpose.

I have, &c.,

W. E. GLADSTONE.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 141, per ship Palestine; acknowledged by earl Grey, 30th January, 1847.)

Sir, Government House, 4th July, 1846.

Referring to my Despatch No. 103 of the 24th May last, wherein I recommended that a Pension of four shillings per diem should be granted to Mr. Joshua Allott, Crier of the Supreme Court, aged 86 years, I have now the honor to report that, in consequence of the earnest representations made to me by the Judges of the increasing infirmities of Mr. Allott, I have caused him to be relieved from the performance of any further duties, and the payment of his Pension to commence from the 1st July instant.

I have, &c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 142, per ship Palestine; acknowledged by earl Grey, 12th March, 1847.)

Sir, Government House, 5th July, 1846.

With reference to Lord Stanley's Despatch No. 120 of the 5th October, 1845, and prior correspondence on the subject of the seizure of the Schooner "Shamrock," which Vessel was ordered by the Lords of the Treasury to be returned to its owners, the Messrs. Campbell of this place, I have the honor herewith to transmit a second Memorial from the Messrs. Campbell to the Lords of the Treasury setting forth that the sum of £102 16s. 4d. has been withheld from them by the Collector of Customs at this Port.

I also enclose a Copy of a letter from the Collector on the same subject.

* Note 15.
The simple facts of the case are as follows:—

The decision of the Lords of the Treasury "that the Schooner should be returned to the Messrs. Campbell" could not be strictly acted on, because the Schooner had been sold by the Seizors. The money therefore produced by the sale of the Vessel, or rather the portion of that money remaining in the hands of the Collector, was tendered by that Officer to the Messrs. Campbell; but, out of the produce of the sale, the sum of £102 16s. 4d had been paid for expenses attendant on the seizure and condemnation of the Vessel. The remainder or £307 3s. 8d. (the Vessel having been sold for £410) has been accepted by the Messrs. Campbell under protest, and the object of their Petition is to obtain the difference.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

[ Copies of these papers are not available.]

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 143, per ship Palestine.)

Sir,

Government House, 6th July, 1846.

I have had the honor to receive Your Despatch No. 10 of the 4th January, 1846, in which, after adverting to the case of the unfortunate ship "Mary" wrecked in Bass Straits on her Voyage from Sydney to England, you suggest the propriety of adopting in the Colony the Passengers Act, 5th and 6th Vict, ch. 107; and I have the honor to report for your information that, in the month of August, 1845, soon after the shipwreck of the "Mary," a proposal was made to me by the Harbour Master of Sydney (Lieut. Moriarty, R.N.) that the Passengers Act should be adopted, under the authority given to Governors of Colonies by the 38th Clause of it; but, after mature consideration, I came to the conclusion that little good could be expected to result from the simple adoption of it. The "Mary" would not have come under the operation of the Act, had it even been in force at the time she sailed from Sydney, as she had not thirty passengers; and, moreover, she was surveyed, and pronounced to be seaworthy by a competent board of Surveyors, of whom the Agent for Lloyds was one.

In December last, the question was again brought before me, and again I came to the same conclusion. I shall now, however, leave the matter in the hands of my successor, who can of course, should he see fit so to do, bring the correspondence which
taken place on the subject before the Legislative Council in the course of its next Session, with a view to the enactment of some local regulations under the 47th clause of the Act.

I have, &c.,

GEO. GIPPS.

EARL GREY TO SIR CHARLES FITZ ROY.

(A circular despatch, per ship Tasmania; acknowledged by Sir Charles Fitz Roy, 21st December, 1846.)

Sir,

Downing Street, 7th July, 1846.

I have the honour to inform you that Her Majesty has been pleased to entrust to my care, as one of the Principal Secretaries of State, the Seals of the Colonial Department.

I have, &c.,
GREY.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 144, per ship Palestine; acknowledged by earl Grey, 3rd June, 1847.)

Sir,

Government House, 7th July, 1846.

I have had the honor to receive your Despatch of the 24th January, 1846, No. 21, wherein I am required to furnish information called for by the Lords of the Treasury in respect of the Salaries of the Astronomer at Parramatta and the keepers of the Meteorological Journals at the South Head (Sydney), Port Macquarie, and Melbourne.

In respect to the Astronomer, I have, in reply, the honor to state that the authority for charging his Salary on Home funds was first given in a Despatch from Lord Goderich to Governor Darling of the 30th July, 1827, No. 41; and that, by another Despatch dated the 6th January, 1829, No. 81, the Salary of the Astronomer (Mr. Rumker) was fixed at £300 a year.

The present Astronomer, Mr. Dunlop, was appointed in London in 1831; and he informs me that all preliminaries were settled at the Colonial Office with Lord Howick and a gentleman whose name he cannot now recollect. The date of his appointment, according to the Blue Book, is 7th May, 1831; but he did not arrive in the Colony until the 6th November in that year.

The Meteorological Journals at the South Head, Port Macquarie and Melbourne, were established in March, 1840, in consequence of the receipt of Lord Glenelg's Circular Despatch of the 29th November, 1838. The persons employed to keep them were Convicts of the Class known by the name of "Specials" or gentlemen Convicts, that is to say, educated men, who were never placed in assignment or employed at hard labour, and who were consequently maintained at the expense of the Home.
Government, without a return of any sort being made for their labour, unless when employed as clerks in any Public Department, and the practice of so employing them has of late years been generally condemned and almost entirely abandoned.

Considering the keeping of the Meteorological Journals to be an object of Science, expressly recommended to me by the Secretary of State, I felt myself justified in employing Convicts of this description or so-called "Specials" in the work; and, as they were necessarily placed in solitary and remote Stations, I caused the sum of 1s. 6d. per diem to be paid out of Convict funds to each of three so employed, that being the amount which it was calculated they had previously each cost the Government for Rations, Clothing, etc., the issue of which was, from the commencement of their being employed in keeping these Journals, of course discontinued. The authority for their payment from Convict funds was given in a letter from the Colonial Secretary to the Deputy Commissary General, of which a Copy is enclosed; it was also reported in the Quarterly Schedule of Appointments to Office for the 30th June, 1840, which was forwarded with my Despatch of the 4th October of that year, No. 145.

Abstracts of the Registers are published weekly in the Government Gazette of the Colony, and the Registers themselves are preserved in triplicate with the Records of the Colony. Of these respective documents specimens are sent herewith.

Trusting that this explanation may prove satisfactory, I shall not, without your express orders, make any alteration in the arrangement respecting the keeping of the Journals; but I have to remark that the class of so-called Special Convicts is fast disappearing in the Colony, and that the expense is one which must very shortly cease.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

[Copies of these papers are not available.]

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SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.
(Despatch No. 145, per ship Palestine.)

Sir, Government House, 8th July, 1846.

With reference to my Despatches dated and numbered as in the margin,* I have the honor to report that I have this day paid into the Military Chest the sum of £217 4s., to meet the payment by Mr. Barnard of the interest on Debentures, which will fall due in London on the 31st December, 1846.

I have, &c.,

GEO. GIPPS.

* Marginal note.—6th Augst., 1845, No. 124; 18th July, 1846, No. 12.
An application has been received at this Department from the father of Mr. C. Carpenter, late Surgeon of the Emigrant Ship "Cataraque," to be permitted to receive the amount of remuneration to which his son would have been entitled, if he had landed with the Emigrants from that Ship at Port Phillip.

From the enclosed Copy of a report from the Colonial Land and Emigration Commissioners, it appears that the sum of £183 10s. is the amount of that remuneration, and the Lords Commissioners of the Treasury having authorised the transfer of that amount from the Commissariat Chest Fund to the account of Mr. Barnard, the Colonial Agent, as an advance on account of expenses of Emigration to New South Wales to be paid to the legal Representatives of Mr. Carpenter, I have to request that you will forthwith repay that advance to the Commissariat Chest on that Station.

I have, &c,

[Enclosure.]

[Despatch No. 146, per ship Palestine.]

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 146, per ship Palestine.)

Sir,

Government House, 9th July, 1846.

I have had the honor to receive Your Dispatch, No. 23 of the 31st January, 1846, enclosing an Extract from a Report by
the Commissioners of Customs, recommending the reestablishment of the Office of Comptroller of Customs in New South Wales, and desiring that I will furnish any observations which occur to me as necessary in connexion with the revival of the Office in question.

In reply, I have the honor to state that I have great reason to fear that the Establishment of the Customs was reduced too low, when the Office of Comptroller was abolished; and that I consider the reestablishment of the Office to be very necessary. In this opinion the Collector of Customs concurs, as also does Mr. Barnes, who has been at Sydney for several months past on a Special Mission for the purpose of enquiring into the state of the Customs Department.

I enclose a Copy of a Memorandum on the subject, which has been handed to me by the Collector.

I have, &c.,

Geo. Gipps.

[Enclosure.]

[A copy of this memorandum is not available.]

Sir George Gipps to Right Hon. W. E. Gladstone.
(Despatch No. 147, per ship Palestine; acknowledged by Earl Grey, 19th January, 1847.)

Sir,

Government House, 9th July, 1846.

It was represented to me in the month of February last by Mrs. Chisholm, a lady who has on many occasions made herself useful to this Government in matters connected with the disposal of Emigrants, that, during the course of the great Immigration which took place into this Colony, many Children had been left in Great Britain or Ireland in consequence of the inability of their Parents to pay the sum of money, varying from £2 to £5, which, prior to the 7th January, 1842, was demanded by the parties calling themselves Bounty Agents for the passage of each Child.

Having enquired into this matter, and received on it a Report from Mr. Merewether, the Agent for Immigration, I caused, on the 26th May last, a Notice to be issued, of which a Copy is enclosed.

As soon as the conditions required by the Notice have been in each separate case complied with, the applications will be forwarded by the Secretary of this Colony to the Commissioners of Colonial Lands and Emigration, with all necessary information, in order to the establishment of the identity of the Children.
The number of Children, for whom a passage has been applied for, is up to the present date,

Males, 37, Females 32,
as shown in the accompanying Return.

I trust my proceedings in this matter will meet your approbation.

I have, &c.,

Geo. Gipps.

[Enclosure No. 1.]

[This notice, dated 26th May, 1846, was printed in the "Government Gazette."]

<table>
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<tr>
<th>Enclosure No. 2.</th>
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RETURN of Bounty Immigrants' Children, for whom free passages have up to the present date been applied for at Sydney under the Notice of the 26th May, 1846.

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<th>5 to 10 years</th>
<th>10 to 14 years</th>
<th>Total under 14 years</th>
<th>14 to 16 years</th>
<th>Above 16 years</th>
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<td>7</td>
<td>17</td>
<td>29</td>
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Francis L. S. Meewather, Immigration Office, Sydney, 4 July, 1846.

EARL GREY TO SIR CHARLES FITZ ROY.

(Signature)

Sir, Downing Street, 10th July, 1846.

Sir George Gipps' Dispatch No. 194 of the 21st of Novr. last has been received at this Department, with a copy of a Report of a Committee of the Legislative Council on the subject of the erection of Lighthouses in Bass' Straits.

A copy of that Dispatch having been transmitted for the consideration of the Lords Comrs. of the Admiralty, I transmit for your information a copy of a letter from the Secretary to that Board.

I have given instructions to the Colonial Agent for obtaining proper estimates of the cost of the Lamps and Machinery for the Lighthouses, in order that they may be procured and sent out with the least possible delay; and I have directed that, in the execution of this Service, he should obtain the advice and assistance of the Elder Brethren of the Trinity House, and that he should place himself, as suggested by Sir George Gipps, in communication with Captain Blackwood, R.N. I have, &c.,

Grey.
MR. H. CORRY TO UNDER SECRETARY STEPHEN.

Sir, 

I have laid before my Lords Commissioners of the Admiralty your Letter of the 28th of May, transmitting, by desire of Mr. Secretary Gladstone, a Copy of a Despatch from the Governor of New South Wales, with Copies of the proceedings of the Legislative Council relative to the Erection of Lighthouses at Bass' Straights, and I am commanded by their Lordships in reply to express their satisfaction at learning that the Legislative Council of New South Wales has so humanely and promptly taken measures to render secure the navigation of Straits hitherto so dangerous.

My Lords are of opinion that the four Lighthouses, for which the Council has provided, appear to be amply sufficient for the safe navigation of the Straits, and the positions selected for them seem to be equally judicious, viz.:—

On Otway Point; King's Island (North End); Kent Island; Cape Howe.

On the first named point, it would be expedient that the Light should be elevated above the Sea from 150 to 250 feet according to the nature of the ground, and that it should revolve in order to prevent its being mistaken for casual fires or lights on the shore. Its revolution should be rapid, say twice in a minute, so as to distinguish it from the other revolving lights, which for the same reason should be one of slow movement.

That on King's Island should shew a fixed light, and to insure its being seen at a great distance and in all directions, it must be placed on the summit of the North end, which is between 500 and 600 feet high.

The light on Kent Island should revolve, so as to prevent any confusion with the fixed lights on King's Island, and it should make its revolutions about twice in three minutes, by which means it could never be mistaken for that on Cape Otway.

On Cape Howe a fixed Light will be proper; and, as it ought to be seen at some distance and yet not be remote from the shore, my Lords think it would require a Column of 80 or 90 feet high.

I have, etc.,

H. CORRY.

SIR GEORGE GIPPS TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 148. per ship Palestine; acknowledged by earl Grey. 15th March. 1847.)

Sir,

Before I relinquish the Government of this Colony, I think it right, as an act of justice to a deserving individual, to bring before you the case of a Mr. Homersham, and to submit my earnest request that he may be reinstated in the situation in the Customs at Sydney, from which he was dismissed in consequence of a letter from the Commissioners of
Customs, No. 16 dated the 2d May, 1845, and addressed to Mr. Barnes, who has been for many months and is still employed on a special mission connected with the service of the Customs at Sydney.

I by no means intend to assert that Mr. Homersham was dismissed altogether without cause; but I consider the punishment of dismissal very disproportioned to his offence; and I am now authorized by Mr. Barnes to say that he is of the same opinion.

The case of Mr. Homersham was reported by the Collector in Sydney to the Board of Customs in two letters dated the 5th and 12th May, 1844, Nos. 36 and 37.

His conduct was also enquired into by myself; and, in giving a decision on his case, which operated on him as a fine of £20, and carried with it a reprimand, I felt I had dealt harshly rather than otherwise with him; and the subsequent judgment of dismissal was an aggravation of punishment which I do not think he deserved.

I beg, therefore, respectfully to express my hope that on your recommendation Mr. Homersham may be reinstated by the Lords of the Treasury.

I have, &c.,

GEO. GIPPS.

Sir George Gipps to Right Hon. W. E. Gladstone.

(Despach No. 149, per ship Palestine.)

Sir,

Government House, 10th July, 1846.

With reference to my Despatch No. 145 of the 8th instant, I have the honor to report that I have paid into the Military Chest the further sum of £70 10s. 8d., finding that that additional sum will probably be required to meet the Interest on Debentures payable by Mr. Barnard on the 31st December next.

I have, &c.,

Geo. Gipps.
DESPATCHES
TO AND FROM ENGLAND
DURING THE
ADMINISTRATION OF SIR MAURICE O'CONNELL.

When Sir George Gipps sailed from Sydney in the ship "Palestine" on the 11th of July, 1846, Sir Maurice O'Connell, being the senior military officer, assumed the administration of the government. He held office until the arrival of Sir Charles Fitz Roy on the 2nd of August following.
Sir Maurice O'Connell to Right Hon. W. E. Gladstone.

(Despatch No. 1, per ship Eagle; acknowledged by earl Grey, 11th January, 1847.)

Sir, Government House, 14th July, 1846.

I have the honor to report to you the departure of Sir George Gipps, the Governor of this Colony, in the Ship "Palestine," which sailed from Port Jackson on Saturday the 11th instant for London direct. I enclose for your information a Copy of the Supplement of the Government Gazette published on the 13th Instant, containing the various addresses presented to Sir George Gipps on his retirement from the administration of the Government of the Colony, with the answers which he returned to them.

Amongst these addresses will be found one from the Executive Council to which I had great pleasure in attaching my signature, in testimony of the unfeigned respect I have entertained for the public and private character of Sir George Gipps during the whole period I have had the honor to be associated with him as a Member of his Government.

It is further my duty to report to you that, in conformity with the provision contained in Sir George Gipps' Commission bearing date the 5th October, 1837, immediately on his departure I assumed, as Senior Officer in Command of Her Majesty's Forces within the Territory, the administration of the Government of the Colony, and I took the required Oaths before His Honor Alfred Stephen, Esquire, Chief Justice of New South Wales, and the Members of the Executive Council, on Monday the 15th instant.

The Supplement of the Government Gazette above referred to also contains a copy of the Proclamation which I caused to be issued on the occasion.

I have, &c.,

M. C. O'Connell.

[Enclosure.]

[This was the supplement to the "Government Gazette," dated 18th July, 1846.]
EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 3, per ship Tasmania.)

Downing Street, 16th July, 1846.

Sir,

I have received Sir George Gipps' Dispatch, No. 42 of the 17th of Feb. last, addressed to my Predecessor, enclosing a Petition to the Queen from the Municipal Council of the Town of Melbourne, praying that, in the event of a Loan in aid of Immigration to New South Wales being sanctioned by Her Majesty, the Land Revenue of the District of Port Phillip may not be pledged in conjunction with that of New South Wales generally.

You will acquaint the Memorialists that I have laid the Memorial before the Queen, who was pleased to receive it very graciously, but that there exists no intention at present on the part of Her Majesty's Government of sanctioning the Loan which the Petitioners deplore.

I have, &c,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 4, per ship Tasmania; acknowledged by Sir Charles Fitz Roy, 17th February, 1847.)

Downing Street, 17th July, 1846.

Sir,

With reference to my Predecessor's Desp. No. 51 of the 4th Inst., I transmit to you herewith, to be promulgated in the usual and most Authentic Manner, the enclosed Order of the Queen in Council, disallowing the Act of the Legislature of New South Wales, 7 Vict., No. 3, entitled an "Act to give a preferable Lien on Wool from season to season, and to make mortgages of Sheep, Cattle, and horses, valid, without delivery to the Mortgagee."

I also enclose the Certificate, required by the Statute 5 and 6 Vict., Chap. 76, Sec. 32, of the day on which such Act was received at this Department.

I have, &c,

GREY.

[Enclosure No. 1.]

ORDER-IN-COUNCIL.

At the Court at Buckingham Palace the 6th of July, 1846.

Present:—The Queen's Most Excellent Majesty; His Royal Highness Prince Albert; Lord Chancellor; Lord President; Lord Privy Seal; Duke of Bedford; Marquess of Aberdeen; Marquess of Anglesey; Marquess of Clanricarde; Earl of Jersey; Earl of Beverley; Earl of Clarendon; Earl Grey; Earl of Auckland; Lord John Russell; Viscount Palmerston; Viscount Morpeth; Lord Campbell; Mr. Fox Maule; Sir John Hobhouse, Bart.; Sir George Grey, Bart.; Mr. Macaulay; Mr. Chancellor of the Exchequer.

Whereas, by an Act passed in the 5th and 6th years of Her Majesty's reign, entituled, "An Act for the Government of New South
O'CONNELL TO GLADSTONE. 145

"Wales and Van Diemen's Land," it is amongst other things enacted that, whenever any Bill which shall have been presented for Her Majesty's assent to the Governor of the said Colony of New South Wales shall by such Governor have been assented to in Her Majesty's name, the Governor shall by the first convenient opportunity transmit to one of Her Majesty's Principal Secretaries of State an authentic Copy of such Bill, so assented to, and that it shall be lawful, at any time within two years after such Bill shall have been so received by the Secretary of State, for Her Majesty by Order in Council to declare Her disallowance of such Bill; and that such disallowance together with a Certificate under the hand and Seal of the Secretary of State certifying the day on which such bill was received as aforesaid being signified by the Governor to the Legislative Council of the said Colony by speech or Message to the said Council or by Proclamation in the New South Wales Government Gazette, shall make void and annul the same from and after the day of such signification. And Whereas, on the 15th of September, 1843, the Governor of the said Colony assented in Her Majesty's name to a Bill passed by the Legislative Council of the said Colony, intituled, "An Act to give a preferable lien on Wool from Season to Season and to make mortgages of Sheep, Cattle and horses valid without delivery to the Mortgagor, and to substitute for a limited time other provisions in lieu thereof," which Bill was received by the Right Honorable Lord Stanley, then one of Her Majesty's Principal Secretaries of State on the 22nd day of July, 1844; and Whereas it is expedient that the said Bill should be disallowed; Now therefore Her Majesty, in pursuance of the said Act, and, in exercise of the powers thereby reserved to Her Majesty as aforesaid, doth by this present order and with the advice of Her Majesty's Privy Council declare Her disallowance of the said Bill.

And the Right Honorable Earl Grey, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

WM. L. BATHURST.

[Enclosure No. 2.]

CERTIFICATE.

I, HENRY, EARL GREY, being one of Her Majesty's Principal Secretaries of State having the Department of the Colonies, do hereby certify that the Act, passed in the 7th year of Her Majesty's Reign, entitled, "An Act to give a preferable lien on Wool from Season to Season and to make mortgages of Sheep, Cattle and horses valid without delivery to the Mortgagor," was received at this Department on the twenty second day of July, 1844.

Given under my hand and Seal, this 17th day of July, 1846.

GREY.

SIR MAURICE O'CONNELL TO RIGHT HON. W. E. GLADSTONE. (Despatch No. 2, per ship Eagle.) Sir, Government House, 18th July, 1846.

In attention to Your Despatch of the 12th February, 1846, addressed to Sir George Gipps requesting information on behalf of the person named in the margin* relative to her husband

SIR MAURICE O'CONNELL TO RIGHT HON. W. E. GLADSTONE. (Despatch No. 2, per ship Eagle.)

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SIR MAURICE O'CONNELL TO RIGHT HON. W. E. GLADSTONE. (Despatch No. 2, per ship Eagle.)
Roban Fidkins, I have the honor to transmit herewith a copy of a letter from Mr. Howe, one of the Magistrates acting for the District of Campbelltown in this Colony, containing the necessary particulars respecting the individual in question. It will be perceived that there is a discrepancy as respects his Christian name, and the year of his emigration to this Colony, the party calling himself Urban not Roban Fidkins and the year of his arrival being 1817 and not 1814 as stated by his wife. There is little reason, however, to doubt that he is the individual referred to.

I have the honor further to report to you that a Copy of Sarah Fidkins' letter has been transmitted to Urban Fidkins.

I have, &c.,

M. C. O'Connell.

[Enclosure.]

MR. W. HOWE TO COLONIAL SECRETARY.

Sir, Police Office, Campbelltown, 17th July, 1846.

In reply to your letter of the 2nd Instant enquiring about the individual named in the margin,* I have the honor to furnish you with the following particulars:—

A person calling himself Urban Fidkins resides near Denham Court in the District of Liverpool; he states he came by the Ship "Fame" in March, 1817; that he left Portsmouth on the 9th October, 1826, and wrote to his friends in June, 1844, to the care of James Sansbury, Banbury, Oxon. Fidkins is now acting as Schoolmaster at one Atkinson's near Denham Court.

I have, &c.

W. Howe, Junr., J.P.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 5, per ship Tasmania.)

Sir, Downing Street, 21st July, 1846.

With reference to the concluding paragraph of my Predecessor's Dispatch No. 44 of the 15th ulto., I have now to inform you that the Lords Comrs. of the Treasury have given directions for the supply of the articles comprised in the Requisition for the Convict Medical Department, which accompanied Sir G. Gipps' Dispatch, No. 207 of the 25th of Novr., 1845.

I have, &c.,

Grey.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 6, per ship Tasmania.)

Sir, Downing Street, 21st July, 1846.

The Letter and its Enclosure, of which the accompanying Copies, have been addressed to one of my Under Secretaries by the Colonial Land and Emigration Commissioners.

* Marginal note.—Roban Fleakin or Fidkin.
GREY TO FITZ ROY.

You will observe that it has reference to a statement which appeared in the papers printed for Parliament relating to New South Wales, as having been made by Dr. Udney in his Evidence before a Committee of Council in that Colony, and affected the characters of certain Members of the Land and Emigration Office, whom it accused of uttering expressions injurious to the interests of New South Wales.

In compliance with the Commissioner's request, I have to desire that you would submit the explanation now afforded by them on this subject to the Legislative Council, in order that any unfavorable impression, which they may entertain of the conduct thus imputed by Dr. Udney to the Gentlemen in question, may be corrected.

I have, &c,

GREY.

[Enclosure No. 1.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Sir, Colonial Land and Emigration Office, 7th July, 1846.

We have the honor to report that we observed, in the evidence given by Dr. Udney before a Committee of Council in New South Wales, a statement that between three and four years ago Mr. Wilcocks of Plymouth and Alderman Andrews of Belfast, officers in land having called at the Office of this Board, every effort was used to dissuade them from proceeding to New South Wales, and that, whilst injurious expressions were employed regarding that Colony, Books were offered to them to convince them and their friends of the superiority of other places.

We thought it our duty to endeavour to ascertain the correctness of this statement by enquiry of the two Gentlemen referred to by Dr. Udney.

We have received the enclosed reply from Mr. Wilcocks, by which it appears that he never had any communication whatever at this office on such topics as those referred to, and that the only enquiries he ever made of the kind took place several years ago at the office of the separate Commission, which existed in the Adelphi for the Colony of South Australia.

We have made every effort to trace out the Gentleman alluded to as Alderman Andrews of Belfast, but no such person can be ascertained ever to have been known at Belfast.

Every person in the employment of this Commission has strict orders not to disparage any of the Colonies, nor to praise one at the expense of others; and we should be very glad if it be deemed right to place the Governor of New South Wales in possession of the present report, in order that he may have the means of correcting, if necessary, any impression that any of the Gentlemen in this office had been guilty of the serious impropriety implied in Dr. Udney's Statement.

We have, &c,

T. FREDK. ELLIOT.
C. ALEXR. WOOD.
21 July.

Denial by J. B. Wilcocks of evidence of J. Udney.

EXTRACT of a letter from Dr. J. B. Wilcocks, dated Plymouth, 26th June, 1846, to S. Walcott, Esqre.

"Shortly after the commencement of my connection with Mr. John Marshall in 1839, I was in London when that Gentleman mentioned Dr. Udney's name to me, stating that he was the author of a Book, called an "impartial examination of all the Authors on Australia"; that he was a zealous promoter of Emigration to New South Wales; and that he was about to give lectures on Emigration in reference to that Colony in various parts of England; and that he would soon be at Exeter (where I was then residing) in the course of his Tour; and requested me to assist him in the object in view, which I promised to do. Subsequently I received a letter from Dr. Udney referring to Mr. Marshall's introduction, and stating the day he expected to be in Exeter; he afterwards arrived and found his way to my house, at which during his stay in Exeter and his subsequent return to it he received that hospitality and attention which it is usual to shew to a stranger coming recommended by a person of respectability. During the time Dr. Udney was in Exeter, he delivered several Lectures at the Athenaeum, the use of which I obtained for him, in which the advantages of emigration to New South Wales, particularly in Mr. Marshall's ships were highly lauded, while South Australia and all the other Colonies were deprecated. When not engaged in lecturing, Dr. Udney employed himself in distributing Mr. Marshall's circulars, with other publications on the advantages of emigration to New South Wales, and in visiting various places in execution, I believe, of his commission from that Gentleman to appoint Agents for him.

"At this period the Australian Colonies were as new to me as to large masses of other persons whose attention had not been specially directed to them. My own attention had in fact been engaged only in consequence of the departure of some friends the previous year (1838) in one of Mr. Marshall's ships to Sydney, and whose first letters containing glowing descriptions of the Colony I was then just receiving.

"During my visit to London, I had called at the office of the South Australian Commissioners in the Adelphi, with a view to obtain information on some points, I forget what now, and I recollect that, in mentioning New South Wales, some observations in depreciation of that Colony were made; the 'third Annual Report of the Colonization Commissioners for South Australia' was given to me. I afterwards called at the Rooms of Messrs. Capper and Gole, somewhere in West Strand, who were then known by their public Advertisements and was received (I think by Mr. Capper) most courteously, and he presented me with a work he had recently published, I do not recollect its title, but I think it was a history of South Australia. Now these circumstances, I have no doubt, I mentioned to Dr. Udney in the course of conversation as illustrative of the active exertions which the friends of each particular Colony were making; and, out of these very ordinary and in no way improper circumstances, has Dr. Udney's evidence arisen no doubt from a misconception on his part.

"The Visit to the South Australian Commission, and one interview of a few minutes with yourself on the subject of our Agency
O'CONNELL TO GLADSTONE.

in Plymouth after Mr. Marshall's Bankruptcy, are, as far as I can recollect, the only calls I have ever made at any 'Commission'; and on this latter occasion I do not think I even saw a clerk, for I rang the Door Bell, and, unless I mistake greatly, was shown up to your room by the Porter. I can, therefore, most distinctly deny of evidence of having made such statements as attributed to me by Dr. Udney. J. R. Wilcocks, J. Udney. Who Alderman Andrews of Belfast may be, I know not. This is the first time I ever heard of him."

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 7, per ship Tasmania.)

Sir, Downing Street, 22d July, 1846.

Your Predecessor's Dispatch, No. 195 of the 22d Novr. Despatch last, was received at this Department, in which he entered into an explanation of a question which had been raised by the Legislative Council of New South Wales, with regard to the payment of rewards to Informers with a view to the discovery and prevention of illicit Distillation, the Council having denied the right of the Executive Government to deduct the amount of such rewards from the gross proceeds of the Duties levied without the express authority of Acts of the local Legislature.

Mr. Secretary Gladstone having referred that question for the consideration of the Law Officers of the Crown, they have reported that they entertain some doubt upon the subject, but are disposed to think that rewards to Informers for giving information of the evasion of duties are not within the words, which appear in the 36 Clause of the Constitutional Act (5 and 6 Vict., c. 76), "Costs, charges, and expenses incident to the collection, management and receipt of the Revenue," and that the Council are, therefore, right in their view of the question.

The Law Officers have further suggested that, if those rewards are considered necessary for the detection of illegal Distillers, an Act should be passed to authorise them, which would of course set the question at rest. You are, therefore, authorised to introduce a Bill for that purpose into the Legislative Council, if you should consider such a measure to be necessary.

I have, &c,

GREY.

SIR MAURICE O'CONNELL TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 4, per ship Eagle; acknowledged by earl Grey. 10th January, 1847.)

Sir, Government House, 24th July, 1846.

In conformity with the direction contained in your Despatch to Sir George Gipps of the 12th February, 1846, I have the honor to report that, having called on Mr. Ralph Ruddell of
Melbourne through the Superintendent of Port Phillip for a Copy of the letter, he addressed to the Secretary of State on the 16th August, 1845, requesting that a small Cattle run may be allotted to him with permission to pay for it by certain annual instalments, Mr. La Trobe has obtained from Mr. Ruddell a Copy of the letter referred to, or as nearly so as he is now able to supply. I beg leave to enclose herewith a Copy of Mr. La Trobe's letter to the Colonial Secretary of this Government, forwarding the Copy of the communication in question.

In transmitting this document, it is scarcely necessary for me to do more than express my entire concurrence in Mr. La Trobe's opinion that neither of Mr. Ruddell's proposals can be complied with without a complete departure from existing rules and regulations, nor indeed as regards the proposed mode of payment for the run, without an infraction of the provisions of the Crown Lands Sales Act, 5th and 6th Victoria, Cap. 36.

I have, &c.,
M. C. O'CONNELL.

[Enclosure.]

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 8, per ship Tasmania.)

25 July.
Downing Street, 25 July, 1846.

Sir,
With reference to my Predecessor's Despatch, and its enclosures No. 46 of the 4th Instant, I have now to inform you that the Lords Commissioners of the Treasury have given directions for the payment to the Treasury of New South Wales by the Officers in charge of the Commissariat in that Colony of the sum of Two thousand Pounds in such manner as you may require, being the amount recovered from the Security of Mr. Manning, late Registrar of the Supreme Court.

I have, &c.,
GREY.

SIR MAURICE O'CONNELL TO RIGHT HON. W. E. GLADSTONE.
(Despatch No. 5, per ship Eagle.)

25 July.

Sir,
In conformity with the instructions conveyed to Sir George Gipps in Lord Stanley's Despatch No. 34 of 9th March, 1843, I have now the honor to transmit herewith the Annual Account rendered by the Colonial Treasurer of New South
Wales of the sums received and payments made for the services and purposes specified in the Schedules A, B and C, annexed to the Act, 5th and 6th Victoria, Cap. 76, for the Year 1845.

For any explanation of the items of this Account which may be desired, I beg to refer to the Quarterly Accounts current of the Colonial Treasurer of the Receipts and Expenditure under the Schedules referred to, with the Vouchers in support of the same, which, I am informed, have been transmitted by the Auditor General of this Colony to the Commissioners of Audit in London.

I have, &c.,

M. C. O'Connell.

[Enclosure.] A copy of this statement is not available.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 9, per ship Tasmania; acknowledged by Sir Charles Fitz Roy, 27th December, 1846.)

Sir,

Downing Street, 27th July, 1846.

An application has been received at this Department from Mr. J. A. Jackson, dated Sydney, 27th December, 1845, referring to the circumstances under which he had tendered his resignation of the Office of Colonial Secretary at South Australia and urging his claims to re-employment in the Colonial Service.

It is unnecessary to enter into a statement of the circumstances of this case, which had reference especially to the period during which he held the Office of Treasurer under the same Government. But, the Lords Commissioners of the Treasury having in the year 1843 expressed their opinion that, unless Mr. Jackson succeeded in explaining his conduct, his employment in the Public Service should still be discontinued, it was thought proper on receiving the recent application from Mr. Jackson to ascertain from the Lords Commissioners whether, from that communication or from any other explanations rendered by him either to their Lordships or to the Commissioners of Audit, they were led to consider that Mr. Jackson had succeeded in removing the imputation which had rested on his character in connection with the circumstances referred to.

I transmit to you herewith copies of the Correspondence with the Board of Treasury, and I have to request that you will communicate them to Mr. Jackson. Adverting to the effect of Mr. Trevelyan's Letter, it is impossible for me to hold out to Mr. Jackson a prospect of employment under this Department.

I have, &c.,

GREY.
1846.
27 July.

Request for report re J. A. Jackson.

[Enclosure No. 1.]

UNDER SECRETARY STEPHEN TO MR. C. E. TREVELYAN.

Sir,
Downing Street, 4 June, 1846.

With reference to your Letter of the 27th November, 1843, and to the opinion of the Lords Commissioners of the Treasury, therein expressed, that, unless Mr. Jackson should succeed in explaining his conduct in reference to the sum of money, the proceeds of the Land Revenue of South Australia, which had been retained in the Bank of South Australia without the knowledge of the Governor, it was inexpedient that he should be again employed in the public Service, I am directed by Mr. Secretary Gladstone to transmit the enclosed Letter from that Gentleman for the consideration of their Lordships, and to request that you will move the Lords Commissioners to acquaint him whether, from this or from any other explanations should such have been rendered by Mr. Jackson either to their Lordships or to the Commissioner of Audit, they are led to consider that Mr. Jackson has succeeded in removing the imputation which then rested on his character in connection with the transaction referred to.

I have, &c.,

JAS. STEPHEN.

[Sub-enclosure.]

MR. J. A. JACKSON TO LORD STANLEY.

My Lord,
Sydney, New South Wales, 27 December, 1845.

When in England last year, I had the honor of a correspondence with your Lordship in the course of which, in a Letter dated 3rd August, 1844, I submitted to your Lordship's consideration the grounds upon which I conceived I had claims upon Her Majesty's Government for re-employment in the public Service of the Colonies, and that Your Lordship was unable to make any promise on the subject of my application.

It is with great reluctance that, at this distance of time, I again bring myself under your Lordship's notice and beg your Lordship to turn your attention from subjects of high and pressing importance to the case of an individual humble as myself. My excuse for this intrusion must rest on the belief which I have never ceased to entertain that I have claims upon the justice of your Lordship, and that Your Lordship is ever ready to listen to an appeal made upon such a representation. And yet, my Lord, however well founded those claims may be, I should not thus trespass on your Lordship's attention, were the fact not that, after many ineffectual efforts in this place, at Port Phillip and in Van Diemen's Land since my return to these Colonies twelve months ago to obtain means of support for my family, I have at length before me the immediate prospect of destitution. It may be very unusual and to me I assure your Lordship it is very humiliating thus to address Her Majesty's Secretary of State. But most truly did I say in my Letter to Your Lordship of July 17th, 1844, that my acceptance of Office in South Australia has been the cause of my ruin; though I did not then foresee that all hopes of a retrieval were entirely cut off. I now discover that the devotion of time spent by me in both Australia at the most critical period of my life and to avocations of no value whatever in the ordinary pursuits of life has been of irreparable injury to me. Opportunities of profit and advancement have been lost, which can never occur again; at the same time, friends have died, others from distance of time and place have become estranged in the great vicissitudes which have fallen upon these Colonies; misfortunes have overtaken others, and I have seen a young family increasing around me at once demanding renewed efforts on my part to obtain employment and limiting my power of seeking it to this remote quarter of the Globe. Whether Your Lordship did not preclude my entertaining hope of re-employment, when I was in England; and I now earnestly beg your Lordship to nominate me to some Office in the Australian or Eastern Colonies of the Crown, compatible with those which I have already had the honor to fill in Her Majesty's Service.

In making this renewed application to Your Lordship, there are a few points which I think I may properly bring under your Lordship's consideration. In my Letter to Your Lordship from this Country, dated 19 August, 1843, reference was
made (more particularly in the accompanying correspondence which had shortly
before passed between myself and Governor Grey's Private Secretary) to certain
instructions from the Colonization Commissioners to the Colonial Treasurer of South
Australia. I feel, my Lord, that no proposition can be clearer than that, where a
Public Accountant has responsibilities, he must have some correlative rights; and
J.A. Jackson
that among the latter are those: First, there should be left no room for doubt what
are the rules and regulations by reference to which his accounts are to be audited;
Second, that an Accountant at this end of the Globe should have a prompt and
efficient local Audit of his Accounts before their transmission for final Audit to
England, by which errors being promptly pointed out would in almost every possible
instance admit of ready correction and their recurrence be easily prevented for the
future. Now I must beg leave to say that whatever circumstances and chiefly I
believe my own spontaneous suggestion may have given an admitted importance to
the instructions in question, and caused them to be referred to as pointing out proper
general rules of public Accountancy; they at no time came recommended to my
notice in a formal or authoritative manner, so as to stamp them my responsible
instructions; but that, so far to the contrary on my appointment to the Office of
Colonial Treasurer I found them wholly unheeded in practice, and if I may call
them so a dead letter. In the next place, I would beg to observe that my accounts
have apparently been audited in the Colony, and in England, upon quite different
principles. From the local Auditor, I have Certificates of the entire correctness
of my accounts to the termination of my charge.

In my same Letter of August, 1843, your Lordship was apprised of a certain
Memorandum, which, in November, 1829, I submitted to Colonel Gawler from whom
it received a flattering approval. With exception of the last paragraph, this Me-
memorandum embodied a detail of practice suggested for improving (as far as I could
gather it) the actual mode of conducting the Public Accounts of the Colony; and
I may presume Governor Grey furnished your Lordship with a Copy of it in com-
plicity with a request, which I made to that effect. The original document was
accompanied with many forms of Accounts prepared by me, of which Copies were
afterwards at the Governor's desire forwarded by me to all heads of Public depart-
ments; and I think it must be apparent on the face of it that at least it evinced
an anxiety on my part to render myself an useful Public functionary. It certainly
was my opinion at the time if greater experience has caused me to modify it since,
that the various suggestions embraced in this paper were all of them called for by
existing circumstances, though in saying this I would be understood to contemplate
me only familiar with the local or what I judged my proper sphere of influence.
I can only regret as an integral part of the then existing system was to hold heads
of departments individually responsible for the correctness of their Accounts, which
in their local Audit, and by calling upon those functionaries
certified as correct prior to payment; that this responsibility was not rendered
an effectual one by a more searching Audit of individual Vouchers than ever
appears to have taken place in the Colony, and by calling upon those functionaries
without delay for a rectification of any errors caused by their neglect or in-
advertence. This unfortunate omission I only learned from the English Commissi-
ioners of Audit nearly two years after my first Quarter's Accounts were closed and
sent in for local Audit. In the neighbouring Colonies of New South Wales and Van
Diemen's Land, I believe the practice is (as it afterwards became in South Aus-
tralia upon my representation) not only to prepare all Warrants in the local Audit
Office, but also all Vouchers of Expenditure, so that they are fully, guarantee-
ad against error before being sent to the Colonial Treasuries; though still I presume
they would receive a formal Audit after being made Treasury Vouchers, and before
their transmission to England. But the Audit Offices of these Colonies are filled
with experienced Clerks and are superintended by old and experienced Officers from
the Army Commissariat of Accounts. The consequent advantages to the Colonial
Accountant are incalculable. In South Australia throughout the period of my public
Accountancy, it is perhaps only fair to others to say the Auditor General was also
Sheriff of the Colony, probably never had any appropriate experience and had little
and but inefficient clerical assistance. The Audit Office was indeed only established
about the time of my appointment.

I say, my Lord, that heads of Departments were individually responsible for the
correctness of their accounts. But I had solicited Colonel Gawler's attention to the
necessity of this being felt by these Officers as something more than a mere formality,
and accordingly at a large Meeting of all the public functionaries of the Colony
convened by the Governor for the purpose early in the year 1840 (according to a
practice usual at the time, and which unfortunately led to some neglect of the
practice of written instructions), this responsibility was very emphatically impressed
upon them; and assumingly the now notorious fact that, as Treasurer, I never was
interrogated upon the accuracy of individual vouchers, left me no room to doubt
that in their local audit every inquiry had been made of those Officers, necessary
to their elucidation or correction, and satisfactorily replied to before their trans-
mission to England.
I cannot forbear troubling Your Lordship with a few remarks on another point, already brought under your Lordship's notice in my letter from Sydney of August, 1843. I refer to the observations made by the local Audit Board called into existence by Governor Grey in the course of that year, on what they termed my "deliberate recommendations to set aside" my instructions. I expressly stated in the memorandum to which they refer, that the practice had been to obey Warrants without any demur, and it was submitted that this practice "should continue." There is surely, my Lord, an obvious difference between broadly recommending instructions to be "set aside," and suggesting as here is done that a practice already established should, although opposed to certain instructions, for reasons which appeared cogent, be permitted to continue. The one case assumes the instructions to be presently existing to full and admitted force and duty acted upon, and that then they were recommended to be no longer followed; the other that, if they ever had such character, they had grown into practical disuse. A reference to them at all by me was perhaps a superfluous caution.

There is another observation I would beg to offer on this particular branch of the subject. I have no desire to shrink from any responsibility justly attaching to any act of mine; but I think I may fairly point out that the document, which the Local Board subject to such summary censure, was no more than a document in its nature not wholly public and official. It is the suggestion of an inferior to a superior functionary, and it is to be presumed, before acting upon, would receive from the latter all the grave consideration which his responsibility, so much greater in ordering than mine in suggesting, would require at his hands.

The more regular course indeed, it is surmised, would have been for the superior authority to have issued public orders, founded if he pleased on my suggestions, but ostensibly emanating from himself.

Had this usual mode of proceeding been adopted, a single act of mine would not thus have appeared to my disadvantage and been held up as it has been, I cannot avoid saying, in a tone if not in spirit of hostile advocacy. Indeed a careful and attentive examination of the remarks of the Audit Board, in close connection with my own and Colonel Gawler's actual expressions, appears to me in more than one instance to evince a want of due care in drawing out general conclusions from the express terms before them; the more objectionable this that these conclusions are condemnatory of others. They remark that explicit orders are deliberately recommended to be set aside "in anticipation of the Governor occasionally acting contrary to express Instructions, etc." Your Lordship will find that the principal grounds of my suggestions were that "the exigencies of the Public Service must frequently require that disbursements should be made without time being given for reference to the Commissioners at home; and that the Governor remarks that the Public Service in this Province urgently demands that considerable expenses should from time to time be incurred not sanctioned by any specific Warrant from the Commissioners." My recommendations and the Governor's approval of them, therefore, really rested upon grounds quite opposed to those stated by the Board. I had in view a course of expenditure in the midst of which I suddenly and I must say quite unexpectedly found myself, so extensive that my first quarter's accountancy numbered, if my memory serves me correctly, nearly nine hundred (900) separate credit vouchers, and amongst the immense detail and multiplicity embraced in these documents, I believe I am quite within bounds in saying that nineteen twentieths of them at all by me was perhaps a superfluous caution.

In truth, My Lord, there is a contagion of the mind which requires no small degree of vigilance to guard against in cases like the present. When once there arises a rumour that those in Office in former times have committed errors, it is so common for men to join in indiscriminating condemnation of the past. Faults, imprudences, inadvertencies become all magnified; while the qualifying circumstances, in connexion with which the same acts would be meritorious which viewed singly are exposed to censure, are forgotten or lost sight of. Pardon these reflections, My Lord; but in this instance all the hidden motives of vanity and self interest would be peculiarly called into action to back those general tendencies; the vanity of exhibiting superior tact and sagacity in detecting error, and the self interest which would prompt a new functionary to the display of uncommon zeal and energy. My Lord, it is my conscientious belief, without desiring to reflect upon the honor and integrity of any man that a just and impartial judgment on past conduct could only be formed by those who, having full powers and opportunities to enquire into the past, should have no possible interest in my condemnation, should regard it as their duty to ascertain not only what was wrong but what meritorious and excusable in the conduct of public functionaries, and should if that can be hoped for in human nature be wholly exempt from prejudice of any kind.

May I hope that what I have now laid before Your Lordship, added to former representations, will incline Your Lordship to a favorable consideration of
renewed request for re-employment; and, should I be so fortunate as to obtain the offer from Your Lordship of any appointment in the Colonies to which, having reference to my past experience, it might be thought I was eligible, I would respectfully request Your Lordship to address to me at this place to the care of Messrs. Griffiths, Fanning and Co.

I have, &c.,

J. ALEX. JACKSON.

[Enclosure No. 2.]

MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 20 July, 1846.

In reply to your communication of the 4th of June last, I am commanded by the Lords Commissioners of Her Majesty’s Treasury to request that you will state to Earl Grey, that it has not appeared to My Lords that the circumstances, adduced in Mr. Jackson’s letter of 27 Decr. last, afford any satisfactory vindication of his conduct in the respects adverted to in the report of the Colonial Land and Emigration Commissioners of 11 Augt., 1843, with reference to which the opinion expressed in their Lordships’ Letter of the 27th Novr., 1843, was signified to the Secretary of State.

I am, &c.,

C. E. TREVELYAN.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch marked “Separate,” per ship Tasmania; acknowledged by Sir Charles Fitz Roy, 23rd December, 1846.)

Sir, Downing Street, 31st July, 1846.

I wish to bring under your notice the name of Mr. George F. B. St. John, who, I perceive from the returns, holds the appointment of Commissioner of Crown Lands for the County of Bourke in the Port Phillip District; and I should be glad if it should be in your power to forward his interests with a due regard to those of the Public Service, and without prejudice to the just claim of other Officers of Your Government.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch marked “Separate,” per ship Tasmania; acknowledged by Sir Charles Fitz Roy, 21st June, 1847.)

Sir, Downing Street, 31 July, 1846.

I transmit to you herewith a Copy of a Letter from the person described in the margin,* containing an application for information relative to David Lang, who is stated to have Emigrated to the Colony under your Government, and I have to request that you will transmit to me such information as you may be able to obtain on the subject of the enquiry.

I have, &c.,

GREY.

* The margin is blank in the original.
156 HISTORICAL RECORDS OF AUSTRALIA.

1846. 31 July.

[Enclosure.]

MR. JOHN LANG TO ———.

Gentlemen,

15 July, 1846.

I respectfully address your honorable Board to solicit information from you respecting a Man of the name of David Lang, who was a Pensioner belonging to the 6th Regt. Foot, and who compromised with Government for a certain Sum of Money about 14 or 15 years ago (instead of his pension); and I believe that he was sent out of England to New South Wales. I want to know where he is located out there, and the part he is at (if he is still alive) and where I am to address him.

I am, &c.,

Baxenden, near Accrington, Lancashire.

JOHN LANG.
DESPATCHES
TO AND FROM ENGLAND
DURING THE
ADMINISTRATION OF SIR CHARLES FITZ ROY.

Sir Charles Augustus Fitz Roy, Kt., arrived in Port Jackson on the 2nd of August, 1846, and assumed office as captain-general and governor-in-chief on the following day.
DESPATCHES.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 11, per ship Walmer Castle.)

Sir,

Downing Street, 6 August, 1846.

I have laid before the Queen the Acts passed by the Legislature of New South Wales in the year 1845, the transcripts of which accompanied the Dispatches of Sir G. Gipps to Lord Stanley, dated the 23d Novr., 1845, and numbered respectively 199 and 204.

I subjoin a schedule of the Titles, Dates, and numbers of those Acts.

Sir G. Gipps has pointed out in the Acts numbered 8 (respecting the delivery of Coal in Sydney) and 10 (respecting diseased Sheep) and 15 (for the regulation of the Customs) a deviation from the usual and constitutional method of imposing Fines and pecuniary penalties. They are, in all those Acts, made payable not to the Queen, but to the Treasurer of New S. Wales, the produce being expressly declared to be subject to be appropriated by future Acts of the local Legislature. The evident indeed the avowed design of this innovation is to obviate a claim, which, under the Constitutional Act of the Colony, it is supposed the Crown might otherwise make to the proceeds of all such fines, penalties, and forfeitures, if granted as usual to Her Majesty; that Act having placed at the disposal of the Legislative Council the produce of all "Taxes, Rates, Duties, and Imposts only"; and those words, it is maintained, do not extend to a fine, to a penalty, or to a forfeiture.

I will not pause to discuss this question of Law. Assuming that in strictness the case of fines, penalties and forfeitures is omitted in the Act, and further assuming that the result of that omission is to leave that source of Revenue at the disposal of the Crown, I can have no difficulty in stating that it is a right on which the Queen will not be advised to insist; but which Her Majesty promptly and unreservedly surrenders to the Legislative Council. The Sum set apart for a Civil List is as large a part of the Revenue of the Colony (other than the land Revenue) as Parliament designed to withdraw (or as it is really desirable to withdraw) from the controul of the local Legislature. On the part of Her Majesty's Government, I entirely disclaim...
any wish to augment that deduction. Consequently, to any Acts which may be passed, imposing fines, penalties and forfeitures, and placing the produce of them at the disposal of the Legislative Council, no objection must be made on the ground of that provision, unless indeed the provision should be so framed as to take away or interfere with the Royal prerogative of Pardon.

But to the present Acts, or to any others which may be hereafter passed, granting fines, penalties or forfeitures to the Colonial Treasurer, there are serious objections. Such Legislation violates the Constitutional principle, that to the Sovereign alone is due whatever becomes payable by the Queen's subjects as a reparation, or as a penalty for a breach of the Law. It brings into grave doubt (if it does not defeat) the right of the Crown to pardon in such cases. It must incumber all legal proceedings against Offenders by the difficulties incident to the circumstance that the Treasurer is not a Corporation Sole, but that, with the death or resignation or removal of that Officer, the right of suit or prosecution would rest in his representatives, or remain with himself, instead of passing to his Successor in Office.

You will, therefore, suggest to the Legislative Council the propriety of amending these Acts by granting to the Queen the fines and penalties they impose, and by reserving to the appropriation of the local Legislature the proceeds of such fines and penalties, subject to Her Majesty's undoubted right to pardon the Offenders and to remit the penalty.

Until I shall be apprised of the result of that recommendation, Her Majesty's decision on these Acts will be suspended.

On the Acts 16, 17, 18 and 19, Suspending the Sydney and Melbourne Corporation Acts, and disposing of the Surplus Police funds of those Towns, Her Majesty will not (at least for the present) make any Order. They will of course continue in force so long as no such Order shall reach you.

The Acts No. 13 to amend the Law for the preservation of the Ports, and No. 29 for Auditing the Accounts of the Ordinary Revenue, are still under the consideration of Her Majesty's Government, and will form the subject of a future communication.

Subject to the exceptions already mentioned, Her Majesty is pleased to confirm and allow all the Acts enumerated in the subjoined Schedule.

I have, &c.,

Grey.

[Enclosure.]

[This was a list of the titles of acts of council, 9 Vict., Nos. 1 to 30, and the Australian general assurance company act.]
EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 14, per ship Walmer Castle; acknowledged by Sir Charles Fitz Roy, 21st February, 1848.)

Sir,

Downing Street, 10th August, 1846.

Mr. Secretary Gladstone having referred for the consideration of the Lords Commissioners of the Treasury Sir G. Gipps' Dispatch, No. 214 of the 29th Sept., 1844, with the explanation which accompanied it from the Treasurer of New South Wales, relative to a Contingent Account kept by him, I now transmit for your information and guidance a Copy of a letter from the Assistant Secretary to the Treasury, with a Copy of a Report of the Commissioners of Audit on the subject, and I have to request that you will procure and transmit to me the Certificate required by the Lords Commissioners of the Treasury in regard to the due transfer of all the items from the Separate to the General Account adverted to in the Report of the Commissioners of Audit in regard to the due transfer of all the items from the Separate to the General Account, together with a Certificate shewing that the final balance of the Separate Account had been duly brought into the General Account, and to the credit of the Colonial Government.

I have, &c,

GREY.

[Enclosure.]

CE. TREVELYAN TO UNDER SECRETARY STEPHEN.

Sir,

Treasury Chambers, 31st July, 1846.

I transmit herewith by command of the Lords Commissioners of Her Majesty's Treasury a copy of a Report of the Commissioners of Audit, dated 26th June, on your letter of the 16th of April, 1845, transmitting copies of a dispatch and correspondence relative to a Contingent account kept by the Treasurer of New South Wales; and I am to request that, in submitting the same to Earl Grey, you will observe to his Lordship that my Lords entirely concur in the remarks of the Commissioners of Audit upon the very irregular transactions to which the report has reference.

Their Lordships request you will further state to Earl Grey that, as the control and supervision of the Colonial Funds at New South Wales has devolved, from the end of the year 1843, on the local Government and Legislature, My Lords deem it only necessary further to observe that, in order to the exoneration of Mr. Riddell from responsibility in respect of the contingent Fund previously to that date, the Commissioners of Audit should be furnished with the more specific Certificate from the local Auditor in regard to the due transfer of all the items from the separate to the general account, to which they have adverted in their report, and likewise with a Certificate showing that the final balance of the separate account had been duly brought into the general account, and to the credit of the Colonial Government. You will, therefore, further move Earl Grey to instruct the Governor of New South Wales to cause the said certificates to be furnished.

I am, &c,

C. E. TREVELYAN.
HISTORICAL RECORDS OF AUSTRALIA.

[Sub-enclosure.]

REPORT BY COMMISSIONERS OF AUDIT.

Audit office, 26th June, 1846.

My Lords,

We have had under our consideration your Lordship's Order of Reference of 26th April, 1845, on a letter from the Colonial Office dated 16th April, 1845, with copies of a dispatch of 29th September, 1844, from the Governor of New South Wales, and correspondence between the Treasurer and the Secretary of the Colony (which are herewith returned) explanatory of a contingent account kept by the Treasurer, the Entries of which it was considered had not appeared in the public accounts rendered to this office as more fully brought under your Lordship's notice by our report of 26th February, 1844, No. 80.

On the 1st July, 1845, we received from Mr. Lithgow, the Auditor General of New South Wales, in a letter dated Sydney, 26th November, 1844, copies of the correspondence above mentioned, accompanied by the contingent account in question, with that declaration of the treasurer annexed thereto, and likewise a certificate of the Auditor General, that the account had been prepared after examination of the several books, vouchers and documents, and that, having carefully revised the examination, he considered the account to be correct.

Upon these papers, we have the honor of observing to your Lordships that we find the account to comprise transactions of £69,248 in amount, extending over a period exceeding 8 years, vizt., from 28th June, 1836, to 31st August, 1844, and to consist of three parts or divisions, viz.: 1. Receipts from public officers to liquidate their abstracts of contingent expenses and the payments made to the several claimants out of such receipts, with the several cheques upon the bank issued by him in detail to the several claimants. 2. The second division of the account comprises receipts from various sources of revenue temporarily placed to the treasurer's contingent account, until finally credited in the abstracts of collections of revenue, in all which cases references are given as regards the receipts to the particular part of the treasurer's general account, in which sums so received are in the aggregate brought by him to the credit of the Colony, and as regards the payments to the several cheques upon the bank issued by him in detail to the several claimants. 3. The third and last division consists of what are termed "Miscellaneous Transactions," in which are comprised interest from the colonial bank on the deposits of the contingent account, and some other items not specifically referable to either of the two preceding heads or divisions, including likewise certain transactions of Mr. P. L. Campbell with the funds of the account, whilst he was acting colonial treasurer in the absence of his principal Mr. Riddell, relative to which we shall before concluding our report, have more particularly to offer some remarks to your Lordship.

From the above description of the account, your Lordships will perceive that there is now reason to suppose that the items of which it is composed are included in the treasurer's general account, and do not form, as stated in our report of 26th February, 1844, above adverted to, a separate and distinct account of sums not otherwise accounted for, and in support of this opinion we may state that, after an attentive inspection of the account, and a comparison of some of the more recent entries (receipts) with the treasurer's general accounts still undisposed of in this office, we find that those entries agree.

We therefore apprehend that this account may be regarded either as a supplementary statement, having reference to transactions in the treasurer's accounts, which have already been disposed of, or are in the course of examination, and that the sums comprised therein have been virtually incorporated with those general accounts, although not in the amounts and under the dates in which they were received and paid, or in such a manner as to show that any such contingent account existed, when we first had occasion to report to your Lordships on the subject. Under these circumstances, and after the careful examination which has apparently been given to all the transactions by the auditor general on the spot, as shown by his certificate on the account, and presuming that this certificate would not have been given, unless the auditor general had satisfied himself that this contingent account had been virtually incorporated with the general account, we apprehend that your Lordships will concur with us in opinion that to institute in this office any such comparison in detail of those two accounts, extending over a period of eight years, and involving a reexamination into transactions which have for the most part already passed, would not be attended with any adequate advantage; nevertheless we think it proper to add that it would have been more satisfactory if the auditor general had distinctly stated in his certificate that such a comparison had been instituted by him, and that it is desirable that this point should still be ascertained by reference to the colony. For, unless this were part of the auditor general's examination, or unless he had at least ascertained that all the
GREY TO FITZ ROY.

1846.
10 Aug.

Report by audit commissioners as to contingent account of colonial treasurer.

items of credit in the contingent account were virtually included in the general account, there would be nothing to show that the same sums might not have been taken credit for twice, vizt., in both accounts.

We cannot however refrain from again observing on the irregularity which attaches to the proceedings of having established an account of this nature, which it appears took place without the Governor's knowledge or interference, whereby receipts, purely on account of the public service, were for a time at least kept out of sight; and on this point we see no reason for altering the views submitted in our report of 26th February, 1844; it does not appear, however, that upon the whole and with certain exceptions hereinafter to be noticed, the credits were kept out of the Treasurer's General account for any very lengthened period, but were entered therein principally at the times when he began to draw his cheques upon the bank for payment of the services, which these particular funds were designed to liquidate.

The main and we may add the only exception of any consequence to the above course of accounting, so far as affects Mr. Riddell is found in the items of accruing interest, allowed by the bank, between 28th June, 1836, and 1st March, 1839, amounting to the sum of £270 12s. 5d., in respect of which no credit appears to have been entered in his general accounts until 17th May, 1843, when the sum of £264 5s. 5d. was, in pursuance as it would appear of the order of the Governor, brought to account, which credit we find corroborated by the accounts in this office.

The difference between the two preceding sums, as well as the further accumulations of interest in the funds between 2d March, 1839, and 31st August, 1844, the latter amounting to £264 5s. 4d., falls into the General balance of the account (closed on 31st August, 1844) amounting to £275 0s. 9d., but we do not find that this balance is brought into the Treasurer's General account up to 31st December, 1844, which date it has been sent to this office; although not to be examined by us beyond the end of 1843. It may, therefore, be advisable that your Lordships should cause enquiry to be made in the colony as to the above balance having been brought to the credit of the colony in the treasurer's general balance and account.

We think it necessary to offer a few remarks upon the correspondence before us, wherein the Treasurer has given his reasons and explanation for adopting the system of a separate contingent account.

As far as regards the items of account in which the Governor had called upon him for explanation, we consider Mr. Riddell's explanation to be satisfactory subject to the proposed amended certificate above adverted to, and we concur with Sir George Gipps in the opinion expressed by him to the Secretary of State that Mr. Riddell had unreservedly furnished every information, and that there is nothing connected with the case to cast any imputation upon the integrity of his character.

At the same time, we do not consider that, either in the origin of the account or in any of the circumstances of the case as explained in the present papers, Mr. Riddell was exonerated from the duty of bringing the sums comprised in the contingent account to credit in his general account, immediately the same came into his hands, or that he was justified in allowing balances in the contingent account to accumulate at interest, no part of which latter receipt as before observed was accounted for in his general account as treasurer, till after a lapse of nearly seven years.

The most important part of this case, however, both as affecting individual responsibility and duty, and as shewing the abuse of which proceeding of this nature are susceptible, turns upon the transactions of Mr. P. L. Cambell, acting treasurer during Mr. Riddell's absence from the colony on leave, with regard to the moneys of the contingent account. Mr. Cambell, it appears, drew out on 4th July, 1840, for other than public purposes, from the contingent fund standing at the bank of Australia, the sum of £1,620 10s. 11d., which was not replaced until the 8th May, 1841, on which day he gave over his charge as Acting Treasurer to Successors in that office; no explanation whatever from or on behalf of Mr. Cambell is afforded, either in the papers referred to us by your Lordships or in those we have received from the Auditor General, as to this transaction, respecting which Mr. Riddell expresses his deep regret that Mr. Cambell should have considered "himself at liberty to touch any portion of the money." Mr. Riddell, however, goes on to state, in the following passage of his letter to the Governor, that "It appears at one time the account was actually overdrawn, and interest charged by the bank on the overdrawn account; but both interest and principal were replaced to the credit of the account, previous to my return in August, 1841. I have examined the several items connected with this transaction, and I believe the public has lost nothing."

We see no reason to dissent from the conclusion to which Mr. Riddell has thus come; at the same time we consider that, although no defalcation may have resulted, the transaction was most objectionable and irregular. We are not aware, however, that any steps can now be taken in the matter, as we understand that Mr. Cambell is no longer in the public service.

It may be proper to add that it appears from the Governor's letter that he had, as early as April, 1843, given orders for finally closing the contingent accounts and for carrying all such receipts and all receipts for interest, together with the balance of the account, at once into the Treasurer's General account, excepting only certain
receipts which had been included in the Contingent Account for the "Poundage Account," which service it appears is regulated by a specific Act of the Local Legislature, and the Funds not applied to general Colonial Service.

As the examination in this Office of the Colonial Account of New South Wales, except only as regards those of the Civil List voted by the Colony and of the Casual and Territorial Revenue Funds under the provisions of the 5th and 6th Victoria, Cap. 76, ceases from 31st December, 1843, the control and examination of the matters in question devolves exclusively on the authorities of the Colony, with whom it will therefore rest to take care that the directions of the Governor are duly acted upon, and the service properly regulated for the future.

W. L. HERBERT.
H. F. LITTLE.
A. GRANT.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 16, per ship Walmer Castle; acknowledged by Sir Charles Fitz Roy, 30th January, 1847.)

Sir, Downing Street, 12 August, 1846.

I transmit to you herewith an Extract of a letter from the Most Revd. Dr. Polding, in which he calls my attention to the form of Oath administered to Solicitors and others on their admission to practise in the Supreme Court of New S. Wales, and which he alleges to be repugnant to the religious feelings of several Gentlemen connected with the Court. Dr. Polding further states, on the authority of those Gentlemen, that the administration of that oath is not essentially required, that the late Chief Justice Sir J. Dowling invariably directed another form of Oath to be taken, and that the matter entirely rests with the Chief Justice for the time being.

I have to request that you will enquire into this subject; and, unless there should appear to be obstacles of which I am not aware I should wish the oath in question to be so altered as not to be offensive to persons of any religious persuasion.

Under any circumstances, I should be glad to be informed of the result of your enquiry.

I have, &c.,
GREY.

[Enclosure.]


"I HAVE been desired by several Gentlemen connected with the Supreme Court of Sydney to request Your Lordship's interference. With considerable pain, they hear an Oath, administered, at variance with their religious feelings, to Solicitors and others who seek admission into the practice of the Court. They assure me the administration of this Oath is not essentially required; that the late Chief Justice Dowling invariably directed another form of oath to be taken; that the matter entirely rests in the option of the Chief Justice for the time being. They feel that an intimation from Your Lordship will be sufficient to do away with a practice which, whilst it promotes no public good, tends to keep alive an estrangement of feeling by the very means intended to bind society in its several gradations more closely together.

"They, therefore, most respectfully solicit and I beg leave on behalf of the Catholic Community in the Australian Colonies to
unite in the prayer, that Your Lordship will give such directions as may shield them from the pain inflicted on their feelings by the administration of an Oath, not required, as I am assured, by the Law of England or of the Colony on the admission of Solicitors, etc., to practise in the Supreme Court."

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 17, per ship Walmer Castle.)

Sir,
Downing Street, 12 August, 1846.

I have received Sir George Gipps' Dispatch No. 44 of the 19th of Feb. last, enclosing Copies of a correspondence which had passed between the Government of New South Wales and that of Van Diemen's Land, relative to the erection of Lighthouses in Bass' Straits; and, with reference to my Dispatch No. 2 of the 10th Ultimo, I transmit to you copies of a further correspondence with the Board of Admiralty on the same subject.

The Lamps and other Machinery required from this Country will be sent out with as little delay as possible. I have, &c.,

GREY.

[Enclosure No. 1.]

UNDER SECRETARY STEPHEN TO CAPTAIN HAMILTON.

Sir,
Downing Street, 20th July, 1846.

With reference to former correspondence on the subject of Request for the erection of Lighthouses in Bass' Straits, I am directed by Lord Grey to transmit to you, for the consideration of the Lords Commissioners of the Admiralty, the enclosed copy of a further Despatch from the Governor of New South Wales on that subject; and I am to request that you will move the Lords Commissioners to acquaint his Lordship whether there is anything in the present Despatch, which would lead them to alter the opinion expressed in your Letter* of the 3d Instant.

Lord Grey would be glad to be favored with an early answer to this letter in order that the Lamps and other articles required to be sent out from this Country for the Lighthouses may be procured with as little delay as possible. I have, &c.,

JAS. STEPHEN.

[Enclosure No. 2.]

CAPTAIN HAMILTON TO UNDER SECRETARY STEPHEN.

Sir,
Admiralty, 22d July, 1846.

Having laid before my Lords Commissioners of the Admiralty your letter of the 20th instant, enclosing copies of a Despatch from the Governor of New South Wales on the subject of the erection of Lighthouses in Bass' Straits, I am commanded by their Lordships to acquaint you, for the information of Earl Grey, that there is not anything in the present Despatch which would lead my Lords to alter the opinion expressed in my communication of the 3d Instant; and I am further to inform you that they consider it advisable that the Machinery for the Four Lighthouses should be sent out from this Country. I have, &c.,

W. A. B. HAMILTON.

* Note 16.
1846.
12 Aug.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 18, per ship Walmer Castle.)

Sir,
Downing Street, 12 August, 1846.

With reference to my Predecessor's Dispatch No. 27 of the 24th of May, I have to acquaint you that I have laid before the Queen the Act, which was passed by the Governor of New South Wales, with the advice and consent of the Legislative Council (No. 20 of the 8th Novr., 1845), entitled "An Act to reduce for a limited time the Duties on Spirits imported into or distilled in that Colony."

Her Majesty has been graciously pleased to confirm and allow this Act; and you will communicate Her Majesty's decision to the Inhabitants of the Colony under your Government by a Proclamation to be published in the usual and most authentic manner.

I observe, however, that the Act in question simply reduces the amount of Duty chargeable upon each Class of spirits in New South Wales, without in any way altering the relation between those Duties. It is, therefore, right that you should be informed that, should provision be made by the Customs Bill of this Session for effecting the object, already contemplated by Her Majesty's Government, of equalising the Colonial Duties on British Produce, the Distinction, now in force and continued by the above mentioned Act, between Spirits the produce of the United Kingdom or of the British Possessions in America, and other Spirits of British Origin, will have to be abandoned.

I have, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 19, per ship Walmer Castle; acknowledged by Sir Charles Fitz Roy, 30th January, 1847.)

Sir,
Downing Street, 12 August, 1846.

Mr. Secretary Gladstone having referred to the Colonial Land and Emigration Commissioners Sir G. Gipps' Dispatch, No. 28 of the 31st of Jan., 1846, accompanied by Returns relating to Land and Emigration which had been called for by Lord Stanley, I now transmit to you for your information a copy of a letter from that Board. I have to request that you would transmit the Returns which have been omitted for the Port Phillip District, and I beg to call your attention to the points adverted to in the Memorandum of the Land Board.

I have, &c.,
GREY.
LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY_STEPHEN.
Colonial Land and Emigration Office,
31st July, 1846.

Sir,

We have the honor to acknowledge your letter of the 29th of May last, accompanied by certain returns relating to lands and emigration, which have been forwarded by the Governor of New South Wales in compliance with Lord Stanley's Circular Despatch of the 22nd March, 1845.

These returns, so far as they extend, appear to have been prepared with great care, and contain much useful information.

We feel it necessary, however, to point out that the statements relating to the Lands sold or let on Lease, etc., do not include the Port Phillip District. By the explanatory letter from the Colonial Treasurer enclosed in the present Despatch, it appears that he had not the documents in his Office, from which the returns for that District could be framed. It is nevertheless very essential that the information should be obtained if possible; and, as Sir George Gipps makes no allusion in his Despatch to any steps for remedying the deficiency, we would suggest that the present Governor should be requested to take measures for procuring the land returns from the Port Phillip district at an early period.

We have embodied in the enclosed Memorandum a few minor points which we have noticed in looking through the returns; and we would submit to Earl Grey that it may be desirable to forward it at the same time to the Governor for his information and for any observations he may wish to offer.

We have, &c.,
C. ALEXANDER WOOD.

[Sub-enclosure.] FREDERIC ROGERS.

MEMORANDUM.

1. In the returns of lands sold or under Lease, etc., the column relating to the appropriation of the proceeds is left blank. Required in explanations required in returns.

2. A remission of £50 in the purchase of land appears to have been granted in 1845 to a Sergeant in the Army. A statement of the authority for remission would appear to be requisite.

3. In the county of Hunter in 1845, one country Lot of 26 Acres was sold for £6 5s., being at the rate of 5s. per Acre. An explanation of this transaction seems to be necessary.

4. One Country Lot of 60 Acres in the county of Gloucester appears to have been sold in 1844 for £5, or 18s. per acre, and one of 54 acres in the county of Stanley for £48 12s., being also at the rate of 18s. per Acre.

5. In 1845, in the County of Macquarie, one Country Lot of 30 Acres was sold for £27, or at the same rate as the preceding.

It is presumed that in these last three cases the deposits had been forfeited, and the lots purchased by payment of the balance. It would however be desirable that in such instances a brief explanation should be inserted in the column of remarks.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 21, per ship Walmer Castle.)

Sir,

Downing Street, 18 August, 1846.

I have received Sir G. Gipps' Despatch No. 72 of the 29th March last, reporting the return of Dr. Leichardt and his acknowledgment.
party, after having successfully accomplished the undertaking of penetrating from the settled Districts of New South Wales to Port Essington.

I fully participate the feeling of satisfaction, which your Predecessor expressed at the successful result of this Expedition; and you will express to Dr. Leichhardt the high sense which Her M.'s Government entertain of his Services, and their acknowledgment of the great personal Sacrifices, which he appears to have made in pursuing the enterprise.

I enclose a Copy of a letter which I have received from a Gentleman who appears to have been in some degree associated with Dr. Leichhardt, in which he urges the claims of Dr. Leichhardt upon the Government.

I consider that the service, which he has performed, is one of sufficient importance to give him a strong claim upon the Colony of New South Wales; and I have to request that you will bring the subject under the consideration of the Legislative Council.

I have, &c.

[Enclosure.]

GREY.

MR. C. P. HODGSON TO EARL GREY.

My Lord,

Mark Lane, 12th August, 1846.

On the 1st of October, 1844, Dr. Leichhardt (after having, by the assistance of a few private friends and the investment of his own entire personal fortune in the cause, collected many requisite materials for a Six months' cruise) left the Darling Downs. The amount of his finances had obliged him to dispense with many necessaries essential to comfort and even health; but that spirit of enterprise, which eventually carried him through the journey, was not to be checked by trifles.

With a limited allowance of flour for Six Months at the rate of six ounces per diem, of soup at 2 oz. per diem, and of Meal at 4 oz. per diem, he determined to undertake his adventure. A series of difficulties and the loss of 200 lbs. of Flour compelled him to reduce the number of his party only to allow those proceeding a better chance. Two, therefore, returned; and the little band was thus reduced to eight.

Within Six Weeks from this time, numerous reports came in asserting his destruction at a certain place, and it was not till 10 months had elapsed that these rumours could be contradicted. From the length of his absence, however, fears were still entertained of his safety, until, by letters from Singapore, the grateful news arrived of his safe arrival at Port Essington with a loss of a talented Naturalist, Mr. Gilbert.

His Services, My Lord, are these: at his own expense, after having spent the last penny he possessed in the World on the expedition, he has discovered a route or overland passage to connect Moreton Bay with Port Essington, the N.W. Cape of Australia.

As a Geographical Survey alone, his journey has been advantageous; tho' perhaps no immediate benefit may result from it. No doubt his own journal will plead for him; but a distance of 1,500 miles in a direct line passed over for the first time by a band
of Volunteers, who made a Six Months' scanty supply their miserable subsistance for Sixteen, may appear to your Lordship, I trust, a feat worthy of some consideration.

Fully aware of his poverty and honorable pride, as an old comrade and friend, I beg most respectfully to make this appeal to Your Lordship.

Though by birth a German, his education and associations are English; his equipment was increased by English money, and his cruise has been to England's benefit; moreover the remainder of his party were English, who likewise have not a penny remaining.

Trusting Your Lordship will pardon my importunity, as I only plead for an absent friend, I leave the matter to Your Lordship's better judgment.

I have, &c.,

CHAS. PEMBERTON HODGSON.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 1, per ship Margaret.)

Sir, Government House, 18th August, 1846.

I have the honor to inform you that I arrived in this Colony on Sunday, the 2nd Instant, and that I landed and was sworn into the administration of its Government on Monday, the 3rd.

I have, &c.,

CHAS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch marked "Private and Confidential," per ship Margaret.)

My dear Sir, Sydney, N. S. Wales, 19th August, 1846.

In my official despatch of this date No. 1, I had the honor to inform you of my arrival in this Colony. I regret to say that the public mind here is still considerably agitated upon the questions, which have caused so much excitement during the last few years, and that this excitement, far from having subsided, seems to have acquired additional strength, in consequence of the unfortunate dissensions* that occurred between my Predecessor and the Legislative Council during its recent Session.

Arriving in the Colony, as I have done, entirely free from bias on any of the questions in dispute, I could not fail to observe that these dissensions, originating in the first instance in differences of opinion on public measures, have ultimately led to a virulent private feeling of animosity on the part of several leading Members of the Legislative Body towards Sir George Gipps, who, I feel compelled to say, suffering as I understand he was from ill health, did not always restrain himself from meeting the display of these feelings in a corresponding spirit. Thus caustic communications from one side led to coarse and disrespectful rejoinders from the other, until at length the session was abruptly terminated by the Council, who assumed

* Now 17.
1846. 19 Aug.

The right of adjournment to a distant day; a proceeding which Sir George Gipps retaliated by proroguing the Council to the latter end of this month, under the impression that, before that time, he would be relieved from the charge of the Government.

It is not necessary that I should expatiate on the mischief likely to result to the public service from such a state of affairs, and I need not point out the difficulties I shall have to encounter in re-establishing on a more wholesome footing the intercourse between the Executive and the Legislature or a more reasonable state of feeling towards the Home Government, or, to speak more correctly, towards the Colonial Department, on the part of many of the leading and most influential members of the community; for I cannot but think that the feeling of jealousy and distrust, now too prevalent, is as deeply to be deplored, as it is unnatural in a Colony, so rapidly rising and increasing both in wealth and importance, and so entirely English in its origin and habits as this is. I, therefore, feel it to be my first duty to address myself to this task, and I proceed to explain the steps, which I propose to take in order to accomplish it.

First, as the estimates necessary to provide for the public expenditure of the current year were not passed before the termination of the recent session in the unfortunate manner I have described, it becomes desirable that the Legislature should be convened as soon as practicable to pass the estimates, and to complete the ordinary Legislative business of the year, and accordingly, after consulting the Speaker (a measure of courtesy which, from its having been unusual here, I have reason to believe has had a good effect), I have summoned it to meet on the 8th of next month. I shall then have an opportunity of becoming acquainted with the characters and dispositions of the several Members, and, without committing myself by giving any opinion on the points on which they were opposed to Sir Geo. Gipps, I shall strive, and I hope successfully, to restore something like harmony between the Executive and the Legislature.

Secondly, As soon as I conveniently can after the close of the Session, I propose to visit as many of the interior districts as the time I can spare from my other duties will admit of; as well as some of the squatting districts beyond the boundaries of location. On my return, I trust I shall be competent and prepared to offer you such an opinion, and to propose such measures as may meet with your approbation.

I feel that I have taken full advantage of the kind permission, which you granted me before I left England, to address you freely and unreservedly whenever I might consider it desirable
to do so; but I trust you will believe that, in commenting frankly on the causes which have resulted in so much discontent here, I have not been actuated by an ungenerous spirit towards my Predecessor, whose undoubted talents and unflinching integrity command my highest respect.

Feeling, however, that, unless he had been in error as to some of his measures, so strong an opposition to his administration of this Government could not have been maintained, and knowing that he has proceeded to England impressed with the conviction that he has nothing to retract or modify, with respect to the points at issue between, I believe I might truly say, the whole Colony and himself; and, as moreover I must acknowledge, that I can see no prospect of administering this Government beneficially for the public service or with credit to myself, if I follow blindly in Sir Geo. Gipps' footsteps, or expect that (having to deal with a Representative Body fully aware of its own power to thwart every Government measure, whenever it may be so inclined) I can overbear single handed all opposition, or carry out measures, obnoxious not only to the views of the Legislature, but to the opinions of almost every influential person in the Colony, not excepting the majority of my own immediate advisers, the Privy Council, I am most anxious that Her Majesty's Government should come to no final decision, until I have had sufficient experience in the Colony to form my own judgment, and to stamp a value upon such advice or opinion as I may feel it my duty to offer.

I have, &c,

Chas. Fitz Roy.
172 HISTORICAL RECORDS OF AUSTRALIA.

EARL GREY TO SIR CHARLES FITZ ROY.

(A circular despatch, per ship Walmer Castle; acknowledged by Sir Charles Fitz Roy, 22nd May, 1847.)

Sir, Downing Street, 22nd August, 1846.

I transmit to you herewith the Copy of an Address presented to Her Majesty by the House of Commons, praying for certain information in regard to Lighthouses in the Colonies and British Possessions abroad. There are not in this Office the means of making a Return to this Address, and I have, therefore, to request that you will furnish me with the information necessary for that purpose, so far as concerns the Colony under your Government.

I have, &c.,

GREY.

[Enclosure.]

HOUSE OF COMMONS.

Resolved, Lunae, 3° die Augustii, 1846.

That an humble Address be presented to Her Majesty that she will be graciously pleased to give directions that there be laid before this House a Return of all Lighthouses in the Colonies and British Possessions Abroad; showing the date at which each Lighthouse was erected; the original cost thereof, and from what funds defrayed; the annual expense since its first erection and from what source the same was paid:—Also, an Account of the annual Receipts and application of all Monies received as Tolls for such Lighthouses.

Resolved, 

House of Commons, 

Mercurii, 12° die Augusti, 1846.

That an humble Address be presented to Her Majesty that Return required 
She will be graciously pleased to give directions that there be laid before this House an Account of the aggregate amount of all Fees of every kind, received in each of the Public Offices in each of the Crown Colonies; stating the name of the Office and a Schedule of the several Fees charged in each Office, and for what service done, in each of the years 1844 and 1845; stating also the authority by which the Fees are now charged, and the manner in which they are appropriated; if paid to any of the Officers in any of the Departments, the Account to state the names of such Officers and the amount in each year received by each of them.


EARL GREY TO SIR CHARLES FITZ ROY. 
(Despatch No. 24, per ship Walmer Castle.)

Sir, Downing Street, 24 August, 1846.

I have received Sir George Gipps' Dispatch, No. 57 of the 3d of March last, transmitting a further Appeal from Mr. Edward Mayne against his removal from the office of Commissioner of Crown Lands in New South Wales.

You will acquaint Mr. Mayne that I do not perceive any grounds for altering the decision in this case. I have, &c,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY. 
(Despatch No. 25, per ship Walmer Castle.)

Sir, Downing Street, 24 August, 1846.

Sir George Gipps' Dispatches Nos. 37, 38 and 39 have been received at this Department containing an explanation of the expenditure for the year 1845 under each of the Schedules A, B and C, appended to the Constitutional Act of Parliament, 5 and 6 Vict., Cap. 76.

Having referred those Dispatches for the consideration of the Lords Commissioners of the Treasury, I transmit to you a Copy of a letter in reply from the Assistant Secretary to that Board, and I have to acquaint you that Her Majesty's Government approve of the appropriations submitted in these Despatches.

I have, &c,

GREY.

MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 3rd August, 1846.

With reference to your letter of the 4th Ultimo, and the enclosed Despatches from the Govr. of New South Wales, I am
commanded by the Lords Commissioners of Her Majesty's Treasury to acquaint you, for the information of Earl Grey, that my Lords have not seen reason to object to the disposition, proposed by Governor Sir Geo. Gipps in the Despatch No. 38, of the unexpended Balance of the Grant for the year 1844 for services comprised in the Schedule B, annexed to the Act of 5 and 6 Vic., Cap. 76, relating to New South Wales, or of the Balances that may remain unexpended on the Grants for the same services or for the services in Schedule A for the year 1845; and that my Lords do not disapprove of the payments in the cases of Mr. Lewis or of John Cadman referred to in the Despatch No. 39.

I am, &c.,

C. E. TREVELYAN.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 26; per ship Walmer Castle.)

Sir, Downing Street, 24 August, 1846.

I have received Sir George Gipps' Dispatch addressed to Lord Stanley of the 25th of March last, No. 67, and I have to signify to you my approval of the decision, to which he there reports he had come, in regard to the proposed reservation of Minerals in New South Wales.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 27. per ship Walmer Castle; acknowledged by Sir Charles Fitz Roy, 22nd April, 1847.)

Sir,

Downing Street, 25 August, 1846.

With reference to Lord Stanley's Dispatch and its Enclosures to Sir George Gipps, No. 137 of the 1st of December, 1845, respecting a Petition from the Members of the Town Council at Melbourne that the Mails from England to Port Phillip might be landed direct at that Port instead of being conveyed to Sydney or elsewhere, I now transmit to you the Copy of a further communication from the Secretary to the Postmaster General upon the subject.

You will perceive that the result of a reference made by that Department to the Post Office Commissioners in New South Wales is unfavorable to the project of Landing any Bags at Port Phillip, the objections of the Post Master General being founded as well upon the supposed delay which would be thereby incurred to the mails for Sydney, as on the additional expenses involved in such an arrangement.

As I am unwilling, however, to dismiss the subject without a full investigation of the alleged difficulties, you will inform me that, if they can point out any mode by which the objections stated in Colonel Maberley's letter can be obviated, I shall be happy to bring the subject again under the consideration of the Post Master General.

I have, &c.,

GREY.
GREY TO FITZ ROY.

[Enclosure.]

COLONEL MABERLY TO UNDER SECRETARY HAWES.*

Sir, General Post Office, 14 August, 1846.

With reference to Mr. Hope’s letter of the 11th August, 1845, I am directed by the Postmaster General to acquaint you, for the information of Earl Grey, that the Petition of the Members of the Town Council of Melbourne for the Mails from England to Port Phillip to be landed direct at that Port, instead of being conveyed to Sydney, having been referred to the Commissioners of Enquiry into the Post Office arrangements in New South Wales, his Lordship has lately received their reply on the subject, embodied in their General Report, and they express their opinion that such a measure would be detrimental to the Colony by causing the delay of the Mails for Sydney.

I am directed to add that, taking into consideration this opinion of the Commissioners and the additional expense which would be incurred by the proposed arrangement, to which allusion is made in my letter† to Mr. Stephen of the 25th November last, his Lordship is not disposed to entertain the prayer of the Memorialists.

I have, &c,

W. MABERLY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 28, per ship Walmer Castle; acknowledged by Sir Charles Fitz Roy, 2nd April, 1847.)

Sir,

Downing Street, 28 August, 1846.

I have received Sir George Gipps’ Dispatches Nos. 70 and 71 of the 28th of March last, the former transmitting a Copy of a letter addressed to him by the Bishop of Australia, expressing a desire to resign his Seat in the Executive Council, the latter forwarding a communication from his Lordship requesting that the position and rank may be assigned, which the Bishop of the Diocese of Australia is to occupy after he shall have ceased to be a Member of the Executive Council.

I fully appreciate the Motives which have led the Bishop to Acceptance of that decision; and, in intimating to his Lordship that The Queen has been graciously pleased to accept his resignation of his Seat in the Executive Council, I have to request that you will at the same time express the sense which Her Majesty entertains of his Services whilst a Member of that Board.

I do not perceive that any officer of Your Government can with such fitness and propriety be appointed to the vacant seat in the Council as the Attorney General.

In other Colonies, the appointment of the Chief legal Adviser of the Governor to the Executive Council has proved highly beneficial to the interests of the Government. I shall, therefore, transmit to you the necessary Instrument for placing the Attorney General in the Council in the room of the Bishop.

* Note 18. † Note 19.
HISTORICAL RECORDS OF AUSTRALIA.

The question incidentally adverted to by Sir George Gipps of appointing an officer for the purpose of assisting and advising the Governor in all matters connected with the administration of the domain of the Crown shall meet with further consideration.

With reference to the question of the relative position of the Bishop in the Colony, it will remain wholly unaltered by his retirement from the Council, and he would acquire precedence over the Chief Justice if a local law should be passed repealing so much of the existing Charter of Justice as is opposed to that arrangement.

I am not prepared to object to the Enactment of such a Law, if it should in the opinion of the Legislative Council be proper to do so, and if no objection should be raised to it on the part of the Chief Justice. Of course such a Law if passed should have a permanent effect, and should not have respect to the persons by whom the offices in question are at present filled.

I have, &c,

GREY.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 3, per ship Emerald Isle.)

Sir, Government House, 28th August, 1846.

With reference to Lord Stanley's Despatch, No. 106 of the 1st September, 1845, and to my Predecessor's, Sir George Gipps' reply thereto, No. 86 of the 25th April, 1846, relative to an application from Her Majesty's Consul at Warsaw, requesting information respecting some property supposed to have been left by a Polish Jew, named Ansezel Davidowies Dewis, who, it is stated, died in New South Wales; I have now the honor to report that the inquiry, which Sir George Gipps informed Lord Stanley he had instituted in Van Diemen's Land, has turned out equally fruitless with that previously made in this Colony.

It does not appear that any man of the name ever resided in Van Diemen's Land.

A Copy of the reply, which has been received from Van Diemen's Land, is herewith enclosed.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

COLONIAL SECRETARY BICHENO TO COLONIAL SECRETARY THOMSON.

Van Diemen's Land.

Sir, Colonial Secretary's Office, 1st August, 1846.

I am directed by Lieutenant Governor Sir John Eardley Wilmot to acknowledge the receipt of your letter of the 30th April last, in which you transmitted copies of a correspondence respecting a Polish Jew named Dewis, who was represented to have died possessed of some property in one of the Australian Colonies, and you will perceive from the enclosed correspondence that every
enquiry has been made throughout this Island, and it does not appear that any man of the name has ever been a resident in Van Diemen's Land.

1 beg to add, that the Statements signed "P. Moss" were in reply to a Notice inserted in the Hobart Town Gazette.

I have, &c.,

J. E. BICHENO.

[Sub-enclosure.]

INQUIRIES RELATING TO A. D. DEWIS.

Anzell Davidoweiz Dewis.

WILL the Chief Police Magistrate have the goodness to inform me, if he can get any trace of this person, or of any property he may have possessed.

1 June, 1846.

J. E. BICHENO.

ENQUIRY has been made here without success. Can the Police Magistrate of New Norfolk obtain any information that can settle the identity or not of Anzell Davidoweiz Dewis and Oscar Davis as the same person. Oscar Davis, I believe, kept an Inn near New Norfolk for many years.

John Price, Acting for Chief Police Magistrate.

ANZELL DAVIDOWEIZ DEWIS: This name, which appears to be a Polish one, may probably be in English Ansell Davis. Ansell is not an uncommon Judaic one. About 12 or 14 years since, a Polish Jew died at New Norfolk rejoicing in the name of Oscar Davis; and, by a transition, as is not uncommonly the case, the Judaic name may have been changed from Ansell, or as it is often pronounced in Hebrew Anshell, to Oscar.

I have examined the widow of Oscar Davis, who, from her account, is decidedly not the person referred to in the accompanying document. Oscar Davis was a native of Prussia by name "Asr." He arrived in this Colony in 1815; he had no trade and died in indigent circumstances, leaving a Wife and many children, who maintain themselves by labor.

11th July, 1846.

Memorandum.

FROM recent enquiries I have made here, and from the information I have gathered among my Co-religionists, it appears very doubtful whether the Oscar Davis, I mentioned, could have been the individual alluded to under the name of Anzell Davidoweiz Dewis (which Anglicised may be Ansell Davis). Very few foreign Jews retain their common Judaic or Surnames on their arrival in England; and this makes the difficulty of ascertaining the identity of such persons much greater; but I would suggest, though the enquiry would occupy time, that the facts could be probably ascertained most readily, if the question were put through the Presiding Rabbi of the Jews of the British Empire, the Reverend Dr. Nathan Adler in London, by whose influence amongst the various congregations pains would be taken to ascertain the identity.

Hobart Town, 23rd July, 1846.

P. Moss.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 5, per ship Emerald Isle.)

Sir,

Government House, 29th August, 1846.

In obedience to the directions contained in Lord John Russell's Circular Despatch of the 11th March, 1841, I have the honor to forward herewith a Quarterly Abstract Return for the second Quarter of the current year of the prices of food and clothing, the wages of labour, and other particulars as required to be furnished by the Agent of Immigration in this Colony, for the information of the Commissioners of Colonial Lands and Emigration.

It may be necessary for me to remark that, at the request of Mr. La Trobe, the Superintendent of Port Phillip, I have sanctioned the discontinuance of the practice which has hitherto been adopted of making but one General Return for the entire Colony.
And with reference to the answers of the Immigration Agent to Questions Nos. 5 and 8 in the two Returns, I venture to express a hope that Her Majesty's Government may see the importance of a speedy renewal of Emigration to this Colony.

I have, &c.,


[A copy of this return is not available.]

Earl Grey to Sir Charles Fitz Roy.

(Despatch No. 30, per ship Walmer Castle.)

Sir,

Downing Street, 30 August, 1846.

I have received your Predecessor's Dispatch No. 78 of the 9th of April last, and I have to signify to you my approval of the arrangements he there states have been made for uniting the two offices of Clerk to the Executive Council and Immigration Agent in New South Wales, as well as of the appointment of Mr. Merewether to discharge the duties of both at an increased Salary of Six hundred Pounds per annum.

I have, &c.,

Grey.

Sir Charles Fitz Roy to Right Hon. W. E. Gladstone.

(Despatch No. 6, per ship Emerald Isle.)

Sir,

Government House, 31st August, 1846.

I have the honor to report that I have given directions for the transmission, by the present Mail, to the Colonial Department through the hands of the Agent for this Colony in London, of two bound Copies of the Votes and Proceedings of the Legislative Council during the first Session of the current year.

I have, &c.,

Chs. A. Fitz Roy.

Sir Charles Fitz Roy to Right Hon. W. E. Gladstone.

(Despatch No. 7, per ship Emerald Isle.)

Sir,

Government House, 31st August, 1846.

I have the honor to forward herewith three Copies of the 3rd Volume of the Reprint of the Acts of Council of New South Wales, and of Acts of Parliament affecting the Colony, in continuation of the series transmitted with Sir George Gipps' Despatches, Nos. 12 and 128, of the 13th of January and 9th August, 1845.

Three additional Copies will be forwarded with the duplicate of this Despatch.

I have, &c.,

Chs. A. Fitz Roy.
Sir Charles Fitz Roy to Right Hon. W. E. Gladstone.
(Despatch No. 8, per ship Emerald Isle; acknowledged by Earl Grey, 20th February, 1847.)

Sir,

Government House, 31st August, 1846.

I have the honor to transmit Copies of a Correspondence, addressed to the Colonial Secretary of this Government by the Police Magistrate of the City of Sydney and the Consul of the United States, together with the opinions of the Crown Law Officers of the Colony relative to a case, which occurred some time before my arrival, arising out of a complaint made by a Seaman of the American Whaler "Ocean" against an Officer of that Vessel for an Assault while lying in Port Jackson.

You will perceive that the American Consul denies the right of the Sydney Magistrates to adjudicate in cases arising between the Officers and Seamen of American Ships while lying in the Harbour of Port Jackson; while the Attorney and Solicitor General sustain that right with regard to the case in question, but at the same time request that the case and correspondence may be reported to you, in order that they may learn the Policy of the British Government in such cases.

With reference to the above, I only feel it necessary to observe that, from the numerous American Merchant Vessels continually frequenting Port Jackson, it appears to me desirable that the Crown Law Officers should be put in possession of the information they seek.

I have, &c,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

Mr. C. Windeyer to Colonial Secretary Thomson.

Sir,

Police Office, Sydney, 7 May, 1846.

I have the honor to enclose the information and Complaint of S. B. Gifford, an American Seaman belonging to the "Ocean," an American Whaler lying at Mossman's Bay in Port Jackson, charging an Assault against an Officer of the said ship. As it is suggested that the Defendant does not attend to the Summons of the Magistrates under the idea that they have no jurisdiction, I have the honor to request that the opinion of the Crown Law Officers may be obtained upon the point, for the information and guidance of the Sydney Bench.

I have, &c.,

CHAS. WINDEYER,
Senr. Police Magistrate.

[Sub-enclosure No. 1.]

Information and Complaint of S. B. Gifford.

City of Sydney. Stephen Barker Gifford, Cooper, on board the Ship "Ocean," now lying in Mossman's Bay in the Harbour of Port Jackson, maketh oath, and saith before me, Charles Windeyer, Esquire, a Magistrate of the City of Sydney and Colony of New South Wales. Between the hours of 10 and 11 o'clock on Saturday night last, the 2nd Officer of the said Barque,
1846, 31 Aug.

To Mr. John Wearin, Chief Inspector in Sydney Police. You are hereby commanded to summon George Downer, Second Mate on board the Ship Ocean, now lying in the Harbour of Port Jackson, to attend at the Police Office, Sydney, on Wednesday the Sixth day of May Instant at the hour of Ten in the Forenoon, then and there to answer a complaint of Stephen B. Gifford for assaulting his person.

Given under my hand, this 4th day of May, One thousand eight hundred and forty six. CHARLES WINDEYER, J.P.

James Vincent, Constable in the Water Police, being duly sworn, saith that, on the 5th day of May, 1846, he served a Copy of this Summons personally on George Downer, Second Mate on board the Ship "Ocean" lying in the Harbour of Port Jackson. JAMES VINCENT.

Sworn this 6th day of May, 1846, at the Police Office, Sydney, Before:— H. MACDERMOTT, J.P., Mayor.

[Sub-enclosure No. 2.]

OPINION of the Attorney General and the Solicitor General on a communication from the Bench of Magistrates, Sydney, relative to a complaint made by a seaman of the American Whaler "Ocean" against an Officer of that Vessel of assault whilst lying in Port Jackson.

We are satisfied that the Magistrates of Sydney have power to entertain the complaint of S. B. Gifford, and that they are bound to afford him the protection of the British and Colonial laws, whilst within this Port; but, should any question arise whether the assault charged was justifiable correction of the seaman for a breach of his duty as such, this should be determined according to the American Merchant Seaman's Law.

The fact of both parties being Citizens of the United States on board of an American Ship renders the Offence cognizable in the Courts of their own Country, but does not give to those Courts exclusive Jurisdiction except in respect of Acts done within the actual dominions of the States or on the high Seas beyond a league from the shores of any foreign nation.

In the present case, the assault charged appears to have been committed (assuming the truth of Gifford's deposition) whilst the Ship "Ocean" was lying at a Wharf in one of the Small Coves of Port Jackson, within the Queen's Dominions, but whether on board or on shore is not shown; and we think it too clear to admit of a doubt that all acts (without distinction of degree) criminal by the British law, committed on board of her in this situation, and a fortiori on shore, are punishable by the Colonial Officers of Justice as being breaches of Her Majesty's Peace, notwithstanding that the individuals immediately concerned are both subjects of a foreign State. We think, moreover, that the party assaulted is entitled to the protection
of our Laws from the violence of his own fellow Subjects as well as from all others, and that on the other hand the person charged was under obligation to respect and observe those Laws whilst voluntarily within this Territory. We do not think it necessary to refer to general authorities upon this point; but will content ourselves with observing that the Jurisdiction in question appears to be fully conceded by Mr. Justice Story, an American Jurist in his "conflict of Laws" and by Mr. Webster in his correspondence with Lord Ashburton in 1842, respecting the case of the Creole, etc.

J. H. Plunkett, Attorney General.
W. M. Manning, Solicitor General.

[Enclosure No. 2.]

Mr. J. H. Williams to Colonial Secretary Thomson.

Consulate of the United States,

Sir,

Sydney, New South Wales, 14th August, 1846.

I have the honor to acknowledge the receipt of your letter of the 4th Instant, covering an opinion of the Crown Law Officers as to the right of the Sydney Magistrates to adjudicate in cases arising between the Officers and Seamen of American Ships, while lying in the harbour of Port Jackson, from which opinion I must dissent for the following reasons:

To quote the language of Mr. Webster in the correspondence alluded to by the Crown Law Officers, "It is true that the jurisdiction of a nation over a vessel belonging to it, while lying in the Port of another, is not necessarily wholly exclusive. We do not so consider or assert it. For any unlawful acts done by her while thus lying in port, and for all contracts entered into while there by her Master or owners, she and they must doubtless be answerable to the Laws of the place. Nor, if her master or crew while on board in such port break the peace of the community by the commission of crimes, can exemption be claimed for them." That is to say (as I understand the language), if the ship commit a breach of the Revenue Laws of the port where she is lying, or if the Master or owner become indebted to the inhabitants, or if the residents are annoyed or injured by the Commission of crimes against the laws of the place, in other words if any act is done by the Officers or crew which would give just cause of complaint from without, they would be answerable to the laws of the place; but no complaint can be entertained from within. This is clearly deducible from what Mr. Webster further says, "But nevertheless the law of nations, as I have stated it, and the Statutes of Governments founded on that law, as I have referred to them, shew that enlightened nations in Modern times do clearly hold that the jurisdiction and laws of a nation accompany her ships not only over the high seas but into ports and harbours, or wheresoever else they may be water borne for the general purpose of giving and regulating the rights, duties and obligations of those on board thereof, and to the extent of the exercise of this jurisdiction they are considered as parts of the territory of the nation herself." Wheaton in his "Elements of International Law" lays down the rule, "That the judicial power of an independent state extends to the punishment of all offences against its municipal laws by its subjects wheresoever committed." These seem not only to be reasonable but necessary rules for regulating intercourse between commercial Countries. For what would constitute a crime by the laws of one Country would be a justifiable infliction of punishment by the laws of another, for instance, Corporal punishment is not permitted (I
believe) in the British Merchant Service while it is allowed in certain cases in the American Merchant Service. The practice of the Sydney Bench has heretofore been in conformity with these views. I have in several instances applied for assistance to restrain insubordination on board American Ships in Port, and in one case where a seaman set the Master and Crew at defiance with deadly weapons, and have been refused that assistance upon the plea of no jurisdiction, although I consider that I had a claim to it as an act of international amity, and the cases are numerous in which seamen have been remanded on board their Ships by the Sydney Bench for want of jurisdiction. I will also state a case, which happened in the United States, illustrating the inapplicability of local laws to foreign Ships and the persons on board of them. By a law of the State of South Carolina, every Ship coming into her ports having aboard persons of Color must deliver them up to the custody of the authorities until the Ship sails. It was attempted to enforce this law in the case of British ships visiting the Port of Charleston, but the attempt was successfully resisted by the British Consul through the British Minister at Washington. For all acts committed on shore, there can be no doubt that both Officers and men belonging to Foreign Ships are amenable to the local laws. Therefore, while I am prepared to admit the jurisdiction of the Sydney Magistrates in all cases arising from without the Ship, I should consider any attempt to enforce a Warrant on board an American Ship for any act happening between the Officers and Crew as an unjustifiable interference and entitling whoever might suffer to indemnification.

I have, &c.

[Enclosure No. 3.]

MESSRS. PLUNKETT AND MANNING TO COLONIAL SECRETARY THOMSON.

Sir,

We have the honor to acknowledge the receipt of your letter of the 19th Instant, enclosing for our perusal and remarks thereon a letter addressed to you by Mr. Williams, the Consul for the United States of America, relative to the complaint, made before the Bench of Magistrates at Sydney by an American Subject (S. B. Gifford) against another American Subject (George Downer) an officer of the United States Whaler "Ocean" of assault.

In reply, we beg to state that we do not desire to offer any observations upon the letter of the American Consul or on the view taken by him upon the subject in question, further than to acquaint you that our former opinion, in which we confined ourselves to matters of a Criminal character, remains unchanged.

We take the liberty, in returning Mr. Williams' letter, to suggest for the consideration of His Excellency the Governor that the case and correspondence should be reported to Her Majesty's Secretary of State for the Colonies, in order that we may learn the policy of the British Government in such cases, and guide ourselves and advise the Magistrates accordingly.

We have, &c.

J. H. PLUNKETT, Att. Gl.
W. M. MANNING, Solr. Gl.
Sir Charles Fitz Roy to Right Hon. W. E. Gladstone.

(Despatch No. 9, per ship Emerald Isle; acknowledged by Earl Grey, 24th March, 1847.)

Sir, Government House, 31st August, 1846.

I have the honor to acknowledge the receipt of your despatch No. 7 of the 17th March last, transmitting a Copy of a letter from the Secretary of the Board of Admiralty urging the necessity for the construction of Light Houses in Bass Straits.

My Predecessor's despatches named in the Margin* will have already informed you of the liberality with which the Legislative Council, on hearing of the disastrous Wreck of the Ship "Cataraque," anticipated the wishes of the Board of Admiralty by voting a sum £9,000 for the purpose of erecting four Light Houses at the following points in the vicinity of the Straits:

1. Northern extremity of King's Island.
2. Kents Group.
3. Cape Otway.

The latter Despatch will also have made known to you the state of the arrangements with respect to these Light Houses up to the 9th of June last.

I have now to report the steps which have been taken subsequently to that date.

Cape Otway. On the 30th June a communication was made to the Superintendent of Port Phillip, informing him that instructions had been given to the Colonial Architect to prepare a Plan and specification for a Light House, and requesting him to make known the intention of the Government to call for tenders for its erection. The Plan, etc., having been transmitted to Port Phillip, Mr. La Trobe advertised for Tenders on the 11th of August, 1846, and they are to be received on the 5th of next month.

Gabo Island, Cape Howe. Tenders for the erection of this Light House according to the Plan of that for Cape Otway were called for on the 29th of June, 1846; received on the 17th of this month, and a Tender accepted on the 21st.

The Plan, Elevation and Sections, together with specification prepared by the Colonial Architect, are annexed to this Despatch.

The Light House on Kent's Group has been already commenced by the Government of Van Diemen's Land.

The question as to the propriety of placing a Light House on King's Island appears to have been left to the decision of the Admiralty.

I have, &c.,

CHS. A. FITZ ROY.

* Marginal note.—"Executive," No. 194, 21st December, 1845: No. 44, 10th February, 1846: No. 119, 9th June, 1846.
Form for tender for masons' work and excavation for lighthouse at Gabo Island.

[Enclosure No. 1.]

FORM FOR TENDER.

Sir,

In pursuance of Advertisement in the Government Gazette, the undersigned do hereby tender to perform the Services and Works necessary for the performance of the Diggers and Masons' Works required in erection of a Light House on Gabo Island, near Cape Howe, and to complete the same in full accordance with the plans and specification on or before the rates or prices affixed to the Items in the annexed Schedule. And, should this Tender be accepted by the Government, do hereby agree to fulfil all the terms and conditions of the said Schedule, and perform the work in accordance with the plans and Specification, or in default thereof to forfeit and pay to Her Majesty, Her Heirs or Successors, the penalty of Pounds.

Dated this day of , 1846.

Witness:—

<table>
<thead>
<tr>
<th>Names of Persons proposed as sureties.</th>
<th>Occupation or Profession.</th>
<th>Residence.</th>
</tr>
</thead>
</table>

[Sub-enclosure.]

SCHEDULE of Contract for Masons' Work required in erection of a Light House on Gabo Island, near Cape Howe.

<table>
<thead>
<tr>
<th>No. of Items</th>
<th>a. d.</th>
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<tbody>
<tr>
<td>1. Excavating to the requisite depth for obtaining a Solid Foundation, and removing the Soil, as hereafter be directed.</td>
<td>at per Yard Cube.</td>
</tr>
<tr>
<td>2. For all hammered or close picked Masonry that may be required in building, in foundations, including all materials in accordance with the plan and specification—</td>
<td>at per perch.</td>
</tr>
<tr>
<td>3. For all Knitted Masonry above Foundations—</td>
<td>at ditto.</td>
</tr>
<tr>
<td>4. For Stone Steps including materials, all workmanship and fixing as per plan and specification—</td>
<td>at each.</td>
</tr>
<tr>
<td>5. For Landings, ditto ditto ditto</td>
<td>at each.</td>
</tr>
<tr>
<td>6. Mason as may be ordered for Cutting holes, etc., etc., for fixing Iron work—</td>
<td>at per day.</td>
</tr>
<tr>
<td>7. Laborer, ditto</td>
<td>at per ditto.</td>
</tr>
<tr>
<td>8. All other work not enumerated above to be included in the Cube Measurement.</td>
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</tbody>
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[Enclosure No. 2.]

(This was an elevation and sectional plan for lighthouses at Cape Otway and Gabo island.)
Sir CHARLES FITZ ROY to RIGHT HON. W. E. GLADSTONE.

(Despatch No. 10, per ship Emerald Isle.)

Sir,

Government House, 31st August, 1846.

I have had the honor to receive your Despatch No. 9 of the 20th March, 1846, enclosing a Memorial which had been addressed to you by Maria Armstrong and Bidilia McTernan, relative to some property which had been bequeathed to them by their brother, the late Dr. P. McTernan, formerly a Surgeon in the Royal Navy, but which they allege to have been retained by Mr. Therry, one of the Judges of this Colony.

Having referred to Mr. Therry a copy of the Memorial, according to the directions contained in your despatch, I have the honor to enclose the explanation with which that Gentleman has furnished me on the subject, by which it would appear that he has made arrangements for the liquidation of the claim referred to; but that the complaint had been forwarded before sufficient time had elapsed to enable the parties interested to receive the Account after they had authorized Mr. Therry to remit it through the hands of Dr. Rutherford, a resident in this Colony.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

MR. JUSTICE THERRY to PRIVATE SECRETARY FITZ ROY.

Sir,

Sydney, 2 Lyon's Terrace, 26th August, 1846.

I beg leave to request you will lay the accompanying letter before The Governor with a request that His Excellency will transmit it and the papers, annexed to it, to the Secretary of State for the Colonies.

From the reading of these documents, His Excellency will perceive that, at the time the Secretary of State's Despatch reached me, arrangements had been made for the liquidation of the claim referred to in the Memorial, to a person in this Colony, whom Dr. James McTernan, the Executor in England, authorised to receive payment, and that agreeably to that authority and in conformity with these arrangements the claim has been liquidated.

In addition to the facts I have fully brought under His Excellency's notice, I beg leave to invite His Excellency's attention to this important additional one, that the authority from Dr. James McTernan to Dr. Rutherford in this Colony, to receive the payment from me which I have made to him, is dated London, November 28th, 1845, and that the Memorial of His two Sisters, the legatees, is transmitted by a Despatch dated the 20th March, 1846, a date at which it was quite impossible an answer could have reached England conveying information whether or not I had paid the amount in conformity with the authority given to Dr. Rutherford to receive it.

I deem it right to notice this circumstance prominently, because I think the perusal of my letter will satisfy His Excellency that, if
1846.  
31 Aug.

Statement by R. Therry re estate of P. McTernan.

MR. JUSTICE THERBY TO SIR CHARLES FITZ ROY.

Sir,

Sydney, 26th August, 1846.

I beg leave to offer the following explanation for the information of the Secretary of State, in reply to the Memorial of Maria Armstrong and Bidilia McTernan, respecting certain property in the Colony of N. S. Wales, which they allege to have been bequeathed to them by their Brother, the late Dr. P. McTernan, Surgeon in the Royal Navy.

In the first place, I deem it right to notice some remarkable misstatements which the memorialists contain. It is an incorrect statement of the Memorialists to allege that their brother bequeathed any property to them specifically in New South Wales. They are two among several other general legatees named in the Will, whose legacies are chargeable on no particular property either here or in England, but generally chargeable on the Assets of the Estate of the Testator. I know nothing of any property belonging to the late Dr. P. McTernan in England. If he had any there, the duty devolved upon his brother and my co-executor, Dr. J. McTernan, to collect it. This misstatement, however, is only so far of importance as it shows that the Memorialists lie under some misapprehension of the nature of their rights, and that they have not an exclusive claim, as their Memorial would indicate, to any portion of the testator's property in N. S. Wales.

It is a less excusable misstatement in the Memorialists to allege that the Mortgage debt is unaccounted for, and that the communication, marked B annexed to the Memorial, "is the only one respecting that Mortgage which has been received from me." To show the inaccuracy of that statement, I need only refer to a copy of the settlement (see annurex marked C) that took place between Dr. J. McTernan and myself, in which he acknowledges to have received from me £302 on account of his Brother's Estate, of which the second item of £90 is interest due on the Mortgage, which the Memorialists state "is unaccounted for by me, up to the date of their Memorial." And to this I have to add that the balance, for which I am accountable to this Estate (and which from considerations I need not here explain far exceeds what I have actually received) has been paid to Dr. Rutherford as Agent of Dr. P. McTernan and was in course of payment before I received your Excellency's communication. Dr. Rutherford, moreover, being the only person who has arrived in this Colony with proper authority from Dr. McTernan since the date of my last settlement.

As to the partial statement of the intervening correspondence, I confess I have not kept copies of my own part of it; and I feel therefore that I should be at a disadvantage in entering into a detailed statement on this head, and for which there is now no necessity. But the evidence of the recent circumstances is under
my control; and, as some significance may be attached to the settlement being made without any knowledge on my part of the representations of the Memorialists, I must beg to trouble your Excellency with the following details, with respect to which I beg to invite Your Excellency's attention to a few dates. Your Excellency is aware that I did not receive a copy of the Memorial transmitted by the Secretary of State, until the 20th of August. Therefore, up to that date, I was an utter stranger to its contents. Now, I beg to explain the steps I had taken, previous to that communication to me, towards the liquidation of the claim of Dr. J. McTernan's Estate upon me. Early in last July, I met Dr. George Rutherford, a Surgeon of the Royal Navy, in Sydney. As he was a mutual friend of Dr. J. McTernan and myself, and as he had just then arrived from England, the first enquiry I made of him was whether he had recently seen Dr. J. McTernan. I told him I felt much annoyed at letters I had received, threatening legal proceedings against me, and that I was anxious to bring my connection with the late Dr. P. McTernan's Estate to a close. Dr. Rutherford informed me that he brought an authority with him from Dr. J. McTernan to receive any moneys of the Estate for which I was accountable, at which I expressed my satisfaction and promised to enter into an early and final arrangement with him. In pursuance of this undertaking, I immediately transmitted a copy of the settled account, marked C, already referred to, to Mr. George Miller, the highly qualified accountant of the Savings Bank, and requested him to prepare the account, charging me with the rate of Interest for which I was chargeable under the Mortgage deed, until it was cleared off; and from that date with such interest as the Estate would be entitled to, if the principal had been from that date deposited in the Savings Bank. I deemed this proper reference to make, as the Savings Bank is, by the law of the Colony, the place of deposit of the moneys of intestate Estates. This account was furnished to me by Mr. Miller on the 11th instant, from which date up to the end of last week Dr. Rutherford was in Maitland, and I could not communicate with him. I saw him, however, immediately on his return, and on Wednesday early in the present week I handed him a Bill in favor of Dr. J. McTernan on the Union Bank in London for £417 14s. 10d., being the amount according to the account prepared by Mr. Miller (of which I also handed him a copy for transmission to my co-executor) of principal and interest, due to the 31st Ultimo, on the Mortgage referred to in the Memorial.

Your Excellency may thus perceive that I made arrangements towards the liquidation of this claim previous to the arrival of Mr. Gladstone's Despatch in the Colony, and that it was only owing to the accident of Dr. Rutherford's absence from Sydney that it was not actually liquidated before a copy of that Despatch reached me. To my co-executor Dr. J. McTernan, the Memorialists must be now referred for any claim they may have on their Brother's Estate. In conclusion, I deem it advisable to avail myself of the presence of Dr. Rutherford and Mr. Miller in Sydney to confirm (see Annexure D) those parts of the above statement in which their names are introduced. I have, &c.

R. Therry.
HISTORICAL RECORDS OF AUSTRALIA.

[Annexure C.]

COPY of my Settlement with Dr. James McTernan, the 12th of March, 1836.

Received on account of P. McTernan's Estate—
To Cattle sold by Auction on 22nd April, 1835 £212 16 0
" Interest on Parker's Mortgage 90 0 0
" Due to James McTernan, Esqr., on account of Sheep of Himself and Dr. Nesbit 100 0 0

£402 16 0

Paid by Bill remitted to England 154 0 0

£248 16 0

Received the above amount in Treasury Bill.
12th March, 1836. JAMES MCTERNAN.

* NOTE.—This item as introduced into this account related to the sale of sheep belonging to Dr. Nesbit and Dr. James McTernan, and was in no way connected with Dr. P. McTernan's Estate; this note is not in the Original, but is necessary to explain why this item appears here.

[Annexure D.]

STATEMENTS by Messrs. G. Miller and G. S. Rutherford.

I beg to state, at the request of Mr. Justice Therry, that, on the first week of August, 1846, I received a letter from him requesting me to prepare an account of the claim of the Estate of the late Dr. P. McTernan upon him, according to certain data furnished to me, and according to the terms stated in his letter dated 26th August, 1846, to His Excellency Sir Charles FitzRoy, and that in his letter to me he urged an early preparation of the Account for the purpose, as he then stated, of paying the amount to Dr. George Rutherford, who was in Sydney and authorized to receive payment of it on behalf of Dr. James McTernan.

Sydney, 26th August, 1846. GEORGE MILLER. Accountant, Savings Bank.

I have read, at his request, the letter addressed by Mr. Justice Therry to His Excellency Sir C. A. FitzRoy, respecting the Memorial of Maria Armstrong and Bidilia McTernan. I am enabled to declare that all the circumstances set forth in Mr. Justice Therry's letter as to conversations with me, the date at which they were held, and the arrangement for closing his connexion with the Estate of the late Dr. P. McTernan, are in every respect correctly and accurately stated.

Sydney, 26th August, 1846. G. S. RUTHERFORD, M.D., Surgeon, R.N.

SIR CHARLES FITZROY TO RIGHT HON. W. E. GLADSTONE.

Despatch No. 11, per ship Emerald Isle; acknowledged by Earl Grey, 25th March, 1847.

Sir,

Government House, 31st August, 1846.

Lord Stanley, in a despatch No. 93 of 28th August, 1845, intimated to my Predecessor that, under a communication from the Secretary to the Destitute Sailors' Asylum, he had authorized the Colonial Agent to provide a passage to New South Wales for Henry Hovenden, a disabled Seaman, who represented himself to be a Native of this Colony. Lord Stanley also remarked that it was not usual to withhold such assistance from the Colonial Revenues in cases of extreme distress like the present; and a Passage was accordingly provided for Hovenden by the Colonial Agent at an expense of £24 4s., and on the 21st of January last he arrived in the Colony by the "Golden Spring."
Since his arrival, it has been ascertained that he is not a Native of the Colony, but that he came here as an Emigrant with his parents in the Year 1839 from Cork in the Ship "Navarino." The matter has in consequence been referred to the Crown Law Officers to ascertain whether he could not be punished for the fraud he has committed; and they have given it as their opinion that it is legally possible to procure his punishment, but that practically it would be quite otherwise, and that the offence would be properly cognizable and provable in England.

The sum of £24 4s. was included in the Estimates for the present Year; but it is proposed to withdraw the item, as it is probable that the Legislative Council will not deem the Expense as properly chargeable on the General Revenue of the Colony.

Under these circumstances, I deem it my duty to submit the case for your favorable consideration, in the hope that you may see fit to direct that the money advanced out of the Colonial funds may be refunded by the Home Government.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 2.]

LEGAL Opinion on case of H. Hovenden.

We are of opinion that it is legally possible to procure the punishment of William Hovenden for the fraud of which he has been guilty, supposing the facts necessary to establish that fraud to be capable of proof; but we think that practically it would be quite otherwise, and that the offence would be properly cognizable and provable in England, only, where it was committed, and where alone the necessary evidence would be procurable to prove the Petition: the falsehood of this pretence (for immigration to the Colony in 1839 does not sufficiently negative the Man's Statement that he is a native of Sydney) and the fact that the free passage was granted in reliance upon the false pretence in question.

J. H. PLUNKETT, Attorney General.

11th August, 1846.

W. M. MANNING, Solicitor General.
1846. 1 Sept.

Request for reconsideration of regulation refusing free passages for wives and families of convicts.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.
(Despatch No. 13, per ship Emerald Isle; acknowledged by Earl Grey, 24th March, 1847.)

Sir,

Government House, 1st September, 1846.

An application (of which I have the honor to transmit a Copy herewith) having been recently submitted to me, requesting free passages to be granted to the Wife and children of Bryan Veech, a Ticket of leave holder under this Government, I feel it my duty to bring under your notice the great hardship of the decision of Her Majesty's Government as communicated to my Predecessor, Sir George Gipps, in Lord Stanley's despatch, No. 220 of the 9th December, 1842, relative to the discontinuance of free passages for the Wives and families of Convicts to this Colony, on account of its being no longer a place of Transportation, and the increased expenditure that would be thereby incurred.

It appears that Sir George Gipps conceived the decision to be so peremptory as to preclude any remonstrance against it; but, as I cannot but think that Her Majesty's Government in coming to this decision had not given due weight to the fact that, although Transportation to this Colony has been discontinued, there still remains a large number of Convicts (especially Male Convicts) who are working out their sentences; I venture to bring the subject once again under consideration, in the earnest hope that a Regulation, which bears so hard upon this unfortunate class, may be speedily rescinded.

Without affecting any undue degree of compassion for Men who are undergoing a just punishment for their offences against Society, I feel confident you will concur in my opinion that every means, which humanity combined with Justice can devise, should be applied with a view to their reformation; And I know of none more likely to promote this object than the prospect formerly held out to them, that those, who proved themselves deserving of such a reward, might ultimately be rejoined by their Wives and families.

I have good reason to believe, indeed, that the abolition of the Regulation in question created, at the time, a grievous disappointment to many well conducted men, whose chief inducement to behave well had been the expectation of entitling themselves to this indulgence; and it is but reasonable to suppose that it has caused others to become careless of their conduct, who might, with such a reward to look forward to, have striven to regain characters, and to become useful Members of the Community.

It has also doubtless been the source of bitter disappointment to many unoffending Wives and families; and viewing it simply
in a moral point of view, as to the influence of the presence of the Wives and children of the men in a Community where the disparity of the Sexes is so great, I cannot believe that Her Majesty's Government would think the question of expense worthy of consideration in comparison with the good that would result from reverting to the former humane practice.

But, even if the increased Expenditure in such a case were deserving of consideration, and it should be deemed advisable that the Wives (however well conducted themselves) of Convicts should not be provided with passages in Emigrant Ships, it would, I presume, still be practicable to send out these women and their families in Female Convict Ships to Van Diemen's Land, whence they might be conveyed at little expense to Sydney, or they might be provided with passages in the Vessels which will convey the Female Exiles to the New Colony of North Australia, and which will, necessarily, have to touch at Sydney on their way. In the meantime, I shall of course be careful that the step I have now taken, in urging a reconsideration of the Regulation of 1842, shall not become known. I have, &c,

CHS. A. FITZ ROY.

[Enclosure.]

[A copy of this paper is not available.]

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 14, per ship Emerald Isle.)

Sir, Government House, 1st September, 1846.

With reference to Your Circular Despatch of the 12th March, 1846, intimating the desire of the Lords of the Committee of Privy Council for Trade to be provided with a collection of all the local enactments in force in each of the British Colonies, I have the honor to inform you that the series, revised Acts of council and printed by Mr. T. Callaghan, is the only one compiled in New South Wales.

The Proclamations, issued by the Governor previous to the year 1825, are in Manuscript,* and those from 1825 to 1832 were printed;* but I fear a copy could not now be procured, indeed they may be considered obsolete and are, I believe, only useful as shewing what may have been done in any particular case formerly. All Proclamations published since the year 1832 are contained in the Government Gazette, which is regularly transmitted to the Secretary of State’s office.

I have, &c.,

CHS. A. FITZ ROY.

* Note 20
1846. 1 Sept.

Payments to military chest
for credit of agent-general.

HISTORICAL RECORDS OF AUSTRALIA.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 17, per ship Emerald Isle; acknowledged by
earl Grey, 6th March, 1847.)

Sir, Government House, 1st September, 1846.

With reference to my Predecessor's despatches to Lord
Stanley of the dates and numbers noted in the Margin,* I have
now the honor to report to you the payment into the Military
Chest of the following additional sums under the dates and for
the Services specified, and to request that a corresponding Credit
may be given to Mr. Barnard, the Colonial Agent General, to
enable him to comply with the several Requisitions, which have
been sent to him by this Government, namely—

10th August, 1846, to meet the expense of pur­
chasing a supply of Arms, Ammunition,
and implements required to replace issues
made to the Government of New Zealand
and for the Exploring expedition under
Sir Thomas Mitchell . . . . . £311 16 5

10th August, 1846, to make up, with the sum
of £2,111 17s., which Mr. Barnard had been
requested to recover from the Government
of South Australia, Van Diemen's Land,
and New Zealand, the sum of £4,500, esti­
mated in a letter from him of the 5th of
March last, as likely to be required for the
service of this Colony to the end of the year
1846. 388 3 0

1st September, 1846. It appearing, by your
Despatch of 5th March, 1846, that the sums
owing to the Colony by the Van Diemen's
Land and New Zealand Government will
not be paid in England, it has become
necessary to make good the amount to Mr.
Barnard to meet the requisitions included
in his above-mentioned Estimate . . . . . 2,085 6 4

1st September, 1846, to meet the purchase of
certain books for the library of the Legis­
native Council, under the circumstances
which are fully explained in a letter of this
date to Mr. Barnard from the Colonial
Secretary of this Colony . . . . . 250 0 0

Total . . . . . . £3,035 5 9

Making in all the sum of Three thousand and thirty five pounds,
five shillings and nine pence.

* Marginal note.—No. 34 of 31st January, 1846; No. 45, 21 February, 1846;
No. 69, 27 March, 1846.
It may be proper to explain that, although Warrants have been ordered for the two last mentioned Sums, the actual payments have not yet been made to the Military Chest; but, as the Mail by the Monthly packet is just about to close, I have thought it better not to delay making this report, lest it might create disappointment in complying speedily with the Requisitions which have been sent to Mr. Barnard.

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 31, per ship Sydney; acknowledged by Sir Charles Fitz Roy, 6th April, 1847.)

Sir,

Downing Street, 5 September, 1846.

I herewith enclose a Copy of a letter which has been received from Patrick Keane, containing an application relative to a sum of money stated to have been left to him by his son, lately deceased in New South Wales, and I have to request that you would transmit to me such information as you may be able to obtain on the subject of the enquiry.

I have, &c.,

GREY.

[Enclosure.]

P. AND E. KEANE TO UNDER SECRETARY.

Honble. Sir,

Patrick Keane, of Kilcolan, Co. Clare, Ireland, humbly sheweth, That his son John Keane of the same place Emigrated to Sydney in the autumn of 1841 on the Government Grant, and that, by a letter which he received from John Keane, a first cousin, he learnt that his son died at Goulburn Plain, and left a sum of money, which sum was to be given to his parents; and, in consequence of their indigence and inexperience, they are unaware how they should recover the same money, and humbly pray that your honour will take their case into consideration, letting them know how they should obtain the said money; and, if your honour would condescend to forward their claim to the Governor for enquiry into the state of their son's effects, they are confident from your well known regard to justice that you will give them every information as to the recovery of the money; and they as in duty bound will ever pray.

PATRICK KEANE.

ELEANOR KEANE.

Ennis, Clare.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 32, per ship Sydney.)

Sir,

Downing Street, 8 September, 1846.

With reference to my Dispatch No. 11 of the 6th ultimo. I have now to acquaint you that I have laid before The Queen the Act of the Legislative Council, which accompanied your Dispatch No. 204 of the 23d of November last, entitled "An Act
194 HISTORICAL RECORDS OF AUSTRALIA.

1845.
8 Sept.
Confirmation of harbours act.

(No. 13 of 27 Oct., 1845) to amend an Act entitled 'An Act for the better preservation of the Ports, Harbours, Roadsteads, Channels, Navigable Creeks and Rivers in New South Wales and the better regulation of Shipping in the same.'

I have received The Queen's commands to acquaint you that Her Majesty has been pleased to confirm and allow this Act; and you will communicate Her Majesty's decision to the Inhabitants of the Colony under your Government by a Proclamation to be published in the usual and most authentic manner.

I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 18, per ship Ganges; acknowledged by earl Grey, 25th September, 1847.)

Sir,

Government House, 24th September, 1846.

I have the honor to request permission to issue Letters of Denization to the person named in the Margin* who emigrated to this Colony in the year 1833, and who is now residing at Picton in this Colony, where he carries on the Trade of a Farrier and Blacksmith.

His application, which I enclose, is recommended by three Justices of Peace† for the District in which he resides.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

Petition of John George Goette of Picton, Blacksmith.

Unto His Excellency Sir Charles Augustus Fitzroy, Knight, Captain General, and Governor in chief, in and over the Territory of New South Wales, and its Dependencies.

Humbly and respectfully Sheweth.

That Your Petitioner was born in the Village of Rusebeck, Westphalia, in the Year 1802. and is by trade a blacksmith and farrier.

That, in 1829, Your Petitioner went to London, where he followed his trade for four Years: and from whence he emigrated to this Colony by the ship "Warrior" in the Year 1833.

That, in 1829, Your Petitioner went to London, where he followed his trade for four Years: and from whence he emigrated to this Colony by the ship "Warrior" in the Year 1833.

Your Petitioner, having made this the land of his adoption, is anxious to have the disadvantages and disabilities, attending upon his being an alien, removed, and enjoy as far as possible the privileges of a British subject; and begs to subjoin testimonials of Character from the Magistrates and other respectable inhabitants of the District in which he lives, some of whom have known him from the time of his arrival in the Colony, to shew that he is not unworthy of the boon he asks.

* Marginal note.—John Goette, Native of Rusebeck, Westphalia.
† Marginal note.—John Wild, J.P.; M. McAlister, J.P.; Richd. Blackwell, J.P.
GREY TO FITZ ROY.

Your Petitioner therefore prays that Your Excellency would take his case into Your favourable consideration, and grant him letters of Naturalization, that he may enjoy the Protection of the Laws of his adopted country.

And Your Petitioner, as in duty bound, shall ever Pray.
Picton, 13th August, 1846. [Unsigned.]

CERTIFICATE.

We, the undersigned Justices of the Peace, acting in and for the District of Picton, Testimony in do hereby certify that we have known the Petitioner John George Goette for upwards of seven years, and during that period he has conducted himself with much propriety. He is an honest, sober, industrious mechanic, and we beg to recommend the Prayer of his Petition to His Excellency the Governor's favorable consideration.

JOHN WILD, J.P.
M. McALISTER, J.P.

Court House, Picton, 22nd August, 1846.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 34, per ship Sydney.)

Sir, Downing Street, 25 September, 1846.

In reply to Sir George Gipps' Dispatch of the 30th of March last, No. 73, and to the letter by which it was accompanied from the Commandant at Port Essington, reporting that supplies had been furnished to Dr. Leichardt and his party, on their arrival there from Sydney, to the amount of Four Pounds Four shillings and Five Pence, which Sir George Gipps had authorized to be charged to the Public Accounts of the Settlement, I have to convey to you the necessary sanction for that expenditure.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 36, per ship Sydney.)

Sir, Downing Street, 25 September, 1846.

I herewith transmit to you copies of a correspondence, which has taken place between Mr. Holmes and this Department relative to an undue amount of Quit Rent which his Son has been called upon to pay for certain land occupied by him in New South Wales.

I also enclose a Copy of a letter from the Colonial Land and Emigration Commissioners in reply to a reference which was made to them by my desire on the subject; and I have to request that you will cause the necessary enquiries to be made respecting Mr. J. B. Holmes' allegation that the claim of Quit rent has been enforced upon him with regard to Lands, which do not really belong to him, and that you will report to me the result.

I have, &c.,

GREY.
MR. J. J. HOLMES TO EARL GREY.

My Lord,

Baring Crescent, Exeter, 31st August, 1846.

I venture to address your Lordship, as the head of the Colonial department, on behalf of my Son, who has purchased 1,300 Acres of Land, near Maitland, New South Wales. When he purchased the Land referred to in the inclosed paper, it was not expected that any quit rent would be required by the Colonial Government, which had previously neglected to demand them. These rents are, however, now required, which is a great hardship upon a new purchaser, who did not expect to be called on for them. But this is not all. Your Lordship will perceive from the inclosed paper that the Colonial Government require my Son to pay for 700 Acres of Land, which form no part of his purchase, which never belonged to him. My Son has sent a Copy of the inclosed paper to the Colonial Treasurer, but the latter has not condescended to reply and has thus left my Son without redress or remedy. My Son paid £17 last year, instead of £10, and expects to be called on for double the amount this year; and, if compelled again to pay for the 700 acres which are not his, his Estate may be saddled with a much larger quit rent than is due. In the present depressed state of the Colony, such an unjust demand is a serious evil to young Colonists, and is degrading to the Government, which makes it. I earnestly entreat your Lordship to interfere, and to afford that protection to Her Majesty's Colonial subjects which they have sought in vain from the local Government.

I have, &c.

J. J. HOLMES.

[Sub-enclosure.]

MR. J. B. HOLMES TO COLONIAL TREASURER.

Sir, The Wilderness, 12th Novr., 1845.

I beg to call your attention to some facts relative to my Quit rent in the hope that it may be in your power to remedy the hardships of which I have to complain.

I am the owner of 1,300 Acres of Land in the County of Northumberland, viz. 300 in the Parish of Allandale, a grant to R. Coulion, and 1,000 in the Parish of Rothbury, being a portion of a grant of 2,000 Acres to Jane Coulion, the remaining 1,000 Acres being in the possession of other parties, 600 I understand are in Chancery being the property of a Minor and 400 divided among small settlers; the Quit rent Collector requires me to pay the amount due on the 2,000 acres, as I hold the original grant, which I cannot but feel is unjust. Iam ready to pay the amount due on my own land, and am induced to make this statement, trusting you will be able to direct the Collector to receive my portion and look to the real possessors of the property to pay their share. I only purchased the land about two years and a half ago; till some months after I had been in possession, was ignorant of my liability for Quit rent on land, from which I derived no benefit and am in no way connected with; trusting the justice of my case will recommend it to your consideration.

I have, &c.

J. B. HOLMES.

[Enclosure No. 2.]

UNDER SECRETARY HAWES TO MR. J. J. HOLMES.

Sir,

Downing Street. 24th September, 1846.

With reference to your Letter and its enclosure of the 31st August, respecting the undue amount of Quit rent which it was there stated your Son had been called upon to pay for certain land occupied by him in New South Wales, and especially to that portion of it wherein you advert to the practice of claiming payment of the above mentioned charge, which attaches to all Lands granted in the Colony, I am now directed by Earl Grey to acquaint you that, by Instructions addressed to the present Governor before
he left England, he possesses authority to endeavour to settle the
general question on reasonable terms.
With regard to your Son's Letter to the Colonial Treasurer at
Sydney, to which it appears he had received no answer, and
wherein he alleges that the claim of Quit Rent has been enforced
upon him in respect of Lands which do not really belong to him,
I am to observe that, in accordance with the opinion which Lord
Grey has received from the Commissioners of Colonial Land and
Emigration on this subject, his Lordship considers the case is one
which calls for enquiry on its separate merits; he will, therefore,
transmit Copies of your communication and its enclosure to the
Governor of New South Wales for his consideration and report.
I have, &c.,
B. Hawes.
[Enclosure No. 3.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY
HAWES.
Colonial Land Emigration Office,
Sir, 12th September, 1846.
We have the honor to acknowledge your Letter of the 5th in-
stant accompanied by a Letter from Mr. Holmes, enclosing one from
his Son relative to an undue amount of Quit Rent, which he has
been called on to pay for certain Land occupied by him in New
South Wales.
With respect to some remarks thrown out by Mr. Holmes against
the propriety of claiming payment of the charge of Quit Rent
which attaches to all Lands granted in New South Wales, it may
be enough to observe that, by Instructions addressed to the New
Governor before he left England, he holds authority to endeavour
to settle the general question on reasonable terms. But, in so far
as the Letter, which Mr. Holmes's Son addressed to the Colonial
Treasurer at Sydney and to which he states that he received no
answer, alleges that the claim of Quit Rent has been enforced
upon him in respect of Lands which do not really belong to him,
his case appears to be one that calls for enquiry on its separate
merits; and we would submit therefore our suggestion that the
Paper be forwarded to the Governor for his consideration and
report.
We have, &c.,
T. Fredk. Elliot.
Frederick Rogers.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.
(Despatch No. 19, per ship Ganges; acknowledged by earl Grey,
18th March, 1847.)
Sir,
Government House, 25th September, 1846.
I have the honor to enclose herewith a Copy of the Speech*
with which, on the 8th instant, I opened the Session of the Legis-
lative Council of this Colony.
I also enclose a Copy of the Address presented to me by the
Council in reply, and my rejoinder. I have, &c.,
Chs. A. Fitz Roy.
[Enclosures.]
[Copies of these papers will be found in the "Votes and Pro-
ceedings" of the legislative council.]
* Note 21.
SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 22, per ship Ganges.)

Sir,

Government House, 29th September, 1846.

In reply to Your Despatch, No. 4 of the 10th March, 1846, enclosing Copy of a letter from Mrs. Frances Besley, requesting to be furnished with information respecting a Person named Jane Bailey, who emigrated to this Colony in the month of November, 1842, I have the honor to enclose the copy of a letter from the Chief Commissioner of Police, by which it appears that the individual in question is still alive and residing near Sydney.

I have, &c.,

CHS. A. FITZ ROY.

MR. W. A. MILES TO COLONIAL SECRETARY THOMSON.

Police Department,

Sir, Sydney, 16th September, 1846.

In reply to your letter of the 25th August, 1846, together with its enclosure, namely, a copy of a letter from Mrs. Frances Besley to the Secretary of State for Colonial Affairs, bearing date 27th February, 1846, relative to the individual named in the margin* and requesting information respecting her.

I have the honor to state that a person calling herself Jane Bailey, and who I have every reason to believe to be the party, came before me in company with her Brother, George Bailey. In order to satisfy the parties in England, I caused Jane Bailey to write a letter relative to her arrival in the Colony, which letter I have the honor to enclose.

On questioning George Bailey why he wrote to his nephew announcing the death of his Sister, Jane Bailey, he positively denied having written any letter to that effect.

I have, &c.,

W. AUG. MILES,
Chief Commissioner of Police.

[Sub-enclosure.]

JANE BAILEY TO MR. W. A. MILES.

Sir, North Shore, 7th September, 1846.

I beg to inform you that I left London for this Colony in or about the month of July, 1842, by the Ship "Eden," Boyce Commander, as Cabin Passenger, and arrived here in the Month of November, 1842. My Brother's children, I believe, reside in Devonport, England.

I am, &c.,

JANE BAILEY.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 23, per ship Ganges; acknowledged by ear! Grey, 31st July, 1847.)

Sir,

Government House, 29th September, 1846.

At the request of the Legislative Council of this Colony, I have the honor to transmit the Copy of an Address presented to me by that body.

* Marginal note.—Jane Bailey.
The object of this Address is to induce me to move Her Majesty to be graciously pleased to disallow the Act of the Legislature of Van Diemen's Land, which imposes an Ad Valorem Duty of 15 per Cent. on the produce of New South Wales imported into that Colony; and, in forwarding it, I feel justified in recommending it to your favorable attention, as I conceive it to be extremely desirable that the Colonies in this portion of Her Majesty's Dominions should not be permitted to pass hostile or retaliatory measures, calculated not only to interrupt their Commercial intercourse with each other, but to create feelings of jealousy and ill-will among them, which if not checked may lead to mischievous results.

I am informed that the excuse, alleged by the Legislature of Van Diemen's Land for passing the measure now referred to, is their desire to conform to the Rules respecting discriminating duties, laid down in Lord Stanley's Circular Despatch of the 28th June, 1843, by assimilating the duties levied on articles of produce from this Colony with those levied on similar articles imported from the Mother Country; but I have read that Despatch with attention, and I do not consider that it is intended to apply to the inter-Colonial trade of these Colonies, or that it warrants the interpretation which is said to have been put upon it.

I feel much diffidence in offering an opinion so soon after my arrival in this part of the world; but it appears to me that, considering its distance from Home and the time that must elapse before the decision of Her Majesty's Government upon measures passed by the Legislatures of these Colonies can be obtained, it would be very advantageous to their interests, if some superior Functionary were to be appointed,* to whom all measures adopted by the Local Legislatures, affecting the general interests of the Mother Country, the Australian Colonies, or their inter-Colonial trade, should be submitted, by the Officers administering the Several Governments, before their own assent is given to them.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[Sir Charles Fitz Roy to Right Hon. W. E. Gladstone.]

(Signature of Charles A. Fitz Roy)

[Despatch No. 24, per ship Ganges.)

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Signed, Government House, 29th September, 1846.)

With reference to your Despatches No. 19 of the 17th February, addressed to my Predecessor, and No. 13 of the 30th

* Note 22.
March last, addressed to myself, relative to the distribution of the Ecclesiastical Fund in this Colony, I have the honor to transmit the Copy of a letter, which I have received from the Bishop of Australia, containing some further suggestions on certain points noticed in your Despatch of 30th March, which His Lordship has requested me to submit for your consideration, before the arrangements respecting the proposed partition of the Diocese of Australia into three Bishopricks are finally closed.

I have also the honor to submit copies of the several documents to which the Bishop refers, viz.:

The Grant of forty acres of Land in the vicinity of Sydney for the maintenance of the Bishop of Australia, and his successors, Bishops of Australia.

The opinion of the Crown Law Officers as to the power of the Bishop to grant leases of this Land.

The Deputy Surveyor General's communication as to the Rent that might be derived from the same.

Adverting particularly to the fourth section of the Regulations laid down in Your Despatch of the 30th March, under which the division of the See of Australia into three Sees is to be carried into effect, I beg to call your attention to the Bishop's explanation of the circumstances, under which it has not been deemed expedient to apply the surplus of the Fund, remaining over in the years 1844 and 1845, to the purpose specified in that Section.

You will observe that his Lordship had already proposed, and that my Predecessor had sanctioned the appropriation of this Surplus "towards the erection of additional Churches in places now destitute, and in part payment of stipends of Clergymen beyond the Boundaries of Location." And, as the Bishop still wished the appropriation to be adhered to, I considered that I should best meet the general tenor of your instructions (which I may be permitted to say entirely coincide with my own wishes) regarding my intercourse with the Bishop on all Church matters by leaving it undisturbed; and I accordingly confirmed it by a Minute of my Privy Council (a copy of which is annexed) on the 12th Ultimo.

I have, &c.,

Chs. A. Fitz Roy.

[Enclosures.]

[Copies of these papers will be found in a volume in series VII.]
FITZ ROY TO GLADSTONE.

EARL GREY TO SIR CHARLES FITZ ROY.

(A circular despatch, per ship Bermondsey.)

Sir,

Downing Street, 30th September, 1846.

On the 15th June last, Mr. Gladstone addressed to you a despatch pointing out the inconvenience which might arise from the supposed want of a Law in each of Her Majesty's Colonies authorizing the arrest and delivery of individuals charged with having committed Offences in other of Her Majesty's Colonies or in the United Kingdom. To remedy this defect, Mr. Gladstone directed you to suggest to the Legislature of the Colony under your Government the enactment of the necessary Law, to provide for the intercolonial restitution of fugitive Criminals, so far as the local limits of their jurisdiction might enable them to do so.

It appears not to have been brought to Mr. Gladstone's notice, when his despatch was written, that the Act of Parliament, 6 and 7 Vict., c. 34, had already remedied the defect, which formerly existed in the Law in this respect, and that, consequently, no further legislation was necessary by the local Legislatures of Her Majesty's Colonies. You will, accordingly, consider Mr. Gladstone's Despatch of 15th June last as withdrawn.

I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 26, per ship Ganges; acknowledged by earl Grey, 23rd March, 1847.)

Sir,

Government House, 30th September, 1846.

With reference to my Despatch,* North Australia No. 1 of this date, and especially to the return annexed thereto of live stock, the property of the Crown now at Moreton Bay, I have the honor to report that I have authorized the Deputy Commissioner General to deliver over to Dr. Leichhardt ten Bullocks to be selected by him out of the Government Herd.

Dr. Leichhardt, whose success in his first attempt to reach Port Essington by land was communicated to you by my Predecessor,† is about to proceed on a fresh expedition,‡ with the object of proceeding from Moreton Bay, Northward, until he gets within the Tropic, and then turning, as nearly as he may find it to be practicable, westward through the central portion of Australasia, until he reaches the Western Coast about Swan River. This hazardous enterprise is to be undertaken entirely on private

* Note 23.
† Marginal note.—Vide Sir George Gipps' Desp., No. 72, 29th March, 1846.
‡ Note 24.
1846.  
30 Sept. 

Value of bullocks.

funds, contributed within the Colony; and very sanguine hopes are entertained of its success, from Dr. Leichhardt's known energy, endurance and courage, combined with activity and physical powers. I therefore trust you will not disapprove of the small assistance I have afforded him on the part of Government, amounting in value to about Fourteen Pounds.

I have, &c,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.
(Despatch No. 27. per ship Ganges; acknowledged by earl Grey, 13th April, 1847.)

1 Oct.

Address from I have the honor to transmit the Copy of an Address presented to me by the Legislative Council of this Colony on the 22nd Ultimo, praying that I would place the sum of One thousand Pounds upon the Estimates for the ensuing year, for the purpose of liquidating a debt due for the erection of the Jewish Synagogue in Sydney; and that I would also place on the Estimates a sum not exceeding Two hundred Pounds for the support of a Jewish Minister.

You will perceive by my reply to this Address (copy of which is annexed) that I considered it advisable to accede to the former request, the members of the Jewish Religion being a numerous, respectable and influential class in this Community, contributing largely to the Public Revenue; but with regard to the latter (the Stipend of the Minister), I deemed it my duty to reserve it for your consideration.

It was asserted in the debate upon this address that Her Majesty's Government have not objected to Legislative Aid being afforded in support of the Jewish Religion in Jamaica, and the impression on my own mind is that this assertion is correct.

I have, &c,

CHS. A. FITZ ROY.

[Enclosures.]

[Copies of the address and reply will be found in the "Journals and Proceedings" of the legislative council.]

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.
(Despatch No. 28. per ship Ganges; acknowledged by earl Grey, 12th April, 1847.)

2 Oct.

Sir,

Government House, 2nd October, 1846.

I have the honor to transmit the Copy of an Address from the Legislative Council, requesting that I would forward to you,
for Her Majesty's information, certain Resolutions thereunto appended, expressing the opinion of the Council relative to the present upset price of Crown Land in this Colony.

I also enclose a local Newspaper containing a Report of the Debate which occurred when these Resolutions were proposed, from which you will perceive that the argument, adduced by the Gentlemen who opposed them, was not founded on the assumption that the present minimum Upset price of one Pound per Acre was sufficiently low, but that any diminution of that price would operate disadvantageously to the Squatting Interests by opening the door to public competition, and thereby destroying the monopoly which, owing to the high minimum price, is now virtually conceded to them.

I have no reason to believe that the Mover of the Resolutions (Mr. Lowe) had the remotest intention of eliciting any premature expression of my opinion on the subject to which they refer; nor do I consider that I shall be in a position to offer any to Her Majesty's Government, until I have acquired a sufficient practical acquaintance with the value of Lands in this Colony.

I have, &c.,

Chs. A. Fitz Roy.

[Enclosures.]

[A copy of this address will be found in the "Votes and Proceedings" of the legislative council; the newspaper was the "Sydney Morning Herald," dated 26th September, 1846.]

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Earl Grey to Sir Charles Fitz Roy.

(Despatch No. 37, per ship Fyffeshire.)

Sir,

Downing Street, 3 October, 1846.

I herewith transmit to you the copy of a letter from the Council office, enclosing the copy of an order in Council, dated the 1st of August, 1846, regarding the case of Mr. John Walpole Willis.

I further enclose a copy of correspondence on the subject of that order, which has passed between Mr. Willis and this office. Finally I enclose an order made by Her Majesty for revoking the appointment of Mr. Willis as Puisne Judge of New South Wales and as Resident Judge at Port Phillip.

You will cause that order to be communicated to the Chief Justice, and to the other Judges of the Supreme Court for their information.

I have, &c.,

Grey.
MR. W. L. BATHURST TO UNDER SECRETARY STEPHEN.

Sir, Colonial Office, Whitehall, 1st August, 1846.

I am directed by the Lord President of the Council to transmit to you for the information of Earl Grey a Duplicate of Her Majesty’s Order in Council of this day, approving the Report of the Judicial Committee upon a Petition of Mr. Justice Willis against an Order of the Governor and Council of New South Wales, whereby this Gentleman was removed from his Office of Judge in that Colony. You will perceive that the Lords of the Judicial Committee have recommended Her Majesty to reverse this Order of amotion of the 17th June, 1843, on the ground that some opportunity of being previously heard against the amotion ought to have been given to Mr. Willis by the Governor and Council; but their Lordships have likewise reported to Her Majesty as their opinion that the Governor in Council had power by law to amove Mr. Willis under the authority of the 22d Geo. III. and that, upon the facts appearing before the Governor in Council and established before their Lordships in this case, there were sufficient grounds for the amotion of Mr. Willis. The Queen in Council has been pleased to approve of this Report, and to direct that Earl Grey is to give the necessary directions, which devolve upon the executive Department of Her Majesty’s Government in conformity with this decision.

I have, &c,

WM. L. BATHURST.

[Sub-enclosure.]

ORDER-IN-COUNCIL.

At the Court at Buckingham Palace, the 1st day of August, 1846.


WHEREAS there was this day read at the Board a Report of the Judicial Committee of the Privy Council, dated the 8th day of July, 1846, in the words following, viz.:

Your Majesty having been pleased, by your Order in Council of the 4th March, 1844, to refer unto this Committee the Humble Petition of John Walpole Willis, Esquire, setting forth that by the Act of Parliament, passed in the ninth year of the reign of His late Majesty King George the fourth “for providing for the administration of Justice in New South Wales and Van Diemen’s Land,” it was enacted that the Judges of the Supreme Court of New South Wales should from time to time be appointed by His Majesty, his Heirs and Successors, and that it should be lawful for His Majesty, his Heirs and Successors, from time to time as occasion might require to remove and displace any such Judge, and in his place and stead to appoint another fit and proper person, provided that, in case of the absence, resignation or death of any such Judge, or in case of any such disease or infirmity as should render any such Judge incapable of discharging the duties of his Office, it should be lawful for the Governor of the said Colony to appoint some fit and proper person to act in the place and stead of any Judge, so being absent, resigning, dying or becoming incapable, until such Judge should return to the execution of his Office or until a Successor should be appointed by His Majesty as the case might require. That, subsequently to the passing of the said Act, viz., in the month of June, One thousand eight hundred and thirty seven, the Petitioner was appointed by Your Majesty to be one of the Puisne Judges of the Supreme Court of New South Wales by warrant under Your Majesty’s Privy Seal and Sign Manual, and the Petitioner repaired to the said Colony, and, on the seventh day of November, one thousand, eight hundred and thirty seven, received his Patent in pursuance of Your Majesty’s Warrant, constituting and appointing him a Judge of the Supreme Court of New South Wales as such Puisne Judge under the Seal of the said Colony, and entered upon his functions as such Judge and continued therein until the month of February, one thousand, eight hundred and fortyone, when the Petitioner, having
been by patent under the Seal of the said Colony, bearing date the Eighth day of the same month of February, appointed resident Judge in the district of Port Phillip in the said Colony, repaired to Melbourne in that district and acted as such resident Judge there. That, on the twentieth day of June, One thousand, eight hundred and forty three, and during the Petitioner's sitting in Court in the exercise of his Judicial duties at Melbourne aforesaid, the Petitioner received a Sealed Packet containing a Letter from Charles Joseph La Trobe, Esq., the Superintendent of the said District of Port Phillip, dated the same twenty fourth of June, stating that the said Superintendent had that day received a Dispatch written by the Colonial Secretary by direction of His Excellency Sir George Gipps, the Governor of the said Colony of New South Wales, announcing that it had been deemed expedient to submit to the Executive Council for the said Colony Representations which had been addressed to the Government respecting the Petitioner, and that after mature deliberation the said Council had advised that, in conformity with the provisions of the Act of Parliament, twentysecond George the third, Chapter Seventyfive, the Petitioner should be forthwith amoved from the Office, not only of Resident Judge of Port Phillip, but as Judge of the Supreme Court of New South Wales. That the said packet contained in addition to the said Letter a document purporting to be a Copy of a Writ, issued by Order of the said Governor and Council, and tested the seventeenth day of June, One thousand, eight hundred and forty three, and forty three, on which their decision was based, Whereby, after setting forth that it had been sufficiently made to appear to the said Governor and Council that the Petitioner had misbehaved himself in his said Office, the said Governor and Council did revolve the appointment of the Petitioner as resident Judge as aforesaid, and did also amove the Petitioner from the said Office of Judge of the Supreme Court of New South Wales; and the said packet also contained a Writ under the seal of the said Colony of New South Wales, purporting to have been issued by order of the said Governor and Council and tested the same seventeenth day of June, superseding and inhibiting the Petitioner from the exercise of all power and authority as a Judge of the said Supreme Court. That the Petitioner was, until he received the said communication from the said Charles Joseph La Trobe on the twenty fourth day of June, One thousand, eight hundred and forty three, wholly ignorant that proceedings were pending respecting him before the said Executive Council. That, a few days after the said twenty fourth day of June, the Petitioner received from the said Charles Joseph La Trobe a paper purporting to contain Minutes extracted from the proceedings of the Executive Council of the said Colony on the thirteenth and fifteenth days of June, One thousand, eight hundred and forty three, relative to the aforesaid amotion of the Petitioner, and in such minutes the following Documents are referred to and are (along with others not particularized) stated to have been laid by the Governor before the Council as containing the grounds of accusation on which the said Council advised the Petitioner's amotion, that is to say: First, Letter from Mr. La Trobe transmitting Memorial from numerous Inhabitants of the District of Port Phillip praying for the immediate suspension of the resident Judge; Two, Letter from Mr. La Trobe transmitting Copies of a further correspondence respecting the Memorial above mentioned. Three, Confidential Letter from Mr. La Trobe of the twenty ninth day of May, One thousand, eight hundred and forty three, strongly urging the immediate suspension of the "resident Judge"; and it is in such Minutes stated that the said Executive Council had not deemed it necessary to recommend that an opportunity should be afforded to the Petitioner to justify his conduct previously to adopting the measure they had advised, because (as it is in the said Minutes alleged) the grounds, on which their decision was based, were not such as to admit of either explanation or justification; that (as it is therein also alleged) they consisted chiefly of Acts which would be admitted by the Petitioner, though he might deny their tendency and effects; and that the said Council (as it is in the said Minutes alleged) conceived that the Petitioner would have no just ground of complaint that his case had been decided without affording him a hearing. That the Petitioner hath not ever been furnished with Copies of the letters of the said Charles Joseph La Trobe, referred to in the said Minutes or of the other documents therein alleged to have been laid before the said Council as furnishing the grounds of accusation against the Petitioner, although the Petitioner hath by letter and otherwise requested the said Charles Joseph La Trobe to furnish him with Copies thereof, nor hath the Petitioner any other knowledge of the contents of such Letters and documents than is furnished by the statement thereof, hereinafore quoted from the said Minutes of Council.

That the Petitioner anxiously laboured during his tenure of Office in the said Colony to discharge his judicial duties faithfully and honestly and to the best of his ability; and the Petitioner is (notwithstanding the allegations contained in the said Minutes of Council) wholly unconscious of any megalomania whatsoever in his said Office, and humbly appealing to Your Majesty against his amotion, pray the Governor and Council in such amotion, and to grant to the Petitioner such redress and relief.

Resignation of J. W. Willis.

Request for payment of arrears of salary and legal expenses.

Interpretation of decision of privy council.

in the premises as to Your Majesty may seem meet. The Lords of the Committee in obedience to Your Majesty’s said Order of Reference have taken the said Petition into Consideration, and, having heard Counsel on behalf of the said Petitioner and likewise on behalf of Sir George Gipps, late Governor of New South Wales, their Lordships agree humbly to report to Your Majesty as their opinion that the Governor in Council had power by law to amove Mr. Willis from his Office of Judge under the authority of the 22nd George III, and that, upon the facts appearing before the Governor in Council and established before their Lordships in this case, there were sufficient grounds for the amotion of Mr. Willis; but their Lordships are of opinion that the Governor and Council ought to have given him some opportunity of being previously heard against the amotion, and that the Order of the 17th June, 1843, ought therefore to be reversed.

Her Majesty, having taken the said Report into consideration, was pleased by and with the advice of Her Privy Council to approve thereof, and to Order, as it is hereby Ordered, that the said Order of the Governor and Council of the Colony of New South Wales of the 17th June, 1843, be and the same is hereby reversed for the reason in the said report stated, and the Right Honorable Earl Grey, One of Her Majesty’s Principal Secretaries of State, is to give the necessary directions herein accordingly.

WM. L. BATHURST.

[Enclosure No. 2.]

CORRESPONDENCE between Mr. J. W. Willis and the Colonial Office.

My Lord, Old, near Northampton, 7th August, 1846.

Her Majesty in Council having been pleased to reverse the Order of the Governor and Council of New South Wales, for my amotion from the office of a Judge of that Colony, I beg leave to repeat the desire which my relative, Mr. G. A. Hamilton (member for Dublin University) expressed to Lord Stanley on my behalf to retire from office as soon as I could do so consistently with honor, in consequence of loss of health occasioned by my long service abroad, especially in British Guiana; I feel that this period has now arrived, and I beg most respectfully to tender my resignation of office.

I venture to hope, that my length of service and loss of health will be taken into Her Majesty’s favourable consideration, as well as to solicit that the necessary directions may be given for payment of the arrears of my salary, and for my being reimbursed the expenses I have been put to in obtaining the reversal of the Order of the Governor and Council.

I have. &c.

JOHN WALPOLE WILLIS.

The Right Honorable The Earl Grey, etc. etc., etc.

Sir, Downing Street, 28th August, 1846.

I am directed by Earl Grey to acquaint you that, on the 1st instant, a communication was made to this Department for his Lordship’s information, by the direction of the Lord President of the Council. It enclosed a copy of an Order of the same date, by which Her Majesty in Council approved the Report of the Judicial Committee of the Privy Council on your Petition of appeal against the Order of the Governor and Council of New South Wales, removing you from your office as a Judge in that Colony. It was stated in the same communication that Her Majesty in Council had been pleased to direct “that Earl Grey should give the necessary directions which devolve upon the Executive Department of Her Majesty’s Government in conformity with this decision.”

From the Order in Council thus transmitted to him, Lord Grey ascertained that the Judicial Committee had reported to Her Majesty their opinion—First, that the Governor in Council had power by Law to amove you from your office of Judge, under the authority
of the Statute 22nd Geo. the 3rd. Secondly, that upon the facts appearing before the Governor and Council, and established before their Lordships in this case, there were sufficient grounds for your amotion. But—Thirdly, that the Governor and Council ought to have given you some opportunity of being previously heard against the amotion. And Fourthly, that the Order of the 17th of June, 1843, ought therefore to be reversed.

In deliberating what under such circumstances were the directions which it devolved upon the Executive Department of Her Majesty’s Government to give in conformity with this decision, the first conclusion drawn by Lord Grey was, that according to the established rule in Her Majesty’s Civil Service in the Colonies, the reversal of the Order of the Governor and Council entitled you to receive from the Treasury of New South Wales the full salary of your office, computed from the date of the latest payment to you on account of that salary, down to the present time.

But, while thus giving effect to that part of the Report which advises the reversal of the Order of amotion, Lord Grey was of opinion that it had also become his painful duty to give effect to that part of the Report (and of the consequent Royal Order) which ascertains that your conduct in New South Wales had been such as to merit the penalty of removal from Her Majesty’s Service there; for although the Order of the Governor and Council was reversed, on the ground that they had omitted to afford you the opportunity of being heard in your own defence, yet, after that opportunity had been fully afforded you by the Judicial Committee, that high tribunal reported to the Queen their opinion that the facts established before them furnished sufficient grounds for your amotion. The practical inference from such a judgment appeared to Lord Grey inevitably to be, that Her Majesty ought now to be advised to remove you from your office.

It was not until His Lordship had reluctantly adopted this conclusion that he received your letter of the 7th instant. It would be a great relief to his feelings if he could avert the necessity for your actual dismissal from office, by advising the Queen to accept the resignation which you have tendered in that letter; but, after mature and anxious reflection, Lord Grey finds himself compelled to instruct me to inform you that (for the following reasons) he is unable to yield to that inclination.

First.—If, before any judgment of the High Court of Appeal had been pronounced, you had offered to resign your office, the offer would have stood on very different and on much more favorable grounds; but you demanded and obtained a judicial decision. It now appears that the judgment so invoked by yourself involves a serious condemnation of your conduct; and Lord Grey apprehends that, after such a censure, pronounced at your instance, by such an authority, it is too late for you to avert by a resignation the penal consequences involved in, and resulting from, such an adjudication.

Secondly.—The terms in which your resignation is tendered appear to His Lordship to enhance the difficulty of accepting it. Your letter refers to the reversal of the Order of the Governor and Council, as though that reversal were unaccompanied by any censure on yourself. You account for your retirement from office exclusively by referring to the state of your health, and you observe that it is now in your power to retire “consistently with
846.
3 Oct.

Reasons for refusal to accept resignation of J. W. Willis.

Reasons for refusal to accept resignation of J. W. Willis.

Warrant to revoke commission of J. W. Willis.

Warrant to revoke commission of J. W. Willis.

Arrears of salary to be paid.

Arrears of salary to be paid.

Refusal of legal expenses.

Refusal of legal expenses.

Mr. Under Secretary Hawes, etc., etc., etc.

Bogum, 4th September, 1846.

I take leave most respectfully to ask, if by refusing to accept my resignation, and insisting on the revocation of my Commission (especially with reference to the terms in which this is conveyed to me, by your letter addressed to me at "Old," on the 26th ultimo), any imputation is intended to be cast upon my personal honor and integrity, or on the purity of the motives by which I was actuated? If so, I most earnestly solicit that the specific reasons for any such imputation may be at once made known to me; I am, as yet, ignorant of the precise grounds on which the Report of the "sufficiency of cause for my amotion" is founded.

I also, with all deference, venture to inquire, whether my former acknowledged services, loss of health, and pecuniary sacrifices, are to be denied all further consideration.

I have, &c.,

JOHN WALPOLE WILLIS.
Sir, Downing Street, 15th September, 1846.

I have laid before Earl Grey your letter of the 4th instant, and in reply to the question you have there addressed to me, with reference to the letter which was written to you, by His Lordship's desire, on the 25th ultimo, I am directed to state, that Lord Grey did not intend by that communication, to throw any imputation upon your personal honor.

With respect to your remark, that you are as yet ignorant of the precise grounds on which the Committee of the Privy Council reported that there was sufficient cause for your amotion from office, Lord Grey desires me to observe that he knows nothing on the subject beyond what is stated in the Order of Her Majesty in Council, of which a copy has already been transmitted to you, and which it was his duty to carry into effect.

J. Walpole Willis, Esq., etc., etc., etc.

Post Office, Bognor, Sussex.

My Lord,

On the 4th instant I did myself the honor to write to Mr. Under Secretary Hawes, requesting that I might be informed if, by your Lordship's refusal to accept my resignation of office, and insisting on a revocation of my Commission, or in the terms in which this was conveyed to me by the official letter of the 25th ultimo, any imputation was intended to be cast on my personal honor and integrity? and in such case I most respectfully entreated that the precise grounds, on which any such imputation rested, might be immediately made known to me. I further ventured most respectfully to inquire, if my former long and acknowledged services, pecuniary sacrifices, and loss of health, would meet with any consideration? To this letter I have not hitherto been favored with any answer.

The Judge Advocate General when at the Bar was of Counsel for me throughout my appeal, and has kindly written to say that "he thinks I have a perfect right, when removed from office, to ask for a declaration that it is not on account of anything derogatory to my honor and integrity; he thinks if I were to write to Lord Grey, or Mr. Hawes, asking for the expression of such an opinion, I should undoubtedly get it in such a form that I might make use of it." Mr. C. Buller adds, "as thoroughly conversant with your whole case, I am bound to give my assurance that nothing in the course of the charges against you attached any stain to your honor and integrity."

Under these circumstances I beg leave to solicit from your Lordship such information as I have already asked for from Mr. Under Secretary Hawes, on both the points submitted to him in my letter of the 25th of August.

John Walpole Willis.

The Right Honorable the Earl Grey, etc., etc., etc.

Sir, Downing Street, 19th September, 1846.

I am directed by Earl Grey to acknowledge the receipt of your letter of the 12th instant, and to state that my letter of the 15th instant will be found to comprise the only answer which it is in his Lordship's power to make to the enquiry which you have now repeated. I regret that in consequence of my absence for a short time from this Office the transmission of my last letter to you was retarded till the 15th instant.

J. Walpole Willis, Esq., etc., etc., etc.

B. Hawes.

3 Oct.

Denial of imputations on personal honor of J. W. Willis.
1846.
3 Oct.

Sir,
Bognor, 17th September, 1846.

It gives me the greatest satisfaction to find, by your letter of the 15th instant, that no imputation was intended to be thrown on my personal honor, by your communication of the 25th of August.

As my inquiry, whether my former acknowledged services, pecuniary sacrifices, and loss of health, will now meet with any consideration? seems to have escaped your observation, I take leave, most respectfully, to recall this subject to your notice.

On the hearing of my appeal it was distinctly and emphatically declared, "that I sought not restoration to office"; but on the contrary, the circumstances I have alluded to were most strongly urged with a view to some provision for the future. Some recognition of my former services would indeed be most grateful to me. I regret exceedingly that Earl Grey knows nothing of my case beyond what is stated in the Order of Her Majesty in Council of the 1st of August; for without presuming to question or to impugn any decision of so high a Court as that of the Judicial Committee of Her Majesty's Privy Council, it does appear to me not to be in accordance with the general usage of other tribunals, that a party should be kept in ignorance of the precise grounds for his condemnation and punishment. More especially as in the present case it is admitted by the late Governor of New South Wales, in his Despatch of the 19th of June, 1843, that my amotion from office was not for any specific act, nor for any precise number of what he terms improper acts. The cumulation treason, insisted upon in Lord Stafford’s case, has ever since met with merited reprobation; and in the recent case of Mr. O’Connell, the judgment of the Court of Queen’s Bench, in Ireland, was reversed by the House of Lords, because the counts in the indictment on which the punishment was awarded were not precisely specified. Many of the charges (such for instance, as the first and most prominent, that of punishing Mr. Arden for contempt) brought forward to justify my illegal amotion from office, by the Governor and Council of New South Wales, appeared to be admitted by the Court, on the hearing of my appeal, to be altogether futile; and yet the Report does not contain, nor have I been able to obtain, any specification of the grounds for my condemnation.

Under these circumstances I very humbly trust I may yet venture to hope my former long and faithful services will not be now entirely disregarded.

I have, &c.,

JOHN WALPOLE WILLIS.

Refusal of pension or retired allowance for J. W. Willis.

1846.
3 Oct.

Request by J. W. Willis for recognition of past services.
For services rendered by Her Majesty's Officers to any Colonial Government, it is impossible to grant any retired allowance payable out of the Revenue of this Kingdom; your services in Guiana were too short to entitle you to any such allowance from the Treasury of that Colony; your services in Upper Canada and in New South Wales were, unfortunately, brought to a close under circumstances which must absolutely prohibit the attempt to subject such a payment the Revenue of either of those Colonies. Without advancing further into topics which it might be painful, and must be now unprofitable, to discuss, Lord Grey is constrained by the reason I have mentioned, to conclude, that no fund exists which could be charged with a pension in your favor.

I have, &c.,

John Walpole Willis, Esq.

[Enclosure No. 3.]

COPY of Warrant revoking the Appointment of John Walpole Willis, Esquire, as Puisne Judge of New South Wales, and Resident Judge of Port Phillip.

To Our Trusty and well beloved Sir Charles Augustus Fitz Roy, Knight, Our Captain-General and Governor in Chief in and over Our Territory of New South Wales, and its Dependencies, or in his absence, to Our Lieutenant Governor, or the Officer administering the Government of Our said Territory and its Dependencies.

TRUSTY and well beloved We greet you well. Whereas by an Act of Parliament, made and passed in the ninth year of the Reign of His late Majesty, King George the Fourth, intituled, "An Act to provide for the Administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes relating thereto"; it was amongst other things enacted, that it should be lawful for His said Majesty, His Heirs and Successors, by Charters or Letters Patent, under the Great Seal of the United Kingdom, of Great Britain and Ireland, to erect and establish Courts of Judicature, in New South Wales and Van Diemen's Land, and that each of such Courts respectively should be holden by one or more Judge or Judges, not exceeding three: And it was further enacted, that the said Judges should, from time to time be appointed by His said Majesty, His Heirs and Successors, by Charters or Letters Patent, under the Great Seal of the United Kingdom, of Great Britain and Ireland, to erect and establish Courts of Judicature, in New South Wales and Van Diemen's Land, and that each of such Courts respectively should be holden by one or more Judge or Judges, not exceeding three: And it was further enacted, that the said Judges should, from time to time be appointed by His said Majesty, His Heirs and Successors, from time to time, as occasion might require, to remove and displace any such Judge. And whereas, in pursuance of the said recited Act, and by virtue of the power thereby in Us vested, We did by a Warrant under Our Sign Manual, bearing date at Kensington Palace, the twenty-sixth day of June. One thousand eight hundred and thirty-seven, in the First year of Our Reign, authorize and require Our trusty and well beloved Sir Richard Bourke, Lieutenant-General of Our Forces, Knight Commander of the Most Honorable Military Order of the Bath, then Our Captain-General, and Governor in Chief, of Our Territory of New South Wales, to cause Letters Patent to be issued, under the Seal of Our said Territory,

* Note 26.
constituting and appointing Our trusty and well beloved John Walpole Willis, Esquire, to be a Puisne Judge of the Supreme Court in Our said Territory, during Our Pleasure, which Letters Patent as aforesaid, were accordingly issued, bearing date the seventh day of November, One thousand eight hundred and thirty-seven, in the First year of Our Reign. And whereas by an Act of the Governor of Our Territory of New South Wales, by and with the advice of the Legislative Council thereof, passed in the Fourth year of Our Reign, intituled, "An Act to provide for the more effectual Administration of Justice in New South Wales and its Dependencies." it was amongst other things enacted, that for the better and more effectual Administration of Justice throughout the said Colony and its Dependencies, in addition to the three Judges of the Supreme Court of the said Territory, already appointed, there should and might be appointed, a Judge or Judges, not exceeding two, of the said Court, as the same should be deemed necessary by Us, and that until the Pleasure of Us, Our Heirs and Successors, should be duly signified in that behalf, it should and might be lawful for the said Governor by Commission or Commissions under the Great Seal of Our said Territory, in Our name and behalf to appoint such Judge or Judges as aforesaid: And it was further enacted, that it should be lawful for the Governor of the said Territory for the time being to appoint from time to time one of the Judges of the Supreme Court of the said Territory, not being the Chief Justice, to reside in the District of Port Phillip, in the said Territory. And whereas, in pursuance of the said last recited Act, and under and by virtue of the authority thereby vested in the Governor of Our said Territory. Our trusty and well beloved Sir George Gipps, Knight, then Our Captain-General and Governor in Chief of the said Territory, did, under the Seal of Our said Territory, on the eighth day of February, One thousand eight hundred and forty-one, appoint the said John Walpole Willis, during the pleasure of the Governor of the said Territory for the time being, to be Resident Judge in the said District of Port Phillip. And whereas We are now minded to remove the said John Walpole Willis, from the office of Judge in Our Territory aforesaid: Now, therefore, in pursuance of the said recited Act of the Ninth year of the Reign of His late Majesty, King George the Fourth, and under and by virtue of the authority thereby vested in Us, or of any other power and authority in Us, in that behalf vested, We do hereby authorize and require you, to cause Letters Patent to be passed, under the Public Seal of Our said Territory, revoking and recalling in Our name, and on Our behalf, the appointment of the said John Walpole Willis, to be a Puisne Judge of the said Supreme Court, in Our said Territory, and removing and displacing him from the said office. And in further pursuance and exercise of all powers and authorities in Us in that behalf vested, We do further authorize and require you to revoke and recall the appointment, so made by the Governor aforesaid, of the said John Walpole Willis, to be Resident Judge in the said District of Port Phillip; and for so doing, this shall be your Warrant.

Given at Our Court, at Osborne House, Isle of Wight, this twenty-first day of September, 1846, in the Tenth year of Our Reign.

By Her Majesty's Command,

[Signature]
Earl Grey to Sir Charles Fitzroy.

(Despatch No. 38, per ship Bermondsey; acknowledged by Sir Charles Fitz Roy, 11th July, 1847.)

Sir, Downing Street, 3 October, 1846.

The attention of Her Majesty’s Government having been recently given to the subject of the Observatories at present maintained in Her Majesty’s Colonial Possessions at the expense of the Public, it has been determined that reports, for the information of the Lords Commissioners of the Admiralty, should in future be annually drawn up by the officers in charge of those establishments, which are to embrace the following points:—The state of the buildings and adjacent Grounds, the library of Books and Manuscripts, the condition of the instruments, Clocks and chronometers, the nature of the observations in which the preceding year has been chiefly occupied, the progress which has been made in the reduction of those observations, the general conduct of the Assistant Astronomers, together with any suggestions which may be thought conducive to the efficiency of the observatory and to the interests of science.

It is intended that the preparation of these annual reports should be completed, so as to ensure their arrival in this Country by the Month of April.

You will, therefore, call upon Mr. Dunlop, the Superintendent of the observatory at Paramatta, to commence such a Report for the current year immediately; and, although it will of course be impossible to receive it here within the prescribed period, I have to request that it may be forwarded to me with the least possible delay.

I herewith enclose a Copy of the annual Reports made by the Astronomer Royal to the Board of Visitors; and it will be your duty to appoint a Commission for the purpose of examining once in every year the inventory of all the instruments, books, etc., belonging to the observatory in New South Wales in the same manner as is practiced in the Royal observatory in this Country.

I should also wish to receive with the least possible delay a Report from the Astronomer at the observatory at Paramatta of the observations he has made since the date of his last report, or since the date of his appointment, if, as I am given to understand, no such reports have from that time been transmitted by him to Her Majesty’s Government in this Country. The great importance of the station he occupies with a view to a scientific survey of the heavens in the Southern hemisphere must impart peculiar interest to the result of that Survey; and I should wish to be placed in possession of them as fully and minutely as may be consistent with his prompt compliance with this Requisition.
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1846.

3 Oct.

Observatory to be inspected by Sir O. Fitz Roy.

You will also endeavour yourself to inspect the observatory and report to me in what state it appears to be, and whether you find reason to believe that the observer pays proper attention to his duties.

I have, &c.,

[Enclosure.]

GREY.

[This consisted of the annual reports of the astronomer-royal for the years 1836 to 1846, both inclusive.]

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 29, per ship Ganges.)

Sir, Government House, 3rd October, 1846.

I have the honor to acknowledge the receipt of your Despatches of the numbers and dates noted in the Margin.*

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 39, per ship Bermondsey.)

Sir, Downing Street, 7 October, 1846.

I have received your Predecessor’s Dispatch addressed to Lord Stanley No. 88 of the 27th of April last, enclosing a Memorial from the Mayor and Town Council of Melbourne, who pray that a portion of the Land Fund may be made applicable to the forming and repairing of the Streets in that Town.

Although the formation of Good Streets and Roads in a Town, which is at once the Capital and Principal Port of so considerable a District as Port Phillip, is undoubtedly an important and desirable object, and might even under certain circumstances warrant an appropriation from the General Revenue, yet the fitness of such an appropriation can only be properly judged of and decided by the local Legislatures.

Of the moiety of the Land Fund not devoted by the Act of Parliament to Immigration, a certain per centage has, it is true, been left at the disposal of the Governor by the Lords Commissioners of the Treasury to be expended in such a manner as he may deem expedient on “Roads, Bridges, and other means of

* Marginal note.—Addressed to Sir G. Gipps: No. 38, 28th February, 1846; No. 39, 6th March, 1846; No. 40, 5th March, 1846. Addressed to Sir C. Fitz Roy: No. 1, 6th March, 1846; No. 2, 7th March, 1846; No. 3, 9th March, 1846; No. 4, 10th March, 1846; No. 5, 14th March, 1846; No. 6, 16th March, 1846; No. 7, 17th March, 1846; No. 8, 17th March, 1846; No. 9, 20th March, 1846; No. 10, 22nd March, 1846; No. 11, 28th March, 1846; No. 12, 29th March, 1846; No. 13, 30th March, 1846; No. 14, 17th April, 1846; No. 15, 20th April, 1846; No. 16, 24th April, 1846; No. 17, 25th April, 1846; No. 18, 29th April, 1846. Military No. 1, 6th March, 1846; Military No. 2, 10th March, 1846; Military No. 3, 27th April, 1846. Circular, 12th March, 1846; Ditto, 13th April, 1846. Private and Confidential, 30th April, 1846.
communication for the purpose of opening and making more easily available Lands, which it may be desirable to offer for Sale.”

It cannot, however, be supposed that these words had reference to the making or improving the Streets of a Town. Indeed I find that Lord Stanley, in a Despatch\(^*\) conveying to Your Predecessor the intentions of the Government with regard to the disposal of Funds acquired from the Sale of Crown Lands, distinctly states “that the discretionary power thus given to the Governor to incur expenditure in opening Roads applies of course to main lines of communication only, and that the Funds thus placed at his disposal are on no account to be diverted to purposes of partial, local or Individual Interest.”

Whilst, therefore, I concur in the importance of effecting any improvements required in the Communications with the Town of Melbourne, I am of opinion that Sir George Gipps judged rightly in declining to apply the Land Fund by Executive authority to that object.

You will acquaint the Gentlemen, who signed the Memorial, that, for the reasons assigned, I have not felt at liberty to comply with the prayer which it contains.

I have, &c,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 40, per ship Bermondsey; acknowledged by Sir Charles Fitz Roy, 28th April, 1847.)

Sir,

Downing Street, 7 October, 1846.

I transmit to you herewith the Copy of a Letter, addressed to me by the Publishers of Hansard’s Parliamentary Debates, stating that they have some Copies of that Work to dispose of, which they are prepared to sell at a very reduced price. It is possible that the Colony under your Government may not be in possession of a Copy of this Work, and that the Legislature may wish to avail themselves of this opportunity of procuring it at a comparatively small price. I have, therefore, thought it my duty to communicate to you Mr. Gye’s letter, leaving you to exercise your discretion as to the manner of acting upon it.

I have, &c,

GREY.

MR. J. GYE TO EARL GREY.

Hansard’s Parliamentary Debate Office.

My Lord,

32 Paternoster Row, 17th Sept., 1849.

I beg leave with much respect to inform your Lordship that, having come to the determination of selling off the remaining Copies of Hansard’s Parliamentary History, 36 Vols., Royal 8vo, at a very reduced price, I should be obliged if Your Lordship would

\(^*\) Note 26.
1846.
7 Oct.

Offer of sets of history at reduced price.

HISTORICAL RECORDS OF AUSTRALIA.

have a few Copies for the principal Colonies, where it would be useful in the Libraries of the Government Officers. a few years ago when Your Lordship's revered Father was at the Head of the Administration, no less than 26 Copies of the Parliamentary Debates were supplied to the Colonies, but which have gradually dropped off. The present work was published at £70, and we are enabled to dispose of it at Ten Guineas per Copy, 36 Vols. No doubt your Lordship is conversant with the work, but it is decidedly the most valuable of Historical Collections ever Published, containing the Proceedings of the British Parliament from the Conquest in 1072 to 1803. The great bulk of Debates, which are fast accumulating, has induced us to make this sacrifice, and I should consider it a personal favor, if Your Lordship would instruct that a number of Copies may be taken for the chief Colonies.

I have, &c.,

JAMES GYE.

EARL GREY TO SIR CHARLES FITZ ROY.

(A circular despatch, per ship Bermondsey.)

Sir, Downing Street, 7th October, 1846.

With reference to Lord Stanley's Despatch of 24th September, 1845, I transmit to you, herewith, a Copy of the Annual Reports from Her Majesty's Colonies, transmitted with the Blue Books for the year 1845, which, in conformity with the intention announced to you by Lord Stanley, were presented by Her Majesty's Command to both Houses of Parliament, and were ordered by them to be printed.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(A circular despatch, per ship Bermondsey.)

Sir, Downing Street, 8th October, 1846.

With reference to Mr. Gladstone's Despatch of the 19th January last, I transmit to you, herewith, a Copy of Instructions issued by the Lords Commissioners of the Treasury to Commissariat Officers on Foreign Stations, making certain alterations in the General Regulations and Instructions for conducting the duties of the Commissariat Department, promulgated by their Lordships on the 1st December last.

I have, &c.,

GREY.

[Enclosure.]

INSTRUCTIONS to Commissariat Officer in Charge.


The Lords Commissioners of Her Majesty's Treasury having signified to the Officers of the Commissariat, by the seventh paragraph of my Letter of the 1st Dec., 1845, their intention to apprise you of any additions or amendments, which it might be found necessary to make in the General Regulations and Instructions for conducting the Commissariat Service, in order that the same might be inserted in manuscript on the fly-leaf opposite the
Article to be amended. I am commanded by their Lordships to desire that the following alterations and additions may be made in the Instructions relating to—

The payment of Chelsea and Greenwich Pensions.

The granting of Certificates in lieu of Negotiable Bills for Public Monies deposited in Commissariat Chest abroad.

The Issues of Field Allowance to the Officers of the Commissariat; and

Supplies and payments for Military Prisons.

From the date of the receipt of the present communication you are to consider the Articles Nos. 287 to 305 of the Instructions regarding the payment of Chelsea and Greenwich Pensioners, with the following modifications, as in force and superseding the Instructions, by which you have been hitherto guided in the payment of the Pensions in question:

Article 293.

After the word "Greenwich" in the first line insert "who is already on the Establishment."

After the word "charge" in the fourth line insert "and a Transfer Certificate in the following form regarding the Pensioner will, at the same time, be forwarded for the Commissariat Officer's information and guidance."

Erase the word "has" in the fifth line, and after the word "notification" in the same line insert "and Transfer Certificate have."

After the word "Certificate" in the sixth line insert "giving some of the particulars contained."

Article 294.

Erase the word "This" in the first line and insert "The."

After the word "Certificate" in the first line insert "in possession of the Pensioner."

Article 295.

Erase the words "in question" and "likewise" in the first line, and after the word "Certificate" insert "containing the full particulars."

Article 297.

At the commencement of this article insert the following:—

"In the cases both of newly admitted Pensioners and of Pensioners already on the Establishment, to which latter class only the Transfer Certificates apply, numbered lists will be furnished from this Board to the Commissariat Officers in charge on Foreign Stations as heretofore."

Some of the Greenwich Pensioners have heretofore received their Pensions through the Commissariat, while others have been paid by Naval Cash Accountants, and, as it is intended that all of them should hereafter be paid by the Officers of the Commissariat, the Naval Cash Accountants have been directed to furnish you with any information which it may be in their power to afford regarding the latter class of Greenwich Pensioners.

The annexed list contains the names of Greenwich Pensioners at present residing .................., who have hitherto been paid by Naval Cash Accountants.

You will of course consider the 296th Article of the Instructions as applying to any Greenwich Pensioner, who may have removed from this Country to the Colonies without giving due notice thereof.
You will receive herewith a supply of the forms of Chelsea and Greenwich Pensioners' Declarations and Receipts, and a form of the Transfer Certificate, which will be given to Pensioners about to emigrate to the Colonies; and will observe that it is intended that the latter document should furnish the necessary information to enable you to adjust with the Pensioners the charge for rations supplied to them and their families while on their passage to ............

You will make a special requisition for any further number of the above Forms which may be required, before your next annual requisition for printed Forms can be complied with.

It having been determined that the Rule which applies to Public Departments of granting Certificates, in lieu of Negotiable Bills, for Sums deposited under competent authority in Commissariat Chests abroad, should be extended to Sums, so deposited, on account of a Colonial Government, it becomes necessary to make the following alterations in the 238th Article of the Regulations, in conformity with this view.

After the word "Troops" in the third line add, "And, in lieu of Negotiable Bills, Certificates are to be granted by the Commissariat Officer of all Sums so received by him as remittances to this Country for public purposes."

Erase the word "any" in the fourth line and substitute the word "every."

Erase the word "Bills" in the fourth line and substitute the word "Certificates."

I am further to acquaint you that, as the necessary information regarding the rate of Exchange at which Bills upon this Board are negotiated or paid away is given in the reports of negotiations and in the advices of Bills drawn, their Lordships consider it to be unnecessary that the rate of Exchange should be noted upon the face of the Bills; and you will therefore discontinue making this notation, and, until Bill Books are provided in which the words "Exchange at" are omitted, you will strike your pen through those words.

I am to enclose, for your information and guidance, copies of two Royal Warrants recently published, regulating the issues of Field Allowance, and fixing the rates of Indemnification for losses; and, in conformity with the provisions of the Field Allowance Warrant, the following is to be substituted for the last column of the statement annexed to Article 33 of the Regulations:—

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<td>Deputy Assistant Commissary General</td>
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<td>Commissariat Clerk (holding a Treasury Appointment)</td>
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The following Articles, relating to Supplies and Payments for Military Prisons, are to be inserted on the fly leaf opposite page 78 of the Regulations:

Military Prisons.

"When Military Prisons are established, under competent authority, in any Garrison abroad, all such Supplies as may be required, either for the use of the Prisoners, or of the Officers and Servants of the Establishment, are to be obtained upon Requisitions, approved by the Visitors of the Prison, from the Officers in charge of the Commissariat, who will enter into Contracts for the Supplies, or purchase them, or issue them from the Stores in his custody.

"The Commissariat Officer will furnish, monthly, to the Visitors of the Prison, an Account of the cost of the Supplies, and the Visitors, after having satisfied themselves of its accuracy, are instructed to add thereto Statements, with proper Vouchers, of the Pay of the Officers and Servants, and the contingent Expenses of the Establishment, and obtain the covering Warrant of the Officer Commanding the Troops at the Station, for the advance of the total Sum from the Commissariat Chest, which Warrant and Vouchers are to be annexed to the Commissariat Accounts.

"Articles of Food in Commissariat Depots, or supplied by Contractors for the general service of the Army, which may be required for the use of Prisoners in Barrack or Garrison Cells in charge of Provost Serjeants on Foreign Stations, are to be furnished, under the authority of the Officer Commanding on the Station, and the actual cost of any such supply is to be paid for monthly by the Provost Serjeant."

I am, &c.,

EARL GREY TO SIR CHARLES FITZ ROY.

(Despach No. 41, per ship Bermondsey.)

Downing Street, 9 October, 1846.

Sir,

I have to acknowledge the receipt of Your Predecessor's Despatch, No. 87 of the 26th April last, enclosing a Memorial Addressed to the Queen by the Mayor and Town Council of Melbourne, in which they pray that measures may be adopted for securing a larger Supply of Labour in the District of Port Phillip.

You will acquaint the Memorialists that I have laid their Petition before the Queen and that Her Majesty was pleased to receive it very graciously.

Upon the Statements contained in the Memorial, I have to observe that, in the large Emigration effected under Bounty Orders from the Government of New South Wales in the years 1840 and 1841, the proportion of people sent to Port Phillip amounted to about One third of the whole numbers; and that, in the Emigration which was undertaken by H.M.'s Government in the two following years, it was thought advisable to aim at the same proportion which was, however, in point of fact somewhat exceeded in favour of Port Phillip.
1846. 9 Oct.  
Supply of labour at discretion of legislature.

I concur with the Memorialists in their opinion of the importance of an adequate supply of labour; but it must rest with the Legislature of New South Wales to determine whether any other portion of the Public Revenue, apart from those necessarily set aside for Emigration purposes, can be spared for that object, there being no means at the disposal of H.M.'s Government for effecting the large and steady Emigration prayed for in the Memorial.

I am, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.  
(Despatch No. 43, per ship Bermondsey.)  
Sir, Downing Street, 10 October, 1846.
I have to acknowledge the receipt of your Predecessor's Despatch, No. 97 of the 18th of May last, enclosing a Copy of the Speech with which, on the 12th of that month, he opened the Session of the Legislative Council of New South Wales, together with a Copy of the Address which was presented to him, in reply, by that body.

I am, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.  
(Despatch No. 44, per ship Bermondsey.)  
Sir, Downing Street, 17th October, 1846.
In my Despatch, No. 37 of the 3d Instant, I transmitted to you a Copy of an Order in Council regarding the case of Mr. John Walpole Willis, together with an Order made by Her Majesty for revoking the appointment of Mr. Willis as Puisne Judge of New South Wales and as Resident Judge at Port Phillip.
In the Correspondence with Mr. Willis, which also accompanied that Despatch, he was informed that you would be directed to instruct the Colonial Treasurer to pay to him or to his Order the full Salary of his Office, Computed from the date of the latest payment to him on account of that Salary down to the date of the Warrant for revoking Mr. Willis's Commission. You will accordingly give the necessary directions for that payment. It will be made from the Civil List Fund provided by the Constitutional Act under Schedule A. As the Queen in Council has reversed the Order of the Local Government amoving Mr. Willis, he has clearly a valid Claim to his full Salary until the date of the Warrant revoking his Commission.

I am, &c.,
GREY.
Earl Grey to Sir Charles Fitz Roy. (Despatch No. 45, per ship Bermondsey.)

Sir, Downing Street, 17 October, 1846.

I have received Your Predecessor’s Despatch, dated the 30th May, 1846, and numbered 107, with the accompanying Address to the Queen from the Legislative Council of New South Wales, praying that Her Majesty would take such steps for relieving the Sufferers by Mr. Manning’s defalcation as to Her Majesty shall seem meet.

I have laid this Address before the Queen, and I have received Her Majesty’s Commands to direct you to acquaint the Legislative Council that Her Majesty has bestowed on it the attention so justly due to every representation, which may reach Her Majesty, of the opinions and wishes of the Legislature of New South Wales on any subject affecting the welfare of any class of H.M.'s Subjects inhabiting that important part of Her Dominions.

I am further to state that, for the reasons assigned in the Despatch of Lord Stanley to Sir George Gipps of the 28th of June, 1843, No. 94 (of which I enclose a Copy), I have found myself unable to advise Her Majesty to accede in this instance to the recommendation of the Legislative Council.

The Queen Commands me to signify through you to that Body the regret with which, under these Circumstances, Her Majesty finds Herself precluded from taking any measures for the relief of the persons to whom the Address of the Legislative Council refers.

It will appear from Mr. Gladstone’s Despatch of the 4th of July last, No. 46, that, subsequently to the date of Lord Stanley’s Despatch, the Lords of the Treasury discovered and enforced payment of the Security given by Mr. Manning on his Appointment to Office in the year 1828, and that, therefore, as far as respects that Security, Lord Stanley’s information was defective. But the fact strengthens, instead of impairing his Lordship’s conclusion. It demonstrates that no loss at all would have occurred, if the Judges of the Colony had with greater punctuality acted on and enforced their own Rules of Court, drawn up in the year 1838 for the express purpose of preventing the irregularities in Mr. Manning’s Accounts and proceedings.

I am, &c.,

Grey.

[Enclosure.]

[This was copy of lord Stanley’s despatch to Sir George Gipps, dated 28th June, 1843, and numbered 94; see page 798 et seq., volume XXII.]
EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 46, per ship Bermondsey; acknowledged by earl Grey, 29th May, 1847.)

Downing Street, 18 October, 1846.

Sir,

I have received your Predecessor's Despatches of the numbers and dates enumerated in the margin,* on the subject of the Judicial Arrangements contemplated and recommended by him in New South Wales. The removal of Mr. Willis from his Office as one of Her Majesty's Judges in that Colony in consequence of the report addressed to Her Majesty in his case by the Judicial Committee of the Privy Council was communicated to you in my Despatch of the 3rd Instant, No. 37.

In accordance with the advice of Sir George Gipps, Her Majesty has been pleased to appoint Mr. A'Beckett to fill the Office thus vacated by Mr. Willis. In further pursuance of the advice of your Predecessor, The Queen has also been pleased to appoint Mr. Therry to the Office of a Puisne Judge of the Supreme Court, to which he has been provisionally appointed by the late Governor.

Mr. Therry's promotion vacating the Office of the Commissioners of the Court of Requests, the Queen has been pleased to approve the selection of Mr. Cheek as his Successor in that Capacity.

The advancement of Mr. Cheek creating a Vacancy in the Office of Crown Prosecutor in the Court of Quarter Sessions, Her Majesty has been pleased to confer that Appointment on Mr. Callaghan.

The necessary Instruments for carrying into effect Her Majesty's gracious intentions in favour of the Gentlemen, I have mentioned, will be transmitted to you as soon as they shall have been Completed.

I am, &c.

GREY.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.
(Despatch No. 30, per ship Berkshire; acknowledged by earl Grey, 10th April, 1847.)

Sir,

Government House, 19th October, 1846.

I have the honor to forward, herewith, Addresses of congratulation to Her Most Gracious Majesty the Queen and Her Royal Consort Prince Albert from the Legislative Council of this Colony, which were adopted by that Body on receipt of my Message transmitting a Copy of Your Despatch announcing the birth of a Princess on the 25th of May last; and, on the part of the Council, I have the honor to request that you would present the same to Her Majesty and His Royal Highness.

I have, &c.

CHS. A. FITZ ROY.

* Marginal note.—No. 500, 5 March, 1846; "Separate," 16 Mar., 1846; No. 62, 16 Mar., 1846.
FITZ ROY TO GLADSTONE.

[Enclosure No. 1.]

ADDRESS to the Queen's Most Excellent Majesty.

May it please Your Majesty,

We, Your Majesty's dutiful and loyal Subjects, the Members of the Legislative Council of New South Wales, desire to approach Your Royal Presence with the unanimous expression of our heartfelt congratulations on the auspicious occasion of the birth of another Princess.

We fervently pray that the same providence, which has happily watched over Your Majesty's Safety on this occasion, may shed its benign influence on every Member of Your Majesty's Illustrious House, and long continue to Your loyal and devoted people those blessings which, under Your Majesty's mild and beneficent rule, have so brightly marked the period of Your Majesty's reign.

CHARLES NICHOLSON, Speaker.

Legislative Council Chamber, Sydney, New South Wales, 14th October, 1846.

[Enclosure No. 2.]

ADDRESS to His Royal Highness, Prince Albert of Saxe Coburg and Gotha, etc., etc., etc.

May it Please Your Royal Highness:

We, Her Majesty's dutiful and loyal Subjects, the Members of the Legislative Council of New South Wales, in Council assembled, having received the gratifying intelligence of the birth of another Princess, desire to offer to Your Royal Highness our sincere and most respectful congratulations on that auspicious event.

We beg to express our anxious hope that the Royal Infant may prosper; and we fervently pray that Her Most Gracious Majesty and Your Royal Highness may long be preserved to the Nation.

CHARLES NICHOLSON, Speaker.

Legislative Council Chamber, Sydney, New South Wales, 14th October, 1846.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 31, per ship Berkshire.)

Sir,

Government House, 19th October, 1846.

I have the honor to inform you that the Colonial Secretary Requisition for of this Government has, by my desire, transmitted by the present opportunity to the Colonial Agent General certain requisitions transmitted for Stationery and other articles required for the use of the Public departments of this Colony, and of which the total estimated amounts to Two thousand, two hundred and Eight pounds, fourteen shillings and eightpence. I have further to report that I have caused that sum to be paid from Colonial funds to the Military Chest; and I, therefore, request that you will be so good as to give the necessary instructions for an equal sum being paid from the British Treasury to Mr. Barnard, to enable him to execute the Requisitions in question.

I have, &c.,

CHS. A. FITZ ROY.
SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.
(Despatch No. 32, per ship Berkshire.)

Sir,

Government House, 20th October, 1846.

I have the honor to inform you that the Colonial Secretary to this Government has, by my desire, transmitted, by the present opportunity, to the Colonial Agent General a Requisition for certain articles consisting of Paper and two Pier Glasses for the Public Rooms in the Government House,* of which the total estimated expense amounts to two Hundred and forty five Pounds.

I have caused this sum to be paid from Colonial Funds to the Military Chest; and I would, therefore, request that you will have the goodness to give the necessary instructions for an equal sum being paid from the British Treasury to Mr. Barnard, to enable him to execute the Requisitions in question.

I have, &c.

CHS. A. FITZ ROY.

Despatch acknowledged.

Inability to report re T. Gibson.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.
(Despatch No. 33, per ship Berkshire.)

Sir,

Government House, 20th October, 1846.

I have the honor to acknowledge the receipt of your Despatch, No. 37 of the 28th February last, addressed to my Predecessor, making enquiry respecting the fate of Thomas Gibson, who is stated to have gone over to Port Phillip from Van Diemen's Land between the years 1837 and 1840, and not to have been heard of by his father since the 20th April in the latter year.

I have now the honor to transmit the Copy of a communication from the Acting Superintendent of Port Phillip, from which it would appear that an advertisement requesting information respecting Thomas Gibson was inserted in the Melbourne Government Gazette in July last, but that nothing has as yet been heard of him.

I have, &c.

CHS. A. FITZ ROY.

[Enclosure.]

MR. W. LONSDALE TO COLONIAL SECRETARY THOMSON.
Superintendent's Office.

Sir,

Melbourne, 20th October, 1846.

In acknowledging the receipt of your letter of the 13th October, No. 414, requesting any information respecting Mr. Thomas Gibson, I have the honor to state that, should any information reach me in consequence of the notice which I caused to be inserted in the local Government Gazette of the 11th July last, with reference to him, I shall not fail to communicate the same to you for His Excellency's satisfaction.

I have, &c.

W. LONSDALE.

* Note 27.
GREY TO FITZ ROY.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 34, per ship Berkshire.)

Sir,

Government House, 21st October, 1846.

In reply to Your Despatch of the 29th April last enclosing a letter from Lord Lurgan requesting information concerning Mr. E. C. MacNeil, formerly Junior Clerk in the Office of the Principal Superintendent of Convicts of this Colony.

I have the honor to enclose the Copy of a letter which has been recorded in the Colonial Secretary's Office, by which it appears that Mr. MacNeil died on the 18th October, 1845.

I have, &c,

CHS. A. FITZ ROY.

[Enclosure.]

CAPTAIN MCLEAN TO COLONIAL SECRETARY THOMSON.

Principal Superintendent of Convicts' Office.

Sir,

21st October, 1845.

It is my painful duty to report, for the information and Death of commands of His Excellency the Governor, that Mr. E. C. McNeil (an extra Clerk in this Office) died on the 18th instant.

I have, &c,

— J. MCLEAN.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 35, per ship Berkshire.)

Sir,

Government House, 21st October, 1846.

In reply to the enquiry contained in Your Despatch MILITARY, No. 2, of the 2nd May last, I have the honor to enclose Copy of a letter from the Commandant of the Mounted Police in this Colony. reporting that James Graves, who was formerly a Private in Her Majesty's 28th Regiment, is now a Sergeant of the Mounted Police, commanding the Station of Horsley, and that he is in good health.

I have, &c,

CHS. A. FITZ ROY.

[Enclosure.]

[A copy of this letter is not available.]

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 48, per ship Bermondsey.)

Sir,

Downing Street, 23 October, 1846.

I have to acknowledge the receipt of your Predecessor's despatch, No. 105 of the 26th of May, reporting the appointment made by him of Mr. Henry Watson Parker to be a non-elective Member of the Legislative Council of New South Wales, in the room of Mr. Edward Hamilton, who has resigned his seat
in the said Council; and I herewith transmit to you a Warrant under Her Majesty’s Sign Manual, counter-signed by myself, ratifying and confirming the appointment of Mr. Parker.

I have, &c.,

[Enclosure.]

[A copy of this warrant is not available.]

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**EARL GREY TO SIR CHARLES FITZ ROY.**

(Despatch No. 49, per ship Bermondsey.)

Sir, Downing Street, 24th October, 1846.

I have received your Predecessor’s Despatch, dated the 23rd November, 1845, No. 197, accompanied by the copy of a Bill passed by the Legislative Council of New South Wales on the 3rd of October, 1845, intituled “An Act for auditing and regulating the Accounts of the Ordinary Revenue of New South Wales.”

Sir George Gipps reports himself to have reserved this Bill for the signification of Her Majesty’s pleasure, on account of the doubts which he entertained whether it was not repugnant to the 36th clause of the Statute 5 and 6 Victoria, cap. 76, for the Government of New South Wales. The view which I take of this subject renders it needless for me to express my opinion on the mere question of Law. I am willing, for the sake of argument, to assume that the Act of Parliament would not be expressly contravened by the proposed enactment; and that it would, therefore, be competent to the Queen to ratify and confirm it. But, even on that assumption, there are what appear to me insuperable objections to such an exercise of Her Majesty’s authority.

However obscurely or imperfectly the intentions of Parliament on this subject may have been expressed, it cannot reasonably be doubted that their intention really was, to entrust to the Executive Government of New South Wales the necessary powers for collecting the Public Revenue, and for defraying all costs and charges incident to the collection of it. I ascribe that intention to the Legislature, first, because it corresponds with the usages of this Kingdom in all corresponding cases; secondly, because it is in harmony with the customs prevailing, with scarcely any exception, in the other British Colonies; and thirdly, because, if we adopt the opposite supposition, we must suppose that Parliament designed to render the Executive Government of New South Wales incapable of the discharge of one of its most important functions.
Of the two first reasons, no proof is requisite. The third may be easily established.

The effect of the reserved Bill is that no expense in collecting the Revenue may be incurred by the Executive Government for which the express authority of some antecedent Act cannot be quoted. Now, under such a restriction, it is evident that the collection would not lawfully take place at all. Such expenses must always be varying in amount, and uncertain in kind. They must depend on casualties which no human foresight can predict, and in defraying, or refusing to defray them, there is a constant demand for promptitude of decision, and for a consequent freedom of action.

But under the contemplated law there could be no such freedom or promptitude. As each case arose, the Local Government would be reduced to the dilemma of either allowing the Public Revenue to be lost by the exact observance of the law, or of raising the Revenue at the peril of a direct breach of the law. Any Government, worthy of their office, would indeed take the course of preferring the interest of society at large, to their own safety; and the practical result would be, that each Session of the Local Legislature must open with a Bill for indemnifying the Government against acts at once indispensable and illegal.

I cannot believe that Parliament contemplated such a system as this. I cannot think that any useful end would be answered by creating it. I can see no public advantage which could be promoted by the refusal to the Executive Government of New South Wales of the powers which Parliament and the Legislatures of other Colonies so invariably confide to the Executive Officers of the Crown; but I can clearly foresee from such a refusal a result fatal to real economy and to constitutional freedom.

If such a law should take effect, the Legislative and the fiscal functions of Government must gradually, though surely, pass into the same hands. The Legislative Council itself must ultimately assume the duty of collecting the Revenue. Every check on waste and all effective responsibility would thus be at an end, for the same body would, in effect, direct and review, and sanction their own expenditure of the Public Revenue.

The Act of Parliament for the Government of New South Wales has indeed contemplated the enactment of local Laws for the regulation and auditing of the costs, charges, and expenses of collecting, managing, and receiving the Public Revenue.

There can therefore be no valid objection to the enactment by the Colonial Legislature of general regulations, judiciously calculated to check waste and improvidence in such outgoings, nor
1846.
24 Oct.
Legislation proposed.

Refusal to confirm bill.

EARL GREY TO SIR CHARLES FITZ ROY.

(A circular despatch, per ship Alexander; acknowledged by Sir Charles Fitz Roy. 20th May, 1847.)

Sir,

Downing Street, 24th October, 1846.

I transmit to you, herewith, the Copy of an Address to Her Majesty from the House of Commons, dated the 26th of August last, praying that Her Majesty will be graciously pleased to direct to be laid before the House the Information therein described respecting the Revenue and Expenditure, and Form of Government of the British Colonies.

Her Majesty having been pleased to order that the Information prayed for should be furnished to the House of Commons, I have to desire that you will cause these Returns to be immediately prepared, and transmit them to me when completed.

I apprehend that the term "Executive," which is used in the third paragraph of the Address, is intended to apply to the Executive Council. Your Return should, therefore, be prepared on that understanding of the meaning of the Order.

As the Resolutions of the House of Commons, which are referred to in the fourth paragraph of the Address, appear never to have been transmitted to the Colonies, no reference to this is necessary in the return which you will cause to be prepared.

I have, &c.,

GREY.
Resolved,

That an humble Address be presented to Her Majesty that she will be graciously pleased to give directions that there be laid before this House a Return, in a tabular form, for the last year in which they can be made up, of the gross Revenues under their different heads of each of Her Majesty's Colonies, exhibiting the costs of collection and any deductions made in their progress to the Public Treasury;

Similar Return of the disbursements of each Colony under their separate heads; showing the authority on which such disbursements are made;

Returns showing which Colonies have Representative Assemblies, and which not, and by whom the Executive is nominated, and of what number of Members it consists, and also whether and in what cases the Members of the Executive have seats or votes in the Legislature.

Of the Colonies which have adopted the Resolutions of the House of Commons for the Return of the Colonial Accounts.


SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 39, per ship Berkshire; acknowledged by earl Grey, 13th April, 1847.)

Sir,

Government House, 24th October, 1846.

I have the honor to acknowledge the receipt of Your Despatch, No. 18 of the 7th May last, transmitting an extract of a communication which you had addressed to Mr. La Trobe, directing him to proceed immediately to assume the temporary administration* of the Government of Van Diemen's Land.

Mr. La Trobe will doubtless have informed you that he lost no time in complying with your instructions, having left Melbourne on the 9th instant within a few hours of the receipt of your despatch.

I have now the honor to report that, in compliance with your further directions, I have appointed Captain Lonsdale, Sub-Treasurer of Melbourne (who I have every reason to believe fully competent) to undertake the duties of Superintendent at Port Phillip during Mr. La Trobe's absence. The duties of Sub-Treasurer will be performed by Mr. Macrae, the Chief Clerk in that Office; and I have explained to both these Gentlemen that, in conformity with the General Regulations of the Colonial Service, p. 21, par. 3, during the time they may be in the performance of these duties, they will be entitled to half of the salary attached to their temporary Offices, together with half the salary of their own Offices.

* Note 6.
In conclusion, I trust I may not be considered presumptuous in saying that, having obtained a pretty accurate acquaintance with Mr. La Trobe's character and sterling good qualities, during a month that he passed in this house soon after my arrival here, I do not believe that you could have selected a person more worthy of your confidence or one better adapted to perform the difficult task which you have assigned him.

I have, &c.,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.
(Despatch No. 40. per ship Berkshire; acknowledged by earl Grey, 25th June, 1847.)

Sir,
Government House, 25th October, 1846.

With reference to my Predecessor's despatch No. 140 of the 2nd July last, and to the Report, therein enclosed, of the Superintendent of Port Phillip, on certain cases of collision which had occurred between the Police of that District and the Aboriginal Natives, I have now the honor to transmit a further communication from Mr. La Trobe, enclosing a Return of all cases of note which have occurred in his District during the last five years, in which the attempt has been made to bring aboriginal Natives to Justice for alleged acts of violence, together with a Paper giving an outline of the cases adverted to in the Return, and a statement of the case of Kourt Kirrup.

Mr. La Trobe's object would appear to be to shew the necessity of some alteration in the Law by the Imperial Parliament, so as to admit the evidence of the Aboriginal Natives under certain restrictions.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

A copy of C. J. La Trobe's letter, dated 4th July, 1846, with its enclosures will be found in a volume in series III.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.
(Despatch No. 41. per ship Berkshire: acknowledged by earl Grey, 30th April, 1847.)

Sir,
Government House, 26th October, 1846.

I have the honor to transmit a Petition which has been placed in my hands by the Acting Superintendent of Port Phillip, addressed to you by a Mr. W. Willoughby, praying for employment under the Colonial Government.

Mr. Willoughby's claims to your consideration appear to be based upon his having married the widow of a Mr. Bateman,* who, in the year 1835, is stated to have chartered a Vessel at his own

* Note 28.
FITZ ROY TO GLADSTONE.

expense in Van Diemen's Land, whence he proceeded to and explored a portion of Country, now known as the District of Port Phillip.

It appears, also, that Mrs. Willoughby addressed a Petition to Her Majesty in July, 1845, praying for a Grant of Land which was refused.

I have, &c.,

[Enclosures.] CHS. A. FITZ ROY.

[Copies of W. Lonsdale’s letter, dated 14th October, 1846, and of the petition will be found in a volume in series III.]

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 42, per ship Berkshire.)

Sir, Government House, 27th October, 1846.

In accordance with the instructions conveyed to me in your Despatch No. 17 of the 25th April last, I have the honor to return herewith the Warrant, under the Royal Sign Manual, authorising the appointment of Mr. Hutchinson Hothersall Browne to the Office of Registrar of the Court of Requests in New South Wales.

I have, &c.,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 43, per ship Berkshire; acknowledged by earl Grey, 24th May, 1847.)

Sir, Government House, 28th October, 1846.

I have the honor to transmit the Copy of an Address from the Legislative Council of this Colony, the purport of which is to request me to obtain a reversal of the decision of the Lords Commissioners of Her Majesty's Treasury, respecting a deduction which their Lordships ordered to be made from the Pension of £750 a year, granted by the Home Government in 1815 to Mr. A. McLeay (recently Speaker of the Legislative Council) upon the abolition of the Transport Board in London, at which Mr. McLeay then held the Office of Secretary.

I have obtained a precis of his case from Mr. Macleay himself, a Copy of which is annexed; but it may save trouble if I briefly state the main facts requiring your consideration.

It would appear that, ten years after the abolition of the Transport Board, Mr. McLeay was appointed Secretary to this Government, when his retiring pension of £750 a year for his services at the Transport Board was imposed by Lord Bathurst, then Secretary of State for the Colonies, upon the Funds of this Colony, from whence it continued to be paid, in addition to the
Salary attached to the Office of Secretary, until Mr. MacLeay's retirement from that Office in 1836. Mr. Macleay then reverted to his English Pension of £750 payable from the British Treasury, in addition to a further sum from Colonial funds of £250, which he subsequently commuted for a sum of £1,750, that being the estimated value of his then period of Life.

In 1843, Mr. Macleay was elected Speaker of the Legislative Council of this Colony, to which Office a salary of £750 a year is attached, subject, however, to deduction to the amount of any Colonial Allowance, the Individual holding it may be in receipt of.

Therefore, in the case of Mr. Macleay, the sum of £250 was deducted from his Salary as Speaker; and, a deduction of £250 having also been made by directions of the Lords Commissioners of the Treasury from his English Pension, the emolument he derived from the Speakership of the Legislative Council was virtually reduced to £250 a year.

I have only further to add that Mr. Macleay is highly respected in this Community; that he is upwards of Eighty years old; and that a favorable consideration of his case will, I believe, give much satisfaction.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosures.]

[A copy of the address will be found in the "Votes and Proceedings" of the legislative council; a copy of A. Macleay's statement is not available.]

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 44, per ship Berkshire: acknowledged by earl Grey, 30th April, 1847.)

Sir,

Government House, 29th October, 1846.

I have the honor to transmit the Copy of an Address presented to me by the Legislative Council of this Colony, requesting that I will "place on the Estimates for the year 1847 such sum not exceeding one year's salary in each case, as I may deem advisable for the purpose of affording compensation to the Public Officers, holding Office under the Colonial Government only, whose Offices were abolished in the years 1843 and 1844."

On reference to Lord Stanley's Despatch of the 8th December, 1844, No. 177, you will perceive that, in reply to an Address to the Queen from the same body of a precisely similar nature, his Lordship received Her Majesty's Commands to convey to my Predecessor the expression of Her regret at not being able to accede to this request, on account of the increased expenditure.
that Her Majesty's assent to it would impose upon the Colony; and I have, therefore, not felt myself at liberty to comply with the desire of the Legislative Council on the present occasion.

In consideration, however, of the improved state of the Finances of the Colony, and of the great hardship attending the case of the Public Officers, whose Offices were abolished in the years 1843 and 1844, many of whom, I have reason to believe, have thereby been reduced to very straitened circumstances, I venture to bring this renewed request under your favorable consideration.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[A copy of this address will be found in the "Votes and Proceedings" of the legislative council.]

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 45, per ship Berkshire; acknowledged by earl Grey, 3rd June, 1847.)

Sir,

Government House, 30th October, 1846.

A question having arisen as to the future payment of the Salaries of the persons employed as Meteorological Recorders in this Colony, in consequence of one of the Prisoners of the Crown on that service having recently obtained a Conditional Pardon, I have the honor to request your instructions on that Subject.

On reference to my Predecessor's despatch, No. 144 of the 7th July last, you will perceive that he, therein, entered into a full explanation of the circumstances under which a certain class of Prisoners, termed here "Specials," were employed by him to act as Meteorological Recorders at a salary of 1s. 6d. per diem, without Rations or Clothing, at South Head (the entrance to Port Jackson), Port Macquarie, and Melbourne; and the question now is from what funds are the expenses of these Establishments, hitherto defrayed from Convict Funds, to be defrayed, when the persons now employed shall become free?

The total annual expense at present amounts to no more than ninety seven pounds, two shillings and sixpence; but it will of course be necessary to encrease it, if free persons are to be engaged to keep these records; and, as the object of keeping them is for General and not for Colonial purposes (the Journals as you are aware, not being preserved here, but periodically transmitted home), it appears to me that it cannot, with propriety, be charged upon the Colonial Revenue, and some difficulty might arise, were it to be submitted to the Legislature as an Item on
the Annual Estimates. I therefore take the liberty of suggesting, in the event of Her Majesty's Government deeming it advisable to continue these Establishments, that the expence of maintaining them should be defrayed from the Military Chest.

I have, &c.

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 46, per ship Berkshire; acknowledged by earl Grey, 24th July, 1847.)

Sir,

Government House, 31st October, 1846.

I have the honor to submit for your consideration copies of a correspondence that has recently passed between the Accountant of the New South Wales Savings Bank and the Secretary to this Government, on the subject of the accumulation of a large amount in the hands of the Trustees of the Bank, in consequence of there being no legal mode of investing it at interest.

On perusal of the documents annexed to the Accountant's letter, you will perceive that the uninvested deposits in the Bank, on the 10th August last, amounted to £39,000; that the average increase of accumulation per month is £1,200, affording fair grounds for assuming that, at the close of the present year, there will be an accumulation of uninvested and therefore unproductive cash in the Bank to the amount of Forty five thousand pounds; and that the Trustees express their conviction that (although considerable relief* was afforded to the Institution by the local Act, 9th Victoria, No. 25), nothing short of the more extensive measure recommended by them, in certain Resolutions passed at a General Meeting of the Trustees on the 3rd June, 1845 (Copy annexed) will afford effectual relief.

The recommendation alluded to is, as you will observe, to the effect that the accumulated funds should be invested in Government Debentures for the purpose of being laid out in public Works; and, on reference to my Predecessor's Despatch of the 23d November, 1845, No. 203, wherewith he forwarded the Act, 9th Victoria, No. 25, for the Royal Allowance, you will perceive he reports that, while he saw "no objection to investment of the funds of the Bank in Loans raised for the purpose of carrying on public works by Corporate bodies (like the Town Councils of Sydney and Melbourne)," he considered that "there ought, in all cases, to be an intermediate and responsible body interposed between the Bank and the Government, or rather between the Bank and the Legislature."

* Note 29.
As I feel compelled to state that I do not exactly understand the reasoning of the later part of the foregoing proposition, and also as I do not concur in that part of it which approves of the borrowing of the funds in question by the Corporations of Sydney or Melbourne, I feel bound to place before you my reasons for thus differing in opinion with my Predecessor.

In the first place, I conceive that the funds of an Institution of such material consequence to the interests of the poorer classes of the Community should, on no account, be permitted to be invested in any other than in Government security, or Security over which the Government can exercise a direct and immediate control. But the Government has no control over the Corporations of Sydney and Melbourne, or over their expenditure; and, therefore, I do not consider that it would be expedient to sanction a loan to any large amount to either of these bodies. The other Corporate bodies of this Colony, the District Councils, are so entirely inoperative that it is unnecessary to take them into consideration.

Secondly, Even assuming the Corporations of Sydney and Melbourne to be in a position to give security for the whole or a large proportion of the money required to be invested, this money, according to the Savings Bank Act (7th Victoria, No. 6), could only be invested by the Trustees under the approval and authority of the Governor; and, therefore, in the event of either of the Corporations becoming insolvent, the Legislature or the Government would scarcely be relieved from the responsibility of securing the Bank from loss. And I presume there can be no doubt that, whenever the Government is either directly or indirectly liable for monies raised under its sanction, it must be more advantageous to the public interests that such monies should be expended under its immediate supervision, rather than under that of any intermediate body, whose acts it has not the power of controlling. It would be superfluous to advert to the sound policy and humanity of encouraging and fostering by every legitimate means, especially in a community situated as this is with regard to the lower orders of its population, the Institution of Savings Banks, and, thereby, affording the poorer classes an inducement to frugality, by enabling them to deposit on good security and at fair profit such small sums as they may become possessed of, beyond what they may require for their immediate wants; and I cannot but think that the amount (nearly £5,000) deposited weekly in the New South Wales Savings Bank is a creditable proof that the lower orders of the population of the Colony are not of that debased and disorderly character, generally, as by many persons in England they are supposed to be.
It is obvious, however, that poor and ignorant people will not be inclined to deposit their surplus money in Savings Bank for mere safe custody alone, or unless they can get some encouragement for so doing in the shape of interest; and it is equally obvious that no Savings Bank can afford to pay interest on deposits, without it has within its power some profitable means of investing its accumulated funds.

On these grounds, therefore, I feel justified in recommending the suggestion of the Trustees, that the funds now accumulated should be invested in Government Securities with a view to their being applied to permanent public works of general utility, provided that the Legislative Council shall, as I have no doubt it will, pass a Bill authorising the investment of the Money in the manner proposed, and securing on the faith of the Revenue the payment of Interest to the Bank at the rate of 5 per Cent.

Should Her Majesty be graciously pleased to allow such an Act to be passed, many works of great public utility may be executed, such as Light Houses, Roads and Bridges which may be made to contribute to the Revenue not only a sufficient Return to guarantee the payment of the Interest of the Capital borrowed, but also to form a fund for the ultimate repayment of the Capital itself; While the savings of the people, thus borrowed, will be applied to their profitable employment.

For any further information as to details of the proposal of the Trustees, I take the liberty of referring you to the Fourth and concluding Pages of the "Report from the Select Committee" of the Legislative Council, printed by their order on the 23d October, 1845, Copy of which I have the honor to append to this Despatch; but I deem it my duty to call your attention to the fact that, by the Resolution of the Trustees, it is expressly intended that the amount received for the Debentures is to be expended under the same regulations in all respects, in its application, issue and Audit, as funds the produce of taxes, rates, duties and imposts, under the Provisions of the Act of Parliament, 5th and 6th Victoria, Cap. 76. This I consider to be an indispensable principle to be adopted in any measure that may be proposed, as affording the Government a proper control over any Expenditure which may be undertaken out of the Moneys arising from this source.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

MR. G. MILLER TO COLONIAL SECRETARY THOMSON.

Savings Bank Office,
Sydney, 18th August, 1846.

I have the honor to enclose to you an Extract from the Minutes of a Meeting of the Trustees of the Savings Banks, with the
Return of the Deposits and Investments therein referred to, which I am instructed to request you will be pleased to lay before His Excellency Sir Charles Fitz Roy, drawing the Governor's attention to the large amount of the funds uninvested, and to the Resolutions of the Trustees on the Subject, already before the Government.

I have, &c.,

GEO. MILLER, Accountant.

[Sub-enclosure.]

EXTRACT from the Minutes of a Meeting of the Trustees of the New South Wales Savings Bank, held 11th August, 1846.

PRESENT:—The Honorable the Vice President in the Chair; Mr. Elwin; Colonel Shadforth; Mr. H. H. Browne; Mr. Merewether; Mr. Lithgow; and Mr. Gilchrist.

Resolved;

"That, with reference to the Resolutions of the Trustees of the 3rd June, 1845, a communication be addressed to The Honble. the Colonial Secretary, requesting him to bring under the notice of His Excellency Sir Charles Fitz Roy, the increasing difficulty in which the Trustees are placed in the management of the affairs of the Institution by the large accumulation of funds, for which there is no legal mode of investment at interest. The amount uninvested at the commencement of the year was £30,000 and has now increased to £39,000 or at the rate of £1,200 per month. Assuming a similar increase during the remainder of the present year, the amount uninvested, and consequently lying wholly unproductive, will at its close have reached the sum of £45,000."

The Trustees have felt it their duty to bring this subject so frequently under the notice of the Executive Government, that they trust they will not be considered importunate in thus soliciting an early consideration of it by His Excellency Sir Charles Fitz Roy. The circumstances, under which they have been induced to apply for the assistance of the Government, are so fully set forth in their previous communication to the Colonial Secretary, and to which they would beg to refer, that they deem it unnecessary to trouble His Excellency with a repetition of them. They thankfully acknowledge the relief which was afforded to the Institution by the passing of the Act of Council, 9 Victoria, No. 25; but it will be perceived from the subjoined Return that it is quite inadequate to meet the present exigency of the case; and they are strongly impressed with the persuasion that nothing short of the measures, recommended in their Resolutions of 3rd June, 1845, will afford to the Institution that degree of relief which its welfare requires, and which it is so desirable to afford in reference to the important interests involved.

Resolved also: That a return of the amount of Deposits in the Bank, and the State of its present Investments be at the same time laid before His Excellency the Governor.

Return of the Deposits and Investments of the New South Wales Savings Bank on 10th August, 1846—

<table>
<thead>
<tr>
<th>Investments</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loans on Mortgage</td>
<td>£93,400</td>
</tr>
<tr>
<td>Do on Bills</td>
<td>5,500</td>
</tr>
<tr>
<td>Do on Government Debentures</td>
<td>20,000</td>
</tr>
<tr>
<td>Cash in the Bank</td>
<td>39,000</td>
</tr>
</tbody>
</table>

Savings Bank Office, 10th August, 1846. GEO. MILLER, Accountant.

[Enclosure No. 2.]

COLONIAL SECRETARY THOMSON TO MR. G. MILLER.

Colonial Secretary's Office,

Sir,

Sydney, 21st September, 1846.

I have the honor to acknowledge the receipt of your letter, forwarding, by direction of the Trustees of the New South Wales Savings Bank, the copy of a Resolution passed by them at their meeting on the 11th of last month, stating the increasing difficulty in which the Trustees are placed in the management of the affairs of the Institution by the large accumulation of funds, for which there is no legal mode of investment at interest, and expressing their persuasion that nothing short of the
1846.
31 Oct.

Desire of Sir C. Fitz Roy to assist bank.

Papers to be referred to England.

Transmission of extract from minutes.

Extract from minutes re investment of funds of Savings bank.

HISTORICAL RECORDS OF AUSTRALIA.

recommended in their Resolutions of the 3rd of June, 1845, for the investment of the funds in Government Debentures for the purpose of being laid out in Public Works, will afford effectual relief to the Institution.

Having submitted your communication to the Governor, I am directed to request that you will inform the Trustees that His Excellency has attentively gone through the whole of the documents, which have been laid before the Government on the subject of the employment of the funds of the Savings Bank, and that He is extremely desirous of forwarding the interests of the Institution by every means in his power; but the Royal Instructions positively forbid the Governor's assenting to any Bill for the issue of Debentures, unless it has a clause attached to it suspending it from coming into operation until it receives Her Majesty's allowance.

It, therefore, appears to the Governor to be the more simple and preferable course, and one which would cause no great delay, to refer the proposal to introduce to the Legislative Council a Bill to give effect to the wishes of the Trustees of the Savings Bank home, and to endeavour to obtain the sanction of Her Majesty's Government to such a measure. This, His Excellency desires me to add, He will take an early opportunity of doing.

I have, &c.,

E. Deas Thomson.

[Enclosure No. 3.]

MR. G. MILLER TO COLONIAL SECRETARY THOMSON.

Sir,

Savings Bank Office, Sydney, 4th June, 1845.

I have now the honor to enclose to you, by desire of the Trustees of the Savings Bank, an Extract from the Minutes of their Meeting of the 3rd Instant, with reference to the Investment of the funds of the Bank for the information of His Excellency the Governor.

I have, &c.,

Geo. Miller, Accountant.

[Sub-enclosure.]

EXTRACT from the Minutes of a Meeting of the Trustees of the Savings Bank held 3rd June, 1845. The Honble. the Vice President in the Chair.

This letter from the Colonial Secretary of the 15th May, 1845, stating that His Excellency the Governor knew of no means by which the funds of the Bank could be employed unless in the purchase of Government Debentures at the Market price, but that, if the Committee could point out the means of employing the Funds now at their command, His Excellency would be happy to receive their suggestions, having been read, it was resolved unanimously, that a communication be made to the Colonial Secretary in reply, for the information of His Excellency the Governor, to the following effect, namely—

1st. That the Trustees have already purchased Land and Immigration Debentures at the market price to as large an extent as has been found practicable; but notwithstanding that they have applied to all the Banks which are the principal holders, as well as to the Agents employed in the negotiations of securities of this nature, stating their willingness to make further purchases at a premium of 2½ per cent, the whole amount which has been procurable from private sources has only been £1,600.

The Trustees are of opinion that it would scarcely be expedient to offer more favorable terms to the holders, as, after providing for the necessary expenses of the Institution, and considering the reduced period for which the Debentures now have to run, the available interest to be distributed amongst the Depositors would be so materially reduced as to render the investment almost profitless, even if the necessary amount could be procured by this means, of which, especially prospectively, the Trustees entertain strong doubts.
That the present investments consist of £24,600 in Government Debentures, £98,000 in Mortgages of real property, £29,500 in Bills discounted, and £20,500 lying without fructification at the Banks.

That by the Act of Council, Victoria, No. 6, the Trustees are prevented from further investing the Funds of the Institution in Mortgages until the sum so invested shall fall below one third the amount of deposits.

That the discount of new Bills has by the same Act been wholly prohibited, and the Trustees consider that it would be very inexpedient to revert to that mode of investment.

That the whole of the Banks have discontinued allowing any interest whatever on sums deposited therein.

That there are, as has been shown, no available Government Securities which can be purchased for this purpose.

That under these circumstances there being no present legal means of investment, unless His Excellency the Governor and the Colonial Legislature consent to some measure which will enable the Trustees to place the funds of the Institution at interest, its beneficial operation on the interests of the industrial classes must be most materially curtailed, if not entirely annihilated.

This will appear more clearly, if it be borne in mind that the uninvested balance, which amounted to £8,300 on the 1st of January, 1845, has increased to £20,500, or at the rate of £2,500 per month, and if the same ratio of increase continue, of which there is much probability from the general improvement in the prospects of the Colony, the discontinuance of Immigration, and the consequent increase in the price of labour, the amount at the close of the present year will have reached the sum of £35,000 to £40,000, lying in a wholly unproductive state.

That, by the provisions of the Act referred to, parties withdrawing the amount of their Deposits before the termination of the year are entitled to claim interest for the broken period it has remained in the Bank since the 1st of January at the rate of 8s. 6d. per cent. It is evident that, if the uninvested balance increase in the ratio referred to, it will be impossible even to allow them this moderate rate. The Trustees are aware that, in Institutions of this nature, it is not so much a high rate of interest, as the rate investment of the funds and the facilities of deposit and withdrawal that render them beneficial to the interests for which they are established. The Trustees do not, therefore, desire that they should be enabled to invest the funds at any high rate of interest. At the same time, they consider it advisable that the rate be distributed should bear some relation to the general rate current in the Colony, and that consequently it is not expedient that even for the broken periods of the year the rate should be reduced below that now authorised by law, whilst, as an inducement to Depositors to allow the profits of their industry to remain in the Bank, the rate for the Balance for the whole of the year should be somewhat higher.

That, in conformity with His Excellency the Governor's request that the Trustees would submit for his consideration any suggestions for the investment of the funds of the Bank, and in the confident hope that an Institution will not be allowed to languish, which is calculated to confer such extensive benefits on a large and important class of the community under a proper system of management, which they are most desirous of carrying out, if the requisite means are placed at their disposal, the Trustees now respectfully lay before His Excellency the following proposal, namely:

That application be made to the Colonial Legislature for an Act to authorise the issue of Debentures not exceeding a sum to be fixed, secured upon the General Revenue of the Colony, and bearing interest at the rate of Five per cent. per annum, that such Debentures should be confined exclusively to the investment of the funds of the Savings Banks of New South Wales and Port Phillip respectively, from time to time as the Trustees of these Institutions with the concurrence and approval of His Excellency the Governor may deem expedient.

That the funds thus accruing be placed to a separate account in the public Treasury to be termed the "Savings Banks public Work Fund," and be expended in the prosecution of public Works as may be determined upon, and submitted to the concurrence and approval of His Excellency the Governor.

In making this proposal, the Trustees would particularly advert to the fact that, for the benefit of similar Institutions in the Mother Country and in the other principal States of Europe, laws have been passed which free them from any risk in the validity of the Security on which the funds are invested, or changes in the rate of interest to be distributed. It is true that, from the existence of public debts in these countries, it is not necessary there to create a mode of investment especially for this purpose: but, if the amount be judiciously laid out in the formation of public Works under the control of the Legislature, it will operate not only for the benefit of the particular class referred to, who will thus be afforded the means of a profitable investment of their deposits in the Bank, but also will promote the best interests of the Colony at large. The Trustees take the liberty of suggesting that, with the view of preventing any ultimate charge upon the public from
the measure now proposed, it would be desirable to undertake such work only as may be calculated by means of a Toll or otherwise to provide for payment of the current interest and for the redemption of the principal thus invested. If this be done, the means would be placed at the disposal of the Executive Government and Legislature of prosecuting many public works of great utility without having recourse to raising funds by taxation or in any other way except from the parties immediately benefitted, or receiving a fair equivalent for the sum expended.

[Enclosure No. 4.]

[This was the report of the select committee of the legislative council on “Bills to enable the Savings Banks to grant certain Loans” which will be found in the “Votes and Proceedings.”]

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 47, per ship Berkshire; acknowledged by earl Grey, 9th June, 1847.)

Sir,

Government House, 1st November, 1846.

I have the honor to transmit the accompanying Copy of an Address from the Legislative Council of this Colony, together with a printed Copy of the Report of a Committee of the Council appointed, during its late Session, to consider the best means of establishing a Steam Communication between England and Port Jackson.

The importance of the object, which I am requested to submit for the favorable consideration of Her Majesty’s Government, is fully set forth in the Report, to which I take the liberty of referring you for the details of the scheme* which is proposed for carrying the recommendations of the Committee into effect.

A Route to join the China Line at Singapore is deemed “the least expensive, the most expeditious and the most convenient and advantageous” on the valuable authority of Captain King. And the Committee advise that a sum of £500 a Month, or £6,000 a year for a period of three years, should be contributed from the funds of this Colony towards the expenditure which will be necessary beyond the Postage receipts for carrying the Plan, if approved of, into operation.

As the ready adoption of this Report by the Council affords a convincing proof of the anxiety felt in this Colony that the great advantages of Steam Navigation should be extended to it, and as I cannot conceive that Her Majesty’s Government could confer a greater benefit on the Australian Colonies, generally, than by acceding to this request, I venture earnestly to recommend it for favorable consideration. I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[Copies of the address and report will be found in the “Votes and Proceedings” of the legislative council.]

* Note 30.
FITZ ROY TO GLADSTONE.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 49, per ship Berkshire; acknowledged by earl Grey, 22nd April, 1847.)

Sir,

Government House, 2nd November, 1846.

I have the honor to enclose the copy of a letter which has been addressed to the Colonial Secretary of this Government by Mrs. Green.

Mrs. Green, the facts of whose case are I believe as follows:—

Captain Green, formerly Pay master of the 57th Regiment, arrived in this Colony from India in February, 1836, having previously applied to retire from the Service by the sale of his Commission; being, however, in a very infirm state of health, this was refused; but it was intimated that he might retire on half pay. Captain Green died on the 12th December, 1836, having prior thereto sent Home, through the Commanding Officer then in India, the necessary application for his retirement; before, however, the papers could reach home, a knowledge of his death had arrived (probably direct from this Colony), and consequently such permission was totally unnecessary; and, being therefore on full pay at the time of his death, he was not considered entitled to the benefit of the Regulations with respect to Officers retiring from the service, and receiving a certain remission in the purchase of Land.

The Widow subsequently brought forward the matter and solicited the indulgence of the remission to which she considered her husband to have been entitled; but the Secretary of State negatived the request, perhaps not considering a Widow to have any claims under the regulations.

Mrs. Green now begs a more favorable consideration of the case, urging the necessary delay which took place in sending her husband’s application for retirement through the authorities in India as being the sole reason that prevented his having received the usual indulgence; and further that, previously to his death, he was allowed to select Land conditionally for purchase.

With regard to the first point, it may be remarked that, had not the delay referred to taken place in sending Home his application to retire on Half pay, Captain Green would undoubtedly have been permitted to obtain the remission, and, by precedent since established, the widow in case of his death might perhaps have obtained it in lieu.

In the second place, Captn. Green appears to have been allowed, on the 29th April, 1836, to select land at 5s. per Acre, the result to await the reference Home. A selection for purchase was accordingly made, but at the Sale he was outbid.
Under these circumstances, I beg to recommend Mrs. Green's request to your favorable consideration.

I have, &c.,

[Enclosure.]

CHS. A. Fitz Roy.

MRS. GREEN TO COLONIAL SECRETARY THOMSON.

Sir, Sydney, 7th October, 1846.

I beg leave to submit the following circumstances with a request that you will have the goodness to forward the same with your favorable report thereon to His Excellency the Governor.

My late husband, Paymaster Green, Her Majesty's 57th Regiment, after a Service of Twenty nine years in several Regiments, and being then in India, applied for permission to be allowed to retire from the service receiving the usual commutation allowance; in the interval he obtained leave of absence for the purpose of settling in this Colony obtaining the usual remission in the purchase of Land.

We accordingly arrived here at the commencement of the year 1836; in consequence however of his ill health, the Secretary at War could not authorise Captain Green's receiving the commutation, but intimated that he might retire upon half pay.

This communication was received after my husband's arrival in this Colony, and under certain peculiar circumstances he was compelled to accept of the alternative offered and accordingly sent home his papers; but, before his retirement was duly authorised, he unfortunately died, the great delay having occurred in consequence of his papers having to be forwarded through the Commanding Officer of his Regiment then in India.

It may however be necessary to mention that previously to his death Captain Green was authorised to obtain the Remission money in Land conditionally and acted upon the same by making a Selection, in which however he was outbid at Auction.

Upon these facts I beg to submit that the authority so given by Sir Richard Bourke may be renewed in my favor.

I have, &c.,

HONORIA GREEN.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 50, per ship Berkshire.)

Sir, Government House, 3 November, 1846.

In reply to your Despatch No. 20 of the 7th May last, covering a letter which had been addressed to you by Mr. G. A. Labatt of Dublin, containing an enquiry respecting Mr. H. R. Labatt.

I have the honor to report that Mr. H. R. Labatt is now employed as an Assistant Surveyor in charge of the road from Sydney to Parramatta, Windsor and Liverpool in this Colony.

I have, &c.,

CHS. A. FITZ ROY.
SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 51, per ship Berkshire.)

Sir,

Government House, 4th November, 1846.

In reply to your Despatch of the 14th March last, No. 5, covering the copy of a letter from Viscount Courtenay, making enquiry as to the Will and effects of the late Hugh O' Donnell, Innkeeper, Bungonia, on behalf of his relations in Ireland, I have the honor to enclose a copy of the Will of O'Donnell, which I have procured from the Prothonotary and Registrar of the Supreme Court, from which it appears that he left the whole of his real estate and property, consisting of 45 Acres of land, 5 allotments in the Township of Bungonia, and his House and Offices attached to his Wife Elizabeth for her life, on condition that she should pay off the debt due upon the said house and offices to the Executors of the late William Futter, amounting to £662; the above property after her death to be inherited by his eldest surviving brother at the time, or, failing him, by his heir at law. His furniture, horned Cattle and Horses were bequeathed to his Wife absolutely; and she was authorised to collect any sums due to him and apply the same to pay his debts.

Mr. John Murphy, one of O'Donnell's executors, in answer to the enquiry made of him, states that that person willed the life use of his house and premises (the Hope Inn) to his Wife (his only relative in the Colony) to revert at her death to his eldest brother. His furniture and live stock were left to his Wife.

Mr. Murphy adds that the house was a purchase from the Estate of the late Robert Futter, whose Trustees hold a Mortgage on it for an amount equal to what it is worth at present.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

WILL OF H. O'DONNELL.

I, HUGH O'DONNELL, of Bungonia in the County of Argyle and Colony of New South Wales, Innkeeper, being in sound mind though infirm in body, do make this my last Will and testament: and I do hereby will, devise, and bequeath, to my dear Wife Elizabeth for her sole use and benefit during her life time, the whole of my real estate and Property in the Township of Bungonia, consisting of Forty five acres of Land, Five Allotments of Land in the Township of Bungonia, and the House and Offices attached, in which I carry on my business, on the condition that she will pay off the debt now due upon the said House and Offices to the Executors of the late Mr. Futter and amounting to the Sum of Six hundred and Sixty two Pounds or thereabouts. And I do further Will that my said Wife Elizabeth do have absolutely and entirely, to appropriate as she may think fit, the furniture of my house and whatever Horned Cattle and Horses I may be possessed of at the time of my Death. And I do Will that, after the death of my Wife...
Elizabeth aforesaid, that my real Property and Estate as aforesaid shall be inherited and held by my eldest surviving Brother at the time; and, in case none of my Brothers may be living at the period of my Wife's Death, then, that the Property shall go to my nearest relative who may be the Heir at Law. And I do appoint as my Executors to see the provisions of this my Will carried into effect the following Gentlemen, viz., Francis Murphy, Esqr., of Jacques in the County of Argyle; John L. Murphy, Esqr., of Lumley, in the County of Argyle, and Andrew Badgery, Esqr., of Braidwood, in the County of St. Vincent. In witness whereof I have this day, the Twenty Second day of July, One thousand, eight hundred and forty three, in my own house at Bungonia, signed this my last will with my own hand and sealed it with my own Seal.

HUGH O'DONNELL.

Witnesses present:—EDWARD HUGHES, THOMAS ARMSTRONG, JOHN REEDY.

Codicil to this Will, not having made provision in the above Will for the collection of my Debts, I further do Will that my Wife Elizabeth is entitled to collect the outstanding Debts due to me and to apply them to the liquidation of my Debts.

22 July, 1841. HUGH O'DONNELL.

9 February, 1844. Probate granted of the Will only, the three Executors in it named, Dated the 11th March, 1844.

referred to, specifying the number, dates of issue, to whom issued, 
amount, date on which they become payable, and the Interest 
which will be due up to those dates; of this statement I do myself 
the honor to transmit a Copy for your information.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

STATEMENT shewing the outstanding Land and Immigration Deben­ 
tures payable in London, which have been sent from the 
Colony; specifying the number, dates of issue, amount, dates 
on which they became payable, and the Interest which will 
be due up to those dates.

<table>
<thead>
<tr>
<th>No. of Deben­</th>
<th>Date of</th>
<th>Amount.</th>
<th>Date on which</th>
<th>Interest which</th>
<th>To whom issued.</th>
</tr>
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<tbody>
<tr>
<td>tures.</td>
<td>issue.</td>
<td></td>
<td>the Deben­</td>
<td>will be due</td>
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<tr>
<td>No. of</td>
<td>date of</td>
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<td>Deben­</td>
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<td>tures.</td>
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</table>

3 17 Feb... 3 5 1847. £ 2 7 0 Mrs. Jane Newport.
18 19 April... 46 61 2,000 0 0 2 13 0 Sir George Gipps.
19 30 May... 92 111 2,000 0 0 23 16 0 A. B. Smith and Co.
3 24 June... 161 153 300 0 0 8 14 0 Mrs. Mary Harkness.
13 25 July... 174 158 1,800 0 0 48 5 8 Thomas Larkins.
3 6 Aug... 197 188 200 0 0 7 4 8 Arthur Daintrey.
2 31 Aug... 189 198 1,000 0 0 59 4 4 William West, M.B.
17 29 July... 198 214 1,700 0 0 223 11 8 Thomas Larkins.

£300 0 0 £ 300 0 0 £ 300 0 0 £ 300 0 0 £223 11 8

Colonial Treasury, Sydney, 4th November, 1846.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE. 
(Despatch No. 53, per ship Berkshire.)

Sir,

Government House, 5th November, 1846.

With reference to my Predecessor's Despatch No. 19 of 
the 20th of January, 1845, I have the honor to report that the 
Legislative Council have voted the sum of £150 as salary for the 
Agent General of this Colony for the year 1847, being the same 
amount as that voted in a previous Session of the present year, 
when a reduction was made in the Salary of that Office.

I conclude, therefore, that, in accordance with the instructions 
contained in your Despatch No. 4 of 24th December, 1845, I shall 
be at liberty to make provision for the payment to Mr. Barnard 
of £100 from the funds arising from the sale of Lands belonging 
to the Crown.

I have, &c.,

CHS. A. FITZ ROY.
EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch marked "Military No. 1," per ship Alexander; acknowledged by Sir Charles Fitz Roy, 20th August, 1847.)

Sir,

Downing Street, 6 November, 1846.

I have to acknowledge the receipt of your Predecessor's despatch, No. 121 of the 20th of June last, with the Memorial therein enclosed, which has been addressed to me by the Mayor and Town Council of Melbourne, in the district of Port Phillip, on the subject of the defenceless state of that Town.

You will inform the Mayor and Town Council that Her Majesty's Government cannot undertake to propose to Parliament that a grant should be made from the revenue of this Country, upon which there are already so many and such heavy demands, for the object recommended by their petition; but that, as I concur with them in thinking that the important town of Melbourne ought not to be left in its present defenceless condition, I conceive that the early attention of the Colonial Legislature should be called to the subject, and, if that body should be prepared to furnish the necessary funds, Her Majesty's Government will be ready to direct the Master General and Board of Ordnance to erect such works as may appear to be requisite in order to secure the town against any sudden attack.

I have, &c,

GREY.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 54, per ship Berkshire; acknowledged by earl Grey, 30th April, 1847.)

Sir,

Government House, 6th November, 1846.

I have the honor to report that the Session of the Legislative Council of this Colony, which I opened on the 8th September, terminated on the 31st Ultimo. A Copy of the Speech, which I addressed to the Council on this occasion, is transmitted herewith.

It does not appear necessary that I should trouble you with any lengthened remarks on the general events of the late Session; but I cannot deny myself the pleasure of stating that it was characterized throughout in progress by a marked spirit of improvement (judging from the official reports of my Predecessor in his reviews of former Sessions) in the intercourse between the Legislative body and the Executive.

In respect to some of the most prominent subjects of collision which have hitherto disturbed the harmony, which it is so desirable should exist between the Executive and Legislative Authorities, the policy which I have adopted has been attended with
the most satisfactory result; and I have sanguine hopes that a similar course will continue to operate beneficially in preserving the good understanding, which has thus been established between the Legislative Council and myself.

The most important change has consisted in submitting the Estimates of the Expenses for the administration of Justice and for certain other services, for which permanent appropriations had been made by local Acts, to the consideration of the Council.

The expense of the Courts of Request and the Insolvent Courts had latterly been defrayed under local Acts establishing those Courts; and the repairs of Roads in the County of Cumberland under the Toll Act had also been effected under the appropriation therein made. To the legality of these appropriations, the Council had, I find, expressed its dissent; and, although the course adopted by my Predecessor was borne out by the opinion of the Law Officers of the Crown, it may be questionable whether, as a matter of policy, it would be desirable to continue to act on this opinion in opposition to the wishes of the Legislative Council, more especially as, under the 34th clause of the Constitutional Act, 5 and 6 Victoria, Cap. 76, it seems to have been the intention of the Imperial Parliament to give to the Council the control of the whole of the Revenues arising from Taxes, Duties, Rates and Imposts, subject to deduction for the Services provided for in the Schedules.

Feeling, therefore, that, in conceding this point, I was giving effect to the Spirit and Intention of the Law, and that in doing so I ran no risk of embarrassing the Government in any way in which the public would not equally have suffered, and which, therefore, it was equally the duty of the Legislature to guard against, I cheerfully conceded to the principle contended for by the Council, as one to which I considered them in fairness entitled.

I have also to inform you that, on receiving an Address from the Council requesting me to place before them the whole of the Items, charged on Schedule A for the expenses of the Administration of Justice, in consequence of my having found it necessary to ask for a Supplement on the sum of £20,000, to cover the additional amount required, I did not hesitate to cause the necessary Estimate to be laid before them, the Council having expressly declared that, in asserting their right, under those circumstances, to review the whole of the Items of the Schedule, they had no intention of proposing alterations in any of the Salaries to which the faith of Her Majesty's Government has already been pledged.
I have the gratification to announce that, in fulfilment of their assurance, not only did the Council abstain from proposing any alterations in the Salaries of the Offices referred to, but voted the whole amount of the Supplement asked for without demur or alteration of any kind. I considered it my duty to propose this supplement to the Council at the present time, in order to establish the principle for future guidance; but I am happy to say that the estimated Balance, which will remain unexpended at the close of the present year on Schedule B, will, I have reason to believe, place the necessary funds at my disposal to meet the Supplement; and I shall, therefore, not be required to avail myself of the liberality of the Council, a circumstance which I had the pleasure to announce to them in my closing address.

The Amount of £5,000 for the repairs of Roads in the County of Cumberland was also readily voted.

I have further the satisfaction of informing you that the necessary provision has been made by the Legislative Council for the Establishment of the Office of Registrar General, and for paying up the whole arrears for the same from the 1st January, 1845; so that this long pending and vexatious question has, at length, been brought to a satisfactory conclusion. This amount was voted as an ordinary charge upon the General Revenue, and not as forming a part of the expenses of the administration of Justice, chargeable on Schedule A or the Supplement to it.

The authentic transcript of the Acts passed during the Session, as well as of three reserved and of one which I deemed it my duty at once to disallow, shall be forwarded as soon as they can be prepared, with full reports upon such as require explanation.

In concluding this Despatch, I cannot omit the opportunity of bearing testimony to the admirable manner in which the Government business has been carried through the Council by Mr. Thomson, the Colonial Secretary. His sound and impartial judgment, long experience in the Colony and in the duties of his Office, upright private character, and evenness of temper have secured to him the respect of all classes in the Colony, and, what is perhaps more difficult of attainment, of every Member of the Council; and I am happy, at this early period of my administration, to feel justified in thus officially recording my opinion of his Merits.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[A copy of this speech will be found in the "Votes and Proceedings" of the legislative council.]
SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 55, per ship Berkshire; acknowledged by earl Grey, 30th June, 1847.)

Sir,

Government House, 6th November, 1846.

I have the honor to transmit for your information the Letter transmitted from Mr. Barnes, Collector of Her Majesty's Customs in Van Diemen's Land, who has for some time past been employed under directions from the Lords Commissioners of Her Majesty's Treasury in investigating the Accounts of the Customs Department in this Colony.

Mr. Barnes, as you will perceive, reports that he has completed Surcharges upon the Accounts of the Collector of Sydney to the amount of Seventy five thousand, two hundred and sixty nine pounds, ten shillings and fourpence; but, as he states that he has made such arrangements in the Establishment as will afford a guarantee for the due and faithful collection of the Revenue for the future, and as he did not appear to consider it necessary that the Collector should be relieved from the charge of the Department, pending the decision of the Lords Commissioners of Her Majesty's Treasury, I have not deemed it necessary to interfere.

As an act of fairness towards the Collector, I deemed it my duty to direct that he should be furnished with a Copy of Mr. Barnes' letter, and I have now the honor to enclose the Collector's observations thereon.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosures.]

[Copies of these letters are not available.]

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 56, per ship Berkshire; acknowledged by earl Grey, 3rd September, 1847.)

Sir,

Government House, 6th November, 1846.

I have the honor to transmit the Copy of a Memorial which has been presented to me by the Gentlemen (persons of respectability in Sydney) whose signatures are attached to it, requesting me to forward Copies of Petitions, which were presented to the Legislative Council during its late Session against the renewal of Transportation into this Colony.

I avail myself of this opportunity of informing you that, in pursuance of the discretionary power which you assigned to me,
1846.
6 Nov.
Submission of despatch re transportation to legislative council.

Inability to forecast public opinion.

Reply by Sir C. Fitz Roy to deputation.

Memorial requesting transmission of petitions against revival of transportation.

I submitted a copy of your Despatch, marked “Private and Confidential” of 30th of April last, to the Legislative Council, as the most legitimate mode of obtaining the expression of public feeling upon a subject of such importance to the inhabitants of the Colony.

The Despatch was laid on the Table of the House on the 7th Ultimo, and the Report of the Committee (a printed Copy of which I annex) appointed to take it into consideration was not brought up until the 30th October (the day before the Council was prorogued) when it was determined to defer any further consideration of the subject until the next Session.

That, on a measure of this character, there will be extremely conflicting opinions you will readily believe; but I am entirely unprepared, as yet, to say on which side the opinions of the generality of the more respectable and influential portion of the Community will preponderate.

The answer, that I returned to the deputation that presented the Memorial now transmitted, was a verbal one and to the following effect, namely; that “I will forward this Memorial and the Petitions to Her Majesty's Ministers by the first opportunity. I cannot use any influence in the matter. Her Majesty's Ministers have no wish to force transportation contrary to the will of the Colonists. My duty will be simply to report, as impartially as I can, all that I can ascertain respecting the opinions of the Colonists. You may rest assured that Government does not wish to force Transportation against the wishes of the Colonists, and that Mr. Gladstone's Despatch was written in perfect good faith.”

I have, &c.,

    Chs. A. Fitz Roy.

[Enclosure No. 1.]

The Memorial of the undersigned, Respectfully Sheweth,

To His Excellency Sir Chas. Augustus Fitz Roy, Kt., Governor of New South Wales, etc., etc., etc.

That great alarm has been caused to many of Her Majesty's faithful and loyal subjects residing in Sydney and its vicinity, in consequence of a publication of a despatch from the Secretary of State (laid on the Table of the Legislative Council on the 7 October), in which it is proposed to renew Transportation to this Colony, provided the Colonists are favorable to such renewal; and also from many members of the Legislative Council, having in opposition to the wishes of their constituents, expressed opinions favorable to such renewal.

That in consequence of such alarm a public meeting was held in Sydney on the 22nd of October last, when a petition to The Legislative Council was unanimously agreed to, a copy of which is appended to this memorial.
That the said Petition with 6,765 Signatures was presented to the Legislative Council by Charles Cowper, Esq., one of the members for the County of Cumberland; That at the same time petitions from Liverpool and Parramatta, with the same prayer were presented by Mr. Cowper, and a similar petition from Maitland by Patrick Grant, Esqre., one of the members for the Northumberland Boroughs; and your memorialists represent that, had further time been allowed, many thousand additional signatures would have been obtained.

That, on Saturday last immediately before the prorogation of the Council, a report from a Select Committee of the said Council was presented by W. C. Wentworth, Esqre., one of the members for the city of Sydney, which report is in favor of the renewal of Transportation.

That the motion of Chas. Cowper, Esqre., that the petitions presented by him be printed, in order that with the said report, the petition and remonstrance of so many thousands Colonists might be transmitted to Her Majesty's ministers, was negatived.

That at a public meeting before mentioned your memorialists were appointed a Committee to carry out the objects of the said petitions, and as such Committee your memorialists respectfully but earnestly request that Your Excellency will be pleased by the earliest opportunity to forward Officially copies of the said petitions to Her Majesty's Ministers; and your memorialists also pray that Your Excellency will use the influence of Your high office, to prevent this Colony from being again made a Penal Settlement.

And your memorialists as in duty bound, etc.

RD. CAMPBELL. CHARLES KEMP.
JOHN GILCHRIST. RICHARD DRIVER.
JOHN GARRETT. J. NORTON.
JOHN SAUNDERS. J. McENROE.
GEO. A. LLOYD. JOHN CARRUTHERS.
JOHN GRAHAME. B. S. LLOYD.

The Humble Petition of the Undersigned Inhabitants of Sydney and other Colonists in public meeting assembled,

To the Honorable The Legislative Council of New South Wales.

Sheweth,

That your Petitioners have read a despatch from the Right Honorable the Secretary of State, from which they learn that Her Majesty's Government proposes to revive the system of Transportation to this Colony, provided such revival meet the general consent and approval of the Colonists.

That, from the proceedings of your Honorable House, your Petitioners learn that a Committee has been appointed to consider the said despatch; and your Petitioners, feeling convinced that the introduction of Convicts into this Colony would be injurious to the Morals, and destructive of the best interests of the Community, wish to express that opinion, and pray that your Honorable House will take such steps as will prevent this Colony from being again made a Penal Settlement.

And your Petitioners, as in duty bound, will ever pray.

[Here follow 6,765 signatures.]
Petition against revival of transportation from inhabitants of districts of Maitland and Hunter river.

[Enclosure No. 3.]

THE Humble Petition of the undersigned Inhabitants of the District of Maitland, and of other Parts of the Hunter River District,

To the Honorable the Legislative Counsel of New South Wales,

Sheweth,

That your Petitioners have learned with astonishment, and with sincere regret, that proposals have been made by the Home Government to renew direct Transportation to this Colony, and to perpetuate the practice which now prevails of affording facilities to prisoners conditionally pardoned to come from the neighbouring Penal Colonies to New South Wales. It is, however, a source of satisfaction to your Petitioners that her Majesty's Government has distinctly disclaimed the intention and the desire to take any proceeding in this matter except such as may be generally conducive to the interests, and agreeable to the inclinations of the Colonists.

That your Petitioners believe that both direct and indirect Transportation are opposed to the true interests and repugnant to the feelings of the Community.

That your Petitioners object to the renewal of direct Transportation to this Colony on the following grounds:—

Because it would be highly injurious to the moral and social welfare of the Community and would compromise their Civil and Political rights.

Because the progress the Colony has made during the last three years shows that it is not essential to the prosperity of the Colonists.

Because it would eventually entail upon the Community an amount of Taxation for Police purposes altogether beyond the pecuniary benefits it would confer.

Because these benefits would be confined to comparatively a few, while all would have to share in the evils and the cost.

Because it would check the marked improvement which is taking place in the habits of all classes of population and would again render life and property insecure.

Because it would revive distinctions in society, which are fast fading away and which it is desirable should be entirely and for ever obliterated.

Because there is less necessity for it now on the plea of want of labour, than at any period since Transportation ceased, as the land revenue is increasing, and is at present or will immediately be in a condition to meet all claims upon it, and to leave a considerable surplus to be at once applied to the introduction of Immigrants.

Because, if the public lands in future are managed with prudence and equity, they will supply an ample revenue for peopling the Colony with a free population.

And your Petitioners are opposed to indirect Transportation for similar reasons, as they consider that it is attended with many of the evils, and with only one of the benefits of direct Transportation.

Your Petitioners therefore pray that your Honorable House will not consent to the renewal of Transportation to this Colony on any terms, however advantageous they may appear to be in a
pecuniary sense; and that you will also be pleased to memorialise
the Home Government to except New South Wales from the operation
of the Conditional Pardons, which is now the practice to
grant to Prisoners in the neighbouring penal Colonies.
And your Petitioners as in duty bound will ever pray.

[Here follow 1,210 signatures.]

[Enclosure No. 4.]

THE humble Petition of the undersigned Inhabitants of the
Borough and District of Liverpool,
To The Honorable the Legislative Assembly,
Humbly Sheweth,
That your Petitioners, feeling alarmed at the probability of
returning again to a System of Transportation and thus retro-
grading into a Penal Colony, respectfully entreat Your Honorable
House will not entertain any proposal calculated to revive a state
of things which past experience teaches them to look upon with
serious apprehension.

Your Petitioners consider this question includes not only the
security of life and property, but likewise the reputation of the
Colony, the integrity of Juries, the independence of the Honorable
the Legislative Council, the purity of the Franchise, the Social,
Moral and Religious condition of Society here.

Your Petitioners cannot but consider that any recommenda-
tion as to the revival of Transportation would be at variance with
those solemn appeals made by influential Colonists against the
continuance of a system opposed to the introduction of Free In-
stitutions and calculated also to revive feelings of rancour and ill-
will between the various Classes of the community which have
happily subsided since the cessation of Transportation.

Your Petitioners cannot but further view such a revival as a
virtual breach of faith with those Immigrants, who have been
induced to leave their homes under the impression that Trans-
portation should for ever cease to this Colony and as further cal-
culated to check any tendency to a renewal of the same.

Your Petitioners hail with gratification the increasing evidence
they have that, since the cessation of Transportation (although
population has increased), Crime has decreased and that during a
period of great pecuniary embarrassment.

Your Petitioners cannot but consider that the want of labour,
which is the chief reason assigned for the revival of a System
which must re-introduce all the harrowing Scenes of Convict Coersion, may be obviated by a reduction of the minimum price
of land, thereby reviving Immigration, or by raising a loan on
the land fund, by entering into compacts with the poor law Com-
missioners, or by following the honorable example of South Aus-
tralia in encouraging Immigration from Germany, Prussia and
other Continental States.

While some of Your Petitioners would have been inclined to
concede to a limited number of Convicts for the roads and other
Public works, all are unanimously opposed to any System of As-
signment or indenture, which would in their apprehension appear
little short of a System of legalized slavery, preferring if needs
be to be poor, free, and virtuous to being opulent by a System
already designated by Your Honorable House as one "The evils of which are such as no mere pecuniary benefits could serve as a counterpoise to."

Wherefore Your Petitioners humbly pray that Your Honorable House, being fully aware of "all the Moral and Social evils of the Convict System," will as the guardians of their rights and the conservatists of their interests discountenance the revival of the Same.

And your Petitioners as in duty bound will ever pray.

[Here follow 47 signatures.]

[Enclosure No. 5.]

The Humble Petition of the Undersigned Inhabitants of the Town and District of Parramatta,

To the Honorable The Legislative Council of New South Wales,

Sheweth,

That your Petitioners have read a Dispatch from the Right Honorable the Secretary of State, from which they learn that Her Majesty's Government proposes to revive the system of Transportation to this Colony, provided such revival meet the general consent and approval of the Colonists.

That, from the proceedings of your Honorable House, your Petitioners learn that a Committee has been appointed to consider the said Dispatch, and your Petitioners, feeling convinced that the introduction of Convicts into this Colony would be injurious to the morals and destructive of the best interests of the Community, wish to express that opinion, and pray that your Honorable House will take such steps, as will prevent this Colony from being again made a penal settlement.

And your Petitioners as in duty bound will ever pray.

[Here follow 327 signatures.]

[An article on the "Revival of Transportation" from the issue of the "Sydney Morning Herald" newspaper, dated 6th November, 1846, was also enclosed.]
William Gossett on the 14th July, 1834; and, as there appears to be no reasonable doubt as to his being the person he described himself to be, I venture to recommend that necessary instructions may be given for the future payment of his Pension, and of the arrears due to him in this Colony.

I have, &c.,

[Enclosure.] CHS. A. FITZ ROY.

THE Memorial of Charles McLaughlin,
To His Excellency Sir Charles Augustus Fitz Roy, Knight, Governor of New South Wales, etc., etc., etc.,

Most humbly sheweth,

That your Memorialist served upwards of eleven years as Constable in the Irish Constabulary Corps; That, in consequence of an injury received by a fall from his horse, he was discharged with a Pension of £9 4s. 8d. per annum, which will appear more fully to Your Excellency by the enclosed.

That your Memorialist only received two years and a half Pension up to 25th July, 1888, paid by Captain Wade, Sub Inspector of Constabulary, County Tyrone, Ireland; and, in consequence of the Vessel in which Memorialist had agreed for the passage of himself and family to this Country being ready for sea sooner than Memorialist expected, prevented him from making the necessary arrangement to have his Pension paid in this Colony. Your Memorialist most respectfully solicits your Excellency to take his case into your consideration, and to acquaint Memorialist in what manner he should proceed to obtain the arrear due, and the future payment of his Pension in Sydney.

And as in duty bound will,

Chas. MCLAUGHLIN.
Sydney, 13th October, 1846.

[Sub-enclosure.]

TESTIMONIAL.

We, the Magistrates, resident Chairman of the District of Gortin, of large landed Estate, together with the Rector and Curate of Lower Badomy in the County aforesaid, together with the Merchants residing in Gortin, do hereby certify that Charles McLaughlin, together with his wife, who is perfectly eligible to perform the Housekeeper or Dairy Woman in Town or Country, and is of good repute, together with their children are of the Established Protestant Church, as were their Ancestors; and that, if quiet, orderly and peaceable conduct can at any time, or in any Country, claim or deserve patronage for a loyal man, he deserves it; he now intends to Emigrate with his family to Australia, as a General Farm Labourer, which is perhaps the least of his recommendations, which we shall be at all times happy to attest.

Given under our hands at Beltrim Castle, and elsewhere, this 21st day of March, 1838.

I believe the above to be true.

C. McCOLL HAMILTON, J.P.
THOS. STUBT, Rector of Badomy.
MRBYN WILSON, Curate of the Parish of Lower Badomy.
CHS. McFARLAND, Gortin, Merchant.
CHS. MCLAUGHLIN, Grocer.
AZIZ, McFARLAND, Gortin, Distiller.
DANIEL McFARLAND, Gortin, Churchwarden.

Charles McLaughlin, who Memorialised His Excellency relative to his Pension, is the person who served as Constable in the Irish Constabulary Force.

Given under our hands this 20th October, 1846.

I knew the above named Charles McLaughlin and his family in Ireland, and can vouch for his being the person he states himself to be.

KING BARTON.
Increase of salary for sub-treasurer at Port Phillip.

Balance unexpended under schedule B.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 58, per ship Berkshire; acknowledged by Earl Grey, 17th April, 1847.)

Sir,

Government House, 6th November, 1846.

I have the honor to transmit the Copy of a Despatch addressed by the Superintendent of Port Phillip to the Secretary of this Government, recommending for the reasons therein stated an increase of Salary to the Sub-Treasurer of that District, and to report that I have considered it right to accede to this request, subject of course to your approval; The additional Salary to be defrayed from Schedule B of the 5th and 6th Victoria, Cap. 76, and to commence with the present Quarter.

I have further to state that the Auditor General reports the actual Balance, unexpended on Schedule B on the 30th September last, was seven thousand and seventy three pounds two shillings and two pence, and that the Balance, which will remain unexpended on the 31st December ensuing of the sum of £5,000 appropriated under this Schedule for the Colonial Treasurer’s Department and for the Sub Treasury at Melbourne, is estimated at Three hundred and fourteen pounds, ten shillings and four pence.

I have, &c.,

[Enclosures.] CHS. A. FITZ ROY.

[Copies of these papers will be found in a volume in series III.]

7 Nov.

Despatches acknowledged.

SIR CHARLES FITZ ROY TO RIGHT HON. W. E. GLADSTONE.

(Despatch No. 59, per ship Berkshire.)

Sir,

Government House, 7th November, 1846.

I have the honor to acknowledge the receipt of your Despatches of the numbers and dates noted in the Margin.*

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 52, per ship Alexander.)

Sir,

Downing Street, 9 November, 1846.

I transmit to you herewith, for your information and guidance, copies of a correspondence with Lt. Colonel Kelsall on an application from him for a License of Occupation for a

* Marginal note.—No. 18, 7th May, 1846; No. 19, 7th May, 1846; No. 20, 7th May, 1846; No. 21, 13th May, 1846; No. 22, Not received; No. 23, 17th May, 1846; No. 24, 18th May, 1846; No. 25, 20th May, 1846; No. 26, 24th May, 1846; No. 27, 24th May, 1846; No. 28, 26th May, 1846; No. 29, 29th May, 1846; No. 30, 27th May, 1846. Circular, 1st May, 1846; Do, 6th May, 1846; Do, 27th May, 1846. Military, 2, 2d May, 1846; 3, 5th May, 1846. N. Australia, 7th May, 1846. No. 1, 7th May, 1846; No. 2, 8th May, 1846; No. 3, 14th May, 1846; No. 4, 14th May, 1846; No. 5, 28th May, 1846.
Term of eight Years of a portion of Crown Lands at Port Phillip, which it appears that he now holds under Annual License of Occupation.

I am, &c.,

GREY.

[Enclosure No. 1.]

LIEUT.-COLONEL KELSALL TO EARL GREY.

My Lord,

Chester, 8th October, 1846.

I beg leave respectfully to state that, by the Waste Lands Application by (Australia) Bill lately passed, brought in by Your Lordship, Her Majesty may devise to any person for a term of years not exceeding fourteen, or grant licenses of occupation for the same term of years, of any Waste Lands of the Crown in the Australian Colonies whether within or without the boundaries of location and by an Order in Council can make rules and regulations, respecting the occupation of the same, respecting the division of the said Colonies into Districts in which alone such devises or licenses may be made to take effect, and respecting any right of pre-emption which it may be proper to give any holder of any such devise or license, at the minimum price established, and certain powers to be delegated to Governors, etc.

This Act, and the regulations that will probably be adopted under its powers, will I am confident be received by the pastoral interest of New South Wales, including the Port Phillip District, with grateful feelings, as shewing Your Lordship's desire liberally to promote the interests of those Colonies, which are essentially pastoral; only I beg to observe with respect to the Port Phillip District that, as its settlement commenced so recently as 1836 and was principally of a pastoral character, the benefits to be conferred by this Act of lease, or license for term of Years, preference of occupation and right of preemption at minimum price, with repayment for improvements, will not be obtained and considerable loss inflicted on some of the first established and more enterprising of the Stockholders without any corresponding benefit to be derived to the Community, if that particular portion of the regulations that may be adopted relating to the division into Districts, in which alone the devises or licenses for term of years are to take effect is framed without some regard to the actual state of things at Port Phillip, and is made to exclude at once a whole country, or without allowing to the Governor discretionary power of devising, or granting licenses within the boundaries of location as well as without in this very recently settled District, allowing a preference to the present holders of "Runs" under Government license, until the lands are sold.

With reference to the Runs, it may be observed they were formed since 1836 by individuals, importing at considerable expense, high prices and risk, their stock, supplies and free labour, and necessary buildings were erected: but little benefit has been as yet derived from them by the holders from the shortness of their tenure, although they have made and support the towns of Melbourne, Geelong, and Portland, founding the Colony of Port Phillip, without having entailed any expense on the Home Govt. and producing a Revenue. Very little Country land has been sold and within the last few years scarcely any: and labour continues scant and high priced; there are, in consequence, large tracts of Crown Waste Lands within the Counties, which are now held

1846.

9 Nov.
Application by R. Kelsall for license of occupation for eight years of land at Port Phillip.

in “Runs” under Government, paying a license fee and assessment on the number of Stock they carry, pasturage being considered the best practicable mode of occupying these dry Crown lands, and the present occupant it is acknowledged ought to have a preference; whereas in the long established Counties round Sydney nearly all available land had been granted or sold.

My Lord, in consequence of the passing of this beneficial Act, and the existing state of things at Port Phillip, I beg respectfully to represent to Your Lordship, that I am one of those individuals, who, at the commencement of that settlement in the beginning of 1838, at considerable expense, risk and high prices, imported stock, supplies and free men, establishing there a “Run” for Sheep, which I held and still hold under Government, and have incurred expense in erecting necessary buildings; that the land is dry, and nearly all fit only for sheep pasture; that none has been sold, or likely, judging from the past; that license fee and assessment on stock is paid and preference of occupation allowed; but, from the shortness of my tenure and revulsions of the Colony, etc., I have as yet benefitted little. Under these circumstances, I submit my claim to some benefit under this Act, and respectfully solicit your Lordship’s kind consideration of this my application for a demise, or license of occupation, for a term of eight years, of the Waste lands of the Crown at Port Phillip (County Grant), Australia, which I now hold under Government (by yearly license fee and assessment) as a “Run” for Sheep with renewal if unsold on expiry, right of pre-emption of a portion at minimum price, and repayment of value of improvements by next occupant, should the same be within the regulations laid down by Her Majesty.

I have, &c.,

R. KELSALL,
late Lieut. Colonel, Royal Engineers.

[Enclosure No. 2.]

UNDER SECRETARY HAWES TO LIEUT.-COLONEL KELSALL.

Sir, Downing Street, 9 November, 1846.

I am directed by Earl Grey to acquaint you that he has had under his consideration your Letter of the 5th Ultimo, enclosing an application for a license of occupation, for a term of eight years, of a portion of Crown Land at Port Phillip, which you state that you now hold under annual license of occupation from the Governor of New South Wales; and you express a fear that, unless attention be paid to the peculiar circumstances of the Port Phillip District, the early Settlers there will not reap the benefit, which you anticipate from the provisions of the recent Act of Parliament to amend the Land Sales Act.

In reply, I am directed to acquaint you that the peculiar circumstances, affecting the Port Phillip District to which you refer, have been under the notice of Government and have not been overlooked in considering what Rules should be adopted respecting the occupation of Lands for Pastoral purposes; but that individual cases cannot be dealt with separately; and consequently that no decision can be adopted in this Country on your present application. It will, however, be forwarded to the Governor of New South Wales to be disposed of on its own merits, in common with any others under the new Regulations, whenever they may come into operation.

I have, &c.,

B. HAWES.
EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 53, per ship Alexander.)

Sir,
Downing Street, 10 November, 1846.

With reference to Sir George Gipps' Despatch, No. 153 of the 15th September last, I have to acquaint you that I have, on the recommendation of the Rt. Revd. Dr. Polding, authorized the grant to the Revd. William McGinty and the Revd. Michael Corish of the usual allowance of £150 on account of their passage to New South Wales.

I am, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 55, per ship Alexander.)

Sir,
Downing Street, 11 November, 1846.

I have received your Predecessor's Despatch, No. 125 of the 24th of June last, enclosing a Petition Addressed to the revenue and Queen by various Inhabitants of the District of Port Phillip, praying that Her Majesty will adopt such Votes and Resolutions as should be best calculated, in the judgment of Her Majesty, to prevent the indiscriminate pledging of the Land Funds of the two Districts as Security for a joint debt, and obtain for the District of Port Phillip entire separation from the Government of New South Wales.

I have laid this Petition before the Queen, who was pleased to receive it very graciously; and you will inform the Petitioners that the subject, to which their Memorial refers, is at present under the consideration of Her Majesty's Government.

I am, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 57, per ship Alexander; acknowledged by Sir Charles Fitz Roy, 25th August, 1847.)

Sir,
Downing Street, 13th November, 1846.

I transmit to you herewith a copy of a Letter from the person described in the Margin,* containing an application for information relative to Thomas Sheerin, who is stated to have Emigrated to the Colony under your Government; and I have to request that you will transmit to me such information as you may be able to obtain on the subject of the enquiry.

I have, &c.,
GREY.

* Marginal note.—Redmond Sheerin.
1846.
13 Nov.
Memorial of T. Sheering.

[Enclosure.]

The humble Memorial of Thomas Sheering,
To The Honorable The Secretary for the Colonies, etc.,

Sheweth,

That Redmond Sheering, the son of Memorialist, sailed from Dublin on the 10th of July, 1841, as a Free Emigrant in the ship Albatross for Sydney, New South Wales.

Memorialist has since that period written several letters to his said son and received only one answer. Memorialist by the good­ness of providence is now enabled to provide in a comfortable way for the said Redmond Sheering, and humbly solicits intelligence if he is still in existence, and if possible his residence, in order that Memorialist might pay for his passage back to his Native Country. And Memorialist as in duty bound will ever pray.

Residence:—No. 38 Ashe Street, Dublin.
6 Novr.

Thomas Sheering.

14 Nov.

Earl Grey to Sir Charles Fitz Roy.
(Despatch No. 58, per ship Alexander.)

Sir,
Downing Street, 14 November, 1846.

With reference to my Despatch No. 28 of the 28th of August, I have the honor to transmit, herewith, the accompanying Additional Instructions to yourself under Her Majesty's Sign Manual and Signet, authorising the appointment of Her Majesty's Attorney General for New South Wales to be of the Executive Council instead of the Bishop.

I have, &c.,
Grey.

[Enclosure.]

[A copy of these instructions is not available.]

16 Nov.

Earl Grey to Sir Charles Fitz Roy.
(Despatch No. 59, per ship Alexander: acknowledged by Sir Charles Fitz Roy, 15th May, 1847.)

Sir,
Downing Street, 16 November, 1846.

I have to acknowledge the receipt of Sir George Gipps' Despatch of the 24th May last, No. 103, requesting authority to charge on the Fund created by Schedule B of the Act, 5 and 6 Vict., Cap. 76, a Pension of £73 per annum for Mr. Joshua Allott, Tipstaff or Crier of the Supreme Court in New South Wales.

Her Majesty's Government feel precluded from authorizing a larger retired allowance to Mr. Allott than would equal the half of his emoluments, that being the full amount sanctioned by the Superannuation Act for his period of Service.
In computing the allowance, however, H.M.'s Govt. are prepared to take into account the fees of which Mr. Allott was in receipt as forming part of his authorized emoluments. The amount of these Fees is not stated, but, at his great age, in order to prevent the delay which would arise from requiring a report on that point before the retirement is fixed, I have to convey to you the necessary authority for assigning to Mr. Allott an Allowance equal to one half his full emoluments on an average of the last ten Years. You will report to me the amount of such Allowance.

I am, &c.,

Grey.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 60, per ship Alexander.)

Sir,
Downing Street, 17th November, 1846.

I have received Sir George Gipps' Despatch of the 2d June last, No. 109, reporting that he had reduced the establishment called the "House of Correction," or the Treadmill at Sydney, thereby effecting a saving of about £500 per annum in the Expenditure on account of Convicts in the Colony of New South Wales.

I have, &c.,

Grey.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 61, per ship Alexander.)

Sir,
Downing Street, 18th November, 1846.

I have received your Predecessor's Despatches of the Numbers and Dates specified in the Margin,* reporting the events which had occurred during the short Session of the Legislative Council, which he had then just brought to a close.

In reading those Despatches, I have perceived with regret the tone and character of the last proceedings of the Legislative Council under the Government of Sir George Gipps, as shewing that the eminent Services, which he has rendered to the Colony of New South Wales during his Administration of the Government, have not met with that appreciation which I think they justly deserve. I think it but right to place on record my opinion that the Colony is deeply indebted to Sir George Gipps for the ability and devotion to the Public Service with which he has so long conducted its affairs.

With reference to the Resolutions brought forward by Mr. Lowe in the Legislative Council, and particularly adverted to in your Predecessor's Despatch, No. 128, as intended to throw on him the charge of the illegal Appropriation of a portion of the Public Revenue of the Colony, as those Resolutions were not carried in the Council, there is no point open for discussion; and I have only to add my Confirmation to the approval expressed by Lord Stanley of the course pursued by Sir George Gipps in the matter referred to. I have, however, perceived with satisfaction that the Amendment to the second Resolution, moved by Mr. Wentworth and adopted by the Council, virtually, as Sir George Gipps observes, recognizes the legality of his proceedings in that Case.

I am, &c.,

Grey.

Earl Grey to Sir Charles Fitz Roy.

(Despatch No. 62, per ship Alexander.)

1846.
18 Nov.

Referring to the Correspondence enumerated in the Margin respecting the New Settlement of North Australia, I have to apprise you that, on a full review of the subject, Her Majesty's Government have determined to abandon the design entertained by Lord Stanley, and carried into effect by Mr. Gladstone, for establishing in that part of New Holland a Colony for the reception of pardoned Convicts, who might be unable to find the means of maintaining themselves in Van Diemen's Land. I cannot conceal from you that Her Majesty's present Confidential Advisers dissent from the view taken of this subject by their immediate predecessors, even in reference to the state of facts under which they acted, and to the considerations by which they were guided. But I gladly pass from a discussion which might assume a Controversial aspect, and which has become entirely Superfluous. Since the decision was taken, there has been such a change in the State and Circumstances of Society in the Australian Colonies, as would, could it have been foreseen, have doubtless been regarded by the Authors of the project as conclusive against the adoption of it. I refer especially to the Cessation during at least two Years of Transportation to Van Diemen's Land. I refer also to the increased and increasing demand for Manual labour throughout the Australian Colonies. And I further refer to the methods which the New Governor of Van Diemen's Land is prepared to take for the employment of the Convict and the emancipated population there, aided by

*Marginal note.—No. 1, 7 May, 1846; No. 2, 8 May, 1846; No. 3, 14 May, 1846; No. 4, 14 May, 1846; No. 5, 28 May, 1846 (see note 23).
his extensive experience acquired in the discharge of analogous duties in this Country. Under such Circumstances, I should maintain that the Establishment of the projected Colony in North Australia had now become an impolitic and needless measure, even if I could acknowledge that it was originally the reverse. Her Majesty will, therefore, be advised to revoke the Letters Patent* under which North Australia has been erected into a separate Colony, and the establishment formed there must immediately be discontinued. Colonel Barney and the subordinate Officers attached to him must immediately be re-called, and employed, as occasion may present itself, under the Government of New South Wales. I am happy to know that to Colonel Barney himself this change of purpose will not be a disappointment, as his engagement to serve in North Australia was, by his own desire, limited to a period of two Years. I am, &c,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 63, per ship Alexander.)
Sir,
Downing Street, 20th November, 1846.

I have received Sir George Gipps' Despatch, No. 135 of the 30th June last, enclosing a Petition from Mr. Bell, late Storekeeper of the Female Factory at Paramatta, in which he prays for Compensation on account of his removal from his Office, and restoration to his former position, and for indemnification for the expenses which he incurred in the course of the legal proceedings instituted against him on behalf of the Government. He also claims an additional allowance, for which he had been recommended to the Secretary of State in the Year 1843.

In reply I have to request that you will acquaint Mr. Bell that, having had before me the whole of the Correspondence in his Case, including his Memorial on the one side and the Report and Opinion of your Predecessor on the other, I can see no ground for altering the judgment and the decision which Sir George Gipps had formed in the Case. I am, &c,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch marked "Military, No. 2," per ship Alexander; acknowledged by Sir Charles Fitz Roy, 30th April, 1847.)
Sir,
Downing Street, 24th November, 1846.

I have the honor to inform you that, in consequence of the information recently received from New Zealand, Her Majesty's servants have determined that an increase of the Military force in New Zealand to be increased.

* Note 31.
Force now in that Colony should be effected with the least possible delay. With that view I have to instruct you to make immediate arrangements, in concert with the Officer commanding the Troops in New South Wales, for sending the whole of the disposable force now serving there to Wellington, with the utmost practicable dispatch. It will, I calculate, be in your power, without danger, to send at least 900 men for this service, still retaining a small force at Sydney, which, under the present circumstances of New South Wales, is all that I consider indispensable. New South Wales may be regarded as being perfectly safe, for the present at least, from any attack from a Foreign enemy; there are no native tribes capable of engaging in serious hostilities with the Colonists; and the convict establishment is now reduced so low, while so great an increase has taken place in the numbers of the free population, that there is no longer the necessity which some years ago existed for maintaining a considerable Military Force to guard against the risk of an attempt to rise on the part of the convicts. Under these circumstances, there is no part of Her Majesty's Dominions in which there is less occasion for a large body of Troops. Accordingly, I find that, with the exception of those at Sydney, the Troops now serving in New South Wales are broken up into small detachments, and obviously performing duties more analogous to those of a Police Corps than of a part of Her Majesty's regular Army; but these are duties which the heavy demands upon the services of the British Army do not admit that it should be called upon any longer to undertake. Her Majesty's confidential servants will consider it their duty to take care that Her Naval and Military Forces shall afford efficient protection from the attacks of any Foreign enemy to so important a part of Her Dominions as New South Wales; but for the maintenance of internal order and tranquillity, it is only reasonable that the Colonists should themselves be called upon to provide by the formation of an adequate force of Police, or, if necessary, of Militia. You will bring this subject under the immediate consideration of the Legislative Council; and under no circumstances will you consider yourself authorised to delay sending to New Zealand the force I have already named.

I do not propose that, for the present, there should be any alteration in the amount of force in Van Diemen's Land, including Norfolk Island, or in Southern or Western Australia, nor is the arrangement for sending the 96th Regiment to India to be disturbed.

I have, &c.,

GREY.
EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch marked "Separate," per ship Alexander; acknowledged by Sir Charles Fitz Roy, 26th August, 1847.)

Sir,

Downing Street, 24th November, 1846.

I transmit to you herewith a Copy of a Letter from the person described in the margin,* containing an application for information relative to Mr. James Gaffney, who is stated to have Emigrated to the Colony under your Government, and I have to request that you will transmit to me such information as you may be able to obtain on the subject of the enquiry.

I have, &c,

[Enclosure.]

GREY.

MR. P. GAFFNEY TO SECRETARY OF STATE.

Sir,

No. 1 Barrack Street, Dublin, 18th Novr., 1846.

I most respectfully beg leave to state that my Brother Mr. James Gaffney resides at or near Sydney, New South Wales, and I have not heard of or from him these many years; therefore, I would be particularly obliged to your honor to make enquiry after him in order to ascertain whether he be living or dead, and please to have the kindness to acquaint me accordingly, and for so doing I will be unfeignedly thankful; most respectfully submitted.

I have, &c,

PETER GAFFNEY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 64, per ship Alexander; acknowledged by Sir Charles Fitz Roy, 18th June, 1847.)

Sir,

Downing Street, 25 November, 1846.

I have to inform you that the ship "Thomas Arbuthnot" has been chartered for the conveyance of 290 Exiles to Port Phillip.

I am, &c,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 65, per ship Alexander.)

Sir,

Downing Street, 26 November, 1846.

I have to acknowledge the receipt of your Predecessor's Despatch of the 26th June, 1846, No. 130, forwarding Transcripts of Four Acts passed by the Legislative Council of New South Wales, numbered 31, 32, 33, and 34 of 1846, and intituled, No. 31, "An Act to continue for two years 'an Act to facilitate the apprehension of transported felons and Offenders illegally at large, and of persons found with Arms and suspected to be robbers.'"

* Marginal note.—Peter Gaffney, 18 Novr., 1846.
No. 32, "An Act to continue for a limited time an Act intituled 'An Act for regulating the Constitution of Juries and for the trial of Issues in certain Cases in the Supreme Court of New South Wales' and further to amend the Law relating to Trial by Jury."

No. 33, "An Act to amend an act intituled, 'An Act to amend the Laws relating to the Savings Bank of New South Wales, and Port Phillip respectively,'" And

No. 34, "An Act to amend an Act, intituled, 'An Act to make provision for the Safe Custody of and prevention of Offences by persons dangerously insane, and for the Care and maintenance of persons of unsound mind.'"

I have received the Queen's commands to inform you that Her Majesty has been pleased to confirm and allow these Acts.

You will Communicate Her Majesty's decision to the Inhabitants of New South Wales by a Proclamation to be published in the usual and most Authentic Manner. I am, &c.,

GREY.

Earl Grey to Sir Charles Fitz Roy.
(Despatch No. 66, per ship Alexander.)

Sir,
Downing Street, 27 November, 1846.

I have received Sir George Gipps' despatch No. 134 of the 29th June last, reporting the course which he had pursued in Consequence of the refusal of the Legislative Council to renew the Squatting Act 2 Vict., No. 27, and I have to express my approval of the arrangements which were adopted on that occasion.

I trust that the Act passed by the Imperial Parliament in its last Session, to which I have adverted in another Despatch,* will obviate any inconvenience which might otherwise have arisen from the Colonial Act having been allowed to expire.

I am, &c.,
GREY.

Earl Grey to Sir Charles Fitz Roy.
(Despatch No. 67, per ship Alexander.)

Sir,
Downing Street, 28 November, 1846.

With reference to Sir George Gipps' Despatch, No. 55 of the 19th March, 1845. I have to acquaint you that, since the receipt of that Despatch, my Predecessors and myself have been in communication with the Directors of the Australian Agricultural Company on the subject of the issue to that Company of the Title Deeds for their Lands in New South Wales.

* Note 32.
In consequence of the stringent terms of their Charter, a difficulty was found to exist in conveying to them their Lands, or such portions as they had acquired a right to claim a title to without the authority of a fresh Act of Parliament. The Act, of which I enclose a Copy, was passed for that purpose towards the close of the last Session of Parliament. It is entitled (9 and 10 Vict., Cap. CCCLI) “An Act to amend an Act passed in the 5th year of the Reign of H.M. King George 4, for granting certain Powers and authorities to the Australian Agricultural Company.”

I also enclose a copy of a Letter which I have received from the Governor of the Company, Containing a statement of the present position of the question as regards their Titles. You will perceive that the object of this present application is to obtain the removal of that restriction which prevented their disposing at present of more than 500,000 Acres of their Land, and which concession the Government are enabled by the recent Act to make. As I cannot perceive any practical advantage in continuing that restriction, I have assented to the application; and the difficulties being now removed which prevented the framing of the Instruments, I apprehend that they will now be completed without further delay.

I am, &c.

GREY.
in the Colonial Office by your Lordship's Predecessor; these, with
the Act of Parliament above mentioned, will put your Lordship in
possession of the present position of the Australian Agricultural
Company; and, if anything more should be wanting to a clear
apprehension of our case, I trust your Lordship will allow me to
furnish what may be necessary and to do which I have ample
means.

3. Your Lordship will gather from the Correspondence I have
mentioned and the Act of Parliament, the following facts:—
1st. That the Australian Agricultural Company, after having
been incorporated upwards of 22 years, has not yet been able to
obtain the Title Deeds to the Grant of Land made to them.
2ndly. That it has been proved to the satisfaction of Govern­
ment that, where practicable, the Australian Agricultural Company
has substantially fulfilled the terms of the Royal Charter under
which the Grant of Land was made to them, and that, where the
terms have not been fulfilled, a fulfillment is now impracticable
from lapse of time, changes in the policy of Government and other
causes.
3dly. That, in consequence, the right of the Australian Agricul­
tural Company to a declaration of exemption from all the stipula­
tions of the Charter, and to possess in fee simple, with free power
of alienation, 500,000 Acres of their original Grant, and of all
other Land subsequently acquired by purchase, have been fully
recognized.
4thly. That the only limitation, now existing to prevent the
Australian Agricultural Company dealing with the whole of their
Landed property in the Colony as they please, is that contained
in the 8th Condition in the Royal Charter,* which declares that
the Lands granted to the Australian Agricultural Company shall
be held in Mortmain, except 500,000 Acres to be manumitted on
certain conditions as above mentioned, the substantial perfor­
manmpetf^rmaf of which has already been recognized; and it was to authorize the
Crown at its discretion to release the remaining portion of the
Grant from this Condition of the Charter that the Act of 9th and
10th of Victoria, Cap. CCLIII was recently passed; and it is to
obtain this consideration and concession at Your Lordship's hands
that I now, as Governor of the Australian Agricultural
Company, address you, all other points having been finally decided upon as
will be perceived by the Correspondence already mentioned.

4. The grounds upon which the Australian Agricultural Com-
pany claim this concession from your Lordship may be stated under
the following heads, and which I make as brief as possible. Vizt.:-
1st. Because, when the Grant was originally made to us 22 years
ago, Land was of no value to Government and was given freely and
gratuitously, and, if our Land has acquired any value since or
does hereafter, it has been, or will be, by the outlay of our Capital
and our long occupation and consequent improvement of it.
2ndly. Because our main inducement to involve our Capital in
the undertaking was the apparent certainty of our being amply
supplied with Convict labour; and, if such a prospect had not
been held out to us by Government, we never would have embarked
in it.
3dly. That such supply of Convict labour has been inadequate
from the first; that, when the Assignment system prevailed, We
never got our fair proportion of Convicts; that for many years the

* Note 34.
supply was miserably deficient and the cause of repeated complaints from us, as the Records of Your Lordship's office will amply prove; while it was at all times compulsory upon us to maintain a large body of Convicts whether we wanted them or not, had it pleased the Colonial Authorities to order us to receive them.

4thly. That consequently we have been put to great expense in sending free Labourers from the Country and in hiring others in the Colony, an expense that we should not have been put to but from the altered policy of the Government.

5thly. That we have sent out to the Colony at our expense upwards of 650 Emigrants, and that the Bounty lately granted to all other Settlers on the importation of free Laborers has been refused to us by the Local Government.

6thly. That we have expended upwards of £300,000 in our undertaking and by the introduction of the finest breeds of Sheep, Oxen, Horses, Mules, etc., have benefitted the Colony generally as is universally acknowledged.

7thly. Because, regardless of expense, we have done everything that was practicable to improve the moral and social condition of all our Servants, whether Free or Convicts. A Church has been built on our Grant. We have a Minister of the Church of England paid by us and exclusively devoted to our Establishments. We support Schools, and the result of all has been that our Establishments are remarkable for a degree of order and good conduct, not always found in the Colony. Many of those employed by us have been in our Service from our incorporation; many Convicts assigned to us have been reclaimed and are now industrious people settled on our Properties since their manumission; and we believe that we form a rare exception in having had for several years some of the Aborigines in our Service.

8thly. That we have done all this, with no assistance and but little encouragement from the Government either at home or abroad; but on the contrary have been compelled to press our complaints on the Home Government year after year while the Assignment system lasted, at the unfair manner in which we were supplied with Convicts in comparison with others, not having the claims that we had. While on the other hand, when the Policy of Government was altered and all further supply of Convicts withheld, we submitted without murmur or remonstrance, or troubling Government with any claims or complaints, notwithstanding the injurious effect which such a change had and continues to have on our prosperity.

9thly. That, from this failure to supply us with Convict Labour and the expense of free labour never calculated on when we embarked in our undertaking, we have only been able to pay 34½ per cent. on our paid up Capital to Our proprietors in 22 years, and that for 10 years we were unable to pay any Dividends.

10th. That, from the long delay in completing our Title Deeds arising from no omission or fault of ours, we have lost the opportunities which the high price of Land at one time afforded of selling advantageously such portions of our Grant as we could, and have since established our right to alienate.

11th. Because we have strong grounds to complain of the treatment we have received from Government with regard to our Coal Mines, the working of which we undertook reluctantly at the express desire of the Home Government upon the faith of certain
1846.
28 Nov.

Reasons for
granting release
of lands of A.A.
company from
conditions of
charter.

Possible rivalry
in sale of land
with govern-
ment.

Effects of sale
of land by
A.A. company.

privileges, which have not been maintained to us, which have been
violated or evaded, and are so to this hour, while we have in vain
sought for redress.

12thly. Because we challenge comparison with any analogous
Colonial Corporate Body, as having more faithfully and un-deviatingly fulfilled the object, spirit, and letter, of our original
Incorporation as far as the Colony is concerned, with so little sup-
port or encouragement from Government, but often having to con-
tend with the reverse.

5. These, My Lord, are the outlines of the principal grounds on
which the Australian Agricultural Company lay claim to the con-
sideration of Government for any concession beyond our recog-
nized rights. I have stated them as briefly as I could, being at
the same time prepared, if your Lordship desires it, to afford ample
proof in detail of all I have asserted.

6. It may and no doubt will, in the first instance, occur to Your
Lordship that a compliance with our application might, as touching
the late Land Sale Act, have the effect of making us appear as a
rival seller of Land to the Government, and to a certain extent this
cannot be denied; but, if your Lordship should see fit on the
grounds I have stated to free the remainder of our Land from the
only restriction now upon us, I respectfully submit that, if viewed
in all its bearings, this should not form an objection sufficiently
strong to overrule all that I have stated in support of our claims
to consideration.

7. Because we should not be a Rival Seller more than any other
Landed proprietor in the Colony; and it is notorious that, owing
to the distress under which the Colony has laboured for the last
three or four years, there are vast quantities of land that would
now be sold, if there was any sale at all for such property, the
present holders of which will be always ready to undersell the
Government, should a demand for Land arise.

8. I further submit to Your Lordship's consideration whether it
is likely that a Company, which has stood its ground under many
great and pressing disadvantages for 22 years, would now rush
heedlessly into the Market and sacrifice its property; on the con-
trary are we not more likely to uphold the value of Land, and, when
we do sell small portions from time to time to settlers upon
terms which only a Company like ours can give, to secure to the
Colony a countervailing advantage by the encouragement and in-
troduction of an increased Agricultural population, establishing
themselves as it were under our protection, and fostered by our
support, where industrious and deserving. While as we hope,
when we do sell, that most of what we part with will be sold in
this Country to parties contemplating emigration, who would be
confirmed in their intention by the certainty that would attend
their dealings with an established and responsible Company, able
and willing to give them many facilities in stocking their Land
and in easiness of payment, We should rather cooperate and pro-
mote than interfere with the object of the Land Sale Act in en-
couraging Immigration.

9. But, in truth, My Lord, we have no intention of precipitately
selling our Land; it is obvious that it must be many years before
we can hope to sell even a moiety of that Land to which our right
to sell has been admitted; but it is natural, without any such
intention, that we should desire to be in a position to be able to
deal with the property; which I must be permitted to say we have
very hardly earned, after the lapse of so many years, unfettered
even by a restriction that in the end might prove more nominal
than real; because, supposing your Lordship not to allow our
claims to the concession we now seek and to refuse us any con-
sideration, it may be fairly doubted whether the Colony would
be any gainer by keeping us tied up in Mortmain with regard to
half our Land, and compelling us to evade the restriction by long
leases of 999 years at a Pepper Corn Rent, which I apprehend we
shall have full legal power to do, a course it would be much more
agreeable to our feelings to avoid.

10. I venture confidently to anticipate that Your Lordship will
rather incline to the opinion that it will be better, by a fair and
liberal consideration towards us, to carry us with the Government
as willing and zealous co-adjutors in carrying out its plans, which
it is equally our desire and interest to do; to lower the value of
Land would be obviously suicidal on our part.

11. I will only further add that Your Lordship's compliance with
our application to have the Title Deeds to all our Grant completed
holding lands in Fee Simple will obviate a difficulty I apprehend of considerable
magnitude, that must attend their being drawn up on any other
basis. For, if we are to have one half of our Grant in Fee simple
as we have the right to, and the other half is to remain in Mort­
main, I apprehend the attempt at definition or division under these
two Tenures would be very difficult, if not impracticable; but I
forbear lengthening this letter by any attempt to describe what I
doubt not will readily occur to the mind of your Lordship.

I have, &c.

J. S. BROWNING.
Governor, Australian Agricultural Company.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch per ship Alexander.)

Sir,
Downing Street, 28 November, 1846.

I beg to recommend to your good offices Mr. George
Thomas Clarke, a Member of the College of Surgeons, who is at
present practising at Penrith in New South Wales.

His name has been brought under my notice by Lord Clarendon
at whose request I write this letter, and I should be glad if it
should be in your power to forward his views. I have, &c.

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 68, per ship Alexander.)

Sir,
Downing Street, 29th Novr., 1846.

Upon entering on my present Office, one of the first ques-
tions, which appeared to me to require an endeavour to settle it
on some satisfactory footing, was that as to the terms on which
the inhabitants of New South Wales should be enabled to obtain
Land, either by purchase or by authorized occupation, for pastoral purposes. The conditions upon which the occupation of Land without purchase should be permitted, and the right which should be conceded to the occupiers, have for some years been the subject of much discussion, and I am well aware that, from the peculiar circumstances of the Colony, this is the part of the general question as to the management of the Crown Lands which is of the most immediate practical importance. But, as the rules to be enforced as to the temporary occupation of Land are of necessity closely connected with those respecting its permanent alienation, and as I also observe many signs that the policy which has been adopted by Parliament of prohibiting the sale of Land below its present price is still viewed with disapprobation by many of the Colonists, I am anxious to recall to your recollection some of the grounds upon which that policy was originally adopted, and upon which I must still think that it ought to be strictly adhered to.

When public inconveniences have been removed by suitable measures, they are apt to be forgotten, and the value of the remedial measures by which this has been effected to be brought into question, in consequence of any partial inconvenience with which they may be attended. If the evils which necessarily arise from too liberal a distribution of Waste Lands should have been thus lost sight of in New South Wales, I would refer you for a full exposition of their nature to the Despatches of the Earl of Ripon, which are referred to in the margin,* and of which, though they may be found in the Parliamentary Papers of the day, I think it may be of advantage that I should enclose you copies."\[145x693]Marginal note.—These despatches being in the Colony, they are not transmitted.\[152x693]†

You will find it to be shewn in these despatches that, if, in the settlement of Colonies, the Waste Lands are disposed of by Grant instead of by sale, their allotment to individuals must of necessity be left to the discretion of the Executive Government with great risk of abuse, and the certainty that, whether justly or not, abuse will at all events be suspected and complained of, that the Government must either suffer all desirable land to be appropriated long before it can be so with advantage to the public, or else establish regulations hardly possible to be enforced, and which at the same time greatly interfere with that free management of their own property by individuals, which is so essential for its improvement; and that on the other hand, by adopting the principle of selling land at somewhat a high

* The margin is blank.

† Marginal note.—These despatches being in the Colony, they are not transmitted.
price, all possibility of favouritism or abuse on the part of the Government is effectually put an end to, the most complete security is afforded that land will be appropriated only by those who really intend to make use of it, and that none who have the will and the means of improving it shall be prevented from obtaining it. By this system of management a check is also opposed to that tendency to an undue dispersion of the Inhabitants, which is found to be so strong in countries in the progress of settlement, and where the population is still very small in proportion to the extent of the Territory. Under such circumstances if left to themselves, men are generally disposed all to become occupiers of land upon their own account; the consequence is they become dispersed in single families over a large extent of country, deprived in a great measure of the advantages of mutual assistance and co-operation, and of the division of labour. Such a state of society is necessarily rude, and little favourable to improvement. The education of the young and the religious instruction of all can only be provided very imperfectly and at a vast expense for a population so scattered; there is little or no labour to be obtained for hire, so that even those who may possess capital cannot apply it with advantage in improving the land, and thus, though all may enjoy an abundance of food, they will be scantily supplied with the comforts and luxuries of life, and be strangers to all the chief advantages of civilization. The system of disposing of Land only by Sale at rather a high price, now established under the authority of Parliament in Australia, checks the tendency of Society to fall into this condition, not only by restraining the undue facility of obtaining land, but also by creating a large fund which may be applied to the encrease of the population by emigration, and to the improvement of the Territory which they are to occupy. When the benefits, which N. S. Wales has derived from the employment in this manner of the money received from the sale of Land, are remembered, there can I think be little doubt of the advantages of this policy, especially if we contrast with its practical results those of acting upon the opposite policy, which is founded upon the opinion (still maintained by some) that it is better to leave as much of their funds as possible in the hands of settlers, instead of requiring from them a price for land. This last is the principle on which the Settlement of Swan River began so unsuccessfully, under which New South Wales itself so long made a tardy and imperfect progress, and the British Colonies in America suffered from so many abuses. The opposite system, as I see truly remarked in some of the discussions on the present subject, is the one under which New South Wales has in
ten or twelve years realized from land one million sterling, has
increased its population by 50,000 souls, and has passed from the
condition of a penal settlement into that of a great free Colony.
It has I know been often alleged that many of those, by whose
purchase of land so large a sum of Money has been brought into
the public Treasury and applied to Emigration, have been heavy
losers; and that, however the Colony may have gained in popu-
lation and in wealth, much suffering and disappointment has
been entailed upon individuals by their buying Land at a price
far exceeding its real value. That there have been heavy losses
and much disappointment to individuals in consequence of the
over speculation in land which a few years ago was carried to so
great a height in the Colony of New South Wales, it is impos-
sible to deny; but I must observe that such losses from injudici-
ous speculation are by no means confined to Colonies in which
the policy of disposing of land by sale is acted upon. I doubt
whether any British Colony has, in proportion to its wealth
and population, suffered so heavy a loss of Capital from its mis-
employment upon land as Western Australia; and in this instance
the loss to individuals has in no degree been compensated by any
advantage to the community; whereas in New South Wales,
though the losses of those who bought land injudiciously (so far
as their own interests are concerned) are no doubt greatly to be
lamented, still against this evil there is to be set the great and
permanent benefit to the community, which has arisen from the
expenditure of the money paid for land in bringing into the
Colony a large free population. Again when it is complained
that the price demanded for land in New South Wales has been
more than it is really worth, I must direct your attention to the
fact that land has in itself, and considered without reference
to population, no value which is capable of being estimated. In
this country, land by nature almost entirely unproductive, sterile
moors for instance and swamps, which until improved by a large
employment of labour and capital can yield little or nothing,
sell for prices far higher than those which, under the existing
regulations, are obtained for the best land sold in New South
Wales for the purpose of cultivation; while, in many parts of
the world, lands by nature of the very highest fertility are at
this moment worth absolutely nothing. Hence it is clear that
the value of land depends far less upon its intrinsic qualities
than upon its being so situated as to be useful to a considerable
and industrious population. The fact, therefore, that those,
who have bought land in New South Wales at prices which,
however high they may be there thought, are so very far below
those which are habitually paid in more fully peopled countries.
find these lands too dear with the present amount of population, and, in the absence of a better supply of labour, would almost seem to lead to the inference that, instead of the present upset price of land being too high, it might have been really better for the purchasers to have paid a still higher price, so that a greater number of emigrants of the labouring class might have been introduced.

Such are some of the reasons (to which it would not be difficult to add many more of hardly inferior weight) which lead me to the conclusion that the policy, sanctioned by Parlt. with reference to the alienation of the public lands in Australia, is one to which, for the welfare of these Colonies, it is most important to adhere; but while I entertain this opinion I am also perfectly well aware that, in order to encourage the great staple produce of New South Wales, it is necessary that the occupation of land for pastoral purposes should be allowed on terms much easier than those of purchase at the minimum price now established by law. There is a universal concurrence of opinion as to its being indispensable that the sheep and cattle farmers of Australia should have the range over far wider tracts of land than they could possibly afford to purchase, not merely at the present price, but at any which could possibly be named for the fee simple. I assume therefore that it is necessary to provide for the temporary occupation of land for pasturage on much easier terms than those upon which its permanent alienation is permitted. Nor is this in any degree inconsistent with what I have already said as to the importance of maintaining the present minimum price of land sold in fee simple; on the contrary, I entirely agree in the opinion I find to have been expressed by Sir G. Gipps that the two systems of permanently alienating land only at a high minimum price, and that of permitting it to be occupied for pasturage "or what is termed the squatting system" will mutually sustain and support each other. By the combined operation of allowing a temporary right of occupying land to be obtained on easy terms, and of demanding a considerable price for that in which a permanent property is acquired, the sheep and cattle farmers are enabled to carry on the important branches of industry, in which they are engaged, to an extent and with advantages which they would not otherwise enjoy; while at the same time this does not occasion the loss to the Colony of the important source of revenue, which will hereafter be afforded by the sale of land, or any risk of depriving future settlers of the means of obtaining land by purchase at a reasonable price. This last consideration is I think of extreme importance; it is obvious that, if those who now occupy the large runs which
are required for the support of considerable flocks and herds, while the country remains in a state of nature, were allowed to acquire a permanent property in these vast tracts of land, there would very soon indeed be no land of moderately easy access available for new settlers. I am aware indeed that, even under the existing regulations, complaints have been made, and not without much apparent foundation, that a difficulty is experienced by persons who have accumulated small capitals, in finding the means of purchasing allotments of land of a size suitable to their circumstances, owing to the manner in which extensive tracts have been appropriated by the larger capitalists. In justice, therefore, to the poorer class of settlers, I consider it of vital importance that, in allowing wild lands to be occupied for pastoral purposes, the property of the Crown in these lands should be effectually protected, so that, as they are wanted for settlement, they may be sold at a price, which, while it is too high to admit of large tracts being obtained possession of by grasping speculators, is yet sufficiently moderate to throw no difficulty in the way of the industrious settler who desires to purchase and to improve a farm of moderate extent.

But while I for these reasons consider it to be necessary that those, who occupy wild lands for pastoral purposes, should not be permitted to acquire a permanent property in their runs until they can afford to purchase them at the price now established by law, I am by no means insensible to the force of the arguments which have been urged against the existing practice of allowing the occupation of these runs to be secured only for a single year at a time, by which the holders are discouraged from attempting improvements of which they have no assurance of reaping the benefit. I admit that both the interest of the public and of the individual occupiers of wild lands would be promoted by permitting such lands, when not wanted for settlement, to be held for longer periods than has hitherto been the practice, and by securing to the occupiers at the end of their tenancy the value of any improvements they may have effected. In this manner, I believe various improvements, and particularly those having for their object to secure a larger and more permanent supply of water, will be encouraged, by which a given extent of land will be rendered capable of supporting a very much larger amount of stock than it now does, thereby checking at least in some degree the present tendency of those engaged in pastoral pursuits to scatter themselves over an enormous extent of country.

It is upon these views that the Act passed in the last session of Parliament, of which a copy is enclosed in this Despatch, is founded. That Act, as you will perceive, proceeds upon the
principle of at once effectually asserting the property of the Crown to the vast tracts of land now occupied by the stockholders of Australia, and at the same time enabling Her Majesty to make regulations having the force of law, by which the holders of wild lands will be rendered secure in their occupation for terms of not more than 14 years, and will at the end of their tenure be assured the value of any improvements which they may have effected. I have not as yet been enabled to advise Her Majesty, under the authority of this Act, finally to establish by Order in Council the rules under which such lands are in future to be held. I have been compelled to postpone doing so by the necessity of obtaining such information, and communicating with various persons, before I could venture to propose for adoption regulations which must so deeply affect the future prospects of Australia. But, though I cannot as yet transmit to you regulations confirmed by Her Majesty in Council, I think it right to forward to you a printed copy of the draft, which has been prepared of the regulations which it is in contemplation to establish. You will, however, understand that these regulations have by no means been as yet finally determined upon; they are to be regarded, as they purport to be, merely as a draft for further consideration, liable to be altered in consequence of the further information I may receive. With the view of obtaining such information, they have already been communicated to some of the stockholders of New South Wales at present residing in this Country, and will also be communicated, upon his arrival, to Sir G. Gipps, whose advice upon this subject I consider it so important to obtain, that I shall certainly defer submitting these regulations to Her Majesty until I can have that advantage.

In order however to obviate all unnecessary delay in bringing these regulations into operation, in case they should hereafter be sanctioned by Her Majesty, it is desirable that you should at once consider in what manner it will be best to proceed in performing the duty, it is in contemplation to impose upon you, of classifying the lands of the Colony, and defining the boundaries of the different districts which will require to be determined. There is, as you will observe, a very material difference between the conditions on which it is proposed that land should be held in the three different classes of districts, which it is intended to establish; and the nature of this difference is such as would make it necessary that you should act with extreme caution in classing the lands of the Colony in one or the other of these districts. Lands in the unsettled districts, according to these regulations, would be put absolutely out of the power of the Crown, and be rendered unavailable for settlement for the long period of 14
years; it would, therefore, be absolutely necessary that no lands should be so classed except those which, from the remoteness of their situation, you have reason to feel assured will not be required for sale to the public for the purpose of permanent occupation during the term for which the Leases will be granted. I have to instruct you to be most careful upon this point, since it would be a source of very serious injury both to the Colony and to the Mother Country if, at the end of eight or ten years, it should be found that the progress of Emigration were checked by the inability of the Crown to find lands to sell to intending Emigrants. You will recollect also that, as the proposed regulations with regard to intermediate lands will secure to the actual holder a right of occupation for eight years, unless they are previously required for purchase, and will also assure to him, on giving up possession, a right to the whole of his improvements, there would be the less occasion for placing in the class of unsettled districts any lands as to which even a doubt can be entertained.

I have, &c.,

GREY.

[Enclosure No. 1.]

[This was a copy of the act 9 and 10 Vict., c. civ.]

[Enclosure No. 2.]

[A copy of the draft regulations is not available.]

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EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch marked “Separate.” per ship Alexander: acknowledged by Sir Charles Fitz Roy, 30th July, 1847.)

Sir,

Downing Street, 30th November, 1846.

With reference to my Despatch, No. 46, of the 18th ultimo, I transmit, herewith, four Warrants under the Royal Sign Manual, authorising you to cause Letters Patent to be passed under the Public Seal of the Colony of New South Wales, appointing Mr. William A’Beckett and Mr. Roger Therry, to be Puisne Judges, Mr. Alfred Cheeke to be Commissioner of the Court of Requests, and Mr. Thomas Callaghan to be Crown Prosecutor in the Court of Quarter Sessions, in that Colony; and I have to desire that you will obtain from each of these gentlemen, and remit to Mr. Smith, the Chief Clerk of my Office, the sum of Eleven Pounds 5s. 6d., the amount of fees and stamp duties payable on Instruments of this nature. I have, &c.,

GREY.

[Enclosures.]

[Copies of these warrants are not available.]
Earl Grey to Sir Charles Fitz Roy.

(Despatch marked "Military, No. 3," per ship Alexander; acknowledged by Sir Charles Fitz Roy, 30th April, 1847.)

Sir,

Downing Street, 30th November, 1846.

With reference to my Despatch No. 2, Military, of the 24th Instant, I transmit to you enclosed an Extract of a Treasury Minute, dated the 27th Instant, setting forth the directions which the Lords Commissioners have given for carrying out the arrangements explained in my Despatch above mentioned.

I have, &c,

Grey.

[Enclosure.]

Extract of a Treasury Minute, dated 27th Novr., 1846.

"The Commissariat Officer in charge at Sydney should be desired to take the directions of the General Commanding for obtaining the required conveyance for the Troops intended to be transferred from New South Wales, and for providing such additional supplies of Provisions or stores and such amount of specie to be consigned to D.A.C.G. Turner at New Zealand, as the General may deem requisite to meet the immediate wants of this considerable reinforcement after the arrival of the Troops at the last mentioned Colony.

"My Lords desire that Mr. Ramsay may be directed to transfer with the Troops the two junior Assistants at present serving under his orders, instructing them to report themselves to D.A.C.G. Turner on their arrival at New Zealand.

"In attention to the suggestion of the Secretary of State with regard to the Imperial Buildings and Property in New South Wales, which will be left unoccupied by the removal of the Troops, desire that Mr. Ramsay will move the Officer commanding to nominate an Officer of the Ordnance Department in conjunction with an Officer of the Commissariat for the purpose of ascertaining the number and description of the Buildings that may thus become disposable and revert to the custody of the Ordnance, and Mr. Ramsay will ascertain the remains of Commissariat Stores that may revert to his charge.

"As the considerable reduction of the amount of the Military Force to be retained in New South Wales, and the adoption of the measures suggested by the Secretary of State in his Despatch to the Governor for the employment of the Police Corps at the detached Posts, from which the Military aid will be withdrawn, will materially diminish the duties to be performed by the Commissariat Department in New South Wales, my Lords desire that Mr. Ramsay will carefully consider what reduction can be effected in the establishment under his orders; and he will submit his views on the subject to the Governor with reference to the duties which may yet be required from the Commissariat in regard to Convict Services, and to the General Commanding with reference to the duties to be performed in connexion with the Military Service in order that my Lords may receive, with Mr. Ramsay's report, the opinion of those authorities respectively on the subject.

Grey to Fitz Roy.
1846.
30 Nov.

Instructions to
commissariat
officers on trans­fer of military
officer in charge at Sydney, in conformity with the wishes of their
Lordships as expressed in Mr. Ward's letter of this date.

Transmit copy of the foregoing Minute with copies of the
Papers alluded to therein (according to the memorandum on the
Margin)* to Dep. Com. Gen. Ramsay and desire that he will take
the necessary measures, so far as he is concerned for giving full
effect to the intentions of H.M. Govt. on the several matters
alluded to in this Minute.

Write to the Officer in charge of the Commissariat at New Zea­
land, acquainting him that my Lords have laid before them copies
of two Despatches, dated the 24th January, which have been
addressed by the Secretary of State to the Lieut. Governor of New
Zealand, apprising him of the measures which have been taken by
the Home Govt. for increasing the Military Force with a view to
the protection and safety of the Colony.

These measures consist principally in the immediate transfer
of 900 Men from the Regiments now serving in New South Wales
and the formation of a Corps of 500 Men to be embodied in this
Country under the designation of the Royal New Zealand Fencibles,
and to be sent from hence direct to Auckland.

Acquainting him that my Lords have instructed D.C.G. Ramsay
to provide, under the direction of the General Commanding in
New South Wales, the necessary shipping accommodation for the
conveyance of the Troops to New Zealand and to provide also such
Provisions, Stores and Money as the General may deem requisite
to meet the immediate wants of this additional Force after its
arrival at its destination.

My Lords have also decided that two Officers of the Rank of
Deputy Assistant, Junior to Mr. Turner, may be sent from N. S.
Wales with the Troops, as a reinforcement of the establishment
under Mr. Turner.

Transmit to Mr. Turner Copy of the Despatch from Earl Grey
to the Lieut. Governor, dated the 24th Instant, in order that he
may be aware of the arrangements under which the Royal New
Zealand Fencibles are to be provided for on their arrival, and Mr.
Turner will consider himself at liberty to advance, upon the War­
rants of the Officer Commanding, such sums as the Lieut. Governor
may deem it necessary to require for establishing the location of
the Fencibles.

Mr. Turner will afford every facility in his power for giving
effect to the intentions of H.M.'s Govt. with regard to this Corps,
taking care to keep a separate Account of all expenses that may
be defrayed from the Commissariat Chest for this particular Force,
and transmitting to this Board monthly a statement of the
advances which he may be called upon to make for this Service.

Transmit to Mr. Turner for his more particular information
copy of a printed paper, inscribed "Confidential," calling his attention
to Paragraphs No. 12 to 16, and the concluding Paragraph
No. 28."

* Marginal note.—Letter Earl Grey to Sir C. A. Fitzroy, 24 Nov., 1846; Letter
from Secy. to Admiralty, 27 Novr.
GREY TO FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 69, per ship Bussorah Merchant; acknowledged by Sir Charles Fitz Roy, 16th July, 1847.)

Sir, Downing Street, 4 December, 1846.

I transmit to you herewith Copies of a correspondence with the Most Revd. Dr. Polding, relative to an application which he has made for a Grant of Land, to be appropriated to the use of the Roman Catholic Church in New South Wales, in aid of the education of Ministers for that Church, and of the conversion of the Aborigines of the Colony.

You will perceive, from the letter which I have caused to be addressed to Dr. Polding, what are the difficulties which appear to me to oppose a compliance with his application, and what are the questions on which I require the aid of a report from yourself and from the Executive Council of New South Wales. You will transmit to me such a report with as much promptitude as may be practicable.

I have, &c.,

GREY.

[Enclosure No. 1.]

RIGHT REV. J. B. POLDING TO EARL GREY.

My Lord, 35 Golden Square, 20th Novr., 1846.

In an interview with which Your Lordship recently favoured me, I considered it to be my duty to mention the very great difficulty I have experienced in procuring duly qualified Clergymen for the Colony of New South Wales, the means I proposed to alleviate the difficulty as regards the future.

For some years, I informed your Lordship I have had under my own roof a number of young persons aspiring to the Ecclesiastical state, nearly one third of the Clergy in my diocese have been thus educated. But the increase in the number of Candidates, and the largely growing demand for Clergymen, compel me to use my utmost endeavours to establish a Seminary on a proper and permanent basis, which I trust will supply in some degree the means of providing for the spiritual wants of the Catholics being about one third of the entire Population of the Colony.

Thus the very considerable expense incurred in the defraying of the outfit and passage of the Clergy will be diminished. Thus many other inconveniences will be avoided. This undertaking, however, I cannot accomplish without assistance. I feel that there would be considerable difficulty in the way of obtaining assistance from Her Majesty's Government, were an application to be made in the present circumstances of the Colony for pecuniary aid. I do not therefore make application. But, my Lord, it is most respectfully submitted that without inconvenience, assistance of a very substantial nature may be given in the shape of a Grant of Land. Nor do I consider that Land can be devoted to purposes more useful, more beneficial to the common weal than those which have for their object the spiritual and moral improvement of a large class of the Colonists in the first instance, and in the second, with the divine Blessing on our intentions and exertions, of the unfortunate aborigines of the Country. In this view for purposes
1846.
4 Dec.

Application for land grant for education of R.C. clergy and for conversion of aborigines.

less important, Governor Sir Richard Bourke gave land to the value of several thousands of pounds to the Trustees of the Australian library.

I would beg moreover permission to represent, and without the remotest feeling of invidiousness, that the Catholic portion of the Population have some claim for especial consideration on this subject. It is well known that, before the introduction of the Church Act, all the Churches of the Church of England with residences for the Clergymen were erected at the public Expense. Thus the Churches of St. Philip and of Saint James in Sydney, those of Paramatta, Windsor, Newcastle, valuable Glebes, of considerable extent were attached, to many of which possession is held. A large tract of land near Wellington Valley is also, I believe, under the control of the Bishop of Australia for Ecclesiastical purposes. King's School, a large and commodious Establishment in Parramatta, was built at the Public Expense and is also under his Lordship's control.

I beg furthermore to add that, at the request of the Revd. Dr. Lang, £3,000 of the Public money were allowed as a loan, and proved to be a gift for the purpose of aiding in the erection of the Australian College for the Education of Students and Ministers of the Church of Scotland.

My Lord, the Catholic portion of the population, though confessedly the least abounding in opulence, would be happy to have instances of this kind to record. We recollect with gratitude some assistance given towards the erection of St. Mary's Church, Sydney; but it forms a small item in the general cost. Of course I allude to the period antecedent to the Church Act. My confidence in Your Lordship gives me the conviction that, in acceding to a proposition in accordance with justice and tending to the accomplishment of great good, slight regard indeed would be had for the censure, which prejudice or ignorance might pass. Nevertheless, I will presume to remark that, if Your Lordship receive with favorable attention the application I have the honor to make, it is humbly conceived that other denominations cannot take offence, nor can the Grant be construed as a precedent; since the concession, which will entitle Your Lordship to Our grateful remembrance, can only be deemed an Act by which those, in favor of whom it is made, are at length placed on a level with their fellow Colonists, who at a former period received similar or greater advantages.

It is not apprehended, My Lord, that difficulty will occur in the selecting of the Grant.

In the vicinity of Sydney, Grosse Farm, formerly a Convict Station, is the property of Government. It is let annually. Near Paramatta is the Government domain, with the House in which his Excellency the Governor was wont to reside during a part of the Summer; it is not, since the erection of the new Government House in the domain of Sydney, any longer required. In February last, the Establishment at Paramatta was advertised to be let. There are other tracts of land in many respects advantageous. I have no doubt, under the sanction and direction of Your Lordship, the local Government and the Catholic Ecclesiastical authorities would make a satisfactory arrangement.

I have, &c.,

J. B. Polding.
UNDER SECRETARY HAWES to RIGHT REV. J. B. POLDING.

Sir,

Downing Street, 1st December, 1846.

I am directed by Earl Grey to acknowledge the receipt of your letter of the 20th instant, in which you request that Lands in New South Wales may be set apart for the use of the Roman Catholic Church, in order to assist that Church in the Education of Clergy, and in the conversion of the Natives.

Lord Grey directs me to assure you of the deep interest he feels in the objects you have in view, and of the gratification which it would afford him to accede to your proposals for advancing them. His Lordship, however, fears that there may be very grave if not insuperable obstacles which do not appear to have attracted your own attention.

In making the proposed Grant, it appears to Lord Grey that he would not really be following existing precedents, but creating a precedent entirely new, and with it introducing a principle of very wide and questionable operation. The grants, to which you refer, were all anterior in date to the Church Extension Act of New South Wales, and to the Constitutional Act of Parliament, which has set apart from the Revenue of that Colony the large Annual Sum of £30,000 for the support of Public Worship. A similar Grant posterior to those Enactments would therefore be essentially a novelty. It would tacitly but distinctly admit that neither the Church Extension Act nor the Act of Parliament were to be considered as having fixed a limit to the provision to be made at the Public expense for this branch of the Public Service.

Lord Grey thinks it needless for his immediate purpose to deny or to admit that such ought to be the construction or the consequence of those Enactments. He confines himself to the remark that this is a very considerable question, on which he does not think himself at liberty to act without first consulting the Governor and Executive Council of the Colony.

And this caution seems to him the more requisite because he cannot doubt that, if the proposed concession be made, the Colonial Legislature will discuss the wisdom and the lawfulness of it, and in that event that their opinions may be such as to lead to remonstrances to the Queen and to Parliament against the measure. Lord Grey cannot adopt it, therefore, without being first well assured that to any such remonstrance a good and conclusive answer might be returned.

An additional motive for thus pausing, before Her Majesty’s Government are committed to this step, appears to Lord Grey to arise from the certainty (for it is nothing less) that other Christian Societies would demand from them similar concessions, and would invoke in support of that demand the precedent which would have been so recently made in the case of the Roman Catholic Church. The ultimate results of the proposed Grants might, therefore, prove of serious and embarrassing magnitude, and it appears to Lord Grey necessary that he should have from the highest local authority an estimate of these results, before the first step leading to them is irrevocably taken.

I am, therefore, directed to inform you that His Lordship, though reluctantly declining to assent at once to your request, will consult the present Governor of New South Wales, as to the practicability...
HISTORICAL RECORDS OF AUSTRALIA.

1846.
4 Dec.
and the probable consequences of acceding to it, and that it will
be a source of sincere pleasure to him to learn that neither the
difficulties which I have mentioned, nor any other which may have
escaped his notice, need prevent the adoption of a measure of so
much importance to the highest interests of so large a class of Her
Majesty’s Subjects inhabiting the Colony.
I have, &c.
B. HAWES.

5 Dec.
Despatch transmitted from
governor of Mauritius.
Possibility of
trade in cattle
and salt meat
with Mauritius.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 70, per ship Bussorah Merchant.)

Sir,
Downing Street, 5th December, 1846.

I herewith transmit to you a copy of a Despatch from
the Governor of Mauritius, together with an Address which had
been presented to him in the name of certain Merchants, Planters,
and others, complaining of the injury sustained by them in conse­
quence of the cessation of Commercial Intercourse between that
Island and Madagascar, and praying that measures may be taken
for the re-establishment of friendly relations between the two
Islands. A copy of the Governor’s Reply is also enclosed. It has
seemed to me of importance to the interests of the Colonists
under your Government, that they should be made aware of the
facts contained in these papers, in order that, during the sus­
pension of the trade in question, they may, if so inclined, avail
themselves of the opportunity thus presented to them of securing
the Market of the Mauritius for the sale of their Cattle and
Salt Meat.
I have, &c.

GREY.

[Enclosure No. 1.]

LIEUT.-GENERAL GOMM TO RIGHT HON. W. E. GLADSTONE.

Sir,
Mauritius, 15 August, 1846.

I have the honor to submit a copy of an Address presented
me in the name of certain Merchants, Planters, Shipowners,
Proprietors, and Inhabitants of Mauritius, and also of my reply.

It is currently reported that the Hovas are making great exer­
tions to impede the entrance to the Roads of Tamatave, by heaping
up the Channel with rubbish, which, on however gigantic a scale
undertaken, it is not expected will resist the undermining assaults
of a disturbed sea; and that they are also erecting a considerable
Fort at a point of the Coast some hundred miles south of Tamatave,
from whence they are most apprehensive of a hostile attempt to
approach the Capital.

These are indications of jealousy of French projects, which they
are well acquainted with. In the meantime much inconvenience, and
even distress, is said to prevail among the barbarous people through
the stoppage of the usual intercourse, and the privation at Bourbon
is certainly felt more gravely than by us, and leads me to hope
that the French authorities will find it their policy to relieve the
Hova Power of the apprehension that they are still aiming at
GREY TO FITZ ROY.

territorial possession, and this effected, by whatever means, I am persuaded the trade would gradually revive with the two Colonies. With respect to our views, I need hardly apprise you, Sir, that the Madagascar authorities have no apprehensions akin to those entertained with regard to France.

I have, &c.,

W. M. GOMM, Lt. General.

[Enclosure No. 2.]

The humble Petition of the undersigned Merchants, Ship-owners, Proprietors, and Inhabitants of this Island of Mauritius, To His Excellency Lieutenant-General Sir W. M. Gomm, K.C.B., Governor of Mauritius, etc., etc., etc.,

Most respectfully sheweth,

That your Petitioners, in common with the whole Colonial community, have, for more than twelve months past, been suffering great privation and loss, in consequence of the cessation of all intercourse with Madagascar.

That the value of the trade between that Island and this Colony annually amounted to no less than one million of dollars.

The articles principally imported were rice, salt meat, and oxen. Their price has been considerably augmented now that they have to be obtained from more distant countries, and in very small quantities. It is a notorious fact that a pound of fresh beef, of very indifferent quality, now sells at twenty pence sterling in the market of Port Louis; and meat of a better description has obtained the extravagant price of three shillings a pound. Fresh meat is therefore now beyond the reach of the poor, and even of small fortune.

Salt meat, which the inferior classes were in the habit of using with their rice, and which was obtained from Madagascar, of the best quality, and free from bones, at £3 per cask, has now to be brought from the Cape of Good Hope, where it is of an inferior kind, full of heavy bones, and it sells, notwithstanding, at £5 a cask.

Even that resource which the Colony resorted to, of importing oxen and salt meat from the Cape, is about to fail us, in consequence of the recent Caffer war, which has destroyed so large a quantity of cattle.

Draught oxen were likewise imported from Madagascar, for the purpose of agriculture. On their landing they were sold at five or six pounds sterling. Planters are now compelled to purchase Colonial bullocks, at £20, but these are so scarce that their number is quite insufficient, and mules have to be procured from France, at the present enormous price of £50. That price has to be paid in hard cash to the French importers, who thus remove a large amount of specie from the Colony, where its scarcity is severely felt already.

All the Colonial vessels formerly employed in the Madagascar trade are now a dead weight upon the hands of their owners. Some have been wrecked in attempting to open an intercourse with distant parts of Madagascar, not under the control of the Hovas; others have been sold at Port Louis to be broken up, at ruinous prices. All Colonial mariners and seamen are thrown out of employment.
It is very probable that such will soon be the dearth of oxen in the Colony, that it shall be found impossible to supply the troops, and the ships of war in the harbour, with fresh meat.

The natives of Madagascar, in exchange for their produce, received annually large quantities of British manufactured goods, which can now no more find their way to that Island, and a market of some importance has thus become closed to British industry.

It may therefore truly be said, that the suspension of the trade with Madagascar is a great public calamity for the Island of Mauritius.

Wherefore your Petitioners most respectfully and earnestly pray, that your Excellency may be pleased to take such measures as may seem most conducive to the early restoration of good understanding and commercial intercourse between the two countries.

Port Louis, 4th August, 1846.

Lemiere Gouges and Co.
Chanvin Freees and Co.
Gustave Bronard.
Gonard Le Gall and Co.
Hy. Barlow and Co.
V. Lanougarde.
Ed. Bourran and Co.
Robert Bullen and Co.
E. Dupont.

R. Jack and Co.
A. Momgeot.
Pne. Laconfortgue.
Ch. Campbell.
Lct. A. Gouges and Co.
Ade. Aubin.
Scott and Co.
Richardson Mood and Co.

[Enclosure No. 3.]


Gentlemen,

Government House. 10th August, 1846.

I have received your Address, inviting me to adopt efficacious measures for the speedy restoration of a trading intercourse with the Island of Madagascar, from the continued suspension of which the Colony experiences great and serious embarrassment.

The principal allegations set forth in your statement do not admit of a moment’s hesitation in acknowledging. I am as fully impressed as yourselves with the hardships to which the community is exposed through the privation of its intercourse with Madagascar, and the cessation of those regular supplies of provisions which it formerly derived from that quarter.

The effectual remedy for this state of things is not so easy of determining. It would not be difficult to aggravate the evil, and to defer the possible period of its termination by an ill-judged course of procedure.

Other considerations are also involved in the question, some of them, perhaps, not less important even than the renewal of the cattle trade with Madagascar.

The question is a very complicated and a very delicate one, and well deserving of the amplest consideration previous to acting in any way by Government; but such consideration I am most ready to afford it on my own part; and to take advantage of any opening that may present itself, that we can securely depend upon, for advancing the object that I have in view, in common with yourselves and the community at large a restoration of the facilities formerly enjoyed by the Island for obtaining its supplies of food from Madagascar.

I have, &c.,

W. M. Gomm, Lt. General.
GREY TO FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 73, per ship Bussorah Merchant.)

Sir, Downing Street, 7th Decr., 1846.

I have received Sir G. Gipps' Despatch, No. 112 of the 5th of June last, and I have, in reply, to signify to you my approval of the payment, which he there states had been made of a gratuity of £25 out of Convict funds to Alexander Cameron, through whose exertions the mal-practices which led to the removal of Mr. Bell and Mr. Hamilton from the Superintendence of the Female Factory at Paramatta had principally been brought to light.

I have, &c,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 76, per ship Bussorah Merchant.)

Sir, Downing Street, 9th Decr., 1846.

With reference to my Despatch No. 62 of the 15th ulto., I have to acquaint you that the Lords Comrs. of the Treasury have intimated to me that they have given the necessary directions to the Commissariat Officer in New S. Wales for bringing to a close the Commissariat proceedings, no longer necessary in consequence of the abandonment of the project of establishing a Separate Colony in North Australia.

I have, &c,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 77, per ship Bussorah Merchant.)

Sir, Downing Street, 10th Decr., 1846.

I have to acquaint you that the Lords Commsrs. of the Admiralty have intimated to me that orders have been given to Captain Stanley of Her M.'s Surveying Vessel Rattlesnake to survey the Coast of Australia, in the immediate vicinity of Harvey's Bay. That order was issued in consequence of the project which was formed of establishing a new Colony in that part of North Australia; but the abandonment of that design has of course removed the immediate object with reference to which the Survey in question was directed to be executed.

I have, &c,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 78, per ship Bussorah Merchant.)

Sir, Downing Street, 13th December, 1846.

I have to acknowledge the receipt of your Predecessor's Despatch No. 124 of the 23rd of June last, reporting the...
1846.
13 Dec.

**Approval of grant to L. Leichhardt and companions.**

1846. circumstances under which he had ordered the sum of £1,000 to be paid to Dr. Leichhardt and his companions, in consideration of the successful termination of the arduous journey lately undertaken by them to Port Essington; and I have to convey to you the necessary sanction for the payment of that sum out of the Crown Land Fund of New South Wales. I have, &c.,

**EARL GREY TO SIR CHARLES FITZ ROY.**

(Despatch No. 79, per ship Bussorah Merchant.)

Sir, Downing Street, 17th Decr., 1846.

I transmit to you herewith a copy of a letter from the Assistant Secretary to the Board of Treasury, with an Extract from the Instructions issued in the Colony of Van D. Land to the Officers who are Accountants for Convict Stores, together with Blank Forms; and I have to request that you would give the necessary directions for their adoption and observance by the Convict Store Department in New South Wales.

I have, &c,

**MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.**

Sir, Treasury Chambers, 7th December, 1846.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to request that you will state to Earl Grey that my Lords, having had under consideration a Report from the Commissioners of Audit on the subject of the regulations for the issue and accounting for of Convict Clothing and Stores in New South Wales and Van Diemen's Land, it has appeared to them that certain regulations adopted in the last mentioned Colony may be advantageously extended to New South Wales; and My Lords have accordingly directed an extract from the Van Diemen's Land Instructions, with accompanying Forms, to be transmitted with this communication, which they suggest should be forwarded to the Governor of New South Wales with directions for the adoption and due observance of them by the Convict Store Department in that Colony.

I am, &c.,

C. E. TREVELYAN.

**[Sub-enclosure.]**

**EXTRACT from Instructions at Van Diemen's Land to Superintendent, etc., Accountants for Convict Stores.**

In the event of Men being detached to an Out station the Storekeeper or Accountant will forward a Bill of delivery, Form No. 8, to the Officer under whose charge the Party will be, of any Clothes or Stores they may take with them (under authority) requiring in return a Receipt, Form No. 9.

The issue of Clothing is to be accounted for and supported by Voucher, Form No. 12.

It is to be particularly observed that, upon every issue of new Bedding and Clothing, the whole is to be first marked and then issued to the Men in presence of the Superintendent, and the old Clothing and Shoes are to be taken from the Men and placed in store, in order that, when any claim for Clothing or parts of Clothing is preferred, an issue from the old should be made until it be ascertained that Clothing is due to the Party claiming. By strict adherence to this Instruction, many undue issues may be avoided and render it impossible for Prisoners to traffic or make away with their new Clothing.
SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 60, per ship Trafalgar.)

My Lord, Government House, 21st December, 1846.

I have the honor to acknowledge the receipt of Your Despatch, acknowledging the appointment of Earl Grey in care, as one of the Principal Secretaries of State, the Seals of the Colonial Department. I have, &c.,

CHS. A. FITZ ROY.
HISTORICAL RECORDS OF AUSTRALIA.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 62, per ship Trafalgar.)

My Lord,

Government House, 23d December, 1846.

I have had the honor to receive Your Lordship's despatch of the 31st July, marked "Separate," introducing Mr. George F. B. St. John, who now holds the appointment of Commissioner of Crown Lands for the County of Bourke in the Port Phillip District of this Colony, with regard to promotion in the Public Service.

Should a favorable opportunity offer, I shall not fail to attend to Your Lordship's wishes with reference to Mr. St. John.

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 80, per ship Bussorah Merchant: acknowledged by Sir Charles Fitz Roy, 20th June, 1847.)

Sir,

Downing Street, 24 December, 1846.

My attention has been called by the Lieut. Governor of Van Diemen's Land to a charge which has been temporarily incurred by that Government at the rate of Five hundred and Twenty Pounds per annum for the remuneration of persons, whom it was necessary to employ in the Customs Department in that Colony in consequence of an order received by the Collector at Hobart Town, Mr. Barnes, to proceed to Sydney on special service taking with him such officers as he might require for that Service.

Having referred the question for the consideration of the Lords Commissioners of the Treasury, I transmit to you herewith, for your information and guidance, a Copy of a letter on the subject from the Assistant Secretary to that Board.

It is obviously unreasonable that the Colony of Van Diemen's Land should be charged with any extra expense on account of an enquiry which it had become necessary to institute with a view to the due security of Revenues of New South Wales and which had reference entirely to the interests of that Colony.

It has appeared to Her Majesty's Government that the correct and proper method of arranging this expenditure will be, that the three officers, who have been sent from Van Diemen's Land on the service in question, should, during their absence, draw one moiety of the Salary of their respective offices in the same manner as if they had been under any other circumstances absent on leave, and that the other portion of the charge should be defrayed by the Government of New South Wales, as a charge incident to the collection and management of the Customs Department in that Colony.
You will, therefore, take the necessary measures for the payment of the amount so charged from the gross receipts of Customs in New South Wales; and I have directed the Lieut. Governor of Van Diemen's Land to call upon the officers in question, so soon as they shall have received that payment, to refund to the Treasury of Van Diemen's Land the amount of difference which they have drawn from that source during their absence from the Colony. That amount will be nearly equal to the extra charge, which has been incurred in the Customs Department of Van Diemen's Land for the remuneration of the persons employed in the performance of the duties of the absent officers.

I have, &c.,

GREY

[Enclosure.]

MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.

Sir,

Treasury Chambers, 4th November, 1846.

Referring to that part of your letter of 30th September last, which relates to the payment by the Government of Van Diemen's Land of Salaries of certain persons temporarily employed in the Customs Department during the absence of the Collector, Senior Clerk, and Landing Waiter, who had been deputed to investigate and report upon the proceedings and accounts of the Customs Department in New South Wales, I am commanded by the Lords Commissioners of Her Majesty's Treasury to observe to you, for the information of Earl Grey, that it appears from Sir E. Wilmott's despatch, No. 55 of 18th March, 1846, that, in consequence of the absence of the Officers deputed to New South Wales, it became necessary to apply an amount nearly equal to a moiety of their Salaries to the remuneration of the Parties by whom the Duties of their respective Appointments in Van Diemen's Land were executed.

I am further to request you will state to Earl Grey that the Government of Van Diemen's Land ought not to be subjected to any extra expense on account of an inquiry which it had become necessary to institute with a view to the due security of the Revenue of New South Wales, and which had reference to the interests of this last mentioned Colony only; and My Lords conceive it will be proper that, during the absence from Van Diemen's Land of the Officers engaged in that enquiry, they should receive from the Government of that Colony a moiety only of their respective Salaries, in the same manner as in other cases of absence from duty, and that the portions of Salary of which they would thus be deprived in consequence of their temporary employment in the service of the Government of New South Wales should be made good to them by this last mentioned Government, as a charge obviously "incident to the Collision and Management" of the Customs Duties of the Colony.

I am further to request you will suggest to Earl Grey that Instructions should be conveyed to the Governors both of Van Diemen's Land and of New South Wales, to adjust the payment of the Officers employed in the enquiry in the last mentioned Colony upon the principle above mentioned; whereby the expense of the
remuneration of Acting Officers in Van Diemen's Land, referred to in Sir E. Wilmot's Despatch, will be defrayed from the moieties of Salary to be withheld or recovered from the absent parties without subjecting this Colony to extra charge.

I am, &c.,
C. E. Trevelyan.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 65, per ship Trafalgar; acknowledged by Earl Grey, 20th November, 1847.)

My Lord, Government House, 27th December, 1846.

With reference to Your Lordship's Despatch No. 9 of the 27th July last, requesting me to communicate to Mr. J. A. Jackson, formerly Colonial Treasurer of South Australia, the correspondence which had passed between Your Lordship's Department and the Board of Treasury on the subject of his application for re-employment in the Colonial Service, I have the honor to inform your Lordship that Mr. Jackson left this Colony some time ago, and I am unable to procure his address.

I have, &c.,
Chs. A. Fitz Roy.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 66, per ship Trafalgar.)

My Lord, Government House, 28th December, 1846.

I have the honor to report that I have given directions for the transmission by the present Mail to the Colonial Department, through the hands of the Agent for this Colony in London, of two bound Copies of the Votes and Proceedings of the Legislative Council during the second Session of the current year.

I have, &c.,
Chs. A. Fitz Roy.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 67, per ship Trafalgar; acknowledged by Earl Grey, 20th June, 1847.)

My Lord, Government House, 29th December, 1846.

With reference to the correspondence which was transmitted to my Predecessor in Lord Stanley's despatch No. 137 of the 1st December, 1845, I have the honor to forward herewith a Petition addressed to Her Majesty by the Merchants and Colonists of the District of Port Phillip, pointing out the delay, inconvenience and expense, which are incurred by the present mode of transmitting the Mails from the United Kingdom to Port
FITZ ROY TO GREY.

Phillip by the Sailing Packets to Sydney, and praying that, in future, the Mails be forwarded in Separate Bags direct to Melbourne, whenever opportunities may occur, otherwise by way of Hobart Town, and only through Sydney when there shall be no vessel sailing for those Ports.

I have, &c.,

Chs. A. Fitz Roy.

[Enclosure.]

[A copy of this petition will be found in a volume in series III.]

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch marked "Military, No. 4," per ship Bussorah Merchant; acknowledged by Sir Charles Fitz Roy, 20th August, 1847.)

Sir, Downing Street, 30 December, 1846.

Adverting to my Despatch No. 1 of the 6th Ultimo in which I have explained the reasons which preclude Her Majesty's Government from applying to Parliament for the means of placing the town of Melbourne in a defensible condition, I think it right to acquaint you that the same reasons have appeared to us to render it inexpedient to apply for a grant to defray the expense of certain works, which have been proposed for the purpose of protecting the entrance to Port Jackson. You will, therefore, call the attention of the Colonial Legislature to this subject, and to assure that Body that the Master General and Board of Ordnance will be ready to apply any funds which may be voted for the purpose of securing the entrance to the Port.

I am given to understand that the cost of such works as the Board of Ordnance consider proper for that purpose would probably amount to £12,322.

I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 68, per ship Trafalgar; acknowledged by Earl Grey, 4th October, 1847.)

My Lord, Government House, 30th December, 1846.

With reference to Mr. Secretary Gladstone's Despatch No. 31 of the 26th June last, transmitting to me the Copy of a Despatch which had been addressed to the Acting Superintendent of Port Phillip, conveying instructions for his guidance in the disposal of a party of 299 Exiles proceeding by the ship "Maitland" from Milbank, Pentonville and Parkhurst Prisons, I have now the honor to forward Copies of two communications from...
the Superintendent reporting the arrival of the "Maitland" at Port Phillip on the 9th of November, with 291 Exiles on board; and further reporting that the whole of these people found employment in the course of three days after their arrival, the wages of the Laborers averaging Twenty Pounds a year.

I also have the honor to transmit the copy of a Despatch, which was addressed to me by the Acting Superintendent previously to the arrival of the Exiles, enclosing a Return of men whose Sentences of Transportation had expired in Van Diemen's Land and who had been introduced into Port Phillip by local exertion.

This Despatch, I feel convinced, will be interesting to your Lordship, with reference to the questions of free immigration, and the re-introduction of Convicts into this Colony.

I have, &c,

CHS. A. FITZ ROY.

[Enclosures.]

[Copies of these letters, dated 13th November, 13th November, and 30th October, 1846, will be found in a volume in series III.]

SECRETARY OF STATE TO SIR CHARLES FITZ ROY.

THE following despatches,* written in the year 1847, have been omitted:—

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<td>18th February</td>
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* Note 35.
DESPATCHES OMITTED.

The following despatches,* written in the year 1847, have been omitted—continued.

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<td>recommendation for free passage for wife of Patrick Manion, emancipist.</td>
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<td>report re inability to trace emancipist father of Rose Mallon.</td>
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SIR CHARLES FITZROY TO EARL GREY.

(Despatch No. 1. per ship Trafalgar: acknowledged by earl Grey, 30th June, 1847.)

My Lord,

Goverment House, 1st January, 1847.

I have the honor to report to Your Lordship that, soon after my arrival in the Colony, I laid your predecessor's Despatch No. 2 of the 7th March, 1846, before my Executive Council, on the subject of the Quit Rents due to the Crown on lands:
FITZ ROY TO GREY.

granted under the former Regulations of the Government; and I now have the honor to enclose a Copy of the Regulations which, with the advice of the Council, after many sittings and much deliberation, I have established and published. It may be proper here to explain that I have delayed reporting my proceedings in this case, until I should have the advantage of ascertaining the practical operation of the Regulations as well as the reception which they met with from the public, more especially from those persons whose interests were affected by them. I have now the satisfaction to state that, in both respects, I have every reason to believe that they have fully answered the purpose contemplated by the Executive Council and myself. It is well known to Her Majesty’s Government that the claims on this account were very generally regarded by the Colonists affected by them as extremely oppressive, more especially from the very heavy arrears which had been allowed to accumulate from the absence of coercive measures, on the part of the Government, to enforce the regular payment of this branch of the Revenue. It is not necessary now perhaps to enquire in what way this laches arose, but it may be admitted that, in many cases, it has practically operated as an injustice to the present possessors of the land. If, therefore, the terms of payment and redemption, offered by the Regulations which I have recently promulgated, should be considered as more liberal than, in the discretion which was given to the local Government by Mr. Secretary Gladstone’s despatch, was intended, I must state my persuasion that no less favorable measure would have been considered equitable by the public, or would have tended to allay the discontent which, as already explained, appears to have been so generally felt in reference to these claims.

It will be perceived that the principle of the Regulations is founded on a payment of not less than Twenty years’ Quit Rent, being the period fixed by the Deeds as that for which the redemption might be made by the Grantees. With a view, however, to effect the early and complete extinction of these claims, it has been laid down as a rule that the payment of 20 years’ quit rent, whenever made, is to entitle the Grantee to the total satisfaction of the claim; and in this way, therefore, the vexatious questions, which have arisen by enforcing the payment of arrears, have been entirely got rid of. As a further means of extinguishing these claims, it has been thought advisable to give parties the benefit of an immediate payment in Cash, and accordingly a Scale has been introduced into the Notice, giving such as may desire to
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Policy in establishing regulations.

redeem their Quit rents in this way the advantage of Compound Interest at the rate of 8 per Cent. per annum, being the rate now current in the Colony.

There is another point to which it seems necessary to advert, namely the offer made to such parties as may have paid more than 20 years' quit-rent of the return of the overplus. It is not possible to say, with precision, at the present time what is likely to be the sum required for this purpose, but I have no reason to believe that it will be considerable. The Notice was published in the 9th of October last, and, although upwards of two months and a half have since elapsed, the claims on this account, I am informed, have as yet been but very trifling.*

It does not seem necessary that I should trouble your Lordship with any further explanation of the principle which has guided the Executive Council and myself in establishing these Regulations. They have been framed with an anxious desire to do justice to the individuals concerned, without, at the same time, making an unnecessary sacrifice of the public interests. It is confidently believed that in both these respects they will answer the desired end, and as such, therefore, will be acceptable to Her Majesty's Government.

I have, &c.

CHS. A. FITZ ROY.

[Enclosure.]

[These regulations were published in the "Government Gazette."]

SIR CHARLES FITZ ROY TO EARL GREY.  
(Despatch No. 2, per ship Trafalgar.)

My Lord, Government House, 2nd January, 1847.

I have the honor to report that I have granted, with the advice of the Executive Council, Eighteen Months' leave of absence to Mr. William H. Kerr, Chief Commissioner of Insolvent Estates in this Colony, to proceed to England on urgent private business, and that Mr. Kerr has informed me that he has taken his passage in a vessel about to sail for England on the 8th of next month.

I have further to inform that I have appointed Mr. Edwin C. Sutton to perform Mr. Kerr's duties during his absence.

I have, &c.

CHS. A. FITZ ROY.

* Note.—Up to this date there has been no claim for re-payment except from parties who had redeemed their Quit Rents, who are not claimants within the meaning of the Regulations of the 9th October.
FITZ ROY TO GREY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 3, per ship Trafalgar.)

My Lord, Government House, 3d January, 1847.

With reference to Sir George Gipps' despatch No. 184 of the 11th November, 1845, reporting the departure, under the Command of the Surveyor General of this Colony, of an overland expedition for the purpose of exploring a direct route from hence to Port Essington, I have the honor to transmit for your Lordship's information a copy of the Supplement to the New South Wales Government Gazette of the 4th Ultimo, wherein I caused to be published for general information two despatches recently received from Sir Thomas Mitchell, dated the 9th September and 9th November last, detailing the progress he had made up to those dates.

I have, &c.,
CHS. A. FITZ ROY.

[Enclosure.]

[This was the supplement to the "Government Gazette," dated 7th December, 1846.]

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 4, per ship Trafalgar.)

My Lord, Government House, 4th January, 1847.

With reference to my Predecessor's despatch to Mr. Secretary Gladstone of the 25th of June last, No. 129, transmitting printed Copies of the Financial Papers, which he had submitted to the Legislative Council on the 9th of the same Month, I have now the honor to report that, finding on my arrival here that the Council had adjourned and had subsequently been prorogued by Sir George Gipps without having voted the necessary supplies for carrying on the public Service, it became my duty to take the earliest opportunity to Reassemble the Council and to re-submit these Estimates, which I did with certain alterations and additions, which will be found detailed in the printed copies of the Message which I addressed to the Council on the occasion, and which are forwarded herewith.

The reasons that induced me to consider these alterations and additions desirable are so fully explained in my Despatch No. 54 of the 6th November, reporting the prorogation of the Council, and reviewing the proceedings of the Session, that I need not occupy your Lordship's time with a recapitulation of them.

I have, &c.,
CHS. A. FITZ ROY.

[Enclosure.]

[A copy of this message and the financial papers will be found in the "Votes and Proceedings" of the legislative council.]
SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 5, per ship Trafalgar; acknowledged by earl Grey, 31st May, 1847.)

My Lord,

Government House, 5th January, 1847.

I have the honor to transmit the Copy of a Memorial presented to me by Mrs. Percy Simpson in the name of her husband, who is absent from the Colony, renewing an alleged pecuniary claim upon the Government arising out of the Appointment of Civil Commandant of Wellington Valley in this Colony, which Mr. Simpson held from the commencement of the year 1823 to the end of the month of June, 1826.

This Claim has been repeatedly urged upon successive Secretaries of State and Governors of New South Wales for several years past; and the facts relating to it are so fully and clearly reported upon by my Predecessor Sir George Gipps in his Despatch No. 80 of the 9th April, 1844, that I take the liberty of referring your Lordship to that Communication, merely observing that, as the question has already been decided against Mr. Simpson by three of your Lordship's Predecessors, the only practicable way, I can point out of setting it finally at rest, will be to allow that Gentleman to bring an action against the Government; and this is the course which I have informed Mrs. Simpson, I should recommend your Lordship to sanction.

I have, &c,

CHS. A. FITZ ROY.

[Enclosure.]

THE Memorial of Percy Simpson, Esquire, late Commandant at Wellington Valley,

To His Excellency Sir Charles Augustus Fitz Roy, Knight, Companion of the Royal Hanoverian Guelphic Order, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, etc., etc., etc.,

Most respectfully sheweth,

That your Memorialist held the appointment of Capo di Governo (or Resident) at Pavo, one of the Ionian Islands for upwards of three years under the Lord High Commissioner, late General Sir Thomas Campbell, and Sir Thomas Maitland, when, owing to the reduction of the Regiment to which your Memorialist belonged (the Royal Corsican Rangers), he returned to England, bringing strong recommendations to Sir Henry Torrens, then Adjutant General, from Sir Thomas Maitland, High Commissioner of the Ionian Islands.

That your Memorialist shortly afterwards married and proceeded to New South Wales, strongly recommended by letters from Sir Wilmot Horton, Sir Henry Torrens, Colonel Blair of Blair, and several other influential persons, as likewise having an order for Two thousand acres of land as a Grant from the then Under Secretary of State.
That your Memorialist instead of taking advantage of his Grant of land was induced by the request of the Governor Sir Thomas Brisbane to undertake the formation of an Agricultural Depot Settlement in a remote and newly discovered part of the Colony called Wellington Valley, where your Memorialist was instructed to proceed with Drays, Stores, Prisoners and Military Guard, to form a Settlement, with compass in hand, the then Surveyor General having reported that he could not point out any practical road for Drays, and which, after much difficulty and hardships, your Memorialist successfully effected, as is proved by a letter from Major Goulburn, the then Colonial Secretary, complimenting him on his zeal and discretion in having accomplished an object of what he considered of such paramount interest to the welfare of the Colony.

That an agreement was made, by which it was stipulated, that your Memorialist was to receive for his services and as a remuneration for abandoning his own grazing and agricultural pursuits, then so lucrative in this Colony, 4 pounds each for as many Convicts as he should be able to maintain for the next year on the wheat raised under his Superintendence.

That, according to his agreement as a free Settler with Sir Thomas Brisbane, your Memorialist devoted the whole of his time to the formation of that distant Settlement, nor was he permitted to select his Grant of land or take advantage of the favorable opportunity that then presented of otherwise improving his means.

That the then Colonial Secretary, Mr. McLeay, applied to his predecessor, the late Major Goulburn, the day prior to the latter’s departure from the Colony, to know by what authority your Memorialist claims per centage, when Major Goulburn stated that your Memorialist was entitled to draw per centage on all wheat raised by him at Wellington Valley, and not on the number of men rationed or fortuitously placed there by favor, as supposed by General Darling; that Mr. McLeay was satisfied, and added that the words “after which” in the agreement implied for succeeding years, and that were there any ambiguity of expression in the wording of it that the Government was too honorable to take advantage of any quibble whatever, and that your Memorialist would be paid on all the Wheat raised under his superintendence.

That, accordingly, the Draft of your Memorialist for £54 3s. 4d. in favor of Mrs. Percy Simpson was duly honored by Warrant of General Darling as such per centage, dated 16th Feb., 1826.

That your Memorialist sent in his account to the Colonial Secretary, Mr. McLeay, dated 16th March, 1826, claiming a balance of per centage then due to him by the Government of £3,720 19s. 4d., exclusive of Salary, and for his immediate use applied for the sum of £130 on account per centage. That General Darling, as on the former demand, recognized his claim by his Warrants for the payment of these Amounts, dated 21st March, 1826, and 29th July, 1826.

That afterwards General Darling disputed the terms of the agreement made by his Predecessor, General Sir Thomas Brisbane, dated 1st January, 1823, and refused to pay your Memorialist, except for the number of men that had been bona fide rationed by your Memorialist in 1824, and not on the quantity of wheat.
Memorial of P. Simpson re claims for remuneration as commandant at Wellington valley.

then in Stack in March, 1826, raised by your Memorialist under his only agreement of Sir Thomas Brisbane, and which Government were selling at 14s. 6d. per Bushel.

That General Darling expressed in extremely strong terms his displeasure and threat of dismissal to your Memorialist for having prayed that his claim to per centage might be submitted to the investigation of a Board of Claims instituted by General Darling then sitting in Sydney, which reasonable request was not complied with.

That His Excellency afterwards offered to stock and improve your Memorialist's Grant of Land, provided he would give up his claim to per centage beyond the number of men actually subsisted at Wellington Valley, 1824, and not on the quantity of wheat raised, which was declined by your Memorialist.

That a second proposal was made to your Memorialist by His Excellency to allow him £4 per annum for as many men as had been rationed by him during the whole term of his command at Wellington Valley, comprising a period of three years and a half; this proposal was also refused by your Memorialist.

That it was again proposed to your Memorialist that he should take Wellington Valley in lieu of his claim, which he likewise refused to accept.

That General Darling afterwards caused to be notified to your Memorialist that the Colonial Auditor had been ordered to prepare a Warrant in favor of your Memorialist, for the payment of £578 6s. 6d. on your Memorialist signing a receipt for the amount as being the balance of his pay as Commandant from 1st January, 1823, to the 26th July, 1826, at the rate of £300 per annum (the salary given to the Commandant at Bathurst in lieu of per centage).

That, on your Memorialist respectfully declining to sign such receipt or any one that would be prejudicial to his agreement with Sir Thomas Brisbane, General Darling ordered him the sum of £193 17s. 2½d., observing that your Memorialist, giving a receipt for the same as such balance, it was evident that no receipt so expressed would prevent your Memorialist's claim to per centage upon reference to General Sir Thomas Brisbane.

That, during the period of all this official correspondence between the Colonial Government and your Memorialist, he was unable to obtain possession of his Grant of land, or have assigned to him Convict Servants (no free persons being then to be procured).

That your Memorialist being thus placed in extreme distress was reluctantly obliged to sell his promised Grant of Land of 2,000 acres for a very inconsiderable sum of money, and subsequently his Commission for £700, on which he received as retired pay £136 per annum, which pay had been annually devoted for many years to keeping up Life Policies of Insurance for the benefit of his surviving family, but which Policy was forfeited on the sale of his Commission.

That, during the period of your Memorialist's superintendence at Wellington Valley, which lasted three years and a half up to June 30th, 1826, he was secluded from Society and made great sacrifices to personal comfort and convenience in that remote Establishment.

That your Memorialist is far from wishing to impute to General Darling an intention to do an act of injustice towards him; but he confidently asserts that he misconstrued the terms of the agreement
made with your Memorialist when he undertook the formation of an Agricultural Depot Settlement at Wellington Valley, as is now proved by Sir Thomas Brisbane's letter, dated 17th August, 1843, and which fully states that your Memorialist is entitled to claim per centage on the whole of the wheat grown at Wellington Valley from the period of its establishment up to the promulgation of an order published in the Government Gazette, 30th June, 1826, discontinuing the system in practice of remunerating by per centage on produce raised or on work performed under their superintendence, and that from that date a fixed Salary would be established in lieu of per centage, when your Memorialist gave up his appointment.

That, in July, 1828, some public works of great magnitude on the River Hawkesbury entrusted to a Military Officer gave way after much outlay of Public expense, when General Darling requested your Memorialist to take the superintendence thereof, under the denomination of Resident Magistrate and Surveyor of Roads and Bridges.

That your Memorialist, after completing that work and opening out the Great North line of Road to the Hunter, an undertaking of great difficulty from the broken nature of the country, removed to Head Quarters to take charge of the Road Department in the County of Cumberland, and continued as such until the arrival from England of Colonel Barney of the Royal Engineer Corps in 1838, when the Roads and Bridges were transferred from the Surveyor General to the Commanding Royal Engineer, and the following day your Memorialist was appointed to succeed Captain Forbes, 39th Regiment, as Police Magistrate at Patrick's Plains.

That such removal from the Surveyorship of Roads and Bridges was considered by the Surveyor General, Sir Thomas L. Mitchell, a great loss to the Colony, as he was pleased to express his opinion of your Memorialist's abilities as being most valuable in such Public Works.

That Your Memorialist's appointment of Stipendiary Police Magistrate at Patrick's Plains terminated on the 31st December, 1842, in common with several other Police Magistrates, in consequence of an order from Downing Street to Sir George Gipps to effect every possible reduction of Colonial expenditure in the Colony.

That, by regulations of the Right Honorable the Secretary of State for the Colonies, your Memorialist to a gratuity of Two years' salary after ten years' Services.

That Sir George Gipps promised to employ your Memorialist again under Government when in his power, as stated in the Colonial Secretary's letter of that date, but refused to grant your Memorialist any pecuniary compensation for the Twenty two years that he had devoted to the advantage of the Public Service under Government in New South Wales.

That your Memorialist, being left destitute of support for his large family consisting of a Wife and Seven children, was obliged to part with them, and proceed to England, to endeavor to obtain from his relations there a pecuniary loan for their subsistence during his absence, whilst he himself sought a fulfilment of his contract made with Governor Sir Thomas Brisbane, as likewise to prefer his claims to the retiring allowance guaranteed by the
1847.
5 Jan.
Memorial of P. Simpson re claims for remuneration as commandant at Wellington valley.

Home Government, and which from his having been confirmed in his appointment in the Surveyor General's Department he feels he is more particularly entitled to.

That, in consequence of his representations, and Sir Thomas Brisbane's acknowledgment of having contracted the debt on the part of Government, Sir George Gipps was instructed to examine into his case as one of strict legal right and good faith, and that if failing in these high sounding words when tested, even then authorising liberality to be exercised by the then Colonial Government.

That your Memorialist most earnestly prays your Excellency will be graciously pleased to take these circumstances into favorable consideration, and afford such relief as the extreme hardship of them may to Your Excellency's sense of justice and good faith seem meet, and the unprovided and unprotected Situation of his family so urgently require.

And your Memorialist will ever pray. [Unsigned.]

7 Jan.
Transmission of returns of census.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 7, per ship Trafalgar.)

My Lord, Government House, 7th January, 1847.

I have the honor to transmit herewith the Printed Returns of the Census of the Population of this Colony taken on the 2nd of March last.

Your Lordship will perceive that an Educational Return, in a more detailed form than that given in the return now forwarded, is in progress and shall be transmitted to Your Lordship when completed.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[These returns were published in the "Government Gazette" with a notice dated 4th November, 1846.]

8 Jan.
Transmission of receipt and letter from J. G. Ehle.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 8, per ship Trafalgar.)

My Lord, Government House, 8th January, 1847.

In reply to Mr. Gladstone's Despatch, No. 23 of the 17th May, 1846, I have the honor to enclose a receipt signed by John George Ehle for the legal document which was therein forwarded at the request of the Wurtenburg Minister in London, together with a letter which he wishes to accompany the receipt.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosures.]

[Copies of these papers are not available.]
My Lord,

Government House, 9th January, 1847.

I have the honor to transmit to your Lordship five Petitions, which have been placed in my hands for that purpose, addressed to the Queen and to the two Houses of Parliament, by certain of the Inhabitants of the Districts of Maitland and Paterson in this Colony, praying that the transportation of Criminals to New South Wales may not be renewed.

As the Petition to the House of Lords is addressed to Your Lordship for presentation, I have deemed it my duty to forward it with the despatches by this Packet; and I did not object to transmit the Petition to the House of Commons addressed to Mr. Ewart, trusting your Lordship will not disapprove of my forwarding it, although such a course is not strictly according to Regulations.

I annex a copy of the communications addressed to the Colonial Secretary with reference to these documents, which will explain the particulars relating to them.

Your Lordship will of course receive the Petition as expressing the feelings, with respect to the renewal of Transportation, of a portion of the inhabitants of the Colony. As I informed your Lordship in a previous despatch,* public opinion is much divided upon the subject, and I do not conceive that I shall be in a position to decide what is the opinion of the Majority until after the next Meeting of the Legislature. I have, &c,

CHS. A. FITZ ROY.

[Enclosures Nos. 1 to 5.]

[Copies of these petitions are not available.]

[Enclosure No. 6.]

MR. R. JONES TO COLONIAL SECRETARY THOMSON.

West Maitland, 19th December, 1846.

I have the honor to inform you that, at a public meeting held in Maitland on the 11th of November last, Petitions to Her Majesty and to both Houses of Parliament against the renewal of transportation to this Colony were adopted. The Committee appointed to carry out the objects of that Meeting find a difficulty in sending home the Petitions to be presented to Parliament, and, feeling anxious that they should be transmitted safely, the Committee venture to request that His Excellency the Governor will be pleased to forward the Petitions to the Colonial Office. The Petition to the House of Lords is to be presented by the Right Honorable Earl Grey, that to the House of Commons by William Ewart, Esq.

* Marginal note.—Vide Despatch, No. 56 of 6 November, 1846.
As the Petitions will be ready in about a week's time, the Committee would feel much obliged if you would let them know as early as convenient whether His Excellency will be pleased to comply with their request.

On behalf of the Maitland Anti-Transportation Committee,

I have, &c.,

RICHARD JONES, Secretary.

[Enclosure No. 7.]

MR. R. JONES TO COLONIAL SECRETARY THOMSON.

Sir, Maitland, 4th January, 1847.

I have the honor to acknowledge the receipt of your letter of the 16th December last, intimating that His Excellency the Governor had consented to forward to the Colonial Office the petitions from the inhabitants of this District against the renewal of Transportation; and I have been instructed to request that you will be pleased to convey to His Excellency the thanks of the Maitland Anti-Transportation Committee for his courtesy and kindness in deviating from the usual course of procedure to oblige them. The Petitions to the Houses of Parliament are forwarded herewith under cover to you, addressed respectively to the Right Honorable Earl Grey, Secretary of State for the Colonies, and to William Ewart, Esq. M.P. If His Excellency can conveniently forward them by the January Packet, the Committee will feel much obliged.

There are also forwarded herewith two Petitions to Her Most Excellent Majesty the Queen, one from the Male the other from the female inhabitants of Maitland and other districts of the Hunter against the renewal of transportation to this Colony. The petitions were adopted at a public Meeting held in Maitland on the 11th of November last, and in the intermediate time they have been circulated for signature through a district containing a population of about 15,000 Souls. The Petition from the Males has, during this time, been signed by Two thousand, Nine hundred and forty (2,940) individuals, and that from the Females by Eighteen hundred and five (1,805). When the scattered state of the population and the consequent difficulty of obtaining signatures are taken into account, the number of persons, who have signed the petitions, will shew how general is the feeling against the renewal of Transportation.

Amongst the signatures to the Males' petition will be found those of the Wardens of the Maitland and Wollombi Districts, of several Magistrates, of most of the Clergy in the districts through which the Petition has been sent, of many land and Stock holders, of a very large number of the agricultural population, of nearly every one of the Merchants, Storekeepers and other Traders in the towns of the District.

A glance at the Ladies' petition will shew that it bears the signatures of persons in all ranks of Society.

At the public Meeting alluded to, a resolution was agreed to that the petitions to Her Majesty the Queen, when signed, should be forwarded to His Excellency the Governor, with a request that His Excellency would be pleased to transmit them for presentation to Her Majesty. In accordance with this resolution, the Committee venture to request that you will be pleased to lay these
petitions before His Excellency the Governor and convey to his Excellency the wishes of the Petitioners in respect to their transmission to Her Majesty.

We also forward a Petition addressed to the Queen by the inhabitants of the neighbouring district of Newcastle, which the Petitioners respectfully request His Excellency will be pleased to forward for presentation to Her Majesty. The petition was adopted at a public Meeting held in the town of New Castle, and bears 308 signatures, including those of all the resident Clergymen and of most of the leading Men of the town and district.

Respectfully acknowledging the courtesy and attention shewn to the Committee by the Government,

I have, &c,

On behalf of the Maitland Anti-Transportation Committee,

RICHARD JONES, Secretary.

[Enclosure No. 8.]

MR. G. WILKINSON TO SIR CHARLES FITZ ROY.

Paterson, 5th January, 1847.

I am directed by the Committee to transmit to your Excellency the petition to Her Majesty the Queen against the renewal of transportation to this Colony. The sheets contain the signatures of nine hundred and seventy three (973) Males, and five hundred and forty one (541) females, including the names of seven Magistrates and all the respectable inhabitants of this District.

The Committee for themselves and the petitioners respectfully request that Your Excellency will be pleased to cause the Petition to be laid before Her Majesty as early as possible; they desire permission to express a hope that Your Excellency will be enabled to support the prayer of their petition, believing that upon this subject depends the future welfare of the Colony, themselves and posterity.

I have, &c,

GEORGE WILKINSON, Secretary.

SIR CHARLES FITZ ROY TO EARL GREY.

(Ge ship Trafalgar; acknowledged by earl Grey, 31st July, 1847.)

My Lord,

Government House, 9th January, 1847.

I have the honor to transmit herewith authenticated Acts of council transmitted.

Transcripts of Seventeen Public and two Private Acts passed by the Legislative Council of this Colony during the last Session, intituled and numbered as in the annexed Schedule.

The Acts, numbered from 1 to 14 inclusive, and the two Private Acts having received my Assent, I trust will be found deserving of the Royal Allowance.

The Acts numbered 15, 16 and 17, I deemed it my duty to reserve for Her Majesty's consideration.

The whole of these Acts, with one exception, are accompanied by the Reports of the Crown Law Officers of this Government; it is not therefore necessary that I should enter at length into their merits, further than to observe that the Act No. 1, intituled,
A. Act to prevent for a limited time party processions and certain other public exhibitions in the Colony of New South Wales," was submitted to the Council in consequence of the very serious riots that occurred in the Town of Melbourne on the 13th and 14th of July last, between the lower orders of the Catholic and Protestant Inhabitants, and which it was apprehended might be renewed both in Melbourne and Sydney on the 5th November; and I have the satisfaction of stating that the passing of this Act had the desired effect. As it was prepared and introduced to the Council by the Attorney General, it is not accompanied by the Official Report of the Crown Law Officers.

The Act No. 15, intituled,

"An Act to appoint the Honorable Francis Scott to be agent to the Colony of New South Wales for three years,"

I considered it right to reserve, as its provisions are not altogether in conformity with the terms of Lord Stanley's Despatch No. 105 of the 1st September, 1845. As, however, I concur in the opinion of the Crown Law Officers that it is "in accordance with such parts of Lord Stanley's despatch as relate to the appointment of the Agent," and that with respect to the Committee of Correspondence the rights of the Crown are sufficiently protected, I would recommend that this Act should be allowed.

The Act No. 16, intituled,

"An Act to render certain persons, herein described, incapable of being elected, or of sitting and voting as Members of the Legislative Council, and to make void the election of certain Members," was reserved by me under the advice of the Crown Law Officers for the reasons stated in their Report, in which I fully concur. I did not consider that it would be expedient to adopt the alternative of withholding my assent to this Bill, because it appears to me preferable that it should be submitted to Her Majesty in order that, if disallowed, any further attempt of the Council to legislate upon this question may be prevented.

The Act No. 17, intituled,

"An Act to amend the Laws incorporating the Town of Melbourne," was reserved under the Report of the Crown Law Officers, as being contrary to the provisions of the Act of 5th and 6th Victoria, Cap. 76, Sec. 31. inasmuch as it "alters the extent of a Town represented in the Legislative Council."

I annex a Copy of a Petition against the passing of this Act, which was addressed to me by the "Mayor, Aldermen, and Councillors of the Town of Melbourne." Your Lordship will perceive that the grounds of objection urged by the Corporation are that, under a clause of this Act, the number of Town Magistrates will
be increased from thirteen to twenty-eight by the admission of Electors of the Electoral district of the Town to be placed in the Commission of the Peace. There does not appear to me, however, to be any validity in this objection. The Bill itself was introduced by one of the Members for Melbourne at the instance of the Corporation; but the clause in question was appended to it at the request of the Superintendent of Port Phillip, in consequence of the difficulty that has hitherto been experienced in obtaining the attendance of a full Bench of Magistrates from among the present limited number.

I would therefore recommend this Bill for Her Majesty's favorable consideration.

I have, &c.,

CHS. A. FITZ ROY.

P.S.—I also forward a printed copy of these Acts.

[Enclosures Nos. 1 to 19.]

[These were copies of the acts of council, 10 Vict., Nos. 1 to 17, and of two private acts.]

[Enclosure No. 20.]

MR. W. MACPHERSON TO SIR CHARLES FITZ ROY.

Legislative Council Office, Sydney, 28th December, 1846.

I have the honor to transmit herewith to Your Excellency, for the purpose of being forwarded to the Right Honorable the Secretary of State for the Colonies, the Engrossed Duplicates of the Acts passed by the Legislative Council, during the Second Session of the present Year, intituled and numbered, respectively, as follows:—

[Here followed the titles of acts, 10 Vict., Nos. 1 to 17, and of two private acts.]

I also forward herewith Six printed Copies of the Book Acts.

I have, &c.,

WM. MACPHERSON,
Clerk of Legis. Council.

[Enclosure No. 21.]

MESSRS. PLUNKETT AND MANNING TO COLONIAL SECRETARY THOMSON.

Sir, Attorney General's Office, 12th October, 1846.

In reply to your letter of the 6th instant, transmitting to us, by direction of His Excellency the Governor, the accompanying copy of a Bill passed by the Legislative Council on the 18th Ultimo, and presented to His Excellency for the Royal Assent, intituled "A Bill to amend the Act for regulating the Sale and delivery of Coal, in the City of Sydney and its vicinity," and requesting that we will carefully peruse this Bill with the view of ascertaining whether its provisions be in conformity with the Law of England, the Constitutional Act, 5 and 6 Victoria, Cap. 76, and the Royal Instructions issued in pursuance of the same, and whether in our opinion there is any objection to the Governor giving his assent to this Bill.
We have the honor to report that in our opinion there is no objection to the Governor giving his assent to this Bill, and that no amendments appear to us to be necessary to give legal effect to the intentions of the Legislative Council and to render the Bill in other respects unobjectionable.

We have, &c.,

JOHN H. PLUNKETT, Attorney General.
W. M. MANNING, Solicitor General.

[Enclosures Nos. 22 to 32 and 35 to 37.]

[These were letters, similar to that in enclosure No. 21, reporting on the acts numbered 3, 4, 5 to 14, and 17, and the two private acts.]

[Enclosure No. 33.]

MESSRS. PLUNKETT AND MANNING TO COLONIAL SECRETARY THOMSON.

Sir,

In reply to your letter of the 15th Instant, transmitting to us, by direction of His Excellency the Governor, the accompanying copy of a Bill, passed by the Legislative Council on the 9th of this month and presented to His Excellency for the Royal assent, intitled "A Bill to appoint the Honorable Francis Scott to be Agent for the Colony of New South Wales for three years," and requesting we will carefully peruse this Bill with the view of ascertaining whether, in our opinion, there is any objection to the Governor giving his assent to the Bill; We have the honor to report that in our opinion there is no objection to the Governor giving his assent to this Bill, and that no amendments appear to us to be necessary to give legal effect to the intentions of the Legislative Council and to render the Bill in other respects unobjectionable.

We have considered as well Lord Stanley's Despatch of 1st September, 1845, No. 105, as the General Instructions issued in pursuance of the Act of 5th and 6th Victoria, Cap. 76, and we have directed our attention particularly to those terms in His Lordship's Despatch in which he stipulates that the Committee of correspondence shall have the same proportion of Crown Nominees as the Council itself possesses, and that the Committee should not act during a prorogation or dissolution.

We were at first doubtful whether the Royal Assent could be given to the Bill, until the principles propounded had been clearly recognized by the Council; but we are now satisfied that, as the Bill is in accordance with such parts of Lord Stanley's Despatch as relate to the appointment of the Agent, the Governor's assent should not be withheld, and that the other stipulations above referred to can be regarded only as imposing Conditions precedent to the placing of the Agent's Salary upon the Estimates; and we think that, as the Government has this year proposed a vote of this Salary after the Council had negatived a proposition for altering the constitution of the Committee of correspondence, it is too late now to take an objection founded on the first of those stipulations, and that the Crown is sufficiently protected against the Committee being converted into a permanent body by the power to refuse its assent to the new Standing order which would be necessary for the purpose.

We have, &c.,

JOHN H. PLUNKETT, Attorney General.
W. M. MANNING, Solicitor General.
FITZ ROY TO GREY.

[Enclosure No. 34.]

MESSRS. PLUNKETT AND MANNING TO COLONIAL SECRETARY

THOMSON.

Sir,

Attorney General's Office, 26th October, 1846.

In reply to your letter of the 21st Instant transmitting to us, by command of His Excellency the Governor, the accompanying Bill, passed by the Legislative Council on the 13th of this month, and presented to His Excellency for the Royal Assent, intituled, "A Bill to render certain persons herein described incapable of being elected or of sitting and voting as Members of the Legislative Council and to make void the Election of certain Members," and requesting we will carefully peruse this Bill with the view of ascertaining, whether in our opinion there is any objection to the Governor giving his assent to this Bill.

We have the honor to report that in our opinion there are clear objections to the Governor's giving his assent to this Bill, and that we cannot propose any amendments by the adoption of which those objections could be removed.

The Governor and Legislative Council are only authorised to make laws "for the peace, welfare and good government of the Colony," and which shall not be "repugnant to the law of England" or interfere with the Crown Lands; and we conceive it to be quite clear that the provisions of this Bill are not for "the peace, welfare and good Government" within the meaning of 5th and 6th Victoria, Cap. 76, Sec. 29, and that the Colonial Legislature has not, even with the Royal assent, power to enact laws, by which, on the one hand, particular classes of Her Majesty's Colonial Subjects would be deprived of that eligibility as members of Council, which the Queen and British Parliament have given them, and on the other the franchise of the Electors would be impaired by narrowing their choice of representatives, and by which also the legitimate influence of the Crown might be seriously prejudiced, both directly and indirectly.

With reference to the last consideration, we may observe that not only are Crown Officers, etc., not made ineligible by the Act of Parliament, but that the 12th Section, in preventing the Governor from appointing the nominees until after the return of the Writs for the Election of all the Elective members, appears to contemplate the probability of the Election by the people in this Country, as in England, of some of those who would otherwise be nominated by the Crown.

Upon full consideration of the provisions of this Bill and the Imperial Act by which the Colonial Legislature is constituted, we do not hesitate to advise that the Governor should withhold his assent to the Bill, unless, upon grounds which it does not fall within our province to consider, he should prefer to reserve it for the signification of Her Majesty's pleasure.

We have, &c,

JOHN H. PLUNKETT, Attorney General.

W. M. MANNING, Solicitor General.
THE Memorial of the Mayor, Aldermen and Councillors of the Town of Melbourne,

To His Excellency Sir Charles Augustus Fitz Roy, Knight, Companion of the Royal Hanoverian Guelphic Order, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies and Vice Admiral of the same, etc., etc., etc.,

Sheweth,

That, by an Act of the Governor and Council, 6th Victoria, No. 7, to which Her Majesty was graciously pleased to signify Her Royal Assent, the inhabitants of Melbourne were incorporated by the name or style of "The Mayor, Aldermen, Councillors, and Burgesses of the Town of Melbourne."

That, by the said Act, it was provided that no unpaid Magistrate should be appointed for the said Town, unless the same should be qualified to be a Burgess of the said Town, and to vote as such on Elections.

That, without the cognizance of the Corporation or any opportunity having been afforded to the Burgesses of expressing their opinion on the subject, a clause was introduced at the instance of the local Executive of Port Phillip into the Act (8th Victoria, No. 12) promoted by the Corporation to amend the said Act, permitting Electors of the Electoral District of the said Town to be placed in the commission of the Peace for the said Town, although being neither rate Payers or Burgesses of the same.

That your Petitioners learn that a Bill is now pending to allow Justices of the Peace for the Territory of New South Wales, residing within Ten Miles of Melbourne, to become Magistrates of the same, although such Persons shall neither be rate payers, nor Burgesses, nor Electors of the same.

That to interfere with or take away the Property, franchises or immunities of a Corporate Body (no inconveniency or Maladministration having been alleged) without an opportunity having been afforded of being heard in its defence is both contrary to usage and repugnant to common justice.

That, by the 11th Section of Her Majesty's Instructions to your Excellency on the subject of initiating and assenting to Colonial Ordinances, it is directed "that you do not propose nor assent to any private Act, whereby the Property of any individual may be affected in which there is not a saving of the rights of us, our heirs and successors, and of all Bodies politic and Corporate, and of all other Persons excepting those at whose instance, or for whose especial benefit such Act may be passed and those claiming by, from, through and under them," directions which your Memorialists submit apply with peculiar cogency in respect of the present Bill, which affects in so important a degree the privileges of the Corporation of Melbourne.

That the number of Town Magistrates is at present limited to Thirteen Persons, whereas by the present measure the number will be increased to Twenty Eight, the majority of whom will consist of Persons having no common interests with the inhabitants and Burgesses of Melbourne.

Your Memorialists, therefore, pray that your Excellency will be graciously pleased to withhold the Royal Assent from any Bill
Sir Charles Fitz Roy to Earl Grey.

My Lord,

Government House, 9th January, 1847.

With reference to my Despatch No. 10 of this date, I have the honor to transmit the printed copy of a Bill intituled, "A Bill to declare void so much of all local Ordinances, now in existence, as assumes to vest the appropriation of the Ordinary Revenue elsewhere than in the Legislative Council."

Under the Report of the Crown Law Officers, I deemed it my duty to withhold my assent to this Bill. At the same time, as it appeared to me that the grounds of objection to this Bill related rather to its technical details than to its principle, I caused the Colonial Secretary to explain to the House that the reasons, which had induced me to withhold my assent, did not arise from any objection to the principle of the measure, nor from any desire to withhold the appropriation of any part of the ordinary Revenues from the Council, but from having been advised by the Crown Law Officers that there were certain technical points in the Instruction, by which I am guided in assenting to Bills, which precluded me from giving my assent to this Bill. And therefore, if the Legislative Council should think proper to pass any Act repealing either wholly or in part any Act of the old Legislature, and specifying therein the Title of each Act as required by the Royal Instructions, I should be prepared to assent to it.

There was no time, however, before the close of the Session, for the introduction of any fresh measure; but it is probable that one will be brought forward during the next Session.

I have, &c.

Chs. A. Fitz Roy.

[Enclosure No. 1.]

10 Victoria, 1846.

A Bill

To declare void so much of all local Ordinances now in existence,

as assumes to vest the Appropriation of the Ordinary Revenue elsewhere than in the Legislative Council.

WHEREAS by an Act of Parliament passed in the fifth and sixth years of the reign of Her present Majesty, intituled, "An Act for the Government of New South Wales and Van Diemen's Land," it is among other things enacted that, with the deductions, and subject to the provisions thereinafter contained, the whole of Her
Majesty's Revenue within the Colony of New South Wales, arising from taxes, duties, rates, and imposts, levied on Her Majesty's subjects within the said Colony, shall be appropriated to the public service within the said Colony, by Ordinances to be for that purpose enacted by the Governor, with the advice and consent of the Legislative Council of the said Colony, and in no other manner; and whereas, by the fifty-third clause of the said recited Act, it is provided that nothing therein contained shall extend, or be construed to extend to repeal or abrogate any law or ordinance made in pursuance of a certain other Act of Parliament, passed in the ninth year of the reign of His late Majesty King George the Fourth, intituled, "An Act to provide for the Administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes relating thereto," or of the three Acts passed in the seventh year of His late Majesty King William the Fourth, in the first, and in the second years of the reign of Her present Majesty, by which the said last recited Act was afterwards continued with amendments, or of any of them, but that every such law or ordinance should thenceforth be as valid and effectual as if every part of the said six last recited Acts had been thereby made permanent: And whereas, by the said fifty-third clause of the said first recited Act, it is further provided, that it shall be lawful for the Governor and Legislative Council of the said Colony, in exercise of the powers to them respectively granted by that Act, and in the manner, and subject to the rules thereinbefore prescribed, to repeal, vary, or alter all or any part of the said six recited Acts, or any of them, or any law or ordinance made in pursuance thereof: And whereas, since the passing of the said last recited Act, and the said five recited Acts by which the same was successively continued, without and with amendments as aforesaid, divers laws and ordinances containing perpetual or other appropriations of certain portions of Her Majesty's Revenue within the said Colony, arising from taxes, duties, rates, and imposts levied on Her Majesty's subjects within the said Colony, have been passed: And whereas doubts have arisen whether such appropriations are not still in force, notwithstanding the thirty-fourth clause of the said first recited Act, and it is expedient to remove such doubts: Be it therefore declared and enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That the sole and entire right of appropriating (with the deductions, and subject to the provisions in that Act contained) the whole of Her Majesty's Revenue within the said Colony, arising from taxes, duties, rates, and imposts levied on Her Majesty's subjects within the said Colony, to the public service within the said Colony, is vested in the Governor and Legislative Council thereof, by ordinances to be for that purpose enacted by the said Governor, with the advice and consent of the said Legislative Council, and in no other manner; and that so much of any law or ordinance passed in pursuance of any of the provisions of the said six recited Acts of Parliament, or any of them, as appropriates, or purports to appropriate perpetually or otherwise, any portion of Her Majesty's said Revenue arising from taxes, duties, rates, and imposts levied on Her Majesty's subjects within the said Colony, is, by virtue of the said thirty-fourth clause of the said Act, absolutely void, anything in any such law or ordinance to the contrary notwithstanding: Provided always.
that nothing herein contained shall extend to repeal any ordinance of the Governor and former Legislative Council, for applying sums arising from the Revenue receivable in New South Wales to the service thereof for the year then next ensuing, and for further appropriating the said Revenue. Provided always and be it enacted that nothing in this Act contained shall be deemed or construed to affect the validity of any appropriations, which have already been made, or shall, before the first day of January next ensuing, be made, under and by virtue of the provisions of any such Laws or Ordinances as aforesaid containing perpetual or other appropriations, but that all such appropriations, so made or to be made before the said first day of January next, shall be as valid and effectual in Law as if this Act had not passed.

[Enclosure No. 2.]

MESSRS. PLUNKETT AND MANNING TO COLONIAL SECRETARY THOMSON.

Sir, Attorney General’s Office, 29th October, 1846.

In reply to your Letter of the 28th instant, transmitting to us by direction of His Excellency the Governor the accompanying Copy of a Bill passed by the Legislative Council on the 20th of this Month, and presented to His Excellency for the Royal Assent, intitled, “ A Bill to declare void so much of all Local Ordinances now in existence as assumes to vest the appropriation of the Ordinary Revenue elsewhere than in the Legislative Council,” and requesting we will carefully peruse this Bill with the view of ascertaining whether in our opinion there is any objection to the Governor giving his assent to it.

We have the honor to report that in our opinion it is incumbent on the Governor to withhold the Royal Assent to this Bill, or to reserve the same for the signification of Her Majesty’s pleasure thereon.

The Bill is merely declaratory, and we entertain the strongest doubts of the possession by the Governor and Legislative Council of authority to remove doubts concerning, and thus to put their own construction upon, a Clause in an Imperial Act, especially one upon which their own powers in a most important particular depend. It is true that the object, which the Council had in view in this instance, might legally be effected by repealing so much of any Acts of the old Legislature as made permanent appropriations of Public Money; but this could only be done by direct enactment, and for such purpose it would be necessary under the Royal Instructions that the title of each act repealed wholly or in part should be set out in the Bill, before the Governor would give his assent to it.

Although sufficient grounds of objection are presented by the first and principal clause of this Bill, we cannot overlook the circumstance that the second clause is inconsistent with the first, or altogether inoperative, inasmuch as it enacts that appropriations, made or to be made up to the 1st of January next under and by virtue of Acts of the former Legislature, “shall be as valid and effectual in Law as if this Act had not passed”; Whereas, by the 1st Section, the Law is declared to be such as renders such appropriations illegal.

We have, &c,  

JOHN H. PLUNKETT, Attorney General.  
W. M. MANNING, Solicitor General.
SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 13, per ship Trafalgar.)

My Lord,

Government House, 9th January, 1847.

With reference to my Despatch No. 3 of the 3d Instant, transmitting Copies of two Communications, which I had received from Sir Thomas Mitchell reporting the progress he had made in his Expedition to the interior of Australia, I have now the honor to transmit a copy of the N. S. Wales Government Gazette of the 31st Ultimo containing a copy of a further Report* from Sir Thomas Mitchell, who, I have further to inform Your Lordship, returned to Sydney on the 29th ultimo.

Upon a review of the Instructions† issued by my Predecessor to Sir Thomas Mitchell previously to his departure, Your Lordship will perceive that the main object which the Legislature had in view when they provided the funds for defraying the expense of this expedition, namely, "the discovery of a practicable overland route to Port Essington," has not been accomplished.

It cannot however be doubted that Sir Thomas Mitchell has made a valuable addition to the discoveries in the interior of New Holland.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[This was the supplement to the "Government Gazette," dated 31st December, 1846.]

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 14, per ship Trafalgar; acknowledged by earl Grey, 4th June, 1847.)

My Lord,

Government House, 9th January, 1847.

I have the honor to inform Your Lordship that during the last session of the Legislative Council a Petition, of which I enclose a Copy, was presented to that body from certain Merchants, Ship-Owners, and others interested in the trade of Port Jackson, praying the re-establishment of a Separate Court for Shipping in the City of Sydney, or to be relieved from the dues levied on Shipping under the 12th Section of the Act of Council, 7 Victoria, No. 21. This Petition having been taken into consideration by the Council on the 6th October last, an Address was voted to me, praying that I would place on the Estimates for 1847 the sum of £400 for the establishment of a Police Court in the Northern part of the City of Sydney for the purposes of general and Water Police.

*Note 36.
† Marginal note.—Vide Enclo. 1 to Sir G. Gipps' Despatch, 10th Novr., 1845.
I accordingly caused an Estimate to be prepared and laid before the Council in conformity to the prayer of the Address, and, the amount having been voted and included in the Appropriation Act, it is now my duty to report to Your Lordship that I have appointed Mr. Hutchinson Hothersall Browne to perform the duties of Water Police Magistrate for the City and Port of Sydney at a Salary of £300 a year, the remaining £100 placed on the Estimates at the request of the Council, being required for the Salary of a Clerk in the Water Police Office.

It is necessary that I should inform your Lordship that Mr. Browne performed the duties of Water Police Magistrate for the City and Port of Sydney from its first establishment in 1840, until its discontinuance at the end of 1843 in consequence of the passing of the Act of Council, 7 Victoria No. 21, and, as I am informed, with great zeal and efficiency. In this appointment, he was confirmed by Lord Stanley's despatch No. 187 of 10th September, 1842.

Mr. Browne since that time has continued to hold the Office of Registrar of the Court of Requests in Sydney, with a salary of £350 per annum, in which appointment he was confirmed by Her Majesty, as notified in Lord Stanley's Despatch No. 19 of the 5th March, 1845. He has, however, requested to be reappointed to his former Office, even with the reduced Salary of £300 a year, as one more congenial to his habits and inclinations. I trust, therefore, that your Lordship will be pleased, under the circumstances represented, to recommend this appointment for Her Majesty's gracious allowance and confirmation.

I have, &c.,
Chs. A. Fitz Roy.

[Enclosure.]

A copy of this petition will be found in the "Votes and Proceedings" of the legislative council.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 15, per ship Trafalgar; acknowledged by earl Grey, 4th June, 1847.)

My Lord,
Government House, 9th January, 1847.

In reference to my Despatch No. 14 of this date, reporting the appointment of Mr. H. H. Browne to be Water Police Magistrate for the City and Port of Sydney, I have now the honor to inform your Lordship that I have appointed Mr. Alexander C. Maxwell to the vacancy created in the Office of Registrar of the Court of Requests in Sydney by Mr. Browne's appointment above referred to, and at the same salary as that Gentleman,
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1847.
9 Jan.

Appointment of J. Stirling as chief inspector of distilleries; and of W. H. Christie as serjeant-at-arms.

namely £350 per annum, and for which the necessary provision was made by the Legislative Council in the Supplement to Schedule A, voted for the administration of Justice.

Mr. Maxwell having held the Office of Chief Inspector of Distilleries at a Salary of £250 and a forage allowance of £45 12s. 6d. per annum, in which he was confirmed by Mr. Gladstone's Despatch No. 34 of 4th June, 1846, it has become necessary to fill the vacancy created by his promotion above reported. I have accordingly appointed Mr. John Stirling to be the Chief Inspector of Distilleries with the same Salary and allowance as his Predecessor.

Mr. Stirling having held the appointment of Sergeant at Arms to the Legislative Council, I have nominated Mr. William Harvie Christie to be his successor in that Office, with the same rate of Salary, namely £100 a year. It is perhaps proper that I should point out that it is intended that Mr. Christie should hold the latter appointment in conjunction with that of Agent for the Church and School Lands, which he now fills. It is not conceived that the performance of the duties of the two Offices will be in any way incompatible with each other; And, as the Salary and allowances of both are not more than may be considered necessary to obtain the services of a competent Officer, I trust there may not be any objection to Mr. Christie's appointment on that ground. The Salary of Agent for Church and School Lands is £150 per annum with an allowance of 5 per Cent. on his actual collections, which have hitherto been of precarious amount, and only yielded to him an average allowance of about £150 per annum on £300 in the whole.

Recommending these several Appointments for Her Majesty's gracious allowance and confirmation, I have, &c.,

CHS. A. FITZ ROY.

Requisitions transmitted.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 16, per ship Trafalgar.)

My Lord, Government House, 9th January, 1847.

I do myself the honor to inform Your Lordship that, by the present opportunity, Requisitions have been forwarded to the Agent General for Crown Colonies for certain Stores and Clothing necessary for the service of the Colonial Departments in New South Wales during the year 1848, which it is considered can be obtained of a better quality and on more advantageous terms in England than in the Colony.

The cost of the Stores has been estimated at £2,200, and of the Clothing at £800, making together the sum of £3,000; and,
as an order has been given for the payment of this amount to the Deputy Commissary General on account of the British Treasury, I beg to request that Your Lordship will be pleased to give such instructions as may be necessary for the issue of an equal sum to Mr. Barnard, to enable him to comply with the demands which have been transmitted to him by the Colonial Secretary to this Government.

Payment has also been made to the Deputy Commissary General of the sum of £11 5s., being the amount of an account for gauging Instruments sent out for the use of the Department of Customs at Port Phillip, and which the Agent General has been instructed to refund to the Receiver General of the Revenue of Customs; and I have the honor to request that your Lordship will likewise direct the payment of a similar amount on this account to Mr. Barnard.

I have, &c.,

CHS. A. FITZ ROY.

CHRISTOPHER FITZ ROY TO EARL GREY.

(Despatch No. 17, per ship Trafalgar.)

My Lord,

Government House, 9th January, 1847.

I have the honor to acknowledge the receipt of Mr. Gladstone's and Your Lordship's Despatches as per margin.*

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 81, per ship Glentanner.)

Sir,

Downing Street, 10 January, 1847.

I have to acknowledge the receipt of Sir Maurice O'Connell's Dispatch, No. 4 of the 24 of July last, reporting upon an application which was addressed to my Predecessor by Mr. Ralph Ruddell, of Melbourne, requesting that a small cattle run might be allotted to him with permission to pay for the same by certain annual instalments.

The Dispatch is also accompanied by a Report from the Superintendant at Port Phillip on the same subject.

You will inform Mr. Ruddell that I have enquired into the grounds of his claims, and that in the result I find nothing to require or which would justify my further interference.

I have, &c.,

GREY.

* Marginal note.—Mr. Gladstone's: Nos. 31 to 52 inclusive, unnumbered 23rd and 30th May, 1846; Circulars, 30th May, 18th June, 1846. Military No. 4. Earl Grey's: Nos. 1 to 30 inclusive. Circulars, 7th July, 22nd and 24th August; Separate, 31st and 31st July, 20th August.
EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 82, per ship Glentanner.)

Sir,
Downing Street, 11 January, 1847.

I have received Sir Maurice O'Connell's Despatch, No. 1 of the 14th of July last, announcing the departure of Sir G. Gipps from New South Wales, and his own assumption of the Government as Senior Commanding Officer within the Territory.

That Dispatch also encloses a Copy of the Supplement of the Government Gazette, containing the various Addresses presented to the late Governor on his retirement, together with the Answers which he had returned to them.

I have read these Addresses with much pleasure. They not only afford the most unequivocal proof of the high esteem in which the personal character of Sir G. Gipps was held by the Colonists, but likewise bear a high and well merited testimony to his distinguished public Services during the time he administered the Government of New South Wales. I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(A circular despatch, per ship Glentanner.)

Sir,
Downing Street, 11th January, 1847.

I request that in future, when you have occasion to report a Vacancy in any Office under the Crown, you will accompany the Report with a specification of the following particulars.

1st. Whether there is any Law establishing or regulating the Office, and, if so, what is the substance of its provisions in that behalf.

2nd. Whether the appointment to the Office is in the gift of the Crown, and whether the Secretary of State or the Governor has been practically accustomed to select the persons to fill the Office in question, or similar Offices in the same Colony.

3d. What is the general nature of the Duties, and what the particular Qualifications required in a Candidate.

4th. What are the Salary, Emoluments and Advantages, and whence derived.

I have further to request that you will transmit to me, annually, two Copies of any Almanac printed in the Colony under your Government, and containing Lists of Office-holders.

I have, &c.,
GREY.
EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 83, per ship Glentanner.)

Sir, Downing Street, 15 January, 1847.

With reference to my despatch, No. 62 of the 15th of November, I transmit herewith Letters Patent under the Great Seal of the United Kingdom, revoking the Charter establishing the Colony of North Australia, and the Commission appointing you to be Governor and Commander in Chief in and over that Colony.

I have, &c.,

GREY.

[Enclosure.

A copy of these letters patent will be found in a volume in series III.]

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 84, per ship Glentanner.)

Sir, Downing Street, 15 January, 1847.

I have referred to the Lords Commissioners of the Treasury a copy of Your Predecessor's Dispatch, No. 99 of the 20th of May last, relating to a Surcharge against Mr. Riddell, the Colonial Treasurer, on account of overpayments to the amount of £193 12s. 2d., which were made by him in the years 1836 and 1837.

I now enclose a copy of their Lordships' reply, with its enclosure, from which you will observe that, although they have consented, under all the circumstances of the case, to relieve Mr. Riddell from this Surcharge, their Lordships consider that the period, which was permitted to elapse before the overpayments in question were brought against the Treasurer, was solely attributable to the delay on the part of the Colonial Treasury and the local Auditors in rendering the Accounts for final audit, as well as to the neglect of the Colonial Authorities in omitting to send home those Accounts.

I have, &c.,

GREY.

[Enclosure.

MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 6th January, 1847.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit to you the accompanying copy of a Report from the Commissioners of Audit, respecting the Accounts of Mr. Riddell, Colonial Treasurer of New South Wales, for the year 1836-7, in order that it may be submitted for the information of Earl Grey, with reference to the communication from His Lordship's Department of the 20th October last, and to the Despatch from the Governor of New South Wales therein forwarded to this Board.

I am to request you will state to Lord Grey that, although it would appear that the double payments, which had given occasion
for the surcharge to which that Despatch has reference, had occurred entirely through remissness on the part of the Treasurer's Department; and that the confused state of the Accounts relating to the Treasury advances, which is assumed to have prevented the detection in the Colony of the erroneous issue, is solely attributable to that Department, or to the Local Officers entrusted with the duties of examining and checking the Treasurer's Accounts, my Lords will not withhold their sanction for the removal of the surcharge of £193 11s. 2d. as suggested by the Commissioners of Audit.

At the same time, however, I am to request that you will particularly point out to Lord Grey that the length of time, which elapsed before the overpayments constituting that amount were detected, and the surcharge notified to the Treasurer, is solely attributable to the delay on the part of the Colonial Treasury and the local department of Audit in rendering the Accounts for final Audit; and to the disregard on the part of the Colonial Authorities of the reiterated representations of the Commissioners of Audit respecting that delay, and the repeated injunctions doubtless given by the Secretary of State at the instance of this Board for the transmission of the Accounts.

I am, &c.,
C. E. TBEVELYAN.

[Sub-enclosure.]

AUDIT COMMISSIONERS TO LORDS COMMISSIONERS OF TREASURY.

My Lords,
Audit Office, 11th Dec., 1846.

We have considered, pursuant to Your Lordships' order of reference of 23d October, a letter from the Colonial Office, dated 20th October, 1846, transmitting copy of a Despatch from the Governor of New South Wales and other papers (herewith returned) relative to a Surcharge made by us against the Colonial Treasurer, in respect of double payments included in his Accounts of the year 1837, amounting to the sum of £193 11s. 2d. and conveying Earl Grey's recommendation that, under all the circumstances of the case, Your Lordships should adopt the advice, which the Governor Sir George Gipps has offered to the Secretary of State, viz., that Mr. Riddell, the Treasurer, may be relieved from the Surcharge in question.

Upon the subject of these papers we have the honor of observing to Your Lordships that the sum above mentioned (as likewise another sum of £112 10s. to which we shall have occasion to advert) was provisionally surcharged by us in the state of Mr. Riddell's Account of the year 1837, in consequence of it being clearly established by Documents transmitted from the Colony, in reply to our queries on the subject, that double payments to that amount had been charged for Salaries of Persons in the Roads Branch, namely, first, by the Surveyor General, out of advances made to him under the Governor's Warrant for the purpose of paying such services (those Advances being subsequently adjusted with the Treasurer); Secondly, directly by the Treasurer himself by means of Cheques drawn on and paid by the Bank; the Governor having also, as shewn by the papers then before us, decided, after investigation and report of the Auditor General of the Colony, that the Surveyor General was duly entitled to allowance for the payments which had been made by him in adjustment of his Advances with the Treasurer, and that the latter was therefore the party responsible for the double payments.

It now appears that at Mr. Riddell's suggestion, upon his being apprized of our surcharge, the Governor appointed a Board of Officers to investigate the circumstances connected with these transactions, and their Report (among the referred papers) contains the grounds upon which Earl Grey and Sir George Gipps appear to have rested their recommendation in Mr. Riddell's favor. That Report fully confirms the fact of the double payments and entirely exonerates the Surveyor General from all responsibility in regard to them. But, although it shews that the Cheques, which constituted the over payments, were issued direct from the Treasury and paid by the Bank, the Report fails to throw any light on the question as to whom the Cheques were actually paid; the Board at the same time observing that there appeared no ground for believing that the Parties, to pay whom the Cheques purported to be drawn, had received their Salaries a second time.

The Board of Enquiry further express their opinion that the system of advances and adjustment, at that time in operation in the Colony (but which has since been amended), was defective in not sufficiently providing the means of identifying the services for which the advance Warrants were granted with the actual payments to be allowed under the final Warrants. They annex to their Report a Statement...
Grey to Fitz Roy.

shewing the great extent of the Advance Warrants during many years, and submit, that it could not be surprising, if some confusion in the Accounts has resulted, for which in their opinion the system rather than the Treasurer was to blame. The Board conclude their Report by recommending relief from the Surcharges in consideration of these defects in respect of the advances and the length of time (nearly seven years) which elapsed before a final Audit of the Accounts was accomplished, a delay which had put it out of the power of the Treasurer to recover from the Individuals, who might have occasioned, or who had received the double payments, the Parties being dead, or insolvent, or having left the Colony. Previously to submitting to Your Lordships own opinion upon this case, we deem it proper to observe that the 'delay advised to in auditing the Accounts is not attributable to this Office; the Accounts of the last three quarters of the year 1836, and those for the whole of 1837, not having reached us until March, 1842, and then only after Your Lordships' directions upon our representations as per Margin,* as to the delay in rendering them from the Colony. Immediately on their receipt by us, the Accounts were put in course of examination and our queries, which involve the surcharge, bore date 8th Feb., 1843, and reached the Accountant on 29th June, 1843.

Upon a careful review of the circumstances before us, we cannot but impute considerable want of caution to the Colonial Treasurer in drawing the Cheques which constituted the double payments, without as it appears having at all adverted to the question how far previous payment might have been made by the Surveyor General, whose duty (as the Treasurer must have been aware) it was to pay the Salaries in question out of the Advances made to him for the service. This view of the subject is borne out by the opinion of the Auditor General expressed in his Report to the Governor of 13th April, 1843 (transmitted from the Colony with the replies to our queries) wherein he observes that it appears to him "that had a due degree of caution been taken, the Cheques would not have been drawn."

On the other hand, it may be considered that, as Mr. Wallace, who at the time held the situation of First Clerk, is dead, and that the persons, for whose salaries the Cheques purport to have been drawn, are either dead, or have quitted the Colony, all the means of further tracing the transactions have been cut off.

Under these circumstances, we apprehend that Your Lordships will not dissent from the recommendation of Earl Grey and the Governor of New South Wales that Mr. Riddell should be relieved from the surcharge in question, amounting to the sum of £193 11s. 2d. Respecting the further surcharge of £112 10s. adverted to at the commencement of our Report, and considered also in the Report of the Board of Enquiry in the Colony, we beg leave to state that it consisted of a double payment to that amount made to Mr. Estall, a Contractor for Work, under circumstances (as observed by the Board of Officers) of much want of caution on his part if Estall's statement is to be relied on; Mr. Estall having fully admitted the double payment as made to himself, the Treasurer has taken proceedings against his Estate (he having become Insolvent), and therefore it appears unnecessary that we should offer any further remarks upon the subject.

It being stated at the conclusion of the Governor's letter to the Secretary of state that the Treasurer had informed His Excellency that he had communicated with us on the subject, we beg leave to state that it does not appear any communication direct from the Treasurer has reached this Office, beyond the replies and explanations to our queries.

We have &c,

W. L. Herries.
H. Arbuthnot.
A. Grant.

Earl Grey to Sir Charles Fitz Roy.

(Despatch No. 85, per ship Glentanner; acknowledged by Sir Charles Fitz Roy, 10th December, 1847.)

Sir,

Downing Street, 17 January, 1847.

I have received a letter of the 10th of July last, addressed to my Predecessor by Mr. Therry, one of the Judges of the Supreme Court of New South Wales, in which that Gentleman asks for leave of absence from the Colony for a period of 18 months.

* Marginal note.—No. 284. 3 May, 1838; No. 24. 10 Jan., 1839; No. 717, 9 Decr., 1839; No. 379, 9 July, 1840; No. 185, 15 April, 1841.
I enclose a copy of Mr. Therry's letter for your information.

Under the circumstances which he has stated, I have to authorize you to grant to Mr. Therry the leave of absence he solicits, if you shall be of opinion that such an indulgence can be afforded him without detriment to the Public Service.

You will however recall to Mr. Therry's recollection the fact that, when, on former occasions, any of the Judges of the Supreme Court of New South Wales have been absent on leave, it has been found impossible to procure a sufficient substitute, except by allowing him to receive the full Salary of the absent Judge, and that the ½ Salary paid to the Absentee, in respect of his period of absence, has therefore formed an addition of 50 per cent. during that period to the Public Expenditure for the Judicial Service.

I am not aware that there is any Fund at your disposal, which could be lawfully or properly applied for this purpose in the case of any future leave of absence. Consequently, Mr. Therry must accept that indulgence, only on the condition that the remuneration of his Substitute be entirely deducted from his own Salary, unless the Legislative Council shall see fit to devote a sum in aid of that charge.

I have, &c.,

GREY.

Mr. Justice Therry to Right Hon. W. E. Gladstone.

Sir,

I avail myself of the occasion of Sir George Gipps' departure for England to request leave of absence from the Colony for Eighteen months. I am induced to avail myself of this occasion as His Excellency, if it be required, may probably have the goodness to testify to you, how far I may be entitled to the favor I solicit from the opportunities which His Excellency possessed of observing my conduct during his administration.

I respectfully rest this application on the ground of the long period of my Public Service, having been appointed to the Office of Commissioner of the Court of Requests so far back as April, 1829. Since that period, I have successfully filled (without interruption or Leave of Absence for any time) the Office of Commissioner of The Court of Requests for Eleven Years, the Office of Attorney General for two years and a half, and that of Puisne Judge of the Supreme Court (inclusive of one year's Service as Resident Judge of Port Phillip) for nearly two years.

As a further ground for granting the indulgence I solicit, I refer to the repeated and uniform testimony borne in my behalf by Sir Ralph Darling, Sir Richard Bourke, and Sir George Gipps, The Governors under whose administrations I have performed the duties of these respective Offices.

I am induced very earnestly to urge this request at present, as the state of my private Affairs at Home, after so long an absence, urgently requires my presence there. For the last fifteen years I have not been able to obtain any account of a small Property belonging to me in Ireland, and, unless I proceed to the spot, I do
I venture to transmit for Your perusal a copy of an address presented to me by the Solicitors of Port Phillip, on the occasion of my retiring from the office of Resident Judge of that District.

[Sub-enclosure.]

ADDRESS TO MR. JUSTICE THERRY.

YESTERDAY the following address from the Solicitors of Melbourne was presented to Judge Therry. As might have been expected, every Solicitor in Town appended his name.

"To the Honorable Roger Therry, Resident Judge of the Supreme Court of New South Wales for the District of Port Phillip.

"We, the undersigned Attorneys, Solicitors and Proctors of the Supreme Court of New South Wales for the District of Port Phillip, beg upon the retirement of Your Honor from the Port Phillip Bench to assume the duties of a Judge of the Supreme Court at Sydney, to express the high sense of respect we entertain for Your Judicial character, and to assure you that we deeply regret the loss of a Judge who has ever upheld the dignity of the Bench.

"Although a short period has elapsed since Your Honor's first presiding in the Supreme Court of this District, the proof of ability, research, energy, and industry, you have uniformly displayed in the unaided discharge of your duties, make your present separation from us a subject of deep regret.

"We cannot allow you to depart from this District without acknowledging the kindness, and urbanity, which you have ever evinced towards us. And we beg on your retirement to offer your Honor our warmest wishes for your future happiness and prosperity.

"Henry Mood, J.P.
Charles Leigh.
H. F. Garnet (Crown Solicitor).
David Ogilvy.
John Deering.
Richard O'Coek.
George Barber.
F. Lord Clay.

Her Honor returned the following reply:—

"Gentlemen,

"I thankfully acknowledge the address with which you have honored me. Although I am conscious that Your flattering estimate of my Judicial conduct is mainly attributable to your kindness and partiality, yet I am also conscious that I should not have been honored with such a significant testimonial of your warm and earnest approbation, if I had not by an assiduous devotedness to my Judicial duties at least endeavored to deserve it.

"In the faithful fulfilment of that branch of our common profession to which you belong, the Public have a vital interest, and I am glad to avail myself of the opportunity which Your address affords of bearing testimony to the real, ability, and integrity, by which your discharge of those duties is distinguished.

"It is gratifying to me to know, by friendly assurances from many quarters, that the Sentiments of personal good will expressed in your address are shared by the community, in which during the past year I have filled the responsible office of Resident Judge; I appreciate with grateful feelings those gratuitous attestations of approbation, and I am duly sensible how much Your Professional Opportunities enhance the value of your favorable opinion.

"I have, &c.

"R. Therry."
EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 86, per ship Glentanner.)

Downing Street, 18th January, 1847.

Sir,

I have to acknowledge the receipt of your Predecessor's Dispatch, No. 138 of the 1st of July last, relating to a question which had been raised by the Assistant Commissary of Accounts in New South Wales, in regard to the continuance of certain allowances hitherto paid to Clergymen for the performance of religious duties to Convicts; and I have in reply to inform you that Her Majesty's Government have no present intention of withdrawing the allowances received by the several parties named in the Schedule, which accompanied Sir G. Gipps' dispatch.

I have, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 87, per ship Glentanner.)

Sir, Downing Street, 19 January, 1847.

I have to acknowledge the receipt of Your Predecessor's Dispatch, No. 147 of the 9th of July last, accompanied by a Public Notice explanatory of the conditions under which he had offered a Bounty on the Children, if sent out by the Land and Emigration Board, of married persons who have emigrated to New South Wales on or before the 7th of January, 1842, and on whose introduction Bounties were paid.

Having referred these papers to the Emigration Commissioners, they have informed me that they apprehend that the persons, who can claim the benefit of the above mentioned Notice, cannot amount to any inconvenient number. They will make every exertion to procure passages for as many of such persons as may be notified to them in the manner provided for by Sir G. Gipps; and they add the expression of their hope that, to this moderate extent, Shipowners would be very ready to supply them with accommodation, on the prospect of a Bounty to be received in the Colony.

I have, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 88, per ship Glentanner; acknowledged by Sir Charles Fitz Roy, 21st July, 1847.)

Sir, Downing Street, 22 January, 1847.

At the request of Sir W. M. Somerville, the Member for Drogheda, I herewith transmit to you the Copy of a Paper which has been sent to him by Mr. C. Magrane, relative to a person named Phillip H. Magrane, who formerly held the Appointments
of Clerk of the Session and Postmaster at E. Maitland, New S. Wales, but which, according to the Writer's Statement, he was compelled to relinquish, in consequence of a series of persecutions and annoyances which he met with from Mr. Cooke, the then Police Magistrate of the District.

I have to request that you would ascertain the particulars connected with Philip Magrane's case, and that you would report to me whether the circumstances referred to in the accompanying Paper have or have not been correctly stated. I have, &c.,

GREY.

[Enclosure.]

MR. C. MAGRANE TO SIR WILLIAM SOMMERVILLE, BART.

Sir,

In the year 1838 thro' the kind intervention of Sir William Summerville, Bart., M.P., Philip H. Magrane was appointed Clerk of Sessions and Post Master at Dungog, East Maitland, New South Wales. The emoluments of both Offices about £200 per annum. After holding the situation for about two years, during which no formal complaint or charge of any kind was brought against him, he was driven into a resignation of it by a series of annoyances and petty persecutions on the part of the Police Magistrate of the district, a Mr. Cooke, who appears to have been solely actuated by religious bigotry. Cooke's religious zeal and rage for Proselytism were intense and persecuting. He exerted himself to the utmost, both as a private individual and a public functionary, to induce and compel the Roman Catholics under him to assist on Sundays at the religious ministrations of Methodist persons, in violation of their conscientious conviction, and the inculcation of their own pastors. Magrane's refusal to concur or countenance such proceedings gave much offence to Mr. Cooke, whose displeasure was still more inflamed by Magrane receiving at his house and exercising hospitality towards a few Roman Catholic Clergymen, his acquaintances, when they happened to visit his neighbourhood.

Cooke had further, on occasion of the dismissal of two Common Constables, caused a placard to be affixed to the Court House at Dungog, notifying that none but Protestants need apply. A statement of this intolerant proceeding found its way into the Newspapers at Sydney.

Mr. Cooke's conduct was canvassed and condemned in no measured terms. The Governor's attention was thereby attracted to it, and an inquiry instituted that drew drawn his Excellency's displeasure on the police Magistrate, and well nigh caused his dismissal forthwith. These transactions took place in April or May, 1840. Mr. Cooke, however, has been since dismissed. Magrane is fully convinced the circumstances before mentioned, and more especially Cooke's suspecting him of having been the individual who had been mainly instrumental in drawing the attention of the public and the Governor to the affairs of the placard, were the causes of Cooke's annoying and harrassing him so intolerably as drove him into a resignation of his Office.

Philip H. Magrane's friends, deeply grateful for Sir W. Summerville's former patronage, respectfully and earnestly solicit a renewal of his good Offices now that his friends are in the possession
HISTORICAL RECORDS OF AUSTRALIA.

1847.
22 Jan.
Request for re-appointment of P. H. Magrane.

of the Government, and pray him to bring this case under the favorable notice of the Colonial Secretary, Earl Grey, with a view to Magrane's re-appointment to such situation as that High Functionary may be pleased to honor him with an Appointment to.

I am not aware of the distance of Dungog from Sydney; but I consider it a great way.

C. MAGRANE, C.C., Dunshanglin.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 90, per ship Glentanner; acknowledged by Sir Charles Fitz Roy, 22nd July, 1847.)

Sir,
Downing Street, 28 January, 1847.

With reference to Your Predecessor's Despatch, No. 218 of the 30th of Decr., 1845, reporting that he had recently signed a Deed of Grant from the Crown to Mr. W. M. Manning, the Solicitor General of New South Wales, as Trustee for Patrick and Anthony Dwyer, for 60 Acres of land, the proceeds of which, when sold, were after certain deductions to be remitted to those persons, I now transmit to you the copy of a letter which has been received from the Dwyers, stating that no account of the Sale in question had ever reached them; and, although Mr. Manning appears to have acted as the private Agent for the parties, I have to request that you would inform me what may have been finally done in the matter.

I have, &c.,
GREY.

[Enclosure.]

P. AND A. DWYER TO SECRETARY OF STATE.

We are in receipt of yours of the 23d June, 1846, enclosing the copy of a Despatch from Sir George Gipps to Lord Stanley, date 30th Decr., 1845, No. 218. In which it appears that the property we are entitled to at Sydney would be sold, and the money sent to us after deducting expenses. We earnestly request to know if Your Lordship has since received from the Governor of Sydney, or from Mr. Manning, the present Solicitor General of New South Wales, any account of it. It is now twelve months since the property was to be sold, and I have not received an account since.

We are, &c.,
PATK. and ANTHONY DWYER.

Please direct to Saml. Cooper, Esq., Killmore, Cashel, for P. and Anthony Dwyer.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 91, per ship Glentanner.)

Sir,
Downing Street, 29 January, 1847.

I have referred to the Commissioners for the Affairs of India a copy of Your Predecessor's dispatch, No. 117 of the...
16th of June last, relating to a charge incurred by the Government of New S. Wales in dispatching the Schooner "Frolic" to the rescue of some Shipwrecked Seamen belonging to the "Coringa Packet" on her passage from Sydney to Ceylon; and I now transmit to you copies of a letter and its enclosure, which have been received in reply to that reference, together with the Copy of a letter which I have caused to be addressed to the Board of Treasury on the same Subject. From these, you will perceive that the only portion of the above sum, for which the Adjustment East India Company hold themselves accountable, is £240, charged for the hire of the "Frolic," which will accordingly be paid by them to Mr. Barnard; and that I have recommended that the remaining Balance of £54 19s. lid., which must be considered as chargeable to the Settlement of Port Essington, should be paid by the Board of Treasury to the Colonial Agent, who, if their Lordships should concur in that recommendation, will place the collective amount of £294 19s. lid. to the credit of Your Government.

I have, &c,
GREY.

[Enclosure No. 1.]
UNDER SECRETARY STEPHEN TO RIGHT HON. GEORGE S. BYNG.

Sir, Downing Street, 20 November, 1846.

I am directed by Earl Grey to transmit to you the enclosed copy of a Despatch* from the Governor of New South Wales, on the subject of a charge of £294 19s. lid. incurred by that Government in dispatching a Vessel for the rescue of 24 Lascar Seamen, who were wrecked on a desert Island in a Vessel called the "Coringa Packet" on her passage from Sydney to Ceylon; and I am to request that you will lay this Dispatch before the Commissioners for the affairs of India, in order that they may take such measures as they may consider proper in regard to the reimbursement by the East India Company of the amount in question to the New South Wales Government as proposed by Sir George Gipps.

I am, &c,
GREY.

[Enclosure No. 2.]

RIGHT HON. GEORGE S. BYNG TO UNDER SECRETARY STEPHEN.

Sir, India Board, 14th January, 1847.

In reply to Your letter of the 20th November, respecting the charge of £294 19s. lid., incurred by the Government of New South Wales for the rescue of 24 Lascar Seamen who were wrecked on the Voyage from Sydney to Ceylon, I am directed to transmit to you, for the information of Earl Grey, the Copy of a Letter received from the Secretary to the Court of Directors of the East India Company, stating what portion of the expenses the East India Company are prepared to defray.

I have, &c,
GEORGE BYNG.

* Marginal note.—No. 117, 16 June, 1846.
MR. J. C. MELVILL TO RIGHT HON. GEORGE S. BYNG.

Sir, East India House, 7th January, 1847.

I have laid before the Court of Directors of the East India Company Your Letter of the 23rd of November last and its enclosures, relative to a claim made on behalf of the Government of New South Wales to repayment of the sum of £294 19s. 1id., expended in an attempt to rescue some Shipwrecked Lascars belonging to the late Barque “Coringa Packet.”

It appears that the “Coringa Packet” was wrecked on a Sand Bank while on her voyage from Sydney to Ceylon, and that the Authorities at the former place, on receiving intelligence of the occurrence, Chartered the Schooner “Frolic” and despatched her to the relief of the Crew.

When the “Frolic” arrived at the place where the “Coringa Packet” was lying, the Crew had already been removed, and the “Frolic” in consequence pursued her voyage to Port Essington, where it was found that three of the Lascars, who are stated to have been Natives of Madras, together with the Mails and Officers’ Luggage of the “Coringa Packet” had been landed some days previously from the Schooner “Heroine,” one of the Lascars had joined the “Heroine,” but the other two, with the Mails and baggage, were carried on by the “Frolic” to Singapore.

With reference to these circumstances, the Court desire me to state that they consider the Government of New South Wales entitled to reimbursement of all the expenses really incurred with a view to the relief of the Survivors from the “Coringa Packet,” and they are accordingly prepared to direct repayment of £240, the sum charged for the hire of the “Frolic,” a Warrant for which amount will with the sanction of the Commissioners for the Affairs of India be made out in favor of Mr. Barnard, the Agent in London for the Colony of New South Wales.

The balance of the claim, viz., £54 19s. 1id., is for the value of provisions shipped on board the “Frolic” and intended for the use of the Lascars of the “Coringa Packet”; but, as the provisions were not actually applied to that purpose, but were landed at Port Essington and retained for the use of that Settlement, it is clear that the East India Company are not accountable for them.

The Papers which accompanied your letter are herewith returned.

I have, &c.,

JAMES C. MELVILL.

[Enclosure No. 3.]

UNDER SECRETARY STEPHEN TO MR. C. E. TREVELYAN.

Sir, Downing Street, 28th January, 1847.

I am directed by Earl Grey to transmit to you Copies of a Correspondence, which has passed between this Department and that of the Commissioners for the Affairs of India, arising out of a claim made on behalf of the Government of New South Wales to repayment of the sum of £294 19s. 1id., which had been expended by them in despatching the Schooner “Frolic” to the rescue of some Shipwrecked Lascars belonging to the “Coringa Packet” on her passage from Sydney to Ceylon.

The Lords Commissioners will observe that the East India Company have undertaken to defray the larger portion of the sum in question, but that they do not hold themselves accountable for the remaining Balance of £54 19s. 1id. incurred for Provisions shipped on board the Schooner, and intended for the use of the Lascars, but which were afterwards landed at Port Essington and retained for the use of that Settlement.

Under these circumstances, Lord Grey would recommend that the Lords Commissioners should give the necessary directions for paying to Mr. Barnard, the Colonial Agent, the sum of £54 19s. 1id., on account of the Settlement at Port Essington, in reimbursement of the corresponding amount expended by the Government of New South Wales on the occasion above stated. I have, &c.,

JAS. STEPHEN.
FITZ ROY TO GREY.

[Enclosure No. 4.]

UNDER SECRETARY STEPHEN TO RIGHT HON. GEORGE S. BYNG.

Sir,

Downing Street, 25th January, 1847.

I have laid before Earl Grey your Letter of the 14th instant, together with the Copy of one from the Secretary to the Court of Directors of the East India Company, from which it appears that, with reference to the claim made on behalf of the Government of New South Wales to repayment of the sum of £294 19s. 11d., which had been expended by them in an attempt to rescue some Shipwrecked Lascars belonging to the "Coringa Packet," the East India Company consider that the Government in question are entitled to reimbursement of all the expenses really incurred with a view to the relief of the survivors from that Vessel, and that the sum thus due to them amounts to £240.

Lord Grey directs me to request you would move the Commissioners for the Affairs of India to give directions for the payment of the above mentioned sum to Mr. Barnard, the Colonial Agent, to be placed by him to the credit of the Government of New South Wales.

I have, &c.,

JAS. STEPHEN.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 92, per ship Glentanner.)

Sir,

Downing Street, 30th January, 1847.

I have to acknowledge the receipt of Sir G. Gipps’ Despatch, No. 141, of the 4th of July last, reporting the circumstances under which, in accordance with his previous recommendation of the 24th of May, he had caused Mr. Joshua Allott, Crier of the Supreme Court of New S. Wales, to be relieved from the performance of the duties of his Office, and had granted him a pension to commence immediately at the rate of 4s. per diem.

My dispatch, No. 59 of the 16th of Novr., will have explained to you the reasons, which prevented me from acquiescing in Sir G. Gipps’ recommendation in Allott’s behalf to its full extent. I need now, therefore, only refer you to that Instruction.

I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 18, per ship Hamlet: acknowledged by earl Grey, 7th July, 1847.)

My Lord,

Government House, 30th January, 1847.

I have the honor to acknowledge the receipt of your Lordship’s Dispatch, No. 19 of the 12th August, 1846, enclosing a copy of a letter from the Colonial Land and Emigration Commissioners, dated 31st July, 1846, pointing out, with reference to
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Returns re land at Port Phillip to be transmitted.

the Returns relating to Land and Emigration, which accompanied the Despatch of Sir George Gipps of the 31st of January, 1846, No. 28, that, in the Statement of Land sold and let on Lease, the Port Phillip District is not included, and forwarding a Memorandum of some minor points which the Commissioners have noticed in the course of their inspection of the Returns.

In compliance with the Instructions of your Lordship, I have caused the necessary directions to be given to the Colonial Treasurer and to the Superintendent of Port Phillip for preparing the required returns for the Port Phillip District; and they will be transmitted to England by the earliest opportunity after their receipt.

The attention of the proper Officers has also been drawn to the points noticed in the Memorandum of the Commissioners, and I beg to enclose a Copy of a letter from the Colonial Treasurer, dated the 23d instant, furnishing the explanation required in the cases adverted to under the heads 2, 3, 4 and 5 of that Memorandum.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]
[A copy of this letter is not available.]

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 19, per ship Hamlet; acknowledged by earl Grey, 30th August, 1847.)

My Lord,

Government House, 30th January, 1847.

I have the honor to enclose herewith a copy of a Petition addressed to me by certain Land holders, Bankers, Merchants, Graziers, Ship-Owners and Traders and others interested in the welfare of this Colony, pointing out the prevalent and increasing deficiency of labour and the urgent necessity for an immediate renewal of Immigration. This petition is numerously and respectably signed and was presented to me by a deputation consisting of some of the most influential persons in the Community.

I also enclose a Copy of the answer which I gave to the Petition, from which your Lordship will perceive that, concurring in the opinion expressed by the Petitioners which is indeed fully borne out by the Official Returns of which I am in possession, as well as by the information which I personally obtained on my recent visit to the Western Districts of the Colony, I have undertaken to recommend to Your Lordship that an immediate Supply of Emigrants should be sent to this Colony to the extent of at least five thousand Statute Adults.
I have the honor also to enclose a Copy of a letter from the Immigration Agent, in which he enters very fully into the question relating to the present demand for labor and the supply which has been received during the last year, and also makes some very useful suggestions for conducting Emigration to this Colony in future, and which I beg to recommend to Your Lordship's attention. I do not by the present opportunity transmit to Your Lordship the Returns mentioned in Mr. Merewether's letter, as I await the receipt of the others required by Lord Stanley's Despatch of 22d March, 1845, which are in course of preparation, and will, I hope, be ready for transmission by the next Packet.

Your Lordship will perceive that, in the course of the last two years, the average Money wages of Agricultural labourers and Shepherds in this portion of the Colony have increased progressively from £15 to £21 per annum, and that the rate of increase during the present year will, the Immigration Agent fears, be nearly doubled, which would bring the average rate of wages to £27, a rate which, at the present low price of Wool in the English Market, cannot be paid without an undue encroachment on the reasonable profits of Capital in this the main branch of Colonial industry. It is, therefore, under circumstances which I consider most urgent for the interests of the Colony, that I am induced to press upon Your Lordship the earliest possible compliance with the Prayer of the Petition, of which I now forward a Copy.

I beg to point out that the most pressing want is felt for pastoral and Agricultural laborers and female domestic Servants, but that it is not necessary or desirable at present to introduce Artificers or Mechanics of any description at the public expense. It is advisable also that the Emigrants should be sent out in Ships sailing at short intervals between each, so as not to have too large a number seeking engagements at the same time. Such intervals should not however exceed a fortnight, in order that the necessary supply of labor may be received within as short a period as consistent with the Emigrant's speedily obtaining employment in the Country Districts. It is conceived that about the usual proportion of the 5,000 Statute Adults or about one third of the number should be sent to Melbourne. It will be advisable also to insert a condition in the Charter of each Ship, giving the option to the local Government to forward the Emigrants to any suitable Port in the Middle or Port Phillip District, according as their destination may be to one or other of these two portions of the Colony. In this way, the opportunity will be afforded of sending the Emigrants to those parts of the
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Redemption of old debentures.

Crown revenue unencumbered.

Proposed payments in cash or debentures.

Terms proposed for debentures.

Country where there may be the most urgent demand for them, without their landing at all at Sydney, which, for many reasons, is very undesirable.

It remains for me to apprise your Lordship of the means which I conceive to be disposable to meet the expenses of the Immigration here recommended.

The Debentures, hitherto issued in payment of bounties on Emigration and amounting to about £100,000, will be paid off during the present year, at the periods they respectively fall due, from funds now at the credit of the Crown Revenue of the Colony. This Revenue will be wholly unencumbered, and consequently available as an ample security for raising the necessary funds to meet the payment of bounties on the 5,000 Statute Adults now recommended to be sent out. Some diversity of opinion seems to prevail in the Colony as to the best mode of effecting this object. After much consideration, I am induced to bring under your Lordship's notice the following scheme, which I believe would be found practically to answer the purpose contemplated.

It is assumed that the same arrangements will be made by the Land and Emigration Commissioners as were entered into by them in respect to the Emigration to this Colony which took place in 1843 and 1844, and which I am informed were in every respect satisfactory. Instead however of engaging to pay the Affreighters in Cash, the option should be reserved to the Local Government, of making payment either in Cash or in Land and Immigration Debentures of the following description, namely Debentures of £100 each, having three years certain to run and determinable at the option of the Government, but not of the holder, after six Months' Notice in the London or New South Wales Gazette. That these Debentures should be secured as a primary charge on the Territorial Revenue of the Colony, and bear Interest from the date of their issue until the expiration of the time fixed by Notice for paying them off, at the rate of Five per Cent. per annum, payable half yearly. That the principal and interest should be payable at the option of the holder, either in Sydney or London, on a notice being given to that effect to the local Government and a registration made of the transaction in the Colonial Treasury in Sydney, and at the Colonial Agent General's Office in London. These Debentures should also be made receivable as Cash at the Colonial Treasury in Sydney or Melbourne in the purchase of land, or in payment of the license fee, rent or other debt due on account of the Territorial Revenue of the Colony.
It is not doubted that Debentures of this description would be readily negotiable both in the Colonial and London Markets at par, or in the latter even at a premium. There cannot be the slightest doubt, in my opinion, of the ample sufficiency of the Territorial Revenue as a Security for raising funds to a much larger amount than would be necessary to defray the expense of the emigration now contemplated. It is only, therefore, for more abundant caution that it is proposed to reserve the option to pay in Debentures, in order to prevent the possibility of any inconvenience to the local Government in having to meet engagements for which they were not in actual possession of the necessary funds. This appears to be the more requisite, as I understand, on the previous occasions to which I have referred, some inconvenience was experienced by the local Government in immediately raising funds on the Security of the Debentures.

There is one point connected with the subject to which I deem it my duty specially to call your Lordship's attention. By your Despatch No. 3 of the 16th July, 1846, your Lordship, in reply to the petition from the Town Council of Melbourne, praying that, in the event of a loan in aid of Immigration to New South Wales being sanctioned, the Revenue of the District of Port Phillip may not be pledged in conjunction with that of New South Wales generally, directs me to inform them that there is no intention on the part of Her Majesty's Government of sanctioning the loan which the Petitioners deplore. In the event of Her Majesty's Government having determined, in pursuance of the recommendation* of the Executive Council of this Colony, to erect the District of Port Phillip into a separate and distinct Dependency of the Crown, unconnected with that of other portions of New South Wales, I conceive that there will be no difficulty in making the Debentures to be issued for that portion of the Immigration, destined for the District of Port Phillip, dependent on the security of the Territorial Revenue locally raised therein, whilst the remaining portion of the Debentures may be secured on the Territorial Revenue raised in the Sydney or Middle District. By this means, any embarrassment, which might otherwise arise in the carrying into effect the important measure of separation, will be entirely avoided; and it appears to me that each of such Revenues will be fully sufficient to answer the purpose required.

It was my intention to have deferred recommending this measure until the receipt of the Regulations to be issued by Her Majesty in Council under the recent Land Sales Amendment Act, when it would have been more clearly seen what would be the available Revenue from Crown Lands applicable to the purposes

* Note 37.
of Immigration; and this course would have been more satisfac­
tory to myself; but, convinced of the urgent necessity for as early
a resumption of immigration as possible, and pressed to bring this
subject immediately under your Lordship consideration, I have
not thought myself justified in delaying to do so; and I beg to
urge it in the strongest manner in my power, as one deserving
of the earliest attention of Her Majesty's Government.

I have, &c,

CHS. A. FITZ ROY.

[Enclosures.]

[Copies of these papers are not available.]

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 22, per ship Urgent.)

My Lord,
Government House, 30th January, 1847.

I do myself the honor to acknowledge the receipt of your
Lordship's Despatch of the 31st July last, No. 10, requesting me
to take any measures which could be lawfully and properly
adapted for assisting Thomas MacGowan in recovering the
amount of money, standing in the Savings Bank of New South
Wales to the credit of the Estate of his late son, Robert McGowan
or Gowan, formerly of the vessel "Annie," and to state that I
have received from the Supreme Court an order on the Savings
Bank for the whole of the funds to the credit of the Estate of
McGowan, amounting to Seven pounds, ten shillings and eleven
pence, which sum I have caused to be paid to Deputy Commis­sary General Ramsay, in order that a corresponding sum may
be issued from the British Treasury to the Colonial Agent
General to be paid under your Lordship's instructions to the
lawful representatives of the Deceased.

I have, &c,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 23, per ship Urgent; acknowledged by
earl Grey, 29th May, 1847.)

My Lord,
Government House, 30th January, 1847.

I have the honor to acknowledge the receipt of your Lord­ship's Despatch, No. 16 of the 12th August last, transmitting
an Extract of a letter from the Most Revd. Dr. Polding, in
which he calls your Lordship's attention to the form of Oath
administered to Solicitors and others on their admission to prac­
tise in the Supreme Court of this Colony.
FITZ ROY TO GREY.

Having made inquiry respecting this complaint in compliance with your Lordship's instructions, I have now the honor to transmit the copy of a letter addressed to the Colonial Secretary by the Chief Justice, covering memoranda from the other judges, from which your Lordship will perceive that the Oaths complained of are not of an unusual character, but merely those administered to all Public Officers on their admission to Office.

It would appear, however, that these Oaths were not administered to Solicitors of the Supreme Court until the arrival from England in 1843 of the present Prothonotary, Mr. Gregory; and that Mr. Justice Therry differs in opinion with the Chief Justice and Mr. Justice Dickinson as to the legal necessity of administering them.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

SIR ALFRED STEPHEN TO COLONIAL SECRETARY THOMSON.

Sir, Supreme Court, 21st January, 1847.

I have the honor to acknowledge the receipt of your letter, transmitting copy of a Despatch from the Secretary of State, with extract from a letter addressed to His Lordship by the Most Reverend Dr. Polding, on the 27th July last, on the subject of some oath administered to Solicitors and others, who seek admission to practice in the Supreme Court of this Colony.

It is represented by Dr. Polding, on behalf of the Roman Catholic Community, that the oath is objectionable as tending to keep alive an estrangement of feeling. He states that it is at variance with the religious feelings, as I understand his letter, of several gentlemen connected with the Court, and, at their request, he entreats the Secretary of State's interference, that they may in future be relieved from the pain inflicted on them. Then, on their assurance, he states that the oath is not required, either by the law of England or the Colony: that its administration is entirely in the option of the Chief Justice, and that, by my Predecessor Sir James Dowling, it was never required.

Lord Grey accordingly desires this matter to be inquired into, and expresses a wish that the oath in question may be so altered as not to be offensive to individuals of any religious persuasion.

Few things have excited more my surprise, and few in my judicial career given me more pain than this occurrence. The complaint against me is that, since my accession to the post of Chief Justice, I have introduced into the Court an objectionable oath, not in any way required by law, calculated to inflict pain on the feelings of the Roman Catholic body. I cannot refrain from expressing my regret that such a representation has been made. Even if well founded, I conceive that the proper course was to have taken some step in the Colony, which would have enabled me to retrieve the error, or at least explain the grounds on which I had acted. To this end, several modes of proceeding were open; motion or petition to the Court, remonstrance to myself, or application to the local Government. No such course, however, has been taken. No remonstrance, representation or request has ever been made to me, or (so far as I know or have heard) to either of my Colleagues...
This statement will account for the mistake into which I then fell, as to the oath objected to. The Secretary of State will be surprised to learn that it is not any oath tendered to Roman Catholics, but is simply the oath of Supremacy* administered to Protestants. The objection is abstractedly, as the accompanying papers shew, to the terms of that oath; and obviously therefore, not as administered to Solicitors only, but as an oath administered to any one. It follows that the grievance really felt is too extensive for any authority in this Colony to remove. A partial remedy would be afforded no doubt by administering the oath to as few persons as possible. We should accomplish little, however, by ceasing to tender it to Solicitors, if the duty remain of administering it to Magistrates. The same reason, on the other hand, that shall have called for its abolition with respect to any class, will equally require it to be abolished altogether. I do not say that the oath of Supremacy may not be abolished or its terms much modified. But I could scarcely have suspected that an oath, certainly required to be taken by the Governor and by every Protestant Judge and Magistrate in the Colony, would then only become matter of complaint, when administered to a Protestant Attorney.

With respect to the administration of that oath, the facts are as follows:—Prior to the arrival of our present Registrar, Mr. Gregory (which was in the month of August, 1843), the only oath administered to Attorneys was the common oath of good conduct. Why or how this was, I am unable to explain, neither can I remember the circumstances which gave rise to or induced the change, which took place on the first occasion of that Gentleman's having, as Prothonotary, to administer the oaths to Attorneys. That occasion was the 17th day of February, 1844: a date which is fixed, not only by Mr. Gregory's statement to me, accompanying this letter, but by an angry article in a Roman Catholic newspaper, dated the 2d March following. On such an occasion an enquiry was very naturally made by Mr. Gregory, whose professional experience had made him familiar with such matters, as to the usual and proper oaths, and it appears that some conversation then took place on the Bench, which ended in the administration of the oaths of allegiance, Supremacy, and abjuration, in addition to the oath of good conduct.

In Mr. Gregory's letter, this addition is imputed to Mr. Justice Burton. In the Newspaper article, I perceive that it is imputed to me. For myself I have no recollection whatever in the matter: and can only offer an opinion on that point from the probabilities of the case. As to that article I never saw or heard of it until last week, when a Roman Catholic Solicitor sent it me. And the absence of complaint or question on the subject, for so long a period, has rendered me equally forgetful. But I believe that the alteration originated neither with Sir William Burton nor myself. I believe it to have been the result, simply, of Mr. Gregory's inquiry, and of the discussion to which as a matter of course it gave rise. But in either case, the alteration was the Act of the Court, and not mine. And it took place (not as Dr. Polding's letter implies, since my accession to Office as Chief Justice), but in the time of Sir James Dowling, and when I was the least entitled to interfere of the three Judges present.

* Note 35.
On the expediency of altering or of continuing or abrogating the oath of Supremacy, now administered to Magistrates and others in this Colony, as in other parts of Her Majesty's Dominions, I offer no opinion. That object might however, I will remark, have been attempted by the Reverend Prelate or his Friends in this Colony without a representation injurious to me, made at the other end of the world. It is true that, of above one hundred practising Attorneys, there were only five Roman Catholics, and of twenty two Barristers there are but three Roman Catholics. But two of those five Attorneys, and all of those three Barristers, at the time of Dr. Polding's departure from Sydney, held office under the Crown, one being the Queen's Attorney General, and one a Judge of the Supreme Court.

As to the legality of the oath, or rather the duty imposed on the Judges by law of tendering it to Attorneys, as well as Magistrates, I was really not aware, until I received Mr. Justice Therry's Memorandum, that a question could have been made. If, however, after perusal of that memorandum, and of Mr. Justice Dickinson's and my own (of all which I annex copies), it shall be thought that we can dispense with the oath, the Judges will discontinue it. Or, if the Legislature shall think fit, the administration of the oath to Attorneys can be abolished by express enactment. Such a measure, however, as I have shewn, will remove the real ground and cause of offence, but very partially. I have, &c.

ALFRED STEPHEN, C.J.

List of Annexures.
1. Memorand. sent the other Judges.
2. Do from Mr. Justice Therry.
3. Do Mr. Justice Dickinson.
4. Letter to C.J. from same.

[Sub-enclosure No. 1.]

MEMORANDUM for their Honors Mr. Justice Dickinson and Mr. Justice Therry.

1. With reference to my former note, separately addressed to my brethren on the bench, as to oaths administered or tendered to Roman Catholic Solicitors, it has now occurred to me, on more attentive consideration of the terms of the Archbishop Polding's letter (and indeed I have this morning been satisfied from the tenor of a newspaper article which a Roman Catholic Gentleman, a Solicitor, has put into my hands, dated 2d March, 1844) that the complaint is not respecting any such oaths, but that oaths are administered to Protestants, being Solicitors, and to others, in the hearing of Roman Catholics.

2. Now, there never have been any oaths (the oath of office excepted) administered to Protestant Solicitors, other than those which are administered to the Governor, the Members of the Executive Council, the Judges, and to Justices of the Peace, viz., the ordinary oath of allegiance, Supremacy, and abjuration. It does appear (though I was not aware of the fact, or I had entirely forgotten it, if I was ever aware of it) that these oaths were not administered to Solicitors until the time of the present Prothonotary; according to him, the first instance being in November, 1843, when he first had occasion to tender oaths on admission of Attorneys, or (according to the Roman Catholic Newspaper of 2d March, 1844, and which I send you) the first instance being on the 17th February, 1844. But the same oaths were always administered in open Court to Solicitors as well as others on their taking any Office.

3. Both the dates given above were in the time of my predecessor Sir James Dowling; and no change has been introduced since. I was then the Junior Judge of the Court; and I have not the most distant recollection of the circumstance (stated in the newspaper) either of my having suggested the change, or even of having been cognizant of the fact of a change. I certainly never saw or heard of the newspaper article until now; nor have I ever been conscious that the subject of
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1847.

30 Jan.

Request for opinion of judges re oath of supremacy.

Of supremacy.

It is not for me to offer any opinion here, as to the expediency of any such oaths. But if they should not be administered to Solicitors, neither should they to Magistrates: or indeed to any one. It is merely my duty, with the aid and under the control of my learned Colleagues, to carry out the Law as I find it. In reference to this, I beg the favor of your opinion, whether the oath of Supremacy (the only one, I presume, which can be considered obnoxious) is or not rightly tendered and administered to Protestant Solicitors, and the oath mentioned in the 10th G. 4, C. 1, is or not rightly tendered and administered to Roman Catholic Solicitors in this Colony. The enactments on which these questions depend are I apprehend the following:—5 Eliz. C. 1, s. 5, 7 and 8, W. 3, c. 24, 9 G. 4, c. 83, s. 24, and the local Act 6 W. 4, No. 12.

2. I beg an early answer to this memorandum; which, with your reply, I shall forward to the Governor for transmission to the Right Honorable the Secretary of State.

Sydney, 15th January, 1847.

ALFRED STEPHEN, C.J.

[Sub-enclosure No. 2.]

MEMORANDUM by Mr. Justice Therry.

No. 2 Lyons Terrace, Monday, 15th January, 1847.

It appears from the Memorandum of the Chief Justice that the oath of Supremacy was not taken by Protestant Solicitors on their admission to practice until November, 1843. As the Chief Justice states that "He has not the most distant recollection either of having suggested the change, or of having been cognizant of the fact of the change," and as I can find no record of any authority for introducing the change, I believe that there has not been "any proceeding before the Court" (under the 9th G. 4, c. 83, sec. 24) in which the Court adjudged and decided as to the application to this Colony of the 7th and 8th W. 3, c. 24, which requires the oath of Supremacy to be administered to Protestant Solicitors.

By the Charter of Justice, the Supreme Court may "admit so many other fit and proper persons as solicitors as may be necessary according to such general rules and qualifications, as the said Court shall for that purpose make and establish." The Court has established no rule however by which it is required that the oath of Supremacy should be taken by persons so admitted; and as to persons who have "been admitted, approved and enrolled as solicitors in the Court of Westminster and Dublin, or Writers in the Court of Edinburgh." I conceive that they have a right by the Charter of Justice to be admitted as Attorneys of the Supreme Court of New South Wales without taking anew the oaths they have already taken on their admission as practitioners by these Courts respectively. I am aware it is customary to require these Solicitors to be resworn on their admission; yet there is no sufficient legal reason, that I am aware of, for reswearing the members of one branch of the profession any more than those of the other branch of it.

In the absence of any positive statutory enactment declared to be applicable to the Colony requiring the oath of Supremacy to be taken by Protestant Solicitors or "any general rule" imposing such an obligation, I think a sufficient reason why no such rule should now be passed and why the Statute of William 3, c. 24, should not be deemed applicable to the Colony, may be found in the passing of the recent statute of the 7 and 8 Vict., c. 73, in which the only oaths specified to be taken by an Attorney on his admission is that "he will truly and honestly demean himself in practice" and also the oath of allegiance. I certainly do not see no sufficient ground for enforcing the taking of any oath in this Colony on the admission of Attorneys that is not taken on similar occasions in England.

As to Roman Catholic Attorneys the only oath, required to be taken by them on admission, is the oath prescribed by the Roman Catholic Relief Act, to the taking of which they have never objected nor indeed with reason can object.

R. THERKY.

[Sub-enclosure No. 3.]

MEMORANDUM by Mr. Justice Dickinson.

O'Connell Street, Monday, 15th Jan., 1847.

I have just received the Memoranda of the Chief Justice and Mr. Justice Therry: dated respectively 15th January and 13th January, 1847. For the reasons stated in my letter to the Chief Justice, dated 1 January 15th, 1847 (to which I hereby refer), I think it highly desirable that the oath of Supremacy should not be administered in the Supreme Court to Magistrates, Solicitors and other Officers.

But, as I stated in that letter, I fear we cannot safely dispense with the oath, unless we are assisted by Act of Parliament or Council, I am strongly inclined to think that, after the making of the Charter, the Judges of this Court were bound to administer the same oaths, and admit Attorneys in the same manner as in
England. If that was the correct method of proceeding before the Statute 9 G. 4, c. 88, and the local Act 6 W. 4, c. 13, I see nothing in those Acts which directs or sanctions any proceeding repugnant to the practice of the Courts in England. To admit an Attorney (or Barrister) without oath, I consider repugnant to the British Courts. To admit an Attorney (or Barrister) without oath, I consider repugnant to the British Courts.

As Mr. Justice Therry's observations involve (and indeed virtually assert) the proposition that this Court ought never to have imposed any oath upon Attorneys on their admission, I beg leave (with great deference and respect) to dissent from his view and, if this Court at its institution was by analogy to British practice bound to administer an oath, the same analogy indicated the imposition of the same oath.

As Mr. Justice Therry's observations involve (and indeed virtually assert) the proposition that this Court ought never to have imposed any oath upon Attorneys on their admission, I beg leave (with great deference and respect) to dissent from his view and, if this Court at its institution was by analogy to British practice bound to administer an oath, the same analogy indicated the imposition of the same oath.

As we shall not admit any Solicitors till the last day of next Term (viz., 30th April, 1847), and as the Legislative Council will probably ere then be in Session, all parties might be relieved from the present difficulty by an Act of His Excellency the Governor and Council, adopting the Statute, 7 and 8 Victoria, C. 73, mentioned in the Memorandum of Mr. Justice Therry. J. N. DICKINSON.

[Sub-enclosure No. 4.]

MR. JUSTICE DICKINSON TO SIR ALFRED STEPHEN.

My dear Sir Alfred, O'Connell Street, 15th Jany., 1847.

Having been favored by you, since I wrote you on the subject of the oaths complained of by Archbishop Polding, with a perusal of Lord Grey's letter, and the opinion of the most reverend Prelate to his Lordship, and having considered Mr. Justice of oath of Therry's construction of the latter, it appears quite clear to my mind that Archbishop merely meant to say that Roman Catholics heard an oath administered to Protestant Solicitors, the terms of which were painful to the loyal and religious feelings of members of the Church of Rome.

I do not at present see how we can do otherwise than administer the oath of Supremacy to Protestants, unless by the authority of an Imperial Statute or Colonial enactment. I must, however, for myself say that I have felt pain at hearing the oath administered to Magistrates, when those I knew to be Roman Catholics were sitting in Court before me. I must confess I think the oath is insulting to Roman Catholics; and its administration, I fear (among the ignorant and vulgar) tends to excite the remembrance of ancient animosities, and to keep up groundless prejudices. I sincerely believe that no class of the population of New South Wales is more loyal than the Roman Catholic body, or more attached to the connexion between this Colony and the British Islands; and I am sorry that any oath should be administered to any one, which I think imputes a disloyal spirit to their Religion.

As we all of us, I think, agree in the sentiments of this letter, I should like it (or the opinion contained in it) to be brought before the notice of Her Majesty's Secretary of State.

Believe me, &c,

J. N. DICKINSON.

[Sub-enclosure No. 5.]

OPINION OF THE CHIEF JUSTICE.

The opinions of my learned Colleagues being in conflict, it becomes necessary for me to express my own, which is in accordance with that of Mr. Justice Dickinson, Sir A. Stephen.

that the Judges of the Supreme Court are bound to administer to Attorneys, on admission, the same oaths as those which, by the laws in force in England on the passing of the 9 G. 4, c. 83, were administered to Attorneys in the Courts at Westminster. And since, of those oaths, the oath of Supremacy was at that time one (as indeed it continued to be, until the late statute referred to by Mr. Justice Therry consolidating the laws relating to Attorneys, which statute is not in force in this Colony), I am of opinion that we were and are bound to administer to Attorneys that oath.

By the said 9 G. 4, c. 88, s. 24, all statutes then in force in England, not being inconsistent with any Charter issued in pursuance thereof, shall be applied in this Colony, so far as the same can be applied; and it is made the duty of the Supreme Court, without reference to the Local Legislature, as often as any doubt shall arise, on any proceeding before it, to decide as to the application of any such Statute in the Colony.

I apprehend it can hardly be disputed that a doubt arises (within the meaning of that enactment) respecting the proper oaths to be taken by Attorneys on their admission, as often as any Attorney applies for admission. In the absence of any express adjudication on the point, that doubt (in other words, a question to be decided one way or the other) would necessarily arise in our very next Term.

According to the Prothonotary, however, and to the newspaper statement sent by me to my Colleagues (whichever of the two versions be correct), a question did arise, and was discussed as to the proper oaths to be administered in February, 1844; and that question too was by the then Judges at that time decided. Such, I conceive, was in effect the direction then given to the Prothonotary to administer the
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1847.
30 Jan.

Opinion re administration of oath of supremacy by Sir A. Stephen.

Oaths of allegiance, Abjuration, and Supremacy. The propriety of that direction, however, depends exclusively on the question, whether the English Statutes requiring those oaths from Attorneys were then in force (or, in the language of the 9 G. 4, c. 83, could be applied) in this Colony.

By the Charter, Clause 10, British and Irish Barristers and Attorneys may be approved and admitted in this Court; and, under certain circumstances, the Court may admit so many other persons as may be necessary according to such General Rules and Qualifications as the Court may establish. Each class has to be "admitted." The right to admission, in the absence of any just cause of exception, may exist in the former class; but, until admission, it has never been supposed for a moment that they could practice. If they could, admission would be unnecessary. But, if they apply for admission, the question what oaths they must then take, if any, at once arises. As to the other class, that of Colonially instructed Attorneys, the question arises as much of necessity with respect to them. The "Rules and Qualifications" concern, as I take it, moral and professional fitness; the mode of examination; time of applying; and so on. The applicability of the Statutes requiring oaths from Attorneys on admission is a question which, I conceive, is independent of any such rules, and of the power of making them.

It is by no means my opinion that the 9 G. 4, c. 83, s. 24, is restricted or limited in its operation with regard to Attorneys by the Charter. I think that no power was given by the Charter, which could be construed as interfering with that enactment, or with the provisions of the 7 and 8 W. 3, requiring the Oath of Supremacy from Attorneys. I think that all, taken together, are in harmony. But, if they are not, the Charter, and not any Statute otherwise applicable, must give way. For the Charter was issued prior to the 9 G. 4; and therefore not in pursuance thereof. The Statute of 7 and 8 W. 3, consequently if inconsistent with the Charter, but applicable to the Colony, must be applied.

It is plain, from the preamble to the 31 G. 3, c. 32 (by which Statute, s. 23, Roman Catholic Attorneys are allowed to take another form of oath) that the provisions of the 7 and 8 W. 3, c. 24, are of general and not local application. But it appears to have been thought a difficulty that by these Statutes the oaths are to be taken in the Courts of Queen's Bench, Common Pleas, Exchequer, or Chancery; and so, inasmuch as there never has been a Court so named here, the enactments can have no application. If such an objection be worth any thing, it should rather be put thus. As the Courts named are in England, persons must take the oaths there to comply with the law; which, as a preliminary to practising in New South Wales, would be absurd. But, by the Statute, all Barristers and Attorneys are to take the oath in question. To take it in England, when England was the place in which they designed to practise, was all that could have been intended. When a Court was erected here, Attorneys seeking admission were, as English subjects, under a corresponding obligation; that is, to take the oaths in that Court. By the 9 G. 4, c. 83, s. 3, the Supreme Court of New South Wales had jurisdiction in all cases, and for all purposes, as amply as all the Common Law Courts named. And by the Local Act, 6 W. 4, No. 12, passed to remove doubts as to the power of this Court to do things, which may be done in England by those Courts, it is enacted that, where any Statute in force at the time of the passing of the 9 G. 4, c. 83, shall direct any thing to be done by or before those Courts, the same shall or may be done by this Court. The words "or before" should, perhaps, have been here again introduced; and the Act is, undoubtedly, ill drawn. But looking at its manifest intention, I think that administering an oath is a thing to be done within the meaning of the said 6 W. 4; and so, that the Supreme Court here is, in respect of the oaths required from Attorneys, expressly put in the place of the Queen's Bench, Common Pleas and Exchequer.

Hyde Park, 20 January, 1847.

ALFRED STEPHEN, C.J.

[Sub-enclosure No. 6.]

MR. G. P. F. GREGORY TO SIR ALFRED STEPHEN.

Sir,

On referring to the Roll of Attorneys, I find that I was in error respecting the third Term, 1843, in which Term no Attorneys were admitted. On the last day of the first Term 1844, seven Attorneys were admitted, whose names I send at foot. On that occasion, being informed that the practice of administering the oaths of Allegiance and Supremacy to Attorneys on their admission had been deserted from in the Colony, I administered the simple oath faithfully to demean themselves; upon which Mr. Justice Burton remonstrated, and required the oaths of allegiance and supremacy to be tendered to the Candidates, which was accordingly done, and they were taken without a syllable of remonstrance or complaint. From that era, they have continued to be so administered.

It will be observed that the seven gentlemen, whose names are at foot, are all of them Protestants; but why the Roman Catholics should quarrel with oaths, which they are not required to take, is singular enough. Had the Protestant Gentlemen objected, the only answer to be given to them would be that they are compelled by...
Fitz Roy to Grey.

Statutory enactment; and the only remedy is by applying to the Legislature to alter them. Certainly it must be admitted that the Protestant form of Oaths is absurd enough, particularly that against the Descendants of the Pretender, of which there are none; and it is high time they should be altered. But, as long as a statute remains upon the Statute Book, it must be complied with.

No remonstrance or complaint has ever been made to me, nor, to my belief, to any of your Honors, by either Protestant or Roman Catholic, against the taking of the oaths or any of them. I have never heard of any such until the communication by your Honor's letter of the underhand complaint which appears to have been made to the Right Honorable the Secretary of State for the Colonies.

I have, &c,

G. P. F. Gregory,
Prothy. and Reg. Sup. Ct.

Attorneys admitted, 1844, 17 Feby.—Geo. Cimitiere Allmann; Hugh John Cham- bers; Andrew Hardie McColloch; Joseph Yeomans; Richard Henry Way; Joshua admitted. Frey Josephson; Richard Coley.

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 24, per ship Urgent.)

My Lord, Government House, 30th January, 1847.

In accordance with the Instructions conveyed to my Predecessor in Lord Stanley’s Despatch of the 3rd February, 1844, I have the honor to transmit to your Lordship Copies duly certified of the Depositions, upon which Warrants were issued by this Government for the apprehension and subsequent surrender to the proper authority of certain fugitive Criminals, Citizens of the United States of America, under the provisions of the Act of the Imperial Parliament for giving effect to the 10th Article of the Treaty of Washington. And, with a view more fully to illustrate the facts of the case, I also forward Copies of the correspondence which took place with the Crown Law Officers and the Consul of the United States.

A few days previous to my arrival in the Colony, it was represented to the Provisional Government by the Consul of the United States that the American Ship “Canton Packet” had been compelled to put into the Port of Sydney, in consequence of an attempt made by four of the Crew* to burn the Vessel while at the Fœjee Islands. It was further stated that it was necessary to remove the men, who were then confined on board the Ship, for the purpose of putting her into condition to proceed to sea; and the Consul therefore requested that the Men might be received into Gaol, until he could forward them to the United States for trial.

As it appeared doubtful whether this was a case coming properly within the scope of the Act of Parliament before adverted to, reference was made on that point to the Crown Law Officers. The Report received from these Officers stated in effect that the Requisition made by the Consul was insufficient, as it did not

*Marginal note.—John Remington; Samuel Chadwick; Miner Robinson; James Smith.
Explicitly charge the men with any of the Offences, specified in the Act of Parliament; and, upon that opinion being communicated to the Consul, he made a renewed Requisition to the Government, in which the prisoners are distinctly charged with having committed Arson and Piracy, which clearly brought the case within the terms of the Act. This being deemed sufficient by the Crown Law Officers, the necessary preliminary Warrant was issued by Sir Maurice O'Connell for the apprehension of these Men.

I have already enclosed Copies of the Proceedings taken in the Police Court of this City, which were brought to a close on the 14th of August, and which resulted in the discharge of one of the prisoners and the committal to Prison of the other three.

On the 1st October following, the Consul represented that the men had been detained nearly the length of time provided for in such cases by the Treaty of Washington, and requested that they might still be kept in Custody, although he was not prepared to state any precise period, at which he would be able to send the prisoners to the United States. This communication was likewise transmitted to the Law Officers, and their opinion thereon and the additional Steps they advised should be taken by the Consul, are detailed in the Enclosure No. 3.

Finally, on the 13th December last, the United States Consul reported that an opportunity had occurred of forwarding the Prisoners to the United States by the American Ship "Merrimac."

As soon, therefore, as the proper legal Instrument could be prepared, I issued a Warrant for the surrender of the Prisoners, and they were eventually placed on board the "Merrimac," which vessel sailed from this Port on the 26th of December last.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosures.]

[Copies of these papers are not available.]

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 26, per ship Urgent.)

My Lord,
Government House, 30th January, 1847.

I do myself the honor to transmit to your Lordship here-with the Returns relating to Land and Emigration, required by Lord Stanley's Circular Despatch of the 22nd March, 1845, namely,

* Marginal note.—John Remington.
FITZ ROY TO GREY.

1. Return of all Land sold during the year ended 31st December, 1846.

2. Return of Land reserved or purchased for Public uses, or granted without purchase, and miscellaneous information respecting Crown Lands for the year ending 31st December, 1846.

3. Return relative to all Lands under Lease or License, or subject to Quit rents for the same period.

4. Return relative to Surveyors and Surveys for the year ending 31st December, 1846.

5. Return of Emigrants, who have arrived in the Colony (exclusive of the District of Port Phillip) during the year ending 31st December, 1846.

6. Return of Persons employed in the Emigration Services and Expenses of the Establishment in the Colony (exclusive of the District of Port Phillip) for the year ended 31st December, 1846.

The Returns Nos. 1 and 3, furnished by the Colonial Treasurer, do not include the District of Port Phillip; but instructions have been given for the preparation of Supplementary Returns containing the information for that District for the past year, as stated in my Despatch of this day No. 18.

The Returns from the Emigration Agent No. 5 and 6, your Lordship will also observe, do not include the District of Port Phillip, and additional returns will therefore be prepared and forwarded, as soon as the necessary information can be obtained for the purpose from Melbourne.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosures.]

[Copies of these returns are not available.]

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 27, per ship Urgent.)

My Lord,

Government House, 30th January, 1847.

Having, in accordance with the directions contained in your Predecessor's despatch of the 23rd June last, called upon Dr. Patrick Glissan, M.D., of Windsor in this Colony, for a Copy of the Memorial dated 1st December, 1845, which he had addressed to your Predecessor, expressing his desire to obtain some employment in the Service of Her Majesty's Government, I have the honor to transmit a copy of a letter which the Colonial Secretary has received from Dr. Patk. Glissan, stating his inability to furnish a copy of the Memorial, on account of its having been prepared and forwarded by his friends in England.

I have, &c.,

CHS. A. FITZ ROY.
HISTORICAL RECORDS OF AUSTRALIA.

[Enclosure.]

DR. GLISSAN TO COLONIAL SECRETARY THOMSON.

Sir, Penrith, 10th Decr., 1846.

In obedience with your communication of the 30th Ultimo, I have the honor to inform you for His Excellency's information that I am unable to furnish a copy of the Memorial therein mentioned, bearing date the 1st Decr., 1845, it having been prepared at home by my friends, but I confidently hope it may have the effect of procuring an appointment for me, which the pressing wants of a large and young family daily require, and which your kind advocacy will go far to obtain.

I have, &c.,

P. GLISSAN, M.D.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 28, per ship Urgent.)

My Lord, Government House, 30th January, 1847.

The Legislative Council having voted a sum of money to defray the expense of providing in England, for the service of the year 1848, Clothing for the Police of this Colony generally, a Requisition for the necessary articles of Dress, of the description worn by the Metropolitan Police in London, which it appears to me desirable to adopt in New South Wales, has been forwarded to the Agent General for Crown Colonies, with instructions to procure and send them out; and the sum of £1,900 has been paid into the Military Chest, in order that Mr. Barnard may receive an equal amount from the British Treasury to enable him to purchase the Clothing and provide for the freight. I have therefore the honor to request that your Lordship will be pleased to direct the necessary steps to be taken for the issue of the Money to the Agent.

A List has also been transmitted to the Agent General of Type and Brass Rule, which it is necessary to procure from England for the Government Printing Office in this Colony; and the sum of Two hundred and thirty three Pounds, Nineteen shilling and 5 pence (£233 19s. 5d.) having been ordered to be paid into the Military Chest here, out of the money voted by the Legislative Council for the purchase of New Type for that Establishment for the year 1847, I do myself the honor to request that an equal amount may likewise be paid to Mr. Barnard from the British Treasury for this Service. I have, &c.,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 29, per ship Urgent.)

My Lord, Government House, 1st February, 1847.

With reference to Mr. Secretary Gladstone's Circular Despatch of the 15th June last, suggesting that, in Colonies where no law exists for the apprehension of persons who having
committed crime in one Colony may have escaped to another, a Colonial Law should be passed to remedy that defect.

I have now the honor to transmit the Report and Opinion of the Crown Law Officers of this Government with respect to this suggestion.

Your Lordship will observe that there is already a Law* in existence in this Colony, making such provisions with respect to the Colonies of Van Diemen’s Land and South Australia, as are proposed by Mr. Gladstone; but that previously (instead of subsequently as proposed by Mr. Gladstone) to extending this Act to all the other Colonies, it would be desirable, with a view to its legal and practical efficiency, that the Imperial Parliament should make provision for the removal from Colony to Colony of parties when apprehended.

Under this opinion, I do not propose to take any steps for extending the Act referred to, until I am favored with Your Lordship’s further Instructions. I have, &c.

CHS. A. FITZ ROY.

[Enclosure.]

MESSRS. PLUNKETT AND MANNING TO COLONIAL SECRETARY THOMSON.

Sir,

Attorney General’s Office, 18th January, 1847.

We beg leave to acknowledge the receipt of your letter of the 17th Ultimo, enclosing a Circular Despatch from the Secretary of State, suggesting the Enactment of a Law to prevent persons committing crimes in any one Colony and escaping to another from being suffered to remain at liberty in the latter, and requesting, by direction of His Excellency the Governor, that we will favor you with our opinion and report on the subject.

In reply, we have the honor to report that an Act of the Legislature of this Country was passed in 1838 (2 Victoria, No. 11) making with respect to the Colonies of Van Diemen’s Land and South Australia such provisions as are now proposed by Mr. Secretary Gladstone to be made with reference to all the Colonies, and such Act might be extended accordingly; but we doubt whether its provisions would have proper legal force, inasmuch as the Legislature has not power to provide (although this is purported to be done in the above Act) for the transmission of the Criminal to the Colony from which he fled, unless, as in the case of South Australia, there happens to be no neutral ground intervening. Unless there be the power to transmit, the authority to apprehend would not only be ineffectual for the purpose intended, but the detention of the prisoner might be deemed unconstitutional.

We, therefore, feel that much difficulty exists in carrying out the plan of Mr. Secretary Gladstone, and we would respectfully suggest that, before the Colonial Legislature passes an Act which would be legally nugatory, the Imperial Parliament should be asked to make the provisions for the removal from Colony to Colony of parties where apprehended, which Mr. Gladstone appears to have contemplated as a subsequent measure; and we would further beg to remark that perhaps it might be more convenient that the

* Marginal note.—2 Victoria, No. 11.
1847. 1 Feb.

Opinion on appointment of magistrates for South Australia to back warrants.

Parliament should provide at the same time for the apprehension and detention of parties charged in one uniform manner throughout all the British Colonies.

We have, &c,

JOHN H. PLUNKETT, Attorney General.
W. M. MANNING, Solicitor General.

P.S.—We forward an opinion which was given in the Year 1838 and shews that the attention of this Government was then directed to the subject.

[Sub-enclosure.]

CASE

As to the appointment of two Magistrates for the Colony of South Australia, for the purpose of backing warrants.

There can be no objection to the appointment of the two Gentlemen mentioned in this Colony, as Magistrates of South Australia, but I think it cannot answer the purpose intended by the Governor of South Australia. I am not aware of any law that would give effect to warrants of the Justices for the two Colonies respectively by "backing them" in the way proposed, for I do not conceive that the English Statutes, 23 Geo. 2, Cap. 26, and 24 Geo. 2, Cap. 55, which authorise the backing of Warrants in England from County to County are applicable to the case. The two Governments are wholly distinct and independent of each other, and I am of opinion that it will require an act of Parliament to provide for the apprehension of persons who escape from one Colony to the other.

There is an Act of that kind, 13 Geo. 3, Cap. 31, which authorises the apprehension of such persons escaping from England to Scotland and vice versa, and one of the same description for Ireland the 44 Geo. III. C. 95.

A General Act of Parliament on the same principle as the two last mentioned Acts is much required, and difficulties have been experienced with respect to free persons charged with crimes who have escaped to Van Diemen's Land, the Isle of France, etc.

I think it is probable that Sir Richard Bourke has already recommended such an Act; but, if he has not, it is desirable that the notice of the Home Government should be directed to it.

26th March, 1838.

J. H. PLUNKETT, Attorney General.

SIR CHARLES FITZROY TO EARL GREY.

(Despatch No. 31, per ship Urgent; acknowledged by earl Grey, 5th June, 1847.)

My Lord,

Government House, 1st February, 1847.

With reference to my Despatch, No. 9 of the 9th Ultimo, I have now the honor to transmit the Copy of an address which has this day been presented to me by a Deputation from the Operatives of Sydney, requesting that I would forward to your Lordship the accompanying Petition from the same Body, addressed to Her Majesty, praying that Transportation to this Colony may not be renewed.

I have, &c.,

CHS. A. FITZROY.

[Enclosure No. 1.]

MEMORIAL OF THE ANTI-TRANSPORTATION COMMITTEE OF SYDNEY.

To His Excellency Sir Charles Augustus Fitz Roy, Knight, Companion of the Royal Hanoverian Guelphic Order, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies and Vice Admiral of the same, etc., etc.,

Respectfully Sheweth,

That Your Memorialists having been elected at a Public Meeting, held on the Race Course on the 22nd December last, to
act as a Committee to devise all the means possible from Transport to this Colony being renewed, and that, in pursuance of the important duties confided to their care, Your Memorialists availed themselves of Your Excellency's presence and beg to present you with a Petition for Your most Gracious Sovereign, Signed by the Operatives in the City of Sydney to the Amount of 6,600 Signatures, and request you will favor Your Memorialists by despatching it to England at your Excellency's earliest convenience.

Your Excellency will perceive that the Petition was solely intended to have been from the Operatives, but others have signed it, wishing to give it as much weight as possible.

Your Memorialists received with heartfelt pleasure the reply Your Excellency was pleased to make on the subject of the revival of Immigration.

With every reliance on your Excellency's desire to promote the Welfare of the Inhabitants of this most important part of Your Excellency's Government, Your Memorialists leave the objects of this address in Your Excellency's hands.

And your Memorialists as in duly bound will ever pray,

STEPHEN S. GOOLD, Chairman.
WILLIAM W. WILKINS, Secretary.

On behalf of the Committee.

[Enclosure No. 2.]

THE Humble Petition of the Undersigned Operatives of the
City of Sydney, in the Colony of New South Wales,
To Her Most Gracious Majesty the Queen,

Most Respectfully Sheweth,

That Your Majesty's Petitioners the Operatives of Sydney, in approaching Your Majesty, beg to express our loyal and devoted attachment to Your Majesty's Person and Government and our reliance on Your Majesty's solicitude for the welfare of your Subjects in this Colony.

We venture most respectfully to address your Majesty in regard to a proposal which has recently been made to renew Transportation to this Colony, and, in doing so, we crave leave to state that the abolition of Transportation has evidently been the cause of the improved state of Society in general, not only in the City of Sydney, but has also extended into the Interior; and taking into consideration the thousands of Immigrants, who have arrived here since the cessation of Transportation, were led to believe, previous to their departure from their Native Soil to this of their adoption, that the Stain, which this Colony had previously been labouring under, was gradually being removed and was greatly rising in the estimation of the Mother Country, have with energy and pride strenuously endeavoured to keep it so, and from the advantages of its being a free Colony to hold out inducements to those whom they had left behind them.

That your Petitioners further beg leave to state to Your Majesty that they fear severe consequences would result from the renewal of Transportation from the fact that many of the best Mechanics have already left the Colony through the depression of Trade, and others are making preparations to follow their example should such a measure be adopted. Your Petitioners likewise feel persuaded that it would be the means of contaminating the Moral,
1847.

1 Feb.

Petition from operatives in Sydney against revival of transportation.

Social and religious views of the present and rising generation, to such an extent that life and property would be at stake as in times back. The leniency proposed to be shewn to the Convicts on their arrival here by the Legislative Council of this Colony in dispersing them into the Interior will give them every facility of entering the larger Towns to commit depredations to the annoyance of the more peaceable Inhabitants.

That the free liberty of the working men would be immediately at Stake in as much that, at the period of this being a penal Colony, many poor Individuals, who have been in the Interior, have been apprehended as runaways and conducted to Sydney in Irons the distance of some hundreds of miles to be identified, and, after establishing their innocence, left penniless and without the means of returning to their employment. There have also been instances of the like from Port Phillip, New Zealand and other distant places, and no satisfaction could be obtained.

Your Petitioners further wish to impress on your Majesty that it is their candid opinion that the principal argument, adduced by the Committee of the Legislative Council, is the demand for labour which Your Petitioners believe is required for a few weeks in the year during the harvest and shearing Seasons. The only description of labour required in the Interior to be of advantage to the Community is strictly speaking Agricultural Labourers and Shepherds, for, during the time of Immigration, hundreds landed in Sydney from the Mother Country, assuming the character of labourers, and passed the Immigration Board here as such, at the same time being Mechanics with their tools of trade, etc., thereby making an increase in the various branches of Trade when there was no demand for them.

Therefore Your Petitioners most humbly solicit your Gracious Majesty not to consent to the renewal of Transportation on any terms or condition whatever, so as to prevent English Capitalists and other so inclined to make the now flourishing Colony of Australia their land of adoption.

And your Majesty's Humble Petitioners will ever pray.

[Here follow 6,600 signatures.]

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 32, per ship Urgent.)

My Lord,

1st February, 1847.

Government House, 1st February, 1847.

I have the honor to report to your Lordship that, on the application of Mr. R. T. Webb, Collector of Customs at Melbourne, Port Phillip, I granted in Council, on the 16th instant, leave of absence for Eighteen months to that Officer, to enable him to proceed to England for the purpose of expediting, if possible, the arrangement of his public accounts.

The duties of Collector will continue to be performed by Mr. Cassell.

I have, &c.,

CHS. A. FITZ ROY.
FITZ ROY TO GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 33, per ship Urgent; acknowledged by earl Grey, 14th September, 1847.)

My Lord, Government House, 1st February, 1847.

I have the honor to forward herewith the copy of a Despatch which has been addressed to the Colonial Secretary of this Government by the Acting Superintendent of Port Phillip, covering a Memorial from certain inhabitants of the Town of Portland in that District, praying that it may be constituted a free Warehousing Port.

I also enclose a letter from the Acting Collector at Melbourne, reporting on the Memorial, which I beg to recommend to the favorable consideration of the Lords Commissioners of Her Majesty's Treasury.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosures.]

[ Copies of these letters, dated 17th and 18th November, 1846, and of the memorial, will be found in a volume in series III.]

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 34, per ship Urgent.)

My Lord, Government House, 1st February, 1847.

In reply to Mr. Gladstone's Despatch, No. 44 of the 18th June, enclosing an extract from a letter from the Army Medical Department requiring certain explanations from the Principal Medical Officer, respecting a requisition for the Convict Service, which was forwarded with Sir George Gipps' Despatch, No. 207 of the 25th November, 1845.

I have the honor to enclose the Copy of a Communication from the Principal Medical Officer containing the required information.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

DR. DAWSON TO COLONIAL SECRETARY THOMSON.

Principal Medical Officer's Office, Sydney, 4th November, 1846.

Sir, I have the honor to acknowledge your letter of the 30th November, transmitting Copy of a Despatch from the Right Honorable the Secretary of State on the subject of the Requisition for Medicines, etc., for the Convict Service for the year 1847, and directing me to furnish you with an explanation (as pointed out in the Extract of an accompanying letter of the Director General of the Army Medical Department) of the data on which the Requisition for Vials is made.
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1847.
1 Feb.

Explanation re requisition for medicines, etc.

By a reference to the Return accompanying the Requisition, and the Requisition itself, it will be perceived that the remaining 48 Gross on 31st March, 1845, were said to be Bottles and Vials. (It had been always here customary to include the two under one head.)

They were all large Bottles, and no Vials remained, and the Requisition was for Vials only, and particularly of the sizes under 4 Ounces.

The reason for asking for Vials was, they are not only more convenient in dispensing of Medicines; but that, in keeping and issuing Medicines from the Apothecary's Stores, there is a waste in the use of large bottles instead of Small Vials. I may instance that the Essential Oils and the Alkaline Salts and many of the most valuable Medicines cannot be kept or issued in large Bottles, or paper, without much waste.

The Supply required is undoubtedly large, and perhaps unnecessarily so; and I can only now remember that, in making Requisitions, I have always been influenced by the fact of the Article being perishable or otherwise; and therefore I have often made large Requisitions of imperishable articles to serve for two or three years, when I would have hesitated to require more moderate quantities of those which are likely to be injured by keeping.

I have, &c.,

W. DAWSON, M.D.,
Principal Medical Officer.

Despatches acknowledged.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 36, per ship Urgent.)

My Lord, Government House, 1st February, 1847.

I have the honor to acknowledge the receipt of Your Lordship's Despatches of the numbers and dates noted in the Margin.*

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch marked "Separate," per ship Glentanner; acknowledged by Sir Charles Fitz Roy, 19th September, 1847.)

Sir,
Downing Street, 2 Feb., 1847.

I transmit to you herewith a Copy of a Letter from the person described in the margin,† containing an application for information relative to Thomas McGuire and family, who are stated to have Emigrated to the Colony under your Government, and I have to request that you will transmit to me such information as you may be able to obtain on the subject of the enquiry.

I have, &c.,

GREY.

* Marginal note.—Nos. 31, 32, 33, 34, 35, 36, 5, 6th, 12th, 25th, 26th September, 1846.

† Marginal note.—Phillip Wholehan, 27 Jan., '47.
P. WHOLEHAN TO SECRETARY OF STATE.

My Lord, Dungowan, 27th January, 1847.

I beg leave to state to you that my Sister, her husband and family, Sydney, New South Wales, at Hinter, Hunter's River. My Lord I have wrote many times relative to their fate, can receive no answer. I am in hopes that your Lordship will cause a communication to be made with the Government of that Colony respecting the fate of Thomas McGuire and his family of Hinter, Hunter's River, Sydney, New South Wales, My Lord that Man and family is in existance, that the Government of that Colony will cause him to send me an answer. My Lord, when there is an Answer returned by the Governor of New South Wales to your Department from where there will be an answer returned to me on the subject.

PHILIP WHOLEHAN.

Fair Lane, Dungowan, County Waterford, Ireland.

EARL GREY TO SIR CHARLES FITZ ROY.

(A circular despatch, per ship Beulah.)

Sir, Downing Street, 8th February, 1847.

I have lately had occasion to address a Despatch to the Governors and Lieutenant Governors of the West Indian Colonies, on the subject of the establishment of Industrial Day and Normal Schools. This communication originated in the desire which I felt to promote, to the utmost of my means, the extension of Education among the Coloured Races, being well convinced that by such means the welfare of the Labouring Population, and, indeed, of the whole Community would be largely increased. For this purpose, I addressed a Letter to the Lords of the Committee of Privy Council on Education in November last, stating my views upon the subject, and their Lordships in consequence caused a statement to be prepared, for my information, explaining the points which it was material to keep in view in establishing Industrial and other Schools. On perusing that statement, it has appeared to me that so many of the suggestions therein made are applicable to, and might be beneficial to all the Communities in the British Colonies, that I have determined not to restrict the information thus submitted to me to those Colonies only where Slavery existed, but to communicate it to the whole of the British Colonies. In the hope, then, that the suggestions, offered on this subject by the Lords of the Committee of Privy Council on Education, may be found susceptible of adoption, and prove of service in the Colony under your Government, I transmit to you several Copies of
EARL GREY TO SIR CHARLES FITZ ROY.

(A circular despatch, per ship Beulah; acknowledged by Sir Charles Fitz Roy, 10th January, 1848.)

Sir, Downing Street, 9th February, 1847.

I find that for many years there have been regularly transmitted to this Office, from the several British Colonies, Copies of the principal Newspapers published in each. I am happy to find this practice existing, and I attach much importance to its regular observance. You will not misunderstand me as implying any want of confidence in your own reports, or as attaching an undue and exaggerated weight to Newspaper statements, when I say that there are no means by which Her Majesty's Government may become acquainted with the general tone and temper of Colonial Society so readily as through the Colonial Press. There are many small circumstances connected with the feelings of those under your Government, and with the general leaning of public opinion with which daily habit has rendered you so familiar, that they pass unobserved before your eyes. Yet, to a person at a distance from the scene, such circumstances may be full of significance, and may merit deliberate attention in the decision on the policy to be followed by Her Majesty's Government.

Upon these grounds, I have made arrangements for ensuring a more regular examination than has hitherto been attempted, of the Newspapers which reach this Office from the several Colonies. But the weight to be attached to the statements of such Papers must of course depend on circumstances which I have no means of ascertaining in this Country, I mean the general character of the Paper, and among what classes and to what extent it circulates. On these points, and on any others which may occur to you, I would request you to furnish me with such information as you may possess, in respect to each of the principal Newspapers in your Government, and to correct that information from time to time, as the circumstances of the case may alter. I am well aware that precise and full information upon
these subjects is not to be expected; but I have no doubt that you will be able to procure all which is really necessary for practical purposes.

I have to add that Your Despatches upon this subject should be marked, and will be considered as confidential.

I have, &c,

GREY.

Earl Grey to Sir Charles Fitz Roy.

(Despatch No. 93, per ship Beulah.)

Sir, Downing Street, 10 Feb., 1847.

I herewith transmit to you the Copy of a letter from the Board of Treasury, accompanied by a Memorial addressed to the Lords Commissioners by Mr. M. D. Niven, urging his claim to Compensation on account of the defalcation of Mr. Manning, Registrar of the Supreme Court and Curator of Intestate Estates at Sydney, who, it appears, had charge of the property and effects of the deceased son of the Memorialist. I have to desire that, in conformity with their Lordships' request, you will take the necessary measures for ensuring to Mr. Niven the benefit of any arrangement, which, with reference to the instructions contained in my Predecessor's Dispatch of the 4th and to mine of the 25th of July last, may be made for the liquidation of claims for effects lodged, by direction of the Supreme Court, in Mr. Manning's Custody.

I have, &c,

GREY.

[Enclosure.]

Mr. C. E. Trevelyan to Under Secretary Stephen.

Sir, Treasury Chambers, 2 February, 1847.

I transmit herewith by command of the Lords Commrs. of Memorial H. Majesty's Treasury a copy of a Memorial from Mr. Daniel Niven transmitted, urging his claim to compensation, on account of the defalcation of Mr. Manning, Registrar of the Supreme Court and Curator of Intestate Estates at Sydney, who had charge of the property and effects of the Memorialist's deceased son. And, with reference to the communication made to you by direction of this Board on the 18th July last, respecting the payment to the Colonial Government of New South Wales of the sum recovered from Mr. Manning's Surety, as well as to the previous correspondence relating to that person's default, I am to request you will move Earl Grey to cause Request for Mr. Niven's application to be forwarded to the Governor of New South Wales, in order that he may have the benefit of any arrangement that may be made, upon the receipt of the money forfeited by the Surety, for the liquidation of claims for effects lodged, by direction of the Supreme Court in that Colony, in Mr. Manning's Custody.

I am, &c,

C. E. TREVELYAN.
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HISTORICAL RECORDS OF AUSTRALIA.

[Sub-enclosure.]

Unto the Honorable the Lords Commissioners of Her Majesty’s Treasury,

Humbly Sheweth,

That, on the 2nd April, 1845, Your Memorialist presented a Memorial to Your Lordships stating “That Hugh Niven the Memorialist’s Son was killed by a fall from his horse at Geelong, Port Phillip, New South Wales, on the 23rd day of September, 1844.”

That the deceased had a friend on the spot who was willing and offered to take charge of his effects, but, he the Memorialist’s Son having died intestate, J. Edge Manning, Registrar of the Supreme Court at Sydney and Curator of Intestate Estates, appointed to that Office by the British Government, refused to allow any other person to interfere with the property, and he Mr. Manning, having sold the defunct’s whole effects and uplifted the money belonging to him then lying in the Bank, wrote to the Memorialist on the 30th March, 1846, that the defunct’s property amounted to £2,160 7s. 6d.

That, immediately on receiving Mr. Manning’s letter, the Memorialist forwarded a power of Attorney first to Mr. Alston, Port Phillip, and thereafter to a Mr. Campbell at Sydney, with full evidence of the Memorialist’s relationship to the defunct and powers to administer to the defunct and uplift the money; but in the mean time Mr. Manning became Bankrupt.

That the Memorialist through his Attorney has made frequent application to Mr. Manning to his successors in Office and to the Governor and Legislative Council of New South Wales for payment of the effects and property of his said deceased son; and, while they acknowledge the justice of the Memorialist’s claim and the right the Memorialist has to be paid the money, yet they allege that, as Mr. Manning was appointed by the Home Government to the Office which he held, they have no money in their hands to meet the Memorialist’s claims, and that therefore they cannot pay the Memorialist, but referred the Memorialist to seek redress from Your Lordships.

That, particularly on 3rd September, 1844, in reply to a general application by the Legislative Council of the Colony, dated 27th August, 1844, to His Excellency the Governor, requesting His Excellency to take such steps as might be requisite to obtain compensation to the sufferers by the defalcation of Mr. Manning, His Excellency stated that he did not feel authorized to propose a grant of money out of the public funds of the Colony for the compensation of these sufferers without the sanction of Her Majesty’s Government, as may be seen from the printed proceedings of the Legislative Council in 1844.

Under these circumstances, Your Memorialist is under the painful necessity of troubling Your Lordships with the present application.

May it, therefore, please Your Lordships to take this Memorial into your favorable consideration, and, on making enquiry into the facts above stated and on finding them to be true, grant such relief to Your Memorialist as the circumstances of the case require.

And Your Memorialist will ever pray,

“Daniel Niven.”

Greenock, 2d April, 1846.

That, in July thereafter, Your Memorialist was favored with the following answer from Your Lordship (viz.) “Downing Street, 16th July, 1845.—Sir, with reference to my letter of the 6th of May last relative to Your claims arising out of the defalcation of Mr. Manning, late Registrar of the Supreme Court of New South Wales, I am directed by Lord Stanley to acquaint you that the Lords Commissioners of the Treasury, having considered the memorial addressed to their Lordships through this Department, have requested that you might be informed that you must prefer your claims in the Colony, as the adoption of any proceedings in regard to the default of the Officer, who had been appointed by the Judges of the Supreme Court to administer the estates of Intestates must rest with that Court and with the local Government, I am, Sir, Your obedient Humble Servant (signed) Geo. Hope.”

That, in consequence of this answer, Your Memorialist again applied to the Colonial Government at Sydney; and, after a full discussion, the Legislative Council admitted the justness of Your Memorialist’s claim, but at the same time averred that it is the British Government and not the Colonial Government, who ought to pay Your Memorialist’s claims; and therefore they refused to pay Your Memorialist out of the Colonial Revenues, unless British funds are provided to them for that purpose, and referred Your Memorialist back to Your Lordships.

That Your Memorialist is thus subjected to grant hardships, loss and expense, and can find no means by which to enforce payment of what is admitted at all hands to be a just claim.

Under these circumstances, Your Memorialist humbly prays Your Lordships to adopt such measures as will ensure to Your Memorialist early liquidation of his admitted just claim, either out of the Public Revenues of this Kingdom or out of the Colonial Revenues of New South Wales, or otherwise as to Your Lordships may seem proper. According to Justice.

Daniel Niven.
SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 37, per ship Sir George Seymour; acknowledged by earl Grey, 7th July, 1847.)

My Lord,

Government House, 15th February, 1847.

I have the honor to transmit herewith for your Lordship's consideration the Copy of a letter addressed by the Assistant Military Secretary to the Lieutenant General, Commanding the Forces in this Station, to the Colonial Secretary, in reply to an application, which I had directed to be made to the Lieutenant General, requesting that he would authorise the payment from the Military Chest of the expense incurred, under my directions, for the hire of a Steam Vessel, despatched by me to the rescue of a Ship wrecked* on the 18th ultimo on the coast about 20 Miles to the Northward of Port Jackson, which turned out to be the “Sir Robert Peel” with Troops and Government Military Stores bound to Sydney.

Your Lordship will perceive that the Lieutenant General declines to sanction this payment on the ground that it was incurred without his knowledge; in reply to which, I beg to state that the nature of the Service (the report that the vessel was on shore and in great danger having reached me in the middle of the Night) did not admit of the previous concurrence of the Military Authorities, even if it had been known that the Ship was employed for Military purposes.

The utmost promptitude was necessary to render the services of the Steam Boat available for the saving of human life and the recovery of property; and, although, from the circumstances under which the ship was stranded, no essential result attended the employment of the Steam Boat, this, it is submitted, should not invalidate the claim to the recovery of the amount from that branch of the Queen's Service which it was calculated to benefit. I, therefore, take the liberty of suggesting that the sum of One hundred Pounds (the amount of expense incurred) may be directed to be refunded from the Military Chest to the Colonial Treasury, from which source, on the refusal of the Lieutenant General, I directed it to be defrayed. I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

CAPTAIN O'CONNELL TO COLONIAL SECRETARY THOMSON.

Asst. Mily. Secretary's Office,

Sydney, 13th February, 1847.

Sir,

I am directed by the Lient. General Commanding to acknowledge the receipt of your letter of the 3rd Inst., addressed to the Deputy Adjutant General, with its enclosures, respecting a claim from the Hunter's River Steam Navigation Company of One

* Note 39.
1847.
15 Feb.
Payment refused from military chest.

Hundred pounds, for the hire of one of their Steamers in proceeding to the Wreck of the "Sir Robert Peel," and requesting that the same might be defrayed from the Military Chest.

In reply, I have it in command to acquaint you that, as this service was undertaken entirely without the knowledge or sanction of the Lieutenant General Commanding, and appears to Him to be totally unconnected with the Military, His Excellency regrets that it is not in His power to authorise such charge against the Military Chest, or either that claimed for Messrs. Moffitt and Bainbridge.

I have, &c.

W. B. O'Connell, A.M.S.

16 Feb.
Requisition for water beds for lunatic asylum.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 38, per ship Sir George Seymour.)

My Lord, Government House, 16th February, 1847.

The Superintendent of the Lunatic Asylum in this Colony having suggested that Hydrostatic Beds should be provided, as it is understood they are in England, for Patients who may become bedridden, and it being found that they cannot be furnished here, I do myself the honor to inform Your Lordship that instructions have been forwarded to England to Edward Barnard, Esqr., the Agent General for Crown Colonies, to procure and forward to this Colony Four of these Beds made according to a description which has been given of them in a letter addressed to him by the Colonial Secretary of this Government.

The cost of these Beds is estimated at £13 each, or Fifty two pounds for the four required; and, as this amount has been ordered to be paid into the Military Chest in Sydney, I beg to request that Your Lordship will cause an equal sum to be paid to Mr. Barnard to enable him to comply with the requisition forwarded to him.

I have, &c.

CHS. A. FITZ ROY.

17 Feb.
Despatches acknowledged.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 39, per ship Sir George Seymour; acknowledged by Earl Grey, 27th July, 1847.)

My Lord, Government House, 17th February, 1847.

I have the honor to acknowledge the receipt of the Despatch from your Lordship's predecessor No. 51 of the 4th July, 1846, and of your Lordship's Despatch No. 4 of the 17th of the same Month; the former communicates to me Her Majesty's confirmation and allowance of the Acts of the Legislature of this Colony, 9th Victoria, Nos. 28 and 30, intituled respectively, "An Act to give to valid mortgages of Sheep, Cattle and Horses priority for a limited period, according to the date of the Registration thereof, and for other purposes therein mentioned," and
"An Act to repeal an Act, intituled, 'An Act to give a preferable Lien on wool, and to make Mortgages of Sheep, Cattle and Horses valid without delivery to the Mortgagee,' and to substitute for a limited time other provisions in lieu thereof."

The latter Despatch transmits an Order of the Queen in Council, disallowing the Act of the Legislature of this Colony, 7 Victoria, No. 3, intituled, "An Act to give a preferable lien on Wool from Season to Season, and to make Mortgages of Sheep, Cattle and horses valid without delivery to the Mortgagee," and directs the promulgation of the said Order in Council in the usual and most authentic manner.

It is now my duty to point out to Your Lordship that, in proceeding to carry out the Instructions referred to, it was discovered that an informality had arisen in respect to the confirmation and allowance by Her Majesty of the Act or rather Bill, 9 Victoria, No. 30. This being a Bill reserved for the signature of Her Majesty's pleasure, it was necessary, under the 33d Clause of the Constitutional Act, 5 and 6 Victoria, Cap 76, that the Governor should signify by speech or Proclamation that the Bill had been laid before Her Majesty in Council, and that Her Majesty had been pleased to assent to the same. In the absence of any express intimation from Your Lordship's Predecessor that the Bill had been laid before Her Majesty in Council, it became necessary to consult the Crown Law Officers as to the proper course to be pursued in giving effect to the instructions contained in the Despatch referred to; and I now have the honor to enclose a Copy of their opinion recommending, for the reasons assigned by them, the adoption of one or other of the two following courses, namely, that the Governor should issue a Proclamation reciting that the Bill had been laid before the Queen in Council, it being necessary, to give perfect validity to the Act, that such fact should be signified in the Proclamation, Speech, or Message, or, should I feel a difficulty in proclaiming a fact not distinctly communicated to me, that I should declare in one of the prescribed modes that Her Majesty had been pleased to approve of the Bill, leaving it to the individuals affected by the Act to detect and take advantage of the want of exact conformity to the provisions of the Constitutional Act.

After much consideration, I declined acting on either of the Suggestions of the Crown Law Officers, as, notwithstanding the presumption in law that the necessary formalities had been observed unless the contrary were proved, I did not consider myself justified in asserting as a fact that which had not been expressly certified to me, and which, in the absence of such Certificate, I had such strong grounds for believing had been actually
1847.  
17 Feb.  

Suspension of 
publication of 
order-in council 
and pro-
clamation.  

New legislation 
proposed.  

Reasons for 
deviation from 
official 
instructions.  

omitted; nor could I consent to notify the Bill as approved by 
Her Majesty, as I might thereby induce parties, falsely relying 
on the validity of the Law, to enter into pecuniary engagements 
without that security which the law, if valid, was calculated 
to afford them.  

Under all the circumstances of the case, I have come to the 
conclusion that the best course I can adopt is to suspend for the 
present the publication of the Order in Council, disallowing the 
Act, 7 Victoria, No. 3, and the issue of any proclamation con-
firming the Bill, 9 Victoria, No. 30. In this way, the Law will 
remain as at present, until a new Bill can be passed by the 
Council and assented to by me on Her Majesty's behalf, to 
effect the objects contemplated by the reserved Bill, which has 
apparently been informally assented to by Her Majesty. So 
soon, however, as this has been done, I will lose no time in 
issuing the Proclamation and causing the other formalities neces-
sary to be observed for disallowing the Act above referred to, 
which would otherwise become a permanent one.  

In bringing this matter under your Lordship's consideration, 
I think it proper to state that I have reason to believe that great 
inconvenience would be experienced by persons engaged in pas-
toral pursuits, especially in the present depressed state of the 
Wool Market in England, if such, as can offer an adequate 
security by the Mortgage of their Stock or of their Clip of Wool, 
were deprived even temporarily of the necessary facility of 
raising funds for carrying on their legitimate operations; whilst 
I am also given to understand that great importance is attached 
by the Banking and Commercial interests to the existence of a 
valid law of the nature in question. I have, accordingly, after 
due consideration, deemed the exigency of the case to be sufficient 
to warrant the responsibility I have taken in deviating from the 
more strict official course, which I should otherwise have thought 
it my duty to pursue. I cannot, therefore, doubt but that your 
Lordship will consider that I have only exercised a sound dis-
cretion in thus virtually giving effect to Her Majesty's inten-
tions, rather than by implicitly obeying the Instructions which 
I received, have tendered to produce a contrary result.  

I have, &c.  

[Enclosure.]  

CHS. A. FITZ ROT.  

Opinion by Messrs. Plunkett and Manning.  

We are of opinion that the allowance of the Act of 9 Victoria 
No. 30, as notified in the Secretary of State's despatch would be 
sufficient, when proclaimed here, to render the Act valid: but we 
think that the terms of the proclamation should in strictness go 
further than those of the Despatch. Mr. Secretary Gladstone does 
not state as a fact that the Bill was laid before the Queen in
Fitz Roy to Grey.

Council; but, in order to give perfect validity to the Act, it is necessary that such fact should be signified in His Excellency's proclamation, Speech or message, a circumstance which undoubtedly creates a difficulty, which however we think may be removed by the following considerations. The maxim of law, "omnia præsuntur rete et Solemniter esse acta donec probetur in contrarium," is constantly and regularly applied to the Acts of official persons; and we think the presumption must be applied in law, and may most reasonably be so in fact, to the Act of Her Majesty in giving Her assent to the Bill and that of the Secretary of State in communicating it. It is not unimportant also to observe that, though an "order in Council" and a formal certificate under the hand and Seal of the Secretary of State are necessary for the disallowance of an Act, which has received the Royal Assent at the hands of the Governor, no such formalities are required for the Assent to a reserved Bill. In the latter case, the bill is transmitted to England for the purpose of being laid before Her Majesty in Council, and for the signification of Her Majesty's Assent, independently, as it would rather seem, of Her Privy Council. Her assent is signified through the proper official channel to the Governor, and no presumption is required except of the fact that the bill was laid before Her Majesty in Council in the regular and usual course and in accordance with the duty of the Secretary of State, who must be taken, in the absence of proof to the Contrary, to have acted Constitutionally.

Should His Excellency, however, not feel himself justified in proclaiming a fact not distinctly communicated to Himself by Mr. Gladstone, still it will be incumbent on him to declare in one of the prescribed modes the fact that Her Majesty has been pleased to approve of the Bill, and to signify such approval through one of the Principal Secretary's of State; and it will then be for individuals affected by the act to detect and take advantage of the want of exact conformity to the provisions of 5 and 6 Victoria, Cap. 76, Sect. 33. J. H. Plunkett, Attorney General. W. M. Manning, Sol. Genl.

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 40, per ship Sir Charles Seymour; acknowledged by earl Grey, 25th June, 1847.)

My Lord,

Government House, 18th February, 1847.

I have the honor to transmit to Your Lordship the copy of a Despatch which I have received from the Acting Superintendent of Port Phillip, covering the accompanying new Rules of Court promulgated by the Resident Judge of that District, to be forwarded to Your Lordship.

It appears that the practice, which was formerly customary of forwarding Copies of all Rules of Court to the Secretary of State, was discontinued in consequence of a correspondence on the subject between my Predecessor and Lord Stanley, and the intention of bringing these Rules under the control on revision of the Legislative Council.
1847.
18 Feb.

As however, as the Law now stands, the Rules of Court framed by the Judges are subject to be disallowed by Her Majesty, and the transmission of all Rules of Court is distinctly enjoined by the 24th Section of the Colonial Act, 4th Victoria, No. 22, I deem it my duty to follow this course with respect to those now transmitted.

At the same time, I have to state that the subject is under the consideration of a Committee of the Legislative Council, and it is understood that it will be revived during the ensuing Session, with a view to some Legislative proceedings thereon.

I have, &c.,

[Enclosure.]

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 41, per ship Sir George Seymour; acknowledged by Earl Grey, 28th July, 1847.)

My Lord,

Government House, 19th February, 1847.

I have the honor to bring under your Lordship's Notice an application, which has recently been received by the Principal Superintendent of Convicts under this Government from one of the Pentonville Exiles, who were landed at Port Phillip in March, 1845, praying, on behalf of himself and others similarly situated, to have conceded to them the benefit of the Regulations relating to the prospective and retrospective extension of the terms of Conditional Pardons, published in this Colony under the authority of Mr. Secretary Gladstone's Despatch, No. 21 of the 13th of May last.

It appears to me that, as these Exiles are all persons holding Conditional Pardons, they come expressly within the terms of Mr. Gladstone's Despatch, and that it was the evident intention of Her Majesty's Government that they should derive, equally with the other Prisoners of the Crown within the Colony, the advantage of the Regulations extending the terms of Conditional Pardons; but a doubt having arisen whether, as the Pardons of the Exiles were issued by Her Majesty, the Governor of this Colony has the power, under the Act of Parliament, 7th Victoria, Cap. 6, to grant the extension prayed for, I deemed it my duty to submit the question to the Law Officers of the Crown; and, as their opinion is "that the Governor of the Colony cannot interfere to enlarge a Pardon granted by Her Majesty." I consider it incumbent on me to bring the subject under your Lordship's consideration, in order that, if I am right in supposing
FITZ ROY TO GREY.

it to be the intention of Her Majesty's Government that the Exiles should receive an extension of their Conditional Pardons, the proper course may be adopted for giving effect to Her Majesty's commands, as conveyed in the Secretary of State's Despatch to which I have referred. I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

G. JENKINS TO .

Conditional Pardons.

Sir, Melbourne, 15th December, 1846.

Will you please to inform me how far the Advertisement herein, dated "Colonial Secretary's Office, Sydney, 2nd December, 1846," affects me, who was pardoned in England before I sailed "on condition that I quitted the United Kingdom and remained in the Australian Territories (whither I had been sent) during the remainder of my Sentence," I came direct from Pentonville Prison to this Colony (i.e. to Melbourne), and the Indent of Pardon was sent direct to His Honor C. J. La Trobe, Esqr., who granted me my Certificate of freedom. I arrived here in March, 1845, per Ship "Sir George Seymour." I wish very much to avail myself of this further indulgence of Her Majesty; but I cannot find out the way to set about it; some say you will grant the further Certificate, others that His Honor here will (They at the Treasury here do not yet interfere); will you please to instruct me if I should send my present Certificate of freedom to you to be renewed in pursuance of the Advertisement, and also what do you require me to do in order to comply with the advertisement and prove to your satisfaction that "I have not disqualified myself for receiving this indulgence by any colonial offence subsequent to the issue of my former Pardon."

I can refer to Mr. D. C. Erskine, D. Commissariat of this District, for a character, also to F. A. Powlett, Esqr., Crown Land Commissioner or rather to the Crown Land Office, for Mr. Powlett is just gone to England on leave for two Years. I can also give other references of the highest respectability in this District, if necessary.

I beg to tender my most humble request that you will pardon my thus trespassing on you; but, as the answer given to me will be a guide to many others similarly situated, I trust you will pardon me, and answer to this directed to me care of Messrs. "McCrae and Barber, Solicitors, Melbourne, Port Phillip," will greatly oblige,

Your obedient humble Servant,

GEOBGE JENKINS.

[Enclosure No. 2.]

G. JENKINS TO CAPTAIN MCLEAN.

Sir,

In reply to your communication to me of the 15th instant Certificate of relative to my Pardon, and asking for an attested Copy, I have come to the conclusion of sending you the original Certificate, as, if it is not in your province to extend it, that communication will have to be made to me through your Office and it will be very little trouble to enclose it back. I beg to say that I know all the books and Indent, etc., is at the Treasury here, and came direct from
1847. 19 Feb.

London here. You will see my Pardon is dated in October, 1844, that was before I left England, as I did not sail from England until the 21st November, 1844.

I beg most sincerely to thank you for your prompt and kind attention to my letter.

Whatever fees may be payable I shall be very glad to pay. I have no friend in Sydney but I will through some source or other pay them, with the utmost respect.

I am, &c.,

Melbourne, 22 Jany., 1847.

GEORGE JENKINS.

My address is—care of Messrs. McCrae and Barber, Solicitors, Melbourne, Port Phillip.

[Enclosure No. 3.]

CERTIFICATE NO. 109.

I HEREBY certify that George Jenkins, convicted at York, 4th March, 1843, and sentenced to transportation, is included in a general warrant of pardon under Her Majesty's sign Manual, dated the 10th October, 1844, wherein it is set forth that, in consideration of some circumstances humbly represented to Her Majesty, Her Majesty has been graciously pleased to extend Her Grace and Mercy to him and others, and to grant him Her Pardon for the crime for which he stands convicted, on condition that he do remove himself from the United Kingdom, and, after his arrival in the Australian Colonies, continue therein (whither he has been sent in pursuance of his Sentence) for and during the remaining term of such sentence.

It is further certified that it is Her Majesty's will and pleasure that the Pardon thus graciously bestowed on George Jenkins shall have the effect of a Free Pardon within the said Territories.

Given under my Hand, this sixteenth day of April, One Thousand, Eight hundred and Forty five.  C. J. LATROBE.

Superintendent's Office, Melbourne, Port Phillip.

[Enclosure No. 4.]

MR. G. C. TURNER TO COLONIAL SECRETARY THOMSON.

Civil Crown Solicitor's Office,

Sir,

Sydney, 15th February, 1847.

Referring to yours of the 10th instant, informing me that an application has been made to this Government by the Pentonville Exile named in the margin,* to have conceded to him the benefit of the Regulation, published on the 2nd December last, relative to the extension of the terms of Conditional Pardons now in existence, and further remarking that these Exiles are all persons holding Conditional Pardons, that they therefore come expressly within the terms of Mr. Secretary Gladstone's Despatch of the 13th May last, which directs the extension of the Conditions of these pardons, and at the same time gives a retrospective effect to the arrangement; and, as the Pardons to the Exiles were issued by Her Majesty, the Question arises whether His Excellency the Governor has any power to grant the extension, under the Act of Parliament. 7 Vic, c. 6, And requesting me to obtain the opinion of the Crown Law Officers, as to the proper course to be adopted for giving effect to Her Majesty's gracious intentions.

* Marginal note.—George Jenkins.
I have the honor to state for the information of His Excellency the Governor that I submitted a Case for the opinion of the Solicitor General and that officer makes the following remarks thereon:

"It appears to me that the Governor of the Colony cannot interfere to enlarge a Pardon granted by Her Majesty, and that the Despatch of Mr. Secretary Gladstone must be taken to have reference to such Convicts as were originally transported to this Colony and who obtained their original pardon from Her Majesty's representative for this particular Territory."

I have, &c.,
G. Cooper Turner,
Civil Crown Solicitor.

[Enclosure No. 4.]

CAPTAIN MCLeAN TO COLONIAL SECRETARY THOMSON.
Principal Superintendent of Convicts Office,
Sydney, 4th February, 1847.

I have the honor to transmit for the information and commands of His Excellency the Governor, the accompanying applications from the Man named in the margin* (one of the Pentonville Exiles) praying that the Pardon granted to him, of which the enclosed Certificate of the Superintendent of Port Phillip sets forth the Condition, may be extended in a similar manner as those granted to Persons transported to this Colony are under the Regulations recently promulgated; and, as I have been informed that the Pardons of some of the Pentonville Exiles, who arrived at a different period in the Colony, are in an extended form, of which I was not aware when I communicated verbally with the Governor on the case of Jenkins, I now beg to request that I may be favored with His Excellency's further instructions respecting the extensions prayed for by this Man.

I have, &c.,
J. McLean.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 96, per ship Beulah.)

Sir,
Downing Street, 20 February, 1847.

I have received your Dispatch and its enclosures, No. 8 of the 31st of August last, wherein, with reference to a charge which had been brought against an Officer of the American Whaler "Ocean" for having assaulted one of the Crew of that Vessel, while lying in Port Jackson, the question is raised as to the right of local Magistrates to exercise their authority in respect of Offences Committed between Master and Seamen of American Vessels, while living in a British Port.

Having referred these papers to Her Majesty's Secretary of State for Foreign affairs, Viscount Palmerston has informed me that the Queen's Advocate, whom he consulted on the subject, considers that the view taken by the Attorney and Solicitor General of New South Wales, in regard to the question at issue, is perfectly correct, and that the local Magistrates have an

*Marginal note.—George Jenkins.
undoubted right to adjudicate upon all Crimes and Offences committed by the Masters or Seamen of Foreign Vessels lying in a British Port.

I have to add that in this opinion Viscount Palmerston has stated that he entirely concurs.

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 42, per ship Sir George Seymour.)

My Lord,

Government House, 20th February, 1847.

With reference to my Despatch No. 26 of the 30th of last month, transmitting a portion of the Returns relating to Land and Emigration required by Lord Stanley's Circular Despatch of 22nd March, 1845, I now do myself the honor to enclose the following Returns, furnished by the Agent for Emigration, for the District of Port Phillip, namely, No. 5, Return of Emigrants who have arrived in the District of Port Phillip, during the year ending 31st December, 1846.

No. 6. Return of Persons employed in Emigration Service and expences of Establishment at different Ports in the District of Port Phillip, during the year ending 31st December, 1846.

I have also the honor to enclose Returns in the same forms for the two Districts of Sydney and Port Phillip combined, which have been prepared by the Agent for Emigration in case your Lordship should desire to receive the information in that shape rather than in separate documents.

CHS. A. FITZ ROY.

[Enclosures.]

Copies of these returns will be found in a volume in series III.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 44, per ship Sir George Seymour.)

My Lord,

Government House, 22nd February, 1847.

I have the honor to report to Your Lordship that, on the application of Mr. Cecil Byron, Coast Waiter at Geelong, Port Phillip, I granted in Council, on the 17th instant, Leave of Absence for Eighteen months to that Officer to enable him to proceed to England for the settlement of some urgent private affairs.

The Acting Collector of Customs at Melbourne has nominated Mr. Frederick John Byerly to perform the duties of Coast Waiter, and this arrangement has been sanctioned by me.

I have, &c.,

CHS. A. FITZ ROY.
FITZ ROY TO GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 47, per ship Sir George Seymour; acknowledged by Earl Grey, 25th June, 1847.)

My Lord,

Government House, 24th February, 1847.

With reference to my Despatch, No. 9 of the 9th ultimo, Petitions transmitted.

I have the honor to forward herewith Memorials addressed to the Queen and to the two Houses of Parliament by certain of the Inhabitants of the District of Dungog in this Colony, praying that the Transportation of Criminals to New South Wales may not be renewed.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

PETITION to Her Most Excellent Majesty Victoria, by the Grace of God of Great Britain and Ireland, Queen, Defender of the Faith, etc., etc., etc.

Most Gracious Sovereign,

We, the undersigned free inhabitants of the District of Dungog, in the Colony of New South Wales, in humbly addressing Your Majesty, beg to express our loyal attachment to Your Majesty's person and Government, and our reliance on Your Majesty's desire to promote the interests of Your Subjects in this Colony.

We most respectfully address Your Majesty, with regard to a proposition recently made for the renewal of transportation to this Colony, and, in doing so, beg to state:

That it is with deep regret, we learn that Your Majesty's Secretary of State for the Colonies has proposed a renewal of transportation to this Colony, as Your Majesty's petitioners are of opinion that such a step would be most detrimental to the interests of those Colonists, who have determined on making this Colony their home.

That, since the cessation of transportation (about six years ago), the progress of the Colonists, in all that respects their highest interests, has been most satisfactory, and that all odious distinctions are now happily vanishing from Colonial Society, leading to the most happy results; and that the renewal of the System, against which your petitioners so loudly and earnestly lift their voices, can only be palatable to a few mercenary Colonists, whose individual aggrandizement (at the expense of Morality and everything sacred) seems the principal object of their temporary Sojourn in the Colony.

That Your Majesty's petitioners admit the great scarcity of labour in this Colony at the present time, but that the reduction in the price of Crown Lands would remedy this is obvious.

That Your Majesty's Petitioners, so far from agreeing with the recommendation made by the Committee of the Legislative Council, are strongly opposed to the renewal of transportation to this Colony on any terms.
1847.
24 Feb.

Petition from residents in district of Dungog against revival of transportation.

Because they feel convinced from bitter experience that transportation in any form would be generally and permanently injurious to the highest interests of the Colonists, and that it would weaken the Security of Life and property; and

Because they are strongly opposed to their Country being degraded from a free to a Penal Colony.

That your Majesty's petitioners therefore most humbly and earnestly implore Your Majesty to withhold your sanction to the renewal on any terms of transportation to New South Wales.

And Your Majesty's petitioners will, as in duty bound, ever pray,

[Here follow 307 signatures.]

Dungog, N.S.W., December, 1846.

[The petitions to houses of parliament were similar.]

[Enclosure No. 2.]

MR. E. M. MCKINLAY AND OTHERS TO PRIVATE SECRETARY FITZ ROY.

Sir, Dungog, 3rd February, 1847.

At a Public Meeting held here on the 23 November last, on the subject of the renewal of Transportation to this Colony, the accompanying petitions to the Queen, the House of Lords, and the House of Commons were adopted, and we (having been appointed a Committee for the purpose of carrying out the object of the meeting referred to) have the honor most respectfully to request that His Excellency the Governor will be pleased to transmit the same through the usual channel, forwarding that for the House of Lords to Lord Grey, Secretary of State for Colonial Affairs; and that for the House of Commons to the Honorable William Ewart, Esq., Member for Roxborough.

We trust that we may be excused by His Excellency if our transmitting these petitions to His Excellency is an irregular proceeding, as we are not aware in what other way they should be forwarded to the Mother Country.

We have, &c.,

ELLAR M. MCKINLAY. H. E. SHANKLIN.
T. W. PERRY. THOMAS ABBOTT.
THO. HANNA.

EARL GREY TO SIR CHARLES FITZ ROY.

I have received Your Predecessor's Dispatch, No. 98 of the 19th of May last, relative to the Construction of Railways in New South Wales, in which you enquire how far Her M.'s Government might be disposed to encourage such undertakings, especially with reference to the grant or purchase of the Land belonging to the Crown over which it might be necessary to carry Railways.

(Despatch No. 98, per ship Beulah; acknowledged by Sir Charles Fitz Roy, 20th January, 1848.)
I have communicated fully on the subject with the Colonial Land Commissioners, and I transmit, for your information, a copy of a Report which I have received from that Board, and which enters into the various points involved in the consideration of the question.

I am fully sensible of the very great advantage which would result from the construction of Railroads in the Australian Colonies, and I am of opinion that, in order to obtain this advantage at an earlier period than would otherwise be possible, it might be greatly for the public interest to encourage the promoters of such undertakings by allowing them to share in the increased value, which would be given to Lands through which the Lines would pass.

I consider it to be very possible that a well considered arrangement of this sort might render the construction of a Railway a remunerative undertaking, even when the Traffic, of which there is an immediate prospect, would not be sufficient to make it so, and this not only without loss, but with positive advantage to the Public.

I am aware that, for the purpose of enabling the Government to grant such advantages, an alteration will be necessary in the present Land Sales Act of the Imperial Parliament. I shall, therefore, be prepared to propose such an alteration, whenever I am informed that, by so doing, I may enable the projectors of any well matured plan of this description to carry it into effect.

I have, &c,

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY

Stephen.

Colonial Land and Emigration office,

Sir, 3rd February, 1847.

With reference to your letter of the 10th of October, accompanied by a Despatch No. 98, 19th May, 1846, from the Governor of New South Wales, on the subject of the formation of Railways in that Colony, we have the honor to state that we lost no time in taking this subject into consideration; but that our Official Report has been suspended by reasons which are within Lord Grey's knowledge.

The Session of Parliament, however, having now arrived, it becomes necessary to advert to the more immediate practical question which the Governor's Despatch raises, viz., whether a Bill should be brought in to amend the Land Sales Act so as to admit of disposing of Lands for Railways at a minimum price of £1.

The formation of Railroads must be so important to the welfare of the Colony, and likewise so conducive to the value of Crown Lands, that we feel little doubt that Lord Grey will be favorably disposed to the principle of this proposal. But whether or not a
Bill should be introduced immediately for the purpose, and exclusive of any other amendments that time may shew to be requisite in the same Statute, would appear to depend partly on general views of Parliamentary Business, which lie beyond our knowledge, and partly on the probability that any scheme of a Railway in New South Wales will soon be brought to maturity, which in its present state of the money market in England is not, we presume, very likely; leaving, however, for the consideration of higher authority the question of the time when such a Bill, if approved, should be brought forward, we will proceed to the conditions on which we apprehend that it should be framed.

The proposed maximum allowance for constructing the Line of 50 acres to the Square Mile would give an average breadth of about 130 yards. This, we understand, would be a large average, and more than could be required, except in hilly Countries; but, considering that the Governor is merely to have power to give a quantity "not exceeding" that rate, we see no reason to object to the proposal.

With respect to Stations, we infer from inquiries, which we made at the Railway Department, that an allowance at the rate of an acre and a half, or at most two acres for each mile of the Railway, would be ample for the mere Station Houses and Buildings connected with them, and in fact, therefore, that this object might be deemed to be included in so liberal an allowance as that above described for the formation of the Road.

But, from Interviews which we have had with Sir George Gipps, since his return to this Country, we apprehend that his object, in recommending the large quantity of 640 acres for each Station, was to encourage the enterprise of Companies by the prospect of benefitting by the increased value which they might bestow on Lands at important Stations along their Line.

We readily admit that in a new Country, where a direct gain from Traffic must at first be very uncertain and limited, it may be desirable to give some additional encouragement of the above description. And admitting the principle, we think its application might be carried somewhat further. Instead of 640 acres to every 20 miles, we should have no objection to allowing 1,000 acres to that distance, which would be at the rate of 50 acres to each mile. We would prefer this course to fixing some quantity of land, which might be taken at intervals of 20 miles, but none between. It might put both the Company and the public to very unnecessary inconvenience thus to discourage intermediate Stations, and we do not see what would be the countervailing advantage. Within one distance of 20 miles, there might be 3 or 4 places very well adapted for building and improvements, and then might succeed a tract of 40 or 50 miles affording no inducements whatever to that object. It appears to us, therefore, that much the best Plan is to fix the maximum quantity of Land which the Company may receive for these purposes, in proportion to the whole length of its Line, and to leave all the rest to be settled by considerations of Local convenience.

We think that 50 acres to each mile (which would amount to 1,000 acres for every 20 miles) might well be allowed to be conceded, as an encouragement to improvements by the Company.

If the foregoing views be approved, the Governor could be empowered to sell to every duly constituted Railway Company, at a
fixed price of £1 per acre, or as much more as he may think fit in each case, any quantity of land not exceeding 50 acres to each mile of the Line, for the purpose of constructing the Road and ordinary Stations; and further to sell at a fixed price of £1 per acre any additional quantity of Land that he may deem proper, adjacent to or in the neighbourhood of the Railway, not exceeding the rate of 50 acres to each mile of the Line, to become the Property of the Company for general purposes.

In conclusion, we have merely to recommend that for his guidance in any other practical questions which may arise, the Governor be referred to Mr. Secretary Gladstone's Circular Despatch of the 13th of January, 1846, which contains a valuable series of suggestions founded on the experience of England on this subject.

We have, &c,

T. FREDEK. ELLIOT.
FREDK. ROGERS.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 96, per ship Beulah.)

Sir,
Downing Street, 27th February, 1847.

I transmit to you, herewith, for your information and guidance copies of a Correspondence which has taken place between this Department and the Society for the Propagation of the Gospel, in consequence of an application on their part for additional Clergymen of the Church of England to the Ecclesiastical Establishment of New South Wales.

Having thought it right to consult Sir G. Gipps as to the propriety of complying with that request, I likewise enclose copies of the communications, which have passed with him on the subject; the result of which is that Mr. F. C. Russell, the Gentleman recommended by the Society, will proceed to New South Wales on the understanding that he is not appointed by Her Majesty's Government to a Chaplaincy or any other Benefice in the Colony, but that he is simply sent out to be disposed of by The Bishop of Australia under the Colonial Church Act.

The usual allowance for Passage and Outfit, amounting to £150, will be paid to Mr. Russell on this occasion, and this will be charged upon the Fund provided for Public Worship by Schedule C of the 5th and 6th Vict., Cap. 76, on which Fund I observe there was in March last an unexpended Balance of £6,389. In deference, however, to Sir Geo. Gipps' further suggestion in the matter, and for the reasons assigned by him in his Letter of the 19th Instant, I have required that, if Mr. Russell be not ordained before he leaves this Country, he shall give a promissory Note for the repayment of the money, in the event of his failing to be ordained within a reasonable time after his arrival in the Colony.

I have, &c,
GREY.
[Enclosure No. 1.]

REVD. G. H. FAGAN TO UNDER SECRETARY HAWES.

Sir,

79 Pall Mall, 30th Octr., 1846.

I am desired by the Society for the Propagation of the Gospel to request you to inform Earl Grey that the Society has had the most satisfactory grounds for determining to recommend Mr. Francis T. Cusack Russell, B.A., of Trinity College, Dublin, as a Candidate for Ordination by The Lord Bishop of Australia.

As Mr. Russell will be nominated by The Bishop of Australia on his Ordination to one out of several Colonial Chaplaincies in New South Wales, which are now vacant, the Society trusts that Earl Grey will permit Mr. Russell to draw the usual allowance of £150 granted to those who leave this Country to occupy Colonial Chaplaincies in Australia.

G. H. FAGAN.

[Enclosure No. 2.]

UNDER SECRETARY HAWES TO REVD. G. H. FAGAN.

Sir,

Downing Street, 9th November, 1846.

I am directed by Earl Grey to acknowledge the receipt of Your Letter of the 30th Ultimo, in which you request that the usual Passage Allowance of £150 may be issued to Mr. Francis Russell, who is recommended by the Society for the Propagation of the Gospel as a Candidate for Ordination by The Bishop of Australia, and for an appointment to one out of several Colonial Chaplaincies in New South Wales, which you state to be now vacant.

In reply, I am directed by Lord Grey to inform you that he has not been made aware of any vacancy amongst the Colonial Chaplains in New South Wales, and I am to request that you would have the goodness to explain the grounds on which you state there are several Chaplaincies in that Colony to be filled up.

Benjn. Hawes.

[Enclosure No. 3.]

REVD. G. H. FAGAN TO UNDER SECRETARY HAWES.


In reply to Your Letter of the 9th Instant, I am desired to request that you will inform Earl Grey that the Society has been frequently solicited by The Bishop of Australia to procure the services of additional Clergymen for his Diocese, as, from want of Clergymen, he was unable to open Chaplaincies in places where the means would have been readily supplied by the Members of the Church, according to the terms of the Colonial Act.

In a letter dated Febry. 3d, 1840, his Lordship further states, "at this time, there are certainly two if not three cases, where the stipend has been assigned, but I can make no appointment in consequence of there not being Clergymen here on whom I can confer them."

It was under these circumstances that I was desired to request that the usual Passage Money of £150 might be granted to Mr. F. T. Russell, who has been distinctly informed that the Society can give him no further guarantee that he will be appointed to a
Chaplaincy than that which is founded on The Bishop of Australia's Statements; and on which, from its knowledge of the deficiency of suitable Candidates for Ordination in the Colony, the Society is persuaded Mr. Russell may depend.

I have the honor to enclose an extract from a recent communication of The Bishop of Australia, which refers to the urgent need which exists for additional Clergy in that Diocese.

I have, &c,

G. H. FAGAN.

[Enclosure No. 4.]

EXTRACT from a Report of a visitation Tour by the Bishop of Australia in 1845.

"The Church of St. Thomas, on the North Shore of Port Jackson, remains unconsecrated for a different reason; that is, my inability to provide a Clergyman to discharge its Ministry. The mention of this fact leads me to beg the Society's consideration of the destitute condition to which I am reduced by the want of additional Clergymen, and the deplorable consequences which must arise unless that want can be by some means speedily removed.

"In December, 1844, I admitted to Deacon's Orders Mr. Thomas Horton and Mr. F. C. Adams, but since that time no suitable Candidates for admission have been presented. During the same interval, the Diocese has lost the services of several others; others are at this time completely or partially disabled by sickness; and, in the event of any other casualties diminishing our remaining numbers, it would not be in my power to provide for the Ecclesiastical Services of the Diocese, or to keep open the several Churches, much less to occupy the additional ones, of the actual erection of some of which and of the still further proposed augmentation of their numbers, I have now transmitted a statement."

[Enclosure No. 5.]

UNDER SECRETARY HAWES TO REV. G. H. FAGAN.

Sir,

Downing Street, 30th November, 1846.

I have laid before Earl Grey your Letter of the 17th Instant with its enclosure from The Bishop of Australia, relative to the appointment of additional Clergymen of the Church of England to the Ecclesiastical Establishment of New South Wales.

I am directed to request that you will acquaint the Society for the Propagation of the Gospel that his Lordship has received no communication on the subject from The Governor of New South Wales, and that, on the arrival in this Country of Sir George Gipps, which is looked for in the course of the ensuing Month, Lord Grey will take an early opportunity of communicating with him on the subject.

I am, &c,

BENJN. HAWES.

[Enclosure No. 6.]

SIR GEORGE GIPPS TO UNDER SECRETARY HAWES.

Sir,

White Friars, Canterbury, 31st Jan., 1847.

I have had the honor to receive Your Letter of the 28th Inst., Letter enclosing copies of a Correspondence with the Secretary to the Society for the propagation of the Gospel relative to the appointment of some additional Clergymen of the Church of England to the
Conditional approval by Sir G. Gipps of application re F. C. Russell.

Ecclesiastical Establishment of New South Wales, and requesting by desire of Lord Grey to be informed how far it may in my opinion be desirable to comply with the application of the Society for additional Clergymen; and, in reply, I have the honor to state that it will in my opinion be desirable to comply with the application made by the Society in favor of Mr. F. C. Russell, it being however clearly understood that Mr. Russell is not appointed by H.M.'s Government to a Chaplaincy or any other Benefice in New South Wales, but is simply sent out (as all Clergymen have been of late years) to be disposed of by the Bishop of Australia under the Colonial Church Act.

It will, I have no doubt, be in the power of the Bishop to appoint Mr. Russell to some Ecclesiastical duty, and to provide him a Salary under the Church Act immediately on his admitting him to orders; but, should even the contrary prove to be the case, it will not be against the Government that Mr. Russell will have any just cause of complaint.

The Sum of £150 for Outfit and Passage will I presume in the present, as in former cases, be paid out of the Funds applicable to Emigration, and not of any Funds belonging to, or under the control of the Local Authorities.

I have, &c.,

GEO. GIPPS.

[Enclosure No. 7.]

UNDER SECRETARY HAWES TO SIR GEORGE GIPPS.

Sir, Downing Street, 17 Feb., 1847.

With reference to the last paragraph of your letter to me of the 31st Ulto., respecting the proposed payment of a passage Allowance of £150 to Mr. Francis Russell, who has been recommended by the Society for the Propagation of the Gospel as a Candidate for Ordination by the Bishop of Australia, Lord Grey desires me to remark that there are at present no funds in hand applicable to Emigration, and that there is no objection which ought to prevent that use being made of it, by an order to be issued by Her Majesty's Government for the purpose.

I have, &c.,

B. HAWES.

[Enclosure No. 8.]

SIR GEORGE GIPPS TO UNDER SECRETARY HAWES.

Sir, Canterbury, 19 Feb., 1847.

I have had the honor to receive your Letter of the 17th instant remarking to me by desire of Lord Grey that there are at present no funds in hand applicable to Emigration, and requesting that I will consequently express my opinion, whether the sum of £150, which in the concluding paragraph of my Letter of the 31st January last I recommended should be paid to Mr. F. C. Russell as an Allowance for outfit and passage money to Australia, might not be paid out of the Fund provided for "public Worship" by
Schedule C of the 5th and 6th Vict., Ch. 76, on which Fund there appeared to be in March last an unexpended Balance of £6,369. In answer to the reference thus made to me, I think it right to observe that the sum mentioned was the whole unexpended Balance on Schedule C, and that of it a portion only belonged to the Church of England; but that nevertheless, considering the care with which the expenditure of the Fund called Schedule C is ever watched in the Colony, I feel fully satisfied that the portion of the surplus appertaining of right to the Church of England must be amply sufficient to bear the proposed charge; and, in respect to the propriety or expediency of making the proposed outfit or passage money a charge on Schedule C, instead of one on Emigration, I beg to report that my only doubt of its being both expedient and proper arises out of the circumstance that Mr. Russell is not actually a Clergyman, but only a Candidate for Orders; though very improbable, it is still possible that he may on his arrival in New South Wales decline ordination, and it is also possible that after examination the Bishop may decline to ordain him; for these considerations, and for more abundant caution, I think it right to suggest that Mr. Russell should be ordained before he leaves England, though at the same time I cannot in any way doubt the power of the Secretary of State legally to order the payment of outfit and passage money to be made to him, whilst only a Candidate for Orders.

As bearing on this subject, I beg leave to refer to my Despatch No. 153 of the 15th September, 1845, wherein I recommended that outfit and passage money should be paid to Six Roman Catholic Clergymen out of Schedule C; and I further think it right to remark that two Roman Catholic Gentlemen, who were Candidates for Orders only (Mr. Gould and Mr. Farrelly), were Passengers with myself in the Ship "Upton Castle," which sailed from Plymouth for Sydney, on the 16th October, 1837; and that both these Gentlemen received an allowance for outfit and passage money, though not (as far as I recollect) the full sum of £150 each. In the same Ship was a third Roman Catholic Gentleman; but he was a Clergyman in full orders, The Revd. Mr. Brady.

I have, &c.,
Geo. Gipps.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 101, per ship Beulah.)

Sir,
Downing Street, 27th February, 1847.

I transmit to you herewith a Copy of a Correspondence, which has been recently laid before Parliament on the subject of Convict Discipline and Transportation; from which you will perceive that it is the intention of Her Majesty's Government forthwith to break up the Convict Establishment at Norfolk Island. I think it of importance to call your attention to the fact, in order that you may be aware that Norfolk Island will be no longer available for the reception of Convicts from New South Wales.

I need hardly observe that Convicts from New South Wales cannot be sent for punishment to Van Diemen's Land; it will,
Necessity for punishment of criminals within colony. Therefore be necessary that effective means should be adopted for the punishment, within the Colony, of the Criminals who, according to the practice which has hitherto prevailed in New South Wales, would have been sentenced to Transportation. You will take the earliest opportunity of calling the attention of the Legislative Council to this important subject, and in doing so you will recommend to their notice the views with respect to the punishment of Criminals, which have been adopted by Her Majesty's Government, and which you will find fully explained in my Instructions to Sir W. Denison on his assumption to the Government of Van Diemen's Land; and in a letter addressed to me by The Secretary of State for The Home Department, both of which are included in the correspondence now transmitted to you.

I have, &c.,

GREY.

[Enclosure.]

[This was the folio volume of two hundred pages, entitled “Correspondence on the subject of Convict Discipline and Transportation,” which was presented to the British parliament on the 16th of February, 1847.]

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 50, per ship Sir George Seymour; acknowledged by earl Grey, 10th July, 1847.)

My Lord,

Government House, 27th February, 1847.

With reference to Mr. Secretary Gladstone's Despatch, No. 43 of the 16th of June last, in reply to my Predecessor's Despatch, No. 15 of the 20th of January previous, reporting on the state of the Botanical Gardens in Sydney, I have now the honor to inform Your Lordship that, having in compliance with Mr. Gladstone's instructions brought the subject before my Executive Council with the view of obtaining their opinion as to how far it might be practicable to restore the scientific character of this Establishment without a sacrifice of the purposes of recreation to which it is at present appropriated, a Minute was adopted, of which I annex a Copy, from which your Lordship will perceive that the Salary of Two hundred pounds per annum for a superintendent was voted by the Legislative Council, in expectation that a scientific person would be sent from England to fill the situation. At the same time, I beg to state that, should your Lordship not have any particular person in view whom you may desire to appoint to it, I believe a competent person may be found in this Colony.

I have, &c.,

CHS. A. FITZ ROY.
PROCEEDINGS of the Executive Council on the 2nd January, 1847, relative to a Despatch from the Right Honorable the Secretary of State, respecting the restoration of its scientific character to the Botanical Garden at Sydney.

Extract from Minute No. 47/1, dated 2nd January, 1847, and confirmed by the Council on the 28th January, 1847.

His Excellency the Governor having laid before the Council Mr. Secretary Gladstone's Despatch of the 16th June, 1846, respecting the Botanical Garden at Sydney, the Council begged to submit the following Report:—

The Council have had under their consideration the Despatch of the 16th June, 1846, No. 43, in which the Right Honorable the Secretary of State expresses regret at having learned from a Report of Sir George Gipps that the Botanical Garden at Sydney had lost the scientific character, which it originally had; and requests His Excellency the Governor to bring the subject before the Executive Council, and to obtain from them a Report how far in their opinion it might be practicable to restore that character to the institution without a sacrifice of the purposes of recreation, to which it appears to have been of late wholly devoted.

Having directed their attention to the matters thus brought before them, the Council have to report that they see no reason to think that the use of the Botanical Garden as a place of recreation would be in any degree interfered with by the restoration of its Scientific character, Nor do they perceive that anything more is wanting to effect this desirable object than the appointment of a Scientific person to the charge of the institution.

The Council feel themselves justified in assuring the Right Honorable the Secretary of State that he has rightly understood the intention with which the Salary of the Superintendent of the Garden was raised by the Legislative Council in 1845 to its former amount of £200 per annum. This increase was certainly voted in the expectation of a Scientific person being sent from England to fill the situation. The Council, therefore, beg to express their hope that, on the receipt of this Report, the Secretary of State will appoint to the office a person possessed of the desired qualifications.

Francis L. S. Merewether, Clerk of the Council.

Executive Council Office, 2nd January, 1847, No. 47/1.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 51, per ship Sir George Seymour; acknowledged by Earl Grey, 8th October, 1847.)

My Lord, Government House, 27th February, 1847.

I have the honor to enclose herewith a Memorial, addressed to your Lordship by certain Ministers and other Members of the Wesleyan Church in this Colony, praying, for the reasons therein set forth, that Your Lordship will instruct the Governor of New South Wales to revise the Colonial Ecclesiastical arrangements and to adopt as the basis of financial distribution among the
several religious communions in the Colony, from time to time, the Returns of the Census last taken.

I also have the honor to enclose a copy of the letter from the Reverend William B. Boyce, Chairman of the Wesleyan Church in these Colonies, forwarding the Memorial for transmission to your Lordship.

In order that your Lordship may be made aware of the circumstances out of which this Memorial has arisen, I further enclose a Copy of a letter addressed to the Colonial Secretary of this Government by the Revd. Mr. Boyce, in reply to the communication made to him of Her Majesty's Instructions respecting the distribution of the £30,000 reserved to Her Majesty by Schedule C of the Act 5th and 6th Victoria, Cap. 76, for the purposes of public Worship, together with a Copy of the Answer, which, with the advice of my Executive Council, I caused to be returned to Mr. Boyce.

It is scarcely necessary that I should point out to Your Lordship that, even if it had been considered expedient to have acceded to the principle contended for by Mr. Boyce, it was not of course competent to the local Government, as he assumes to be the case, to set aside Her Majesty's Instructions, which adopt, for the present at least as the basis of financial distribution amongst the various denominations, the proportions shewn by the Census Tables of 1841.

In the Memorial now forwarded to Your Lordship, it is assumed, apparently because it suits the arguments of the Memorialists, that the Census Tables of 1841 are very incorrect, but that those of 1846 are perfectly accurate. The incorrectness of the former Tables is attempted to be accounted for by the allegation that, having been the first census in which the different Protestant denominations were distinguished from each other, a large number returned themselves simply as Protestants, and thus served to swell the number of the Church of England. So far as I can learn, there is not the slightest ground for supposing that the Census of 1841 was in any way less correct than that of 1846. Its general correctness received a remarkable corroboration from the fact that the general total of the number of the Population shown by it, corresponded within one per cent. with that deduced from the annual compilations made in the Colonial Secretary's Office from the Census of 1836, and the Returns of births, arrivals, deaths and departures from the Colony in the intervening period. If, therefore, the Census of 1841 was thus satisfactorily proved to be correct in its general results, there can be no reasonable ground for assuming that it was incorrect in its details.
It is fully admitted that the proportion of the Wesleyan Denomination has greatly changed in the period between the Census of 1841 and that of 1846; but this may be accounted for upon totally different grounds from those assumed by the Memorialists, who seem to have forgotten that, in a new Country to which Emigrants are brought, and occasionally in very large numbers, the excess in the arrival of persons belonging to any one denomination will of course disturb the proportion it previously bore to the others; and this is certainly an argument in favor of the pecuniary distribution among the different denominations being subject to vary according to the proportion shown by the Tables of the last Census taken. When the sum to be distributed, however, is a fixed one, there can be no doubt that much inconvenience would arise from the frequent changes which would then become necessary in the extent of the Establishment to be maintained by each denomination. It would, of course, be impossible to guarantee to Clergymen the receipt of their Stipends beyond the period intervening between each Census. Congregations would thus be liable to be deprived of the services of a Clergyman at the end of every five years. There is also this great objection to a mutable scale of distribution, namely, that it would hold out great temptation to the several denominations to endeavour to swell the Lists of their adherents, in order to obtain for them the largest possible contribution. This is, in fact, asserted to have taken place during the recent Census, but not on such authority as would enable me to rely implicitly on the truth of the statement.

Having thus pointed out to Your Lordship the inconvenience which would probably arise from adopting the rule of distribution contended for by the Wesleyans, I must nevertheless freely admit that, upon general principles, I am favorable in a community, composed as this is of many denominations, of whom no one possesses any very large excess above the others, to an equable appropriation amongst them of the pecuniary assistance afforded by the Government for the purposes of public Worship. This is a principle to which great importance is attached by the Colonists generally; and it is obvious that it cannot be completely carried out, unless the amount of contribution be liable to vary from time to time with the varying proportions of the different denominations. But, as already explained, there are very serious if not insuperable impediments to the successful working of such a system. Whilst the sum applicable to the purpose remains stationary, the number belonging to each denomination will rapidly increase. The effect would be, in some instances at least, that, just at the time when the increased numbers of a particular
Proposal for supplementary vote by legislative council for public worship.

General approval of system of distribution.

Memorial from Wesleyan Methodists re distribution of appropriation for public worship.

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Denomination required an increased provision for spiritual care and assistance, it would be called upon to surrender a portion of that which was already too slender for the purpose required. I confess that, after much consideration, I see no effective means of meeting all the difficulties of the case, unless the Legislature will consent, from time to time, to Vote, by way of Supplement to Schedule C, any addition necessary to cover the excess on applications made to the Local Government for pecuniary aid by the different denominations, in conformity with the provisions of the Local Church Act, 7 William IV, No. 3, beyond the sums appropriated to each under the Royal Instructions.

I have much satisfaction in being able to add that, so far as has come under my observation, the announcement of the distribution sanctioned by the Royal Instructions has met with the general concurrence and approval of all the denominations with the exception of the Wesleyans, whose remonstrance I now forward to Your Lordship.

I have, &c.

CHS. A. FITZ ROY.

[Enclosure No. 1.]

The Memorial of the undersigned Ministers and others connected with the Wesleyan Methodist Church in New South Wales

To the Right Honorable Earl Grey. Her Majesty's Principal Secretary of State for the Colonies.

Respectfully Sheweth,

1. That, by an Act of the Governor and Council of New South Wales, 7 William IV. No. 3, 29th July, 1836, entitled "An Act to promote the Building of Churches and Chapels, etc." it was provided that certain Annual Allowances, varying in proportion on the number of Signatures presented in favor of such party, should be paid by the Colonial Treasury to Ministers of Religion, irrespective of any reference to peculiarities of Creed or Religious Denominations.

2. That, in accordance with the provisions of this Act, the Wesleyan Methodist Church in New South Wales has, for some years, enjoyed Stipends paid to various Ministers, amounting to £1,150 annually. In all cases, the requisite number of Signatures has been obtained, and satisfactory proof afforded, from Year to Year to the Colonial Government, that the duties obligatory upon the receipt of the said Stipends had been faithfully discharged.

3. That, by an Act of the Imperial Parliament, 5 and 6 Victoria, Cap. 76, 30th July, 1842, entitled "An Act for the Government of New South Wales and Van Diemen's Land," the Sum of £30,000 was appropriated, to be paid annually out of the Revenue of New South Wales to Her Majesty for the purposes of Public Worship (Schedule C), under the provisions of which Act, the Wesleyan Methodist Church continued to receive the Stipends heretofore allowed by the previous Act 7 William IV.

4. That, in consequence of the recommendation of the Governor and Executive Council of New South Wales, 9th June, 1843, Her Majesty the Queen in Council (in the instructions given to His
Excellency, Sir Charles Fitz Roy, directed that the above sum of £30,000 should be apportioned among the Communions receiving aid from Government under the Colonial Church Act, 7 William IV, No. 3, in proportion to the number of their respective Members, as shewn in the Census Tables of 1841, that is to say:

| Church of England  | 73,727 | £17,581 2 4 |
| Church of Rome    | 35,690 | 8,510 14 6 |
| Church of Scotland| 13,153 | 3,136 9 11 |
| Wesleyan Methodist Church | 3,236 | 771 13 3 |

which arrangement is now being carried into effect by the Colonial Government, and, in consequence of which, the Wesleyan Methodist Church in New South Wales will be deprived of the Sum of £378 6s. 9d. annually granted originally under the provisions of an Act, which is yet unrepealed, and on conditions which have been and are yet fully complied with.

Your Memorialists beg your Lordship's candid consideration of the grounds upon which they complain, not of the general principle of distribution according to numbers, with which they are satisfied, but of the practical injustice inflicted upon them as a Religious Community, in common with others, in consequence of the erroneous data afforded by the census of 1841, which, in the interpretation of Her Majesty's directions by His Excellency and the Executive Council, is assumed as the basis of Ecclesiastical allowances, with a view to a permanent settlement thereof.

1st. In 1841, the Wesleyans were as now about 1/22nd portion of the population of the Colony, instead of 1/40th as represented in the Census of that year; the error originated in the fact of this being the first Census, in which the different protestant denominations were distinguished from each other, in consequence of which a large number of persons returned themselves simply as Protestants, and thus served to swell the number of the Church of England. The result of the Census of 1846 confirms every previous supposition of the incorrectness of that of 1841. If we could for a moment suppose that Census to have been correct, we must admit the reality of changes of the most startling and unprecedented character (and that too in the brief space of five years) in the Religious Statistics of the Colony. For instance, the Colonial population advanced from 138,000 to 187,000, shewing a Ratio of increase of about 44 per cent.; but the Members of the Church of England advanced only from 73,727 to 94,731, being at the Ratio of 28 per Cent.; while on the contrary, the Church of Scotland advanced from 13,153 to 21,909, being at the Rate of 67 per Cent.; and the Church of Rome from 35,690 to 50,262, shewing an increase of 57 per Cent.; The Wesleyan Methodists, unfairly estimated in the Census of 1841 at 3,236, are, in the present Census, correctly stated at 7,935, being an apparent increase of 145 per Cent. To suppose a reality of so great a retrogression in the relative position of the Church of England, and of so great a progression in that of other Churches within so brief a period, would be unreasonable in the extreme. If then the Census of 1841 be so unfair in its enumeration of the proportions of the respective religious denominations, presenting results so different from that of 1846, we cannot think that it is the intention of Her Majesty to perpetuate the injustice, by making a false Census the basis of a permanent monetary arrangement.
2d. The adoption of the Census of 1841 will be equally unjust to other Religious Denominations, comprising one half of the population of the Colony. According to the Census of 1841, the Church of Scotland is entitled to claim £3,136; by that of 1846 £3,634 being an addition of £498; The Church of Rome, by the Census of 1841 claims £8,510; by that of 1846 £9,333, being an addition of £823. The Wesleyan Methodist Church, according to the Census of 1841, can claim only £771, but by the Census of 1846 £1,316, being an increase of £545. The Church of England, which, under the Census of 1841, claims £17,581, is, by the Census of 1846, entitled to receive only the Sum of £15,715, being £1,866 less than the sum now apportioned. Thus it appears that, by the Census of 1841, admitted by all parties to be erroneous, the Church of England will be paid £1,866 annually over and above what it is fairly entitled to receive, which surplus, according to the principle of distribution in proportion to number, is unjustly taken from other Churches, an injustice which, if perpetuated, will be felt and naturally resented, and the probable consequence of which will be the disturbance of the religious peace of the Community at large.

3rd. The adoption of the Census of 1841, as the basis of a permanent settlement of the question of Ecclesiastical Allowances, would be in direct opposition to the great principles of Religious Equality approved of by Her Majesty the Queen in Council, and hitherto acted upon by the Governor of New South Wales. Referring to the Copy of "Extracts from Her Majesty's Instructions to His Excellency respecting the distribution of the Sum of £30,000, etc.," it will be seen that the Rule of Numerical proportion is directed to be followed, as the proper guide of the Colonial Government, in the distribution of this Sum, allotted for the promotion of Public Worship. We cannot think it was the intention of Her Majesty to commit and bind the Colonial Government to the Census of 1841, as the basis of a permanent arrangement, irrespective of the results of any future Census. The reference to the Census of 1841 is obviously exegetical of the principle of distribution, and is not to be confounded with the principle itself. That Census is referred to as the last. and, had it been thought necessary in England to explain so self evident a truism as that the maintaining of the great principle of fair and equal distribution, according to numbers, would require a reference to subsequent Censuses, and must be adjusted by them, such explanations would no doubt have been appended. We cannot imagine that, while Her Majesty in Council was authoritatively affirming the great principle of Religious equality, to be maintained in the apportioning of a certain Sum of Money, according to the numbers of the Members of the respective Churches (which would, of course, be subject to some variations in the course of years), it was at the same time Her Majesty's secret or avowed intention to neutralize the principle itself, and vitiate the fairness and equity of the application by arbitrarily requiring the Census of 1841 to be the authoritative guide in the apportionments of 1846, and subsequent years. It was the evident intention and object of Her Majesty to assist the Colonial Churches in providing for the expenses connected with public Worship; and to assist each Church fairly, according to their numerical claims. Such being the case, it is obvious that, if each quinquennial Census should materially alter the numerical proportions of the
Members of the respective Claimants, the payment must be modified accordingly; otherwise no rate of numerical proportion would be observed.

This arrangement would of course occasion some degree of trouble every five years. The Ecclesiastical Heads of the respective Churches would find it necessary to exercise a prudent foresight in their arrangements, in reference to the Ministerial labours, etc., of their Clergy; but beyond this no serious inconvenience would be experienced. But, if even some serious difficulties had to be encountered in carrying into effect the great principle of Religious Equality, it would certainly be more desirable for those difficulties to be at once fairly grappled with by the parties more immediately concerned, than that thousands or possibly Tens of thousands of Her Majesty's Colonial Subjects should be treated with injustice in the matter of their Religious Rights and Privileges, points upon which most Men are peculiarly sensitive.

Wherefore Your Memorialists humbly pray that your Lordship will be pleased to take the premises into your favorable consideration, and to instruct His Excellency the Governor of New South Wales to revise the Colonial Ecclesiastical arrangements aforesaid, and to adopt, as the basis of Financial Distribution, among the several Religious Communions of the Colony from time to time, the Returns of the Census then last taken.

And Your Memorialists Will ever pray.

[Here follow the signatures.]

[Enclosure No. 2.]

REVD. W. B. BOYCE TO COLONIAL SECRETARY THOMSON.

Sir, Sydney, 15th February. 1847.

I have the honor to enclose a Memorial to Her Majesty’s Principal Secretary of State for the Colonies from Sundry Ministers and Members of the Wesleyan Church, in reference to a recent decision of His Excellency and the Executive Council on the question of claims and allowances payable out of the sum reserved by Her Majesty for Public Worship.

I beg leave to state that the object of the Memorialists is simply to bring their case fairly and fully before Her Majesty’s constitutional and responsible advisers. A few signatures only have been attached, as it was not deemed advisable prematurely to call public attention to a matter, which the answer of the Home Government it is hoped will settle to the satisfaction of all parties concerned.

Regretting the occasion which renders this appeal to the Home Government necessary, I remain, &c.,

WILL. B. BOYCE, Chairman.

[Enclosure No. 3.]

REVD. W. B. BOYCE TO COLONIAL SECRETARY THOMSON.

Sir, Sydney, 10th October, 1846.

I have the honor to acknowledge the receipt of your letter of the 28th Sept., 1846, enclosing, by direction of His Excellency the Governor, an “Extract from Her Majesty’s Instructions to His Excellency respecting the distribution of the sum of £30,000, provided yearly for the purpose of Public Worship by the Statute 5th and 6th Victoria, chap. 76, Schedule C,” and accompanied by
the remarks which His Excellency, on the recommendation of the Executive Council, has been pleased to direct on the distribution of the above sum.

The Extract and remarks are most important in their bearing on the financial interest of the Wesleyan Church in this Colony. I rejoice in Her Majesty's approval of a mode of distribution so equitable; and the more so, as I recognize in this decision the formal admission of the great principle of religious equality, which the Government of New South Wales has for some years past practically adopted.

The carrying out of this principle fairly, according to the rule of Numerical proportions as directed by Her Majesty, is all that any religious community can reasonably desire, so far as financial claims are concerned; I regret, however, that the result of a first Census (the first in which Protestant denominations were distinguished from each other as well as from Roman Catholics), a Census acknowledged by all parties to be very imperfect in reference to the Protestant Churches especially. Should have been assumed as exhibiting correctly the numerical Statistics of the Wesleyan Church in this Colony; and that this imperfect Census should be considered by the Executive Council to afford suitable data for a permanent settlement within so short a period as eight months previous to the taking of a new and more elaborate Census of the whole population.

As the remarks of His Excellency on the over-payments, made to the Wesleyan Clergy and the necessity of prospective reductions, proceed on the supposition of the correctness of the Census of 1841, it will be necessary that I should state the reasons which lead me to question its accuracy so far as regards the Wesleyan Church.

1st. This being the Census, in which Protestant denominations were separately returned, the nature of the information required was not well understood; hence many Wesleyans were returned as belonging to the Church of England, because they called themselves simply "Protestants," from not being aware that more was desired than the distinction between Protestants and Roman Catholics. As in previous Censusses others were returned as Episcopalians or Presbyterians, although identified with the Wesleyan Church and attached to its Ministry, because they were led to imagine that the object of the Government was to ascertain the National Establishment to which they or their parents originally belonged.

2nd. The peculiar organization of the Wesleyan Church affords facilities for forming annually a tolerably correct estimate of its numerical Strength. This present year 1846, we estimate the Wesleyans in New South Wales (including Australia Felix) at not less than 8,000 and probably 9,000. Taking the population of the Colony at 180,000, they form either 1/20 or 1/22 part of the Colonial population. The Census will probably return 7 or 8,000 (for many of the Children in our Schools, and other young persons trained by us and attached to our Ministry will be returned by their parents as Episcopalians, Presbyterians, etc., because they consider themselves as Such; supposing the Wesleyans are in the Census of 1846 estimated at 7,000 (the least possible return), this will be 1/25 part of the whole population of the Colony. As there has been no very extraordinary increase in the number of Wesleyans during the last five years, beyond the average ratio of increase among other
denominations, their present numbers prove the inaccuracy of the preceding Census. In 1841, the Wesleyans, instead of being 1/40 part of the population, were then, as I believe they are now, between 1/20 and 1/25 part of the population.

I cannot therefore admit that, as a Church, the Wesleyans have received, and are now receiving £378 annually above the sum which by the fair rule of proportions would be allotted to us; on the contrary, there is every reason to believe that, had we received our fair proportion according to number, our allowance would have been from £1,250 to £1,400 annually, instead of £1,150.

As the Census of 1846 will be no doubt accurate (or at least sufficiently so for all practical purposes), I would respectfully submit to His Excellency that, in justice to the Wesleyan Church, the Census should be taken as the correct estimate of its members, from which the amount of its annual allowance for the future be fixed. If His Excellency can accede to this proposal, I am ready, as soon as the Census is declared, to conform at once to the letter of Her Majesty’s Instructions conveyed in His Excellency’s remarks, i.e., to make any reductions, or to receive any additions, as the case may be, without waiting for the death or removal of Ministers, etc.,

I do not apprehend any difficulty in the way of this equitable adjustment from the wording of the resolution of the Executive Council adopted by Her Majesty, in which reference is made to the Census of 1841. It is evident that the great principle of religious equality, and of equal division in proportion to numbers, is that upon which the main stress is laid both by the Council and by Her Majesty, the reference to the Census being merely as a case in point by way of illustration. If then the Census of 1846 shall prove the former Census of 1841 to have been incorrect, surely the great principle avowed by the Executive Council and sanctioned by Her Majesty will require the adoption of the more correct data as the basis of the new and more permanent arrangement.

If, however, His Excellency do not take this view of the subject, I would respectfully request a suspension of all proceedings, so far as the interests of the Wesleyan Church are concerned, until Her Majesty having received further information from His Excellency shall have the opportunity of expressing Her Royal will and pleasure concerning the same.

That the Wesleyan community have claims upon the kind consideration of His Excellency and the Executive Council, arising from their arduous and unremitting exertions in furtherance of the interests of our common Christianity will, I think, not be questioned, when it is known that there are now in the Colony of New South Wales, in connection with that Body, 12 ordained Ministers and 4 Catechists fully employed in Ministerial and pastoral labours; 77 lay preachers (engaged principally tho’ not exclusively on the Lord’s day in preaching in the scattered Settlements, Villages, etc.) and 127 other lay teachers, who devote on the average from 1 to 2 hours weekly in aiding the pastoral labours of the regular Ministers. The Sphere of labour occupied by the Wesleyan Ministry embraces not merely the towns in which the regular Ministers reside, but the whole surrounding Country within a manageable distance. By this arrangement, about 100 towns and Villages or locations are regularly supplied with Public Worship, a large number of which would otherwise be destitute of all...
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Scope and activities of Wesleyan church.

The Wesleyan Church has 40 Chapels and 70 other preaching places. In each week at least 760 Sermons are preached (to about 8,000 or 9,000 regular hearers) and an equal number of other religious services performed. In efficiently occupying this extensive field of labour, the Wesleyan Church is compelled to appropriate nearly one half of the allowance received from the Colonial Government to the necessary travelling expenses. Without intending the slightest reflection upon any other denomination of Christians, it may be confidently affirmed that the itinerant system and the employment of lay agency peculiarly adapt the Wesleyan Church to the circumstances of a dispersed population, such as for generations to come is likely to exist in this Colony. To the Colonial Government and to the Colonists, the Wesleyan Ministers feel that they have not been unprofitable Servants, and that, in the variety and extent of their labours, and in the actual number of attendants upon their Ministry, they are not inferior to any other Protestant Church in the Colony. They are persuaded that not a small proportion of the inhabitants of New South Wales regularly attending public Worship are found in connexion with them. They are aware that this has no direct bearing on the question of claims upon the appropriation of the Fund for public Worship, which is to be divided (and perhaps justly) on other grounds; but it will account for, and I hope excuse the anxiety I now manifest to obtain for the Wesleyan Church under my Superintendence their fair proportion of the sum secured by Her Majesty for Ecclesiastical purposes.

When this matter, so seriously affecting the interests of the Wesleyan Church, is satisfactorily settled, I am ready to make arrangements for the immediate appropriation of the one sixth portion of the sum allowed for Wesleyan Public Worship to the purpose directed by Her Majesty, viz., the erection of Chapels, Ministers' Houses, etc. The recommendation of this mode of apportioning 1/6th of the entire Sum allowed for Ecclesiastical purposes must meet with general approval. It may be gratifying to His Excellency and the Executive Council to learn that, although the whole of the money granted to the Wesleyans has been applied to the support of the Ministry (for which indeed it was formally granted), yet that much larger sums, in some cases even exceeding the whole amount of the Government Stipends, have been and are yet annually raised by them for building purposes.

Permit me, Sir, in conclusion to express my deep sense of the courtesy and kindly feelings manifested by His Excellency and the Executive Council in the general tenor and spirit of the communication with which you have honored me, and to which the preceding remarks refer; an announcement in itself unpalatable has been deprived even of the appearance of ungraciousness by the courteous manner in which it has been communicated. The evident willingness of His Excellency and his Council to meet the wishes and advance the interests of the Wesleyan Church, so far as strict justice to other parties will permit, emboldens me to believe that the present appeal will meet with due consideration.

I have, &c.,

WILLIAM B. BOYCE,
Chairman of the Australian District, and General Superintendent of the Wesleyan Church in Australasia, Van Diemen's Land.
FITZ ROY TO GREY.

[Enclosure No. 4.]

Mr. W. Elyard, Jr., to Revd. W. B. Boyce.

Colonial Secretary's Office,

Reverend Sir,

Sydney, 12th November, 1846.

I do myself the honor to inform you that His Excellency the Governor has laid before the Executive Council your letter of the 10th ultimo, representing that the numbers of the Members of the Wesleyan Methodist Society of this Colony were much understated in the Census of 1841, and that the share of the £30,000 provided by the Statute 5th and 6th Victoria, cap. 76, Schedule C, which has been allotted to that body, is in consequence considerably less than their real numerical proportion would entitle them to.

I am further instructed to inform you that, after full consideration of the Statements contained in your letter alluded to, the Council decided that they could not recommend any alteration in the apportionment of the sum provided by Schedule C for Public Worship, nor could they refrain from taking measures for the reduction of the Wesleyan Methodist Society's Expenditure to the £771 13s. 3d. allotted to it, whenever opportunities for so doing might be afforded by the retirement from their cures of any of the present Ministers of that Body.

His Excellency the Governor desires me to add that He approves of the decision the Executive Council came to in this case.

I have, &c.,

for the Colonial Secretary,

W. Elyard, Junr.

Sir Charles Fitz Roy to Earl Grey.
(Despatch No. 52, per ship Sir George Seymour; acknowledged by earl Grey, 24th June, 1847.)

My Lord,

Government House, 28th February, 1847.

In Sir George Gipps' Despatches of the 1st July and 9th November, 1844, Nos. 132 and 241, applications were forwarded to Lord Stanley from Lady Forbes and Lady Dowling, Widows of the two last Chief Justices of New South Wales, for Pensions to be granted to them in consideration of the services of their Husbands; and, although his Lordship considered that it would be inexpedient to make any allowances, which might be granted to these Ladies, a charge upon the Special Pension Fund, authority was given in his despatch of the 30th of June, 1845, to bring their claims under the consideration of the Legislative Council, and to assent to provision being made by that body, by annual vote or otherwise, from Funds at their disposal, for the relief of the applicants to the extent suggested by Sir George Gipps.

The claims of Lady Dowling and Lady Forbes having accordingly been brought under the consideration of the Council, the sum of Two hundred pounds was voted for each as a Pension for the year 1846, and equal amounts for 1847; and payment of the same has been ordered to be made in the usual way from the
Colonial Treasury here. But, an application having been made by Lady Dowling, who is proceeding to England in the "Sir George Seymour" for a short period, to be allowed to receive her Pension in London during her absence from the Colony, I do myself the honor to request that your Lordship will be pleased to give your sanction to the Instructions, which have been transmitted to the Agent General for Crown Colonies, to make the payment as desired. The Pension being contingent on provision being made for it annually by the Legislature, Mr. Barnard will, of course, only make payment from the time to which it may be certified that it has been issued here to the end of the present year, until he receives intimation of its being continued. As however the Estimates will, no doubt, be considered in sufficient time to admit of a further communication being made to him before the termination of the present year, there will be no difficulty in carrying out the arrangements desired by Lady Dowling, should it meet with your Lordship's approval.

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 102, per ship John Fleming.)

Sir, Downing Street, 6 March, 1847.

In compliance with the request contained in your Dispatch, No. 17 of the 1st Sept. last, I have now to inform you that the necessary authority has been given by the Lords Commissioners of the Treasury to the Paymaster General to transfer, to the credit of the Colonial Agent's Account at the Bank of England, the sum of £3,035 5s. 9d. in repayment of a corresponding amount, which you state has been paid into the Military Chest in New South Wales, as advances to meet the demands made upon the Agent in this Country.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 103, per ship John Fleming.)

Sir, Downing Street, 7th March, 1847.

I transmit to you, herewith, for your information, a copy of a Treaty, concluded on the 8th November, 1844, for the suppression of the Slave Trade, by Sir C. Ricketts, on behalf of Her Majesty, with His Highness the Sultan of the Island of Johanna.

I have, &c.,

GREY.

[Enclosure.]

[A copy of this treaty was published in the issue of the "Government Gazette," dated 20th August, 1847.]
EARL GREY TO SIR CHARLES FITZ ROY.

12 March, 1847.

Sir,

Downing Street, 12 March, 1847.

I transmit to you herewith a Copy of a representation, which I have received from the Secretary to the London East India and China Association against the rate of Duty charged on Spirits, the produce of the Possessions of the E. I. Company, on importation into New South Wales. I also enclose a copy of the answer which has been returned to that representation; and I should wish to be informed of the reasons which led to the suspension by the local Government of the operation of the Order of the Queen in Council of the 8th of May, 1841, for the reduction of the duties levied in New South Wales upon Articles the produce and manufacture of the British Possessions in India, to the same rates as were imposed upon similar articles the produce or manufacture of the United Kingdom, or of other British Possessions.

That Order was transmitted to Your Predecessor in a Dispatch bearing date the 24th May, 1841, and I am ignorant of any grounds upon which it can be considered as not now in force.

I have, &c.,

GREY.

[Enclosure No. 1.]

MR. J. HIKEMAN TO EARL GREY.

5th February, 1847.

The Merchants of Calcutta complain that their consignments of Rum are subjected to the Foreign Duty upon importation into Australia.

Upon enquiry the Committee learn that, by an Act of the Colonial Legislature * 4th Vict. C. 11 (passed the 15th Sept., 1840), the duties upon Spirits imported into New South Wales and its Dependencies, were to be as follow:—

On Spirits the produce and Manufacture of the United Kingdom, or of any of Her Majesty's Plantations in the West Indies and North America imported direct from the United Kingdom into the said Colony per imperial Gallon not exceeding Hydrometer proof ........................................ 0 9 0

Other Spirits, the imperial Gallon ........................................ 0 12 0

This manifestly excluded Bengal Spirits except upon payment of the higher duty, and was one of the grievances† complained of in the Petition of the East India Company to the Houses of Parliament in 1840, and in a letter to the Privy Council in 1841.

The Committee are aware that those respective sums of 9s. and 12s. per Gallon are suspended until the first January, 1848, by the temporary Act of the 9th Vict., No. 25, passed upon a public pressing

* Marginal note.—Supplement to the New S. Wales Gazette, 3 Octr. '40.
† Marginal note.—See Parl. Report No. 43 of 1840, p. xviii.
emergency; but as there is no allusion to, or any clause repealing the Restriction in the first Act, the Committee are apprehensive that, though the temporary duties of 3s. 6d. and 6s. are only levied, the restriction as to the different descriptions of Spirits may be kept up, and will revive after the 1st January next.

The Committee enclose Copy of an Order in Council, issued 8th May, 1841, by which the duties at New South Wales, etc., upon Articles the produce and manufacture of the British possessions in India are directed to be "reduced or altered to the same rates as are now imposed upon similar Articles the produce and manufacture of the United Kingdom, or of other British possessions"; the Committee trust your Lordship will have the goodness to have the subject enquired into, and that directions be given that no higher duty be levied upon Bengal Rum arriving at Australia from India than on Rum from the United Kingdom or from any other British possessions.

I have, &c.,

JOHN HIKEMAN, Secretary.

[Sub-enclosure No. 1.]

ORDER-IN-COUNCIL.

At the Court at Buckingham Palace, the 8th of May, 1841.

PRESENT:—The Queen's Most Excellent Majesty in Council.

Whereas, by an Act of Parliament passed in the Session of Parliament, held in the third and fourth years of the Reign of His late Majesty, King William the Fourth, intitled, "An Act to regulate the Trade of the British possessions Abroad," it was, amongst other things enacted that it should be lawful for His Majesty, by and with the advice of His Privy Council, by any order or orders in Council to be issued and made, and to revise such directions and make such regulations touching the Trade and Commerce of, to and from any British possession or on or near the Continent of Europe, or within the Mediterranean Sea, or in Africa, or within the limits of the East India Company's Charter, except the possessions of the said Company, as to His Majesty in Council should appear most expedient and salutary;

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, doth, in pursuance and exercise of the powers and authority in Her vested by the Act above stated, order, and it is hereby ordered, that from and after the time when this Order shall be made known in the Colonies hereinafter mentioned by proclamations of the Governors of the said Colonies respectively, the Duties now levied at the Cape of Good Hope, Ceylon, New South Wales, Van Diemen's Land, Western Australia, Southern Australia, and New Zealand, upon articles, the produce and manufacture of the British possessions in India, shall be reduced or altered to the same rates as are now imposed upon similar Articles, the produce or manufacture of the United Kingdom, or of other British possessions.

And the Right Honorable the Lords Commissioners of Her Majesty's Treasury and the Right Honorable Lord John Russell, one of Her Majesty's principal Secretaries of State, are to give the necessary directions herein as to them may respectively appertain.

WM. L. BATHURST.

[Sub-enclosure No. 2.]

MR. W. L. BATHURST TO SECRETARY TO THE TREASURY.

Sir,

Council Office, Whitehall, 20th May, 1841.

I am directed by the Lord President of the Council to transmit to you the enclosed amended Order in Council of the 8th instant, reducing the Duties now levied at the Cape, Ceylon, and the Australian Colonies, upon Articles the produce and manufacture of the British possessions in India: and I am to request that such Order may be substituted for the one sent to the Lords of the Treasury on the 12th instant.

I am, &c.,

WM. L. BATHURST.

[Sub-enclosure No. 3.]

MR. G. G. DE H. DARPENT.

To The Right Honorable the Lords of the Committee of Privy Council for Trade.

My Lords,

When on the 2d February The Right Honorable the President of the Board of Trade brought the subject of the equalization of the duty on Rum before Parliament, he is represented to have stated, in alluding to the trade between India and the Colonies of Australia and Ceylon, that it was the intention of Her
Majesty's Government to exercise the Prerogative of the Crown by issuing an Order in Council to do away with all discriminating duties on Goods imported into those Colonies from India, and the communication was received by this Committee with the liveliest satisfaction inasmuch as the trade with those places had heretofore been crippled by reason of those partial and unequal duties, and had given rise to much jealousy. The Committee therefore with great deference take the liberty to urge the immediate carrying out so desirable a measure, and trust your Lordships will lose no time in giving the necessary directions accordingly.

London East India, and China Association.

G. G. DE H. DARFENT.

[Sub-enclosure No. 4.]

9TH VICT., No. 20 (1845). Spirits duties temporary reduction act.

By His Excellency Sir George Gipps with the advice and consent of the Legislative Council.

No. 20.

An Act to reduce for a limited time the duties on Spirits imported into or distilled in the Colony of New South Wales.

Agreed to 8th Novr., 1845.

Whereas it is expedient that for a limited time the duties on Spirits imported into or distilled in the said Colony of New South Wales should be lowered, Be it enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That, from and after the passing of this Act, the several duties now chargeable and payable upon Spirits imported into or distilled in the said Colony or its dependencies shall cease and determine, and that in place thereof the following shall, during the continuance of this Act, be respectively charged and paid upon all such Spirits; that is to say,

1. if the duty now payable be at the rate of 12s. per Gallon of the strength of Hydrometer proof, a duty shall be chargeable at the rate of 6s. for every such Gallon.

2. And be it enacted that the provisions of this Act shall be deemed and construed to apply equally to Spirits in any bonded Store, on the same being entered for Home consumption, or to Spirits imported into the Colony and Spirits distilled within the same during the continuance of this Act.

3. And be it enacted that this Act shall commence and take effect from and after the passing thereof, and shall thenceforward continue in force until the 1st January, 1848, and no longer.

ALEXR. MCLEAT, Speaker, Passed the Legislative Council this 9th October, 1845.

I hereby declare that I consider this Bill to be one for a temporary Law necessary to be forthwith assented to by reason of a public and pressing emergency; and, agreeably to the 31st Clause of the Act for the Government of New South Wales, and 6th Vic., Ch. 76, I do hereby in the name and on behalf of Her Majesty assent to it accordingly.

8th November, 1845.

GEORGE GIPPS, Governor.

4th Vic., Ch. 11 (15 Septr., 1840).

An Act for increasing the Duties on Spirits, etc., imported into the Colony of Scale of duties on spirits.

On Spirits the produce and Manufacture of the United Kingdom or of Her Majesty's plantations in the West Indies and North America imported directly from the United Kingdom into the said Colony a duty of per Gallon imperial measure not exceeding hydrometer proof, and so for any greater or less quantity

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[Enclosure No. 2.]

UNDER SECRETARY HAWES TO MR. J. HIKEMAN.

Sir,

Downing Street, 10 March, 1847.

I am directed by Earl Grey to acquaint you that he has had under his consideration your Letter of the 5th Ult., in which he acknowledged, on behalf of the Committee of the London, East India and China Association, you call his Lordship's attention to the rate of duty
imposed upon Bengal Rum on its importation into New South Wales, and request that directions may be given that no higher rate of duty may be levied on that Article arriving from India in Australia, than on Rum from the United Kingdom or from any other British possession.

In reply, I am directed to acquaint you that the sudden death* of Sir George Gipps, recently returned from his Government in New South Wales, has prevented Lord Grey from obtaining that explanation with regard to the suspension of the operation of the Order in Council of the 8th May, 1841, in favor of the produce of British India, which that Officer would probably have been able to afford without the delay of a reference to the Colony.

It is, however, intended by Her Majesty's Government to take such measures as may be necessary to put an end to the inequality in the rate of Colonial duties on British produce, which is complained of by the Association.

I have, &c.,

B. HAWES.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 105, per ship John Fleming.)

Sir, Downing Street, 12 March, 1847.

I have referred, for the consideration of the Lords of the Treasury, a copy of your Predecessor's Despatch, No. 142 of the 5th of July last, together with a Memorial which accompanied it from the Messrs. Campbell, Owner of the Schooner "Shamrock," who complain that the whole of the Sum realized by the Sale of that Vessel had not been paid to them by the Collector of Customs at Sydney.

Their Lordships have in reply apprized me that, considering the circumstances under which the seizure of the "Shamrock" was made, they are of opinion that the whole proceeds of sale should be paid over to the Owners, and that the Expenses attending the seizure and prosecution of the Vessel should be defrayed from the Customs Revenue.

I have, therefore, to convey to you the necessary authority for causing the Sum of one hundred and two pounds, Sixteen Shillings and four Pence, which it appears has been retained out of the abovementioned proceeds, to be paid to the Messrs. Campbell.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 107, per ship John Fleming; acknowledged by Sir Charles Fitz Roy, 24th November, 1847.)

Sir, Downing Street, 15 March, 1847.

I have received Sir George Gipps's Despatch, No. 148 of the 10th July last, bringing under consideration the case of Mr-

* Note 40.
Homersham, who had been removed from the Customs Department in New South Wales, and recommending his re-employment in that Department; and I transmit to you herewith a copy of a letter from the Secretary to the Board of Treasury, in pursuance of which you are authorized to cause Mr. Homersham to be re-employed in the Customs at Sydney, as suggested by the Commissioners of Customs.

I have, &c.,
GREY.

[Enclosure.]

MR. C. E. TRELVEYAN TO UNDER SECRETARY STEPHEN.

Sir,
Treasury Chambers, 9th March, 1847.

With reference to your communication of the 5th of January last, I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit to you, for the information of Earl Grey, the accompanying Extract from a Report of the Commissioners of Customs, and I am to request you will state to his Lordship that, adverting to the recommendation in the Despatch of the late Governor Sir Geo. Gipps, dated 10th July last, My Lords will not object to Governor Sir Charles Fitz Roy being authorized to cause Mr. Homersham to be re-employed in the Customs at Sydney, as suggested by the Commissioners.

I have, &c.,
C. E. TRELVEYAN.

[Sub-enclosure.]

EXTRACT of the Report of the Commissioners of Customs, dated 17th February, 1847.

"THAT, having upon the present occasion again had the circumstances connected with the case of Homersham under our consideration, We beg leave to state that, although we see no grounds to induce Us to alter the opinion which we had originally formed upon the case of that Individual, Nevertheless, considering that the Governor being on the spot has better means than we possess of ascertaining what this person's general character may be, should His Excellency be of opinion that Homersham is a proper person to be employed in the Customs Department of the Colony, We would not under all the circumstances be disposed to oppose any obstacle to his being re-employed as an Acting Locker in the Customs at Sydney."

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 108, per ship John Fleming.)

Sir,
Downing Street, 15 March, 1847.

In my Dispatch No. 7 of the 3d of Oct. last, I communicated to you the decision of the Judicial Committee of the Privy Council on the Petition of J. W. Willis, Esqr., against the order of the Governor and Council of New South Wales for removing him from his Office of Judge of the Supreme Court of the Colony.

I have subsequently received from Sir G. Gipps an application to be indemnified for the costs of defending himself and the Council against the Appeal of Mr. Willis.
I enclose Copies of letters from Sir G. Gipps and his Solicitors, with a statement of the Costs to which he was subjected in the course of the proceedings. I also enclose a Copy of a letter, which was addressed by my direction to the Secretary to the Board of Treasury, and which will fully explain to you the grounds on which I was led to consider that Sir G. Gipps and the Council had a just claim to indemnity against the expenses incurred in defending the Appeal, and that the sum, amounting in the whole to £887 14s. 10d., might fairly be deducted from the balance of that part of the Civil List Fund, which is applicable under the Act 5 and 6 Vic., Cap. 76, to expenses incident to the Administration of Justice in New South Wales.

I have, therefore, authorised the Colonial Agent General to pay that amount to the Solicitors of Sir George Gipps, who had in the first instance become liable for the Costs.

I have, &c.,

GREY.

[Sir George Gipps to Under Secretary Stephen.
White Friars, Canterbury, 7th Jan., 1847.

I have had the honor to receive your Letter of yesterday; and, agreeably to the desire therein expressed I forward, herewith, the Bill of Costs in the case of Mr. Willis' appeal, furnished to me by Messrs. Gregory, Faulkener and Co. of Bedford Row.

I further take the liberty of enclosing an extract from a Letter to myself from Mr. Gregory, dated the 5th Instant, respecting a further charge of between £46 and £47, preferred against me by the Attorney of Mr. Willis. I have, &c.

GEO. GIPPS.

[Sub-enclosure.]

Extract from a Letter to Sir G. Gipps from Mr. Gregory, dated Bedford Row, Jany. 5th, 1847.

"Allow me to remind you that, on the occasion of the application for a postponement of the case, that boon was granted on terms of paying the costs of the other party, of that application. I have had a Bill sent me of such Costs amounting to between £46 and £47, which I returned to the other side with such deductions as I thought should be made, and requesting that, if not assented to, the Bill might either be taxed or submitted to the examination of some competent party. I have not since heard from them, but this must not be lost sight of in settling with the Colonial Office."

A true Extract:—Geo. Gipps.
7th Jany., 1847.

[Under Secretary Stephen to Mr. C. E. Trevelyan.
Downing Street, 20th February, 1847.

I am directed by Earl Grey to request that you would lay before the Lords Commissioners of the Treasury the following statement and recommendation:—

Mr. John Walpole Willis was appointed in the Month of June, 1837, to be one of the Puisne Judges of the Supreme Court of New South Wales. On the 5th February, 1841, he was appointed Resident Judge for the District of Port Phillip in the said Colony.
On the 17th June, 1843, Mr. Willis was removed from his Office, not only as Resident Judge of Port Phillip, but as a Judge of the Supreme Court of New South Wales. This removal was effected by an Order made by the then Governor Sir Geo. Gipps on the advice of the Executive Council of the Colony. The ground of the removal was misbehaviour of Mr. Willis in his Office. The conclusion that he had so misbehaved having been adopted by the Governor and Council, the mere forms of the procedure appear to have been taken, at every stage, under the advice of the Attorney and Solicitor General of New South Wales.

Mr. Willis repaired to this Country in person, and presented to the Queen in Council a petition praying Her Majesty to reverse the said Order, and the proceedings of the said Governor and Council. This petition was on the 4th March, 1844, referred by the Queen in Council to the Judicial Committee of the Privy Council; A Copy of it was transmitted from the Council Office on the 5th of that month for the consideration of Lord Stanley, then holding the Seals of this Department, in order that his Lordship might determine whether the Law Officers of the Crown should be directed to attend their Lordships’ Bar, in defence of the Order of the Governor of New South Wales. Lord Stanley directed the then Attorney and Solicitor General to report to him their opinion whether it was advisable that they should be instructed so to undertake the defence of the said Order. On the 8th of December, 1845, the then Law Officers of the Crown reported for Lord Stanley’s information their opinion that it was not advisable that the defence of the Order of the Government of New South Wales should be undertaken by Her Majesty’s Government.

Sir Geo. Gipps consequently undertook, in his own person, to defend and justify the Order he had made, employing for that purpose his Solicitors, Messrs. Gregory, Faulkner, Gregory and Skirrow.

The case came on for hearing in the Judicial Committee in the year 1846. On the 8th of July in that year, their Lordships reported to the Queen in Council their opinion that the Governor in Council had power by Law to remove Mr. Willis from his Office of Judge, under the authority of the Statute 22nd Geo. 3rd; and that, upon the facts appearing before the Governor in Council, and established before their Lordships in this case, there were sufficient grounds for the amotion of Mr. Willis. But their Lordships were of opinion that the Governor and Council ought to have given him some opportunity of being previously heard against the amotion, and that the Order of 7 June, 1843, for his removal ought, therefore, to be reversed.

On the 1st August, 1846, the Queen in Council approved this Report, and directed that Earl Grey should give the necessary directions accordingly. On the same day, the Lord President of the Council transmitted to this Department a copy of the Order, in order that Lord Grey might give the necessary directions, which devolved upon the Executive Department of Her Majesty’s Government in conformity with this decision.

On the 21st of September last, Lord Grey, in pursuance of the Order in Council, advised her Majesty to revoke Mr. Willis’s Commissions as Judge of the Supreme Court of New South Wales and as Resident Judge of Port Phillip, which Order Her Majesty was thereupon pleased to make accordingly. The result of the whole
proceeding therefore was that Mr. Willis retained his Office, and was entitled to the emoluments of it until the 1st day of August, 1846, and from that day he was deprived of his Office on account of the Report of the Judicial Committee that there were sufficient grounds for his amotion. It appeared, therefore, by their Lordships' Judgment, that the decision of Sir Geo. Gipps and the Executive Council was in substance a right and a just decision; but that, in consequence of the neglect of an indispensable form, that namely of giving to Mr. Willis an opportunity to be heard, it could not be sustained against him. Now the forms of the proceedings having been taken under the guidance of the Legal Advisers of the Governor in the Colony, Sir Geo. Gipps was not, as Lord Grey apprehends, justly responsible for any error or miscarriage in these forms. He appears to His Lordship to have been responsible only for the substantial soundness and justice of the conclusion, that the misconduct of Mr. Willis was such as to afford a sufficient ground for his removal, a conclusion in which Sir Geo. Gipps is supported by the Report of the Judicial Committee.

Such being the state of the case, it appears to Lord Grey that Sir Geo. Gipps is entitled to indemnity against the expenses to which he has been subjected in defending this appeal. He has transmitted to this Office a Bill of Costs from his Solicitor, amounting to the sum of £865 4s. 2d., with a supplemental Bill for Costs of one attendance which appeared to have been given to the appellant by an interlocutory Order, the amount of which Additional Bill is not at present ascertained. It is stated by the Solicitors for the Appellant to amount to between £46 and £47.

Lord Grey desired the Solicitors to the Treasury to confer with Messrs. Gregory and Co. on the subject of their Bill of Costs: and, on the 9th inst., Mr. Reynolds reported to His Lordship that the charges appeared to be reasonable, and such as Sir Geo. Gipps would be justly liable to pay his Solicitors, if they were to be borne by himself without any aid from the Public Revenue.

Under these circumstances, Lord Grey directs me to request that you will move the Lords Commissioners of the Treasury to sanction the payment of these Bills of Costs by the Agent for New South Wales, and the deduction of the amount from the Balance of that part of the Civil List Fund of the Colony, which has been appropriated by Parliament to the discharge of the expenses incident to the administration of Justice. Lord Grey will not undertake to express an opinion that the Local Legislature of New South Wales will concur in the propriety or even in the lawfulness of the proposed appropriation of the Fund in question. But, considering that the Govr. and Ex. Council, acting in this case judicially, and that the object of their proceeding was to promote the Administration of Justice in the Colony by the removal of a Judge whose misconduct in his Office is now ascertained to have been such as to afford sufficient ground for that measure, it appears to Lord Grey that to any such objection, if made, a good and valid answer might be returned, and it does not seem to him that it would be convenient to postpone issuing the requisite order from an apprehension, which after all might not be realized, of some exception being ultimately taken to it by the local Legislature.

I have, &c.,

JAS. STEPHEN.
EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 110, per ship John Fleming.)

Sir,
Downing Street, 18 March, 1847.

I have to acknowledge the receipt of your Despatch, No. 19 of the 25th of September last, enclosing a Copy of the Speech with which you had on the 8th of that Month opened the Session of the Legislative Council of New South Wales, together with a Copy of the Address presented to you by that Body, and of your reply to it.

I have, &c.

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(A circular despatch, per ship John Fleming.)

Sir,
Downing Street, 20th March, 1847.

I transmit to you Copies of certain additional Rules, which have been established on the subject of Passages to be granted, at the Public expense, to certain Public Functionaries proceeding to the Colonies, and I have to desire that you will cause those Rules to be inserted at page 32 of the Book of Colonial Regulations.

Par. 10 at Page 32 of the Book of Regulations must be numbered, Par. 12.

I have, &c.,

[Unsigned.]

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 111, per ship John Fleming.)

Sir,
Downing Street, 23 March, 1847.

I entirely approve the order you addressed to the Deputy Commissary General of New South Wales, as reported in your Dispatch of the 30th of Sept., 1846, No. 26, to deliver to Dr. L. Leichhardt, from the Government herd at Moreton Bay, such bullocks as he required on proceeding on his projected Expedition* from Moreton Bay to Swan River.

I shall await with great interest the report of the results of that important and hazardous enterprise.

It is gratifying to learn that the Public Spirit of the Inhabitants of New South Wales had raised the funds necessary for defraying Dr. Leichardt's expenses.

I have, &c.

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 112, per ship John Fleming.)

Sir,
Downing Street, 23 March, 1847.

I have received Sir George Gipps' Despatch, No. 133 of the 28th June last, enclosing a copy of a Government Order, which he had issued with a view to expedite as far as possible the

* Note 24.
clearing off of the Convict Establishment in New South Wales; the effect of that Order being to hold out an expectation of a Ticket of Leave to every Convict whose conduct may have been good during three consecutive years, and of a Conditional Pardon to those who had held a Ticket of Leave with good conduct during the like period.

I have to acquaint you that Her Majesty's Government approve of that Order.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 113, per ship John Fleming; acknowledged by Sir Charles Fitz Roy, 7th October, 1847.)

Sir,

Downing Street, 24 March, 1847.

Sir, Her Majesty's Government have had under their consideration the expediency of facilitating the Emigration of the Wives and Families of the Married Convicts, who have obtained Pardons or Tickets of Leave, and who may be recommended by the Governor of the Colony to which they have been transported for that indulgence. It is proposed to extend the plan to the cases of those Exiles who shall be sent from this Country to Port Phillip.

It is of great importance, both with reference to the interests of Society, and with a regard to the future character and prospects of the Men, that some measures should be adopted without delay for that purpose. I transmit to you for your information copies of a correspondence between my Under Secretary of State and the Under Secretary of State for the Home Department on the subject.

With regard to the case of first class of persons, viz., the Convicts who have received Pardons or Tickets of Leave, the present measure is merely the resumption of a system which was generally acted on in the case of Convicts holding Tickets of Leave and who were considered deserving of such indulgence. It was discontinued from motives of economy; and, for the reasons pointed out in the enclosed correspondence, I certainly do not consider that such considerations are of sufficient weight to justify the abandonment of the system. You will, therefore, from time to time, transmit such recommendations as used formerly to be sent home in favor of those Ticket of Leave Men or Pardoned Convicts, whom you may consider proper objects for that indulgence.

With regard to those Convicts who may be sent or who have already gone out as Exiles after a short period of probation in this Country, you will perceive from the enclosed Correspondence
that Her Majesty's Government consider that it would not be desirable to send out their Families at once and at the Public Expense. "Such an indulgence, coupled with the short period of punishment to which that class of prisoners are subjected and the condition in which they leave this Country, would naturally impair the efficiency of the punishment as an example to others; and it has been decided that, in any case in which the Exile shall remit to this Country, through the local Authorities, one half of the expense of conveying his Wife and Children to the Colony in which he may be resident, the other half shall be charged on the Funds granted by Parliament for Convict Services.

You will take the necessary measures for making that arrangement as generally known as possible to those persons throughout the Colony.

I have, &c.,

GREY.

[Enclosure No. 1.]

UNDER SECRETARY STEPHEN TO MR. S. M. PHILLIPPS.

Sir,

Downing Street, 6th January, 1847.

In reference to Your Letter of the 5th November last, and to your two Letters of the 19th of the same month, Earl Grey directs me to request that you would bring the following suggestions under the consideration of Secretary Sir George Grey.

Lord Grey learns, on enquiry, that the practice formerly prevailed, and has but very recently been discontinued of sending out, at the Public Expense, the Family of a Convict who had obtained a Ticket of Leave, in whose favor the Governor of the Colony, in which the Convict was serving, had recommended that indulgence. The abandonment of that practice was, as Lord Grey understands, occasioned not by any change in the opinion of the Government as to the wisdom or the justice of it, but solely by considerations of economy. Some alteration, either in the mode of fitting up Convict Vessels, or in the terms on which the Contracts for taking up such Vessels were made, would appear to have rendered the conveyance in such Ships of the Wives and Children of Convicts incompatible with the saving anticipated from those alterations. Hence, as Lord Grey understands, the former system was abandoned, simply and exclusively, in order to relieve the Public Revenue from the charge of carrying it further into execution.

If the transmission of these Families to the Penal Settlements in Australia could have been considered in the light of a mere gratuitous favor or bounty, the cessation of the practice might, perhaps, have been justified, however much it might have been regretted. But Lord Grey does not think that the subject could be properly so regarded. The transmission of these Families was not, as his Lordship conceives, a mere boon or indulgence to them. It was the single measure habitually taken by this Country for mitigating the great moral evils incident to the creation in the Southern Hemisphere of Societies composed exclusively of Male Convicts. Considering the enormities of those evils, Lord Grey is of opinion that the Government of this Nation were not at liberty thus to discontinue the single remedial practice by which they were alleviated.
and thus to aggravate, on grounds of economy alone, the moral debasement of those Communities. Apart, therefore, from all considerations of compassion for the individuals whom the change more immediately affects, Lord Grey is of opinion that the habit should be resumed of sending to the Penal Settlements, at the Public Cost, from the Funds appropriated for Convict Services, the Families of any Pardoned Convicts or Holders of Tickets of Leave, whom the Local Government may recommend as fit objects of that indulgence.

With regard to that Class of Convicts who are sent to the Australian Colonies as Exiles, Lord Grey is of opinion that, considering the short period of punishment which they have undergone in this Country, and that, from the time of their arrival in the Colony, there is nothing of a penal character in their condition except their separation from the relations and friends they may have left at home, the efficiency of the punishment, to which they have been sentenced as an example to others, would be too much impaired if their Wives and Families were at once sent to join them entirely at the Public Expence. Lord Grey is, however, of opinion that the evils of a permanent separation of these Men from their Families would be so great that even in their case some facilities ought to be afforded for their being sent out. He would, therefore propose that, if any such Exile should, through the Colonial Authorities, remit to this Kingdom one half of the expence of the conveyance of his Family (that is, of his Wife and Children) to the Colony to which he had been himself banished, the other half should be a charge on the funds granted by Parliament for Convict Services. If there were any reason to anticipate that a Loan of the second moiety would be repaid by the Exile, Lord Grey would prefer that course of proceeding. But of any such repayments Lord Grey does not think that any reasonable expectation could be formed.

If, hereafter, an arrangement should be made by which Convicts, previously to their being sent out as Exiles should have been subjected in this Country to a larger proportion of the punishment to which they have been sentenced than has hitherto been the practice, it might be advisable then that they should be accompanied by their Families in proceeding to the Colonies.

If Sir George Grey should concur in these views, Lord Grey would recommend them for the sanction of the Lords Commissioners of the Treasury.  
I have, &c.

JAS. STEPHEN.

[Enclosure No. 2.]

Mr. S. M. Phillipps to Under Secretary Stephen.

Sir,  
Whitehall, 15th January, 1847.

I have received and laid before Secretary Sir George Grey your letter of the 6th Instant, on the subject of resuming the practice, discontinued in 1842, of sending out at the Public expence the Wives and Families of certain Convicts who have obtained a Ticket of Leave, and in whose favor the Governor of the Colony in which they are serving has recommended the indulgence.

I am to state for Earl Grey's information that Sir George Grey entirely concurs in the opinion expressed by his Lordship as to this question. On referring to the correspondence which took place
between Sir James Graham and Lord Stanley with regard to it in
1842 and 1843. Sir George Grey does not find that any objection
was then entertained to the continuance of the practice on any
other ground than the supposed difficulty of conveyance to New
South Wales. Transportation to that Colony having then ceased,
it, of course, became impossible to continue to send over these per-
sons, as had previously been the case, in Ships conveying Female
Convicts; but Sir James Graham suggested that some arrangement
should be made with the Emigration Commissioners for providing
them with Passages, and that Van Diemen’s Land should be in-
cluded in the arrangement; and it was until after it had been as-
certained that there were insuperable objections to such an arrange-
ment, that it was determined by Sir James Graham that the prac-
tice must be discontinued owing to the increase of expense which
would be incurred by other modes of conveyance.

Adverting to the important considerations stated in your Letter,
Sir George Grey is clearly of opinion that the practice ought to be
renewed, and that, as suggested by Sir James Graham, it should
be extended to Van Diemen’s Land as well as to New South Wales.
As Female Convicts are still conveyed to the former Colony,
accommodation might, to a limited extent, be provided for the
passage of the Wives and Children of Convicts in the Female Con-
vict Ships; and Sir George Grey has no doubt that, with the san-
c tion of The Lords Commissioners of the Treasury to the application
to this object of a portion of the Funds appropriated for Convict
Services, proper arrangements may be made for sending out this
Class of Persons both to New South Wales and to Van Diemen’s
Land.

This subject has been recently brought under Sir George Grey’s
consideration by Mrs. Chisholm, the Wife of an Officer in Her Ma-
jesty’s Service who has been for some years resident in New South
Wales, from which Colony she has lately returned; and Sir George
Grey is informed that she is prepared with a List of about 30
Women, the Wives of Convicts holding Tickets of Leave in New
South Wales, who would be desirous of availing themselves of the
assistance of the Government to join their Husbands in that
Colony, and whose Husbands are ready to defray a portion of the
expense of their passage. In case these persons can be conveyed
at the Public expense to Van Diemen’s Land, Mrs. Chisholm is
willing, out of Funds placed in her hands by their Husbands in the
Colony, to defray the expense of their passage from Van Diemen’s
Land to New South Wales; and, as a Ship is now about to be char-
tered for the conveyance of Female Convicts to Van Diemen’s Land,
Sir George Grey is prepared to recommend that accommodation
should be provided in this Ship for such of these Persons as on
enquiry may be fit objects for this indulgence. The recent return
of Sir George Gipps to this Country may, perhaps, afford the
means of procuring additional information as to the parties in
the Colony on whose behalf this application has been made; and
I am to suggest that the List in the possession of Mrs. Chisholm
should be submitted to Sir George Gipps, and his opinion might be
obtained as to the propriety of acceding to the application in the
several cases to which it refers. By this means, it might be pos-
sible to avoid the delay which must be occasioned by a previous
reference in this particular instance to the Governor of the Colony.
HISTORICAL RECORDS OF AUSTRALIA.

1847. 24 March.

Should lord Grey concur in this suggestion, Sir George Grey will address a communication upon the subject to Mrs. Chisholm.

I have, &c.,

S. M. PHILLIPPS.

[Enclosure No. 3.]

UNDER SECRETARY STEPHEN TO MR. S. M. PHILLIPPS.

Sir,

Downing Street, 1st March, 1847.

Letter acknowledged.

I have laid before Lord Grey Your letter of the 15th January, in which you express the concurrence of Secretary Sir George Grey in the opinion expressed by His Lordship as to the expediency of resuming the practice, which was discontinued in the year 1842, of sending out, at the Public Expense, the Wives and Families of certain Convicts, who have obtained Tickets of Leave, and in whose favor the Governor of the Colony in which they are serving may have recommended such indulgence.

Approval of proposals.

I am directed to request that you will state to Sir George Grey that his Lordship approves of the course which it is proposed in your Letter to adopt in the conveyance of those Families to Australia, and that, if Lord Grey is furnished with the List of Families to which you refer as being in the possession of Mrs. Chisholm, he will communicate on the subject with Sir George Gipps. Lord Grey understands your Letter as expressing Sir G. Grey's concurrence in that part of my Letter of January 6th, which relates to the Families of Exiles as well as in that respecting the Families of Men holding Tickets of Leave and Conditional Pardons.

I have, &c.,

JAS. STEPHEN.

[Enclosure No. 4.]

EXTRACT of a Letter from S. M. Phillipps, Esqre., to James Stephen, Esqre., dated Whitehall, 16th March, 1847.

"I have laid before Secretary Sir George Grey your Letter of the 1st Instant expressing Earl Grey's approval of the course which it is proposed to adopt for the conveyance to Australia, at the Public Expense, of the Wives and Families of certain Convicts, who have obtained Tickets of Leave, and in whose favor the Governor of the Colony, in which they are serving, may have recommended such indulgence."

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 114, per ship John Fleming.)

Sir,

Downing Street, 24 March, 1847.

Despatch acknowledged.

With reference to Sir George Gipps' Dispatch, No. 147 of the 9th of July last, enclosing a Copy of a Government Notice, relative to the introduction into New South Wales of the Children of Emigrants, who had been left in this Country by their Parents, I have communicated on the subject with the Colonial Land and Emigration Commissioners. I transmit for your information copies of a correspondence with that Board, from which you will perceive the measures which have been adopted for carrying out that arrangement.

I have, &c.,

GREY.
LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration Office,

Sir, 12th January, 1847.

We have the honor to acknowledge your Letter of the 31st Ultimo, enclosing a Despatch from the Governor of New South Wales accompanied by a Public Notice explanatory of the Conditions under which he had offered a Bounty on the Children, if sent out by this Board, of married persons who have emigrated to that Colony on or before the 7th of January, 1842, and on whose introduction Bounties were paid.

We beg leave to state that, from the nature of the case as explained in the Governor’s Despatch, and in the notice by which it is accompanied, We apprehend that the persons, who can claim the benefit of this notice, cannot amount to any inconvenient number. We shall be happy to do our best to procure passages for such of them as may be notified to us in the manner provided for by the Governor; and We should hope that to this moderate extent Ship Owners would be very ready to supply them with accommodation on the prospect of a Bounty to be received in the Colony.

We have, &c.,

T. FREDK. ELLIOT.
C. ALEXANDER WOOD.

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration Office,

Sir, 2d February, 1847.

In our Report of the 12th Ultimo on a plan of the Government of New South Wales for introducing the children left behind by parents, who have emigrated prior to the 7th of January, 1842, we stated that We should be very happy to promote, as was our duty, the humane object of the Colonial Government, although we found it would be attended with much difficulty in practice. This fear the progress of the measure has already shewn to be well founded; and it is necessary that we should now enter into a somewhat fuller statement of the Case; explain the obstacles to going on under the present plan; and point out the only expedients by which, though far from free from objection, it appears to us possible that the end should be carried out. It will then remain to be decided whether these expedients shall be sanctioned, or whether the measure should be abandoned altogether, which, after the hopes that have been raised, is a result that we should be very sorry to see.

The following is an outline of the plan received from the Colony:—

The parents are to apply to the Local Government, and to deposit £5 for each Child as a security that the Child will be withdrawn from the charge of the Government within a reasonable time after arrival. Their applications, if granted, are to be then forwarded to this Board with the names, ages, and residences of the Children and the names and address of two referees.
This board is then to make enquiries into the cases, and if satisfied that the Children are really the Children of the Applicants, to guarantee the Allowance of Bounties according to the current rates on the importation of the Children, on the following conditions:—

1st. That they are produced before the Immigration Agent in good bodily and mental health;

2d. That every Male under 14 and every female whatever go out under charge of a married Couple;

3rdly. That each Male over 18, and each female over 15 brings testimonials of good character from the Clergyman and respectable inhabitants of note in their places of residence.

Such being the plan, the applications at present received by us are all (except 2) from Irish parents. They are made by 102 persons for 147 Children, of whom 110 are stated to be under 14, and therefore must by the conditions go out under the charge of a married Couple; but no Bounty is expressly promised on the married Couple; and, even if it should be held to be implied under the terms of the notice, the uncertainty in this respect creates of itself one difficulty in carrying out the plan. But, besides this, 142 of the Children are scattered all over Ireland, being in no less than 18 Counties. There is very little, if any, Shipping from Irish Ports to New South Wales, not one Vessel in the last two years, and it will probably be found very difficult to induce any English Ship owners to trouble themselves with small parties of these Children on the terms and subject to the contingencies proposed, even if they and their protectors could pay their way to London or Liverpool.

On the whole, therefore, we have to report that the plan as it stands is impracticable. But, being extremely desirous to meet the views of the Colonial Government, and not to disappoint the expectations which have been raised, we have anxiously considered what other mode could be devised of providing for the conveyance of all these Children to the Colony. The only plan, we think of, is that we should do our best to ascertain how many of the Children could be collected at our Depot at Plymouth, and should contract by public Tender for their passage from thence to New South Wales, providing a Matron to take charge of the Females, a Schoolmaster with other requisite Attendants, and a Surgeon to superintend the whole. The great difficulty in this plan would be getting the Children to Dublin (from whence we would propose to take charge of them and provide their passage to Plymouth) being, as we presume they will be, hardly able to defray the cost of their Outfit as well as of their Journey to Dublin; but this difficulty applies equally to the other project.

We can by no means pledge ourselves that the present proposal will, when tried, admit of being carried out: but we think that the choice lies between this or giving up the attempt. The Emigration will necessarily be far more expensive, in proportion, than one of an ordinary kind. Being to a certain degree bound to take the Children unless the enterprise is stopped in limine, we must be authorized, we would submit, to incur all extra expenses that may be unavoidable, both in the transit as above proposed from Dublin to Plymouth, and also in supplying any defects in the Children's stock of clothing which would seriously endanger their
health on the Voyage. We presume that, being essential to the scheme, any expenditure of this kind, if now sanctioned by the Secretary of State, will not be questioned in the Colony.

It is also due to our character that we should now state beforehand that, in an Emigration composed as in the one proposed, it is necessary to be prepared for a much larger rate of mortality than amongst Passengers comprising the usual proportion of Adults. With the aid of the experience which has been acquired, we are thankful to state that, under the blessing of Providence, there has been an increasing diminution in the rate of mortality on the Australian passage, and that we believe the risk of death by sickness on that four Months' Sea-Voyage is much less than it would be amongst the same body of people living on Shore in England.

Last year in three Ships which we despatched to South Australia carrying 646 Souls, the only deaths were of two Children and an Infant. But amongst large bodies of Children the chances of Infantile diseases, which may turn in crowded Ships to Epidemic fever, and the trying nature of the kinds of food on which to a certain extent they must depend at Sea, greatly multiply the risks of misfortune. We can only say that no precautions on our part shall be omitted, and that every practicable adaptation of the Dietary to the peculiarity of the case shall be duly considered.

Having thus laid fully before Lord Grey all the circumstances, it remains for us to submit to his Lordship's better judgment the question whether we shall proceed on the modified plan we have described, or whether it is necessary that the measure should be altogether abandoned. From our preceding remarks, it will be readily inferred that we could not recommend any such measure if proposed anew; but we are embarrassed by the hopes which have been raised amongst the parents in the Colony and their relatives in this Country, and are anxious to be guided by higher authority in the decision whether it is a greater evil on the one hand to disappoint these hopes, or on the other hand to attempt to fulfil them under a certain amount of risk and difficulty.

We have, &c.,

T. FREDK. ELLIOT.
FREDERICK ROGERS.

[Enclosure No. 3.]

UNDER SECRETARY HAWES TO MRS. CHISHOLM.

Madam,
Downing Street, 12th February, 1847.

The accompanying Papers are copies of a correspondence which has passed relative to a project for enabling the Children of those Married Couples, who, on emigrating to New South Wales on or before the 7th of January, 1842, had been compelled, from want of the necessary Funds, to leave them behind to rejoin their parents at the Public Expence.

You will perceive that the question had its origin in a Despatch from the Governor of New South Wales, who, in consequence, as it would appear, of the representations which you made to him on the subject, caused a Public Notice to be issued, offering a Bounty on certain conditions upon the introduction of such Children into the Colony.

You will observe that the result of the reference to the Land and Emigration Commissioners shows that difficulties present themselves to the adoption, in all its details, of the plan proposed by the Governor. The Commissioners have, however, suggested a
modification of the Scheme which seems to Lord Grey, though not free from objections, to be best calculated for carrying out a measure which his Lordship would be very glad to see brought to a successful issue.

In the meantime, it would be satisfactory to his Lordship, if, after perusing the Commissioners' Report of the 2d Instant, you would have the kindness of favor him with your opinion as to the feasibility of the suggestions there offered, together with any remarks, which your knowledge and experience in these matters may enable you to communicate. I have. &c.

B. HAWES.

[Enclosure No. 4.]

MRS. CHISHOLM TO UNDER SECRETARY HAWES.

London, 28th February, 1847.

Indisposition prevented my making an earlier reply to your favor of the 12th Instant.

Having considered with due attention the correspondence, which you have done me the honor to submit for my consideration, it is gratifying for me to assure you that I can see no difficulty of any serious character to interfere with or impede the humane intentions of Her Majesty's Government, relative to the granting of a free passage to Australia to those children whose parents were necessitated, through the force of circumstances over which they had no control, to leave behind, when they themselves emigrated to New South Wales on the Bounty System.

It is with peculiar and unbounded satisfaction, I view the benevolent and thoughtful propositions of the Honorable The Land and Emigration Commsrs. in recommending that a respectable Matron should be appointed to watch over the well being of those children on their passage to New South Wales; such an authorized Agent would be entitled to, and would necessarily receive more respect from the Captain, Surgeon and Officers of the Ship than any casual Passenger, and would thereby be enabled to exercise more effectually that maternal supervision, which is so needful to be maintained over young people on board Ship. Equally judicious and wise is the proposal of the Commissioners to appoint a Schoolmaster for the instruction of those children. Indeed much moral good would result, if in all Emigration Ships duly qualified Schoolmasters were to be appointed: young and ignorant men would then be glad to avail themselves of the opportunity of acquiring the fundamental rules of useful knowledge during the progress of so long a Sea Voyage. In all Ships now connected with Emigration, a Schoolmaster is selected from the Party of Emigrants, and who no doubt considers he nearly does all that is required of him if he can succeed in keeping the children pretty quiet during the greater part of the day; but it requires experience to make a good Teacher, and something more than a mere pittance to stimulate a constituted Teacher.

I hope I may be permitted to embrace the present opportunity of offering a few observations bearing upon the present Emigration regulations, and the Instructions received from the Colonial Government regarding those Children; indeed a strong sense of duty, and the knowledge I have gained of the evil workings of those clauses referred to, imperatively call upon me to advert to them.
In the Instructions received from the Colonial Government, Clause 2 says, "that every Male under 12 and every female whatever go out under charge of a married couple." Now as it is not clearly stated whether the married couple is to have charge of all the children, I presume it is intended to be carried out on the same principle under which female Emigration is generally conducted, namely, unmarried females being sent out under charge of married couples. This system to my certain knowledge is attended in numerous instances with most injurious consequences to young females; in most cases the parties are unacquainted with each other until they meet at the Depot, or find themselves on board Ship; the consequence is indifference, and but too often total neglect, and which in many cases has proved fatal to numbers of poor Emigrant Girls: there is no responsibility attached; and even those married couples, who may be anxious to do their duty towards their charge, will often find it morally impossible to fulfil this, and at the same time to attend to their own family on board a Crowded Ship. So many painful cases then, arising from this rule, came to my notice during my connexion with newly arrived Emigrants in New South Wales, that I deemed it my duty to call the attention of the local Government thereto, and to recommend in my evidence before the select Committee on Emigration that responsible and respectable Matrons should be appointed to watch over all young female Emigrants, except those who may be under the immediate eye of their own parents: and even the circumstances may arise that may make it necessary to empower such Matrons with a discretionary Authority.

Clause 7 may be also open to objection, for in many instances it may so happen that no near married relatives as is prescribed may be going out, or may be unfit from other causes.

I would beg to call particular attention to clauses 5 and 6 of the Emigration Regulations. Clause 5 says "the Emigrants must consist principally of married couples, not above 40 years of age at their last birthday, but for every child above 14, one year will be added to the age of the parents, if they are still hale and capable of labour; no family can be accepted which includes more than two children under 7 years of age. The Candidates most acceptable are young couples who have no children." Clause 6 says "the separation of parents from their children, who are not grown up, will in no case be allowed."

There is nothing surprising in the Colonists' objection to old and young, and in discouraging those to Emigrate, who are not ready for labour on their arrival. The great scarcity of labour in the market prompts this feeling; and, so pressing indeed is the demand for labour there at present, and consequently so high is the scale of wages, that I am certain many crops of fine wheat will rot on the ground from the inability of farmers to pay the rate of wages, and that it will be found that Wheat from the United States will be sold in Sydney and sent into the interior cheaper than the Settlers can produce it. This was so in 1843, when imported Foreign Grain was introduced into the Country to the amount of £112,387; and yet numbers of Settlers assured me that where wages were at £16 a year for a common Labourer with full rations, that they were quite satisfied if they obtained 3s. 2d. the Bushel. But the Commercial evil, arising from the state of things there at
1847.  
24 March.

Objections to rules re children of immigrants.

present, is but small to the moral one, for to my knowledge hundreds of young married couples were living separate in Sydney. So great is the temptation thrown in the way of the poor, so great is the objection which Employers in general entertain to having young families around them, that the wise designs of providence are lost sight of by the one, and thwarted by the other on the one hand, the cupidity or indolence of the husband forces the wife to accept of separate service, while again the high rate of wages, which females at present receive, makes the wife in a manner independent of the husband.

That Capitalists, however, will grasp at the description of labour which they think will afford them the largest return for their outlay is not to be wondered at; and it is to meet this desire no doubt with the most laudable intentions that those rules have been so framed; but I would not be doing my duty, or doing justice to Her Majesty's Government, if I did not call attention to evils which have been my painful part to witness so often. The separation of families then cannot be questioned as a great moral evil, and recoils upon the Public at large. We have a painful illustration of it, as respects the separation of the children in question from their Parents.

The point that no family can be accepted which includes more than two Children under 7 years of age is placing a fearful barrier a great temptation before a poor man with penury and want at his door, while he contemplates the prospect of comparative abundance, and comfort at a distance; he has one child over the number allowed, only one, a weakly, sickly thing; his friends are perhaps too poor to take charge of it; were it not for this child he would have a prospect of providing for his family, even in more prosperous times; the result is before us. What then: It becomes the duty of the state to throw protection round this child, to remove the temptation.

That part again of Clause 5. which says the Candidates most acceptable are young couples who have no children, may be fraught with most fatal consequences. You will pardon my candor, when I say that it is indirectly, though doubtless inadvertently, throwing a temptation in the way of human nature; the dictates of morality would modify it; circumstances gave me an opportunity of witnessing its danger. I have known as many as 20 eligible Emigrants refused in one day, because there was a child, or the prospect of one. I have frequently heard the iniquitous warning coolly given "Remember you must have no children; when you are with one, that breaks our Agreement"; and this alone and paramount to all other considerations determined me to locate families and take others some hundred miles into the interior to see them properly settled. It is, therefore, a comfort to me to call to mind that the evil consequences attending this prejudice have led many to reflect. Further, that where I have been able to persuade the Flockmasters to take married couples, the man as Shepherd, the Wife as Hutkeeper, nor were some of the Children found useless, such families have with few exceptions given satisfaction; but, although there are some splendid exceptions, the overwhelming majority view children still as encumbrances.

I have, &c.,

CAROLINE CHISHOLM.
LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration office,

12 March, 1847.

Sir,

We have the honor to acknowledge your letter of the 6th instant, accompanied by one from Mrs. Chisholm, in reference to our Report of the 2d Ultimo, upon the Plan of the New South Wales Government for the introduction of the Children of former Emigrants.

Before proceeding to the practical questions on this Plan, it may be convenient that we should notice first Mrs. Chisholm's remarks on some of the general regulations of the Government of New South Wales, as well as upon our rules for the selection of Emigrants in this Country. Mrs. Chisholm alludes to the Rule respecting the protection under which single females should be required to proceed in Emigrant Ships, and to the one, excluding Families, which comprize more than 2 Children under 7 years of age.

The former question has been a subject of anxious deliberation by the Local Government and by the Legislative Council of New South Wales, as well as upon our rules for the selection of Emigrants in this Country. Mrs. Chisholm alludes to the Rule respecting the protection under which single females should be required to proceed in Emigrant Ships, and to the one, excluding Families, which comprize more than 2 Children under 7 years of age.

The former question has been a subject of anxious deliberation by the Local Government and by the Legislative Council of New South Wales, as well as by this Board, during a course of many years, and the conclusions they have adopted are the result of that deliberation. There are two obvious sets of considerations, each of which is true, and between which an opinion must be formed. To send out young women without their near relatives may lead to immorality. On the other hand, not to send out to the Australian Colonies as large a proportion of single females as circumstances will admit, is fraught with evils, which it is quite superfluous for us to repeat, considering the tenor of the Despatches which constantly arrive from those Colonies. Between these conflicting considerations, the decision has to be taken; and, if it were to be done without any previous experience, it might be very difficult to adopt one with any confidence. But the evidence to which this Board has had access during the last 10 years, including the Journals of more than 100 Voyages, and the Statements of numerous Surgeons Superintendent and Masters of Vessels, lead us to believe that immorality on the Voyage is comparatively of uncommon occurrence in the Ships despatched under Government Superintendence to Australia. On the other hand, the immense importance of endeavouring to correct, or at any rate not to perpetuate the disproportion of the Sexes, cannot be exaggerated. It is very true, as Mrs. Chisholm says, that near relatives may often not be going in the same Ship, with young women who are otherwise eligible for a Free Passage; it is perfectly true that the nominal protections formerly assigned to them of any married couple, they might meet in the Vessel, was probably worth very little indeed; but, the result being on the whole as free from evil as above stated, we must confess that our own opinion leans to putting a limit, rather than a strict construction, upon any rules limiting the power of accepting respectable young women for a free passage to Australia.
With regard to the employment of Matrons, we have already expressed our opinion in favour of that measure in a case to which it seemed especially appropriate; but we cannot say that we think it would prove practicable to find or expedient to incur the expense of sending out a Matron in each Government Emigrant Ship, which sails, for the care of the few young women who may not have near relatives on board.

With respect to excluding Families with 3 or more Children under 7, we think that some of Mrs. Chisholm's observations must rather relate to the conduct of Employers of labor in the Colony than to the rule of selection in this Country. When she speaks of knowing 20 people rejected on this account in one day, it is plain that she can only allude to Employers in the Colony who will not engage their Services. However unfortunate may be this repugnance of Colonial Employers to hire people with numerous young children, it can only strengthen the reasons for not sending out such families from England. We can testify that the whole Emigration to Australia is far too limited to cause the rejection of an extraordinary number of families on this particular ground; and we must therefore trust that there cannot exist such general depravity that, within the limited number who are refused, there should be a probability that the consequence would be child murder. This apprehension seems to proceed on the assumption that the Peasantry of England are so fully alive to the benefits of Emigration as those benevolent persons who for their good wish them to go out. But, in point of fact, all who are engaged in the business in this Country are aware that it is extremely difficult to move the people to go; that a District must long be worked in before the disposition to emigrate can be extensively diffused; and that, far from being likely to commit crimes which it is almost fearful to name, in order to obtain a free passage, the people are much more apt to throw it up at the last moment to the great embarrassment of those who conduct the Service.

And, while there are these grounds for thinking that the danger is rather imaginary than real, we must say that the reasons in favor of the existing Rule are exceedingly strong, and that we should deeply lament its alteration. In the first place like all these Rules, it is the fruit of observation and of numerous experiments and changes of system from year to year, till that which was best seemed to be attained. The present regulation is strongly upheld by the sentiments of all the Local Authorities, who in common with this Board have, during several years, diligently watched the progress of Emigration.

One remark, to which we cannot but attach importance, is the peril to the health of the Passengers, where the young children are numerous. When we inform Lord Grey that we have known 50, and even 70 people die in a single Ship, most of them young children, and the rest of them Adults infected with fever, spread from the Children, it will we are sure be felt that the bearing of the question on the passage alone is no light matter. Nothing perhaps more produced the success of the early efforts to improve the healthiness of Emigrant Ships than the gradual reduction in the proportion of young Children.

But in the next place we see no good reason why the Colony should receive the least eligible Emigrants.

*Marginal note.—The "Bussorah Merchant" in 1837. The "Layton" same year.
Whenever Emigration is proceeding prosperously, more Candidates appear than can be accepted for a free passage. Some of these must be refused, and some will of course be better suited to the purpose than others. On what ground could we refuse the people who were best suited for the passage, and most eligible after arrival, in order to make room for those who are less suited for either object? On the whole, we are bound to express our strong sense of the propriety of the existing general Rule on young Children, and the great fear with which we should see it rescinded.

Turning now to the question of the Children, which the Government of New South Wales wishes to be sent out, we are happy to see that Mrs. Chisholm approves of our suggestion of a Matron and a Schoolmaster to take charge of this particular party, if despatched. It only now remains for us to refer to our Report of the 2d Ultimo, in which we pointed out some of the hazards that must attend sending out the Children, and on the other hand the disappointment which may attend a refusal, and we have to apply for Instructions whether or not the plan is to proceed, and, if so, whether we may deem ourselves authorized to make the modifications of it, and incur the expense, which we have submitted as indispensable to the experiment.

We have, &c.,

T. FREDK. ELLIOT.
FREDK. ROGERS.

[Enclosure No. 6.]

UNDER SECRETARY STEPHEN TO LAND AND EMIGRATION COMMISSIONERS.

Gentlemen,

Downing Street, 23 March, 1847.

Having laid before Earl Grey your Letter of the 12 instant, I am directed to acquaint you in reply that his Lordship entirely concurs in the opinions which that Letter expresses "With regard to the question of sending out the children of Emigrants already in the Colony of New South Wales." Lord Grey also approves of the arrangement proposed in your report of the 2d Ultimo of collecting the Children at your Depot at Plymouth, and contracting by public Tender for their Passage, providing a Matron to take charge of the Females, a Schoolmaster, with other requisite Attendants, and a Surgeon to superintend the whole party.

I have, &c.,

JAS. STEPHEN.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 115, per ship John Fleming.)

Sir,

Downing Street, 24 March, 1847.

I have received your Dispatch, No. 9 of the 31st Augt. last, reporting the latest arrangements which had been made for the construction of Lighthouses in Bass' Straits, together with a Plan, Elevation and Sections for those in contemplation at Cape Otway and in Gabo Island near Cape Howe.

Having referred these papers for the consideration of the Lords Commrs. of the Admiralty, I now transmit for your information and guidance a copy of their reply, from which you
Site proposed for lighthouse at King island.

will observe that, as regards the best Station for a Light at the Northern extremity of King's Island, their Lordships would be inclined to give the preference to the Harbinger Rocks, though, for the reasons assigned by them, such an arrangement will probably be found to be impracticable.

I have, &c.,

GREY.

[Enclosure.]

MR. H. G. WARD TO UNDER SECRETARY STEPHEN.

Sir, Admiralty, 17 March, 1847.

With reference to Your Letter of the 16th Ultimo enclosing a Copy of a Despatch from the Governor of New South Wales, relative to the construction of Lighthouses in Bass' Straits. I am commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of Earl Grey, that they are not aware of having expressed any less decisive opinion about a Light on King Island than on those at the three other Stations, as would appear from the Governor's Letter, and, from the several Reports of Officers well qualified to Judge, their Lordships are still of opinion that a Light on Cape Wickham (on the north Point of that Island) would be advantageous.

It would indeed be more useful if placed on the Harbinger Rocks, but the Colony has not the means, probably, of constructing it in such an exposed situation. On account of the Fogs which it is said occur there frequently, it should not exceed 120 or at the most 150 feet above the Sea. The plans, elevations and Sections of the other Lighthouses appear to be satisfactory.

I am, &c.,

H. G. WARD.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 117, per ship John Fleming; acknowledged by Sir Charles Fitz Roy, 16th September, 1847.)

Sir, Downing Street, 24 March, 1847.

I have received from Mr. W. Cape of O'Connell St., Sydney, a letter with its enclosures dated the 24 of Sept., 1846, bringing under my consideration his wish that a search should be made in this Department for certain letters, the production of which he states would be important to him in an investigation about to be made in the Colony into his alleged claim to some Land. This communication having been sent to me from the Colony, by the writer, and not having been transmitted through you, I have to desire that you would apply to the writer for a Copy of it, and that you would forward that Copy to me, accompanied by such a report as the case may appear to you to require.

I have, &c.,

GREY.
FITZ ROY TO GREY.

24 March, 1847.

My Lord,

Government House, 24th March, 1847.

In my Despatch of the 19th February last, No. 41, I had the honor to bring under Your Lordship's Notice the difficulty experienced by this Government with respect to those persons who had arrived in the Colony as "Exiles," the terms of whose Pardons restricted them to residence in the Australian Colonies, but who had applied for an extension of the Condition of such Pardons in virtue of the Regulation issued in the Colony in furtherance of the Instruction conveyed to me in Mr. Gladstone's Despatch of 13th May, No. 21.

It is now my duty to request your Lordship's instructions in regard to another Class of persons, who are affected by the same Regulation. I allude to those persons, who hold Conditional Pardons granted in the Colony before the recent alteration made in the terms of those Instruments, and who come under the retrospective operation of that Regulation.

Upon the receipt in the Colony of the Despatch above referred to, it became necessary to consult the Crown Law Officers as to the proper mode for giving effect to the clemency of the Crown in reference to cases of this nature. In their reply, an Extract from which is enclosed, these Officers recommended the issue of a substituted Pardon, instead of having recourse to an endorsement, as had been proposed. Here, however, a difficulty presented itself. A large proportion of existing Pardons had been issued by my Predecessors in virtue of the authority vested in them by Royal Commission; and it appeared very doubtful whether in such cases it was competent to me to issue a substituted Pardon without having previously recommended the intended recipient to Her Majesty in terms of the Act of Parliament, 6 Vict., Cap. 7.

A second reference having been made to the Law Officers on this point, I am now advised that, for the reasons detailed in their Report, the issue of substituted Pardons is considered objectionable, and in lieu they recommend the adoption of the form of endorsement enclosed therein.

This advice it is my intention at once to act upon, in order that the indulgence, intended by Her Majesty's Government to be accorded to the holders of Conditional Pardons, may be no longer withheld. Your Lordship will perceive, however, that the Law Officers state their apprehension "that no course can be entirely free from objection, but that of passing an Act of the Imperial Parliament."
1847.
24 March.
Proposed imperial legislation.

As I fully concur in this view of the subject, I take the liberty to suggest to Your Lordship the expediency of obtaining such an Act of the Imperial Legislature as will secure the full advantage of Her Majesty's Gracious intentions to the holders of Conditional Pardons in this Colony, namely, freedom in all parts of the World except the Country from which they were transported.

There will also be another, although perhaps not a numerous class of persons, whose cases could be provided for in any such enactment, viz., persons who have been pardoned by Warrants under the Royal Sign Manual, on condition of residence in this Colony, or in any of the Australian Colonies.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

EXTRACT of a letter from the Attorney General, addressed to the Honorable the Colonial Secretary, dated 1st December, 1846.

"With respect to persons holding first or Second Class Conditional Pardons in the forms lately used, we are of opinion that they ought to receive a substituted Conditional pardon in the present form and not mere indorsements which would not be of any legal force."

[Enclosure No. 2.]

EXTRACT of Letter.

We have reconsidered the subject of the issue substituted pardons in consequence of Her Majesty’s recent instructions through Mr. Secretary Gladstone, and we now perceive that the Officers of the Government would be subjected to so much superfluous labor and inconvenience by the substitution of entirely New Pardons in lieu of previously existing Conditional ones, as to render it desirable to adopt a different course from that which we previously recommended. It also occurs to us that the substitution is open to this further objection, namely, that either the Convict would be deprived of the full benefit of his pardon retrospectively, if he surrenders the original one, or the Public would be exposed to the risk of his parting with it to some Convict who has not entitled himself to the Royal Mercy. On the other hand, we do not fail to see that anything in the shape of an Endorsement may possibly fail in some supposable Cases, to answer to the full legal extent the object of Her Majesty’s instructions.

We apprehend that no course can be entirely free from objection but that of passing an act of the Imperial Parliament; and under these circumstances we feel that we are only proposing the adoption of that of which the defects appear the least in degree, when we recommend that in future the extension of Conditional Pardons should be made by way of Endorsement under the seal of the Colony in the form which we have the honor to enclose herewith.
[Enclosed in letter dated 15th March, 1847.]

By His Excellency, etc., etc.

KNOW all men that, in pursuance of instructions in that behalf proposed form of endorsement, sent to me by Her Majesty's Principal Secretary of State for the Colonies, I the Governor aforesaid do hereby grant unto the within named ——— that the within written Pardon shall take effect in all parts of the world except only ———, anything in the written Condition to the contrary thereof notwithstanding.

Given, etc.: By His Excellency's Command, etc.,

Entered, etc.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 54, per ship Caledonia.)

My Lord,
Government House, 24th March, 1847.

The Legislative Council having, in their last Session, made provision for the purchase of three sets of Standard Weights and Measures, for the purpose of being deposited in some of the Country Districts for the regulation of Weights and Measures, a Requisition has been forwarded for them to the Agent General for Crown Colonies; and as the sum of £102, the estimated cost of the Articles, has been paid into the Military Chest on this Station, I do myself the honor to request that Your Lordship will be pleased to cause an equal amount to be issued to Mr. Barnard from the British Treasury to enable him to meet the demand.

Standard Weights and Measures are provided for the different Police Stations, in pursuance of the local Act 3 Wm. IV, No. 4, and heretofore they have been procured in the Colony. In consequence, however, of the larger price demanded for those now required, when Tenders were recently called for by public Notice, it appears expedient to obtain them from England where, it is also understood, they may be obtained of a better description.

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 118, per ship John Fleming.)

Sir,
Downing Street, 25 March, 1847.

I have to acknowledge the receipt of your Despatch, No. 11 of the 31st of August last, reporting that Henry Hovenden, for whom a passage at the expense of the Colonial Government was ordered by my Predecessor to be provided by the Agent in this Country, on the plea of his being at the time in great distress and a Native of New South Wales, had arrived in the Colony; that however, the latter plea had turned out, on enquiry, to be untrue, and that you had therefore refrained from proposing to the Local Legislature to provide for the repayment of the expenses incurred on Hovenden's Account.
1847.
25 March.
Payment for passage of H. Hovenden.

Under all the circumstances of this case, Her Majesty's Government consider that the charge in question was one from which the Government of New South Wales ought to be relieved; and I have now to acquaint you that the necessary directions have been given to the Paymaster of Civil Services to pay to Mr. Barnard the sum of £24 4s. in repayment of the advance made by him for Hovenden's Passage.

I have, &c.,

Grey.

Sir Charles FitzRoy to Earl Grey.
(Despatch No. 56, per ship Caledonia; acknowledged by Earl Grey, 26th September, 1847.)

My Lord,

Government House, 25th March, 1847.

I have the honor to enclose herewith an Extract from the proceedings of the Executive Council of this Colony, relative to an application from the Warden of the District Council of Sydney for the sum of £1,000, to enable that body to liquidate a debt to the same amount which it has incurred and is unable to pay from want of legal power to levy a rate for the purpose in the manner directed by the provisions of the Constitutional Act, 5 and 6 Vict., Cap. 76. As the circumstances under which this application is made are so fully detailed in the enclosed Minute of the Executive Council, it is unnecessary that I should trouble your Lordship with a recapitulation of them there. I entirely concur with the Council in thinking that the Warden and District Council of Sydney are fully entitled to the assistance of the Government in obtaining the reimbursement of the money, for which they have thus become responsible in endeavouring to carry into effect the provisions of the Act of Parliament, especially under the circumstances of disability in which they appear to have been placed by no act of their own.

It is only further necessary that I should state that, in the event of Her Majesty's Government seeing fit to authorise the payment of the amount, as recommended by the Executive Council, either from the Casual Revenue of the Crown, or the surplus on the sum reserved to Her Majesty under Schedule B of the Act of Parliament, 5 and 6 Vict., Cap. 76, there will be sufficient funds at the credit of either of these accounts applicable to defray the amount.

I have, &c.,

Chs. A. FitzRoy.

[Enclosure.]

[The proceedings of the executive council will be found in a volume in series II.]
FITZ ROY TO GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despitch No. 119, per ship John Fleming.)

Sir,

Downing Street, 26th March, 1847.

I have received your Dispatch, No. 25 of the 30th of Sept. last, reporting the arrival in New South Wales of Lieut. Col. Barney, who had proceeded thither from this Country as Superintendent of the proposed New Colony of North Australia.

My Dispatch of the 15th Novr. last, No. 62, renders unnecessary any further discussion of the project of Establishing a Settlement in North Australia.

I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 57, per ship Caledonia; acknowledged by Earl Grey, 15th September, 1847.)

My Lord,

Government House, 26th March, 1847.

It is my unpleasant duty to report to Your Lordship that I have been under the necessity of suspending from Office, until Her Majesty's pleasure be known, Mr. James Cassell, Sub-Collector of Customs at the Port of Melbourne. For your Lordship's information, I have the honor to enclose herewith a copy of the correspondence, which has taken place on the subject with the Acting Superintendent of Port Phillip, together with a Precis of the case drawn up in the Office of the Colonial Secretary at Sydney.

Your Lordship will perceive that the immediate cause of Mr. Cassell's suspension was his repeated refusal to obey the order, which I gave him, to supply Mr. Webb, the late Sub-Collector at Melbourne, with a copy of his Report to the Board of Customs upon the surcharges against the Accounts of the latter gentleman. The course, which Mr. Cassell was entitled to pursue under the 4th, 6th and 7th sections of the 11th Chapter of the Book of Colonial Regulations, was distinctly pointed out to him; but he nevertheless pertinaciously persisted in refusing to obey the Order conveyed to him. Under these circumstances, I felt it impossible to vindicate my authority in any other manner than by directing his immediate suspension from Office; and he was accordingly suspended by the Acting Superintendent of Port Phillip on the 17th ultimo. It is not without great regret that I have felt myself compelled, from an imperative sense of duty, to have recourse to so severe a measure towards an Officer, who appears to have erred from a mistaken sense of his responsibility to another authority, rather than from any contumelious
disregard of that of the Local Government. During the long period that I have been entrusted by Her Majesty with the administration of Colonial Governments, I have never before found it necessary even to censure with severity the conduct of any public Officers serving under me; but, in the circumstances referred to, I have felt strongly impressed with the persuasion that in no other way could I have made manifest to the Officers, employed in the Customs and other public departments of the Colony, that they are strictly amenable to my control and authority, as the head of the Local Government, who am myself responsible to Her Majesty for the efficiency and regularity of every branch of the public service within my jurisdiction.

I have further the honor to inform Your Lordship that, having brought this matter under the consideration of my Executive Council, they have expressed their entire concurrence in the necessity and propriety of the measure which I have adopted towards Mr. Cassell.

It only remains for me to state that, under all the circumstances of the case, I see no objection to Mr. Cassell's restoration to Office, provided that he receive such an admonition as will serve to convince him that his situation as an Officer of Her Majesty's Customs does not render him independent of the authority of the Governor as his immediate superior Officer in the Colony.

I have, &c.,

CHS. A. Fitz Roy.

[Enclosures.]

[Copies of this correspondence will be found in a volume in series III.]

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 58, per ship Caledonia.)

My Lord,

Government House, 26th March, 1847.

With reference to my Despatch No. 68 of the 30th December, 1846, I have now the honor to enclose herewith a Copy of a letter from the Acting Superintendent at Port Phillip, enclosing a Nominal Returns, in alphabetical order, of the disposal of the 291 Exiles, who arrived from England in that District in the "Maitland" in November, 1846, and showing the Masters with whom, and the rate of wages at which engaged, together with an Abstract of the expenses attending the same, amounting to £54 7s. 10d. It will be perceived that this amount has been
FITZ ROY TO GREY.

deducted from the proceeds of the sale of Stores by that ship, which realised the sum of £370 3s. 6d., and that the Balance, £315 15s. 8d., has been remitted to Sydney by the Deputy Assistant Commissary General at Melbourne.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

A copy of this letter, dated 28th February, 1847, with its enclosures, will be found in a volume in series III.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 60, per ship Caledonia; acknowledged by earl Grey, 21st October, 1847.)

My Lord,

Government House, 27th March, 1847.

At the request of Lieutenant Colonel Gibbes, the Collector of Customs at this Port, I have the honor to enclose herewith a Memorial addressed to the Lords Commissioners of Her Majesty's Treasury, praying that he may be relieved from a Surcharge of £145 1s. 7d., which amount it appears he erroneously paid to Mr. Cooper, whilst Comptroller at Sydney, in the distribution of certain seizures; and I have to request that Your Lordship will be pleased to have this Memorial forwarded to its destination.

Your Lordship will perceive that this surcharge has formed the subject of a lengthened correspondence between Lieutenant Colonel Gibbes and the Board of Customs, which has resulted in their granting him permission to Memorialise their Lordships for relief. The facts of the case are so fully set forth in the Memorial that it appears to me to be unnecessary that I should trouble Your Lordship with any recapitulation of them. If required to express my opinion upon its merits, I beg to state that as Lieutenant Colonel Gibbes appears to have had no personal interest in the distribution of the seizures in question, and to have erred solely from an erroneous construction of a point of law, excusable in any non-professional person, and as, from the insolvency of Mr. Cooper, he is precluded from recovering the amount from him, it might be considered harsh to insist on maintaining this surcharge against him. I beg, therefore, respectfully to recommend that he may be relieved from it.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

A copy of this memorial is not available.]
SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 63, per ship Caledonia; acknowledged by earl Grey, 26th October, 1847.)

My Lord,

Government House, 29th March, 1847.

During the last Session of the Legislative Council of this Colony, a Private Act was passed by that body, and assented to by me on Her Majesty’s behalf, intituled, “An Act to enable the Reverend Henry Hodgkinson Bobart of Parramatta in the County of Cumberland, Clerk, and Elizabeth Mary, his wife (late Elizabeth Mary Marsden, spinster) and the survivor of them and their Trustees to grant Leases of Land situate on the Molong River in the County of Wellington.”

This Act will be found amongst others of the same Session, which were forwarded with my Despatch of the 9th January last, No. 10.

As customary in similar cases, this Act will be inoperative until the Royal approbation of it shall be notified in the Colony; and, as Your Lordship, before advising Her Majesty to assent to this measure, may desire to be made acquainted with the circumstances in which it originated, I beg to enclose a certified copy of the Grant from the Crown of the Land referred to in the Act, which has been placed in my hands for this purpose by the parties interested. I may briefly explain that the Land in question was originally promised to Miss Marsden as being the daughter of a Colonial Chaplain, under a Regulation* which was in force in this Colony some years ago; and, after her marriage with the Revd. Mr. Bobart, was granted by Deed to Trustees for the several Trusts enumerated therein. By the terms of this Grant, Mr. and Mrs. Bobart have only a life interest in the property.

It appears, however, that Copper Ore in considerable quantities is believed to exist under the land; and it is deemed advantageous that Mr. and Mrs. Bobart should be enabled to demise the Land for a term of years beyond their own lives to any person, who may be willing to work a mine for obtaining the Ore; and it was to enable them legally to carry out that intention that the Act was passed.

I have, &c.,

[Enclosure.] CHS. A. FITZ ROY.

DEED OF GRANT.

Grantees—Francis Watkins and Patrick Hill.
Date—11th June, 1842.
County—Wellington.
Acres—1,280.

Greeting, To all to whom these presents shall come,
Whereas, by certain Regulations established by His Excellency Sir Ralph Darling, late Governor of Our Colony of New Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth.

* Marginal note.—See Secretary of State’s Despatch of 26 May, 1829, No. 113.
South Wales, in pursuance of Instructions from the Right Honorable the Secretary of State for Our Colonies, and which said Regulations bear date the Twelfth day of January in the year of Our Lord one thousand eight hundred and thirty, and were made in consideration of the inadequacy of the Salaries of the Chaplains of Our said Colony, to enable them to make provision for the future welfare of their Families, it was arranged amongst other things that the Daughters of such Chaplains should, on their arriving at the respective ages of eighteen years, receive Grants of Land in the said Colony to the extent of One thousand two hundred and eighty acres. And Whereas, in pursuance of such Regulations, His Excellency Sir Ralph Darling was pleased, on the Seventeenth day of February, one thousand eight hundred and thirty one, to promise to Elizabeth Mary Marsden, one of the Daughters of the Reverend Samuel Marsden, deceased, formerly senior Chaplain of our said Colony, a Grant of one thousand two hundred and eighty acres of Land. And Whereas the said Elizabeth Mary Marsden is not the only daughter of the Reverend Henry Hodgkinson Bobart of Parramatta; Now Know Ye that, in fulfilment of such promise, and in order to promote the due settlement of Our said Colony, We of Our special Grace have Granted, and for Us, Our Heirs and Successors, do hereby Grant unto Francis Watkins of Church Street, Parramatta, and Patrick Hill, also of Parramatta, and their Heirs, subject to the Trusts, conditions, reservations, and provisos herein-after mentioned, all that piece or parcel of land in Our said Territory, containing by admeasurement One thousand two hundred and eighty acres, be the same more or less, situated in the County of Wellington and Parish unnamed at Molong, Bounded on the North by Martha Marsden's Grant, East one hundred and forty five chains from the Molong Rivulet, and a continued East line thirty three chains fifty links; on the East by a line south eighty chains; on the South by a line West one hundred and fifty five chains to Molong Rivulet; and on the West by that Rivulet. Being the Land promised to the said Elizabeth Mary Marsden, now Elizabeth Mary Bobart, on or before the date above mentioned, and of which she was authorised to take possession on the Thirtieth day of August, one thousand, eight hundred and thirty one, as a Clergyman's Daughter's Portion, Being also the Land advertised as No. 259 in the Government Notice, dated 27th April, 1839, to be called Hermon; with all the rights and appurtenances whatsoever thereto belonging, to hold unto the said Francis Watkins and Patrick Hill and their Heirs upon the Trusts and for the purposes hereinafter limited and declare concerning the same:—that is to say, to the use of the said Reverend Henry Hodgkinson Bobart for his life, without impeachment for waste and failing that Use in his lifetime to the use of the said Francis Watkins and Patrick Hill, their Executors and Administrators during the life of and in Trust for the said Reverend Henry Hodgkinson Bobart, and to preserve contingent remainders; and on his death to the use of the said Elizabeth Mary, the Wife for her life, without impeachment for waste, and after the decease of the survivor of them, the said Reverend Henry Hodgkinson Bobart and Elizabeth Mary his Wife, in case there shall be but one child of the said marriage, to the use of such only child for his or her heirs and assigns for ever; and, in case there shall be more than one child, then to the use of all and every the Children of the said marriage, equally to be divided between them, share and share alike as tenants in common, and of

Deed of land grant to trustees for
H. H. and
E. M. Bobart.
1847.
29 March.

Deed of land
grant to
trustees for
H. H. and
E. M. Bobart.

the Heirs of such Children, lawfully issuing; and, for default of
such issue of the said marriage, or being such if all shall die in the
lifetime of the said Reverend Henry Hodgkinson Bobart and Eliza­
beth Mary, his Wife, or of the survivor of them, to and for such
uses, intents and purposes and subject to such powers and condi­
tions and in such manner and form as she the said Elizabeth Mary
Bobart, notwithstanding her coverture, shall by any Deed or
Writing, with or without power of revocation to be by her duly
executed and attested by two or more credible Witnesses, direct
and appoint; and for want of such appointment to the use of the
said Elizabeth Mary Bobart, her heirs and assigns, for ever.

Yielding and Paying therefore yearly unto Us, Our Heirs and Suc­
cessors, the Quit Rent or sum of Ten Pounds thirteen shillings and
four pence sterling for ever from the first day of January, one
thousand, eight hundred and thirty nine, unless the same shall be
redeemed by the said Party or Parties interested in and entitled
under and by virtue of these presents within Twenty years from
that date at the rate of Twenty years' purchase. Provided Never­
theless, and We do hereby reserve unto Us, Our Heirs and Suc­
cessors, all such parts and so much of the said Land as may
hereafter be required for a Public Way or Public Ways in, over
and through the same, to be set out by the Governor for the time
being of Our said Territory or some person duly authorised in that
respect, and also all stone and Gravel, all indigenous Timber and
all other materials, the produce of the said land, which may be
required at any time or times hereafter for the construction and
repair of ways and bridges, for Naval purposes, and for Public
Works, together with the right of taking and removing the same,
and also all land within one hundred feet of high water mark on
the said coast and on every creek, Harbour and Inlet, and also all
mines of Gold, of Silver and of Coals, with full and free liberty
and power to search for, dig, and take away the same, and also the
right of full and free ingress, egress and regress into, out of and
upon the said Land for the several purposes aforesaid; and We do
further reserve unto Us, Our Heirs and Successors, full power for
Us or Our Successors, or for the Governor for the time being of
Our said Territory, to resume and take possession of all or any
part of the said Land, not hereinbefore reserved, which may be
required at any time or times hereafter for any Public purpose, the
value of the said Land not hereinbefore reserved, or for so much
thereof as shall be so required and of any Building Standing on the
said required land, being paid by the Government to the Party
entitled thereto at a valuation fixed by Arbitrators chosen as
hereinafter mentioned; and We do hereby declare that, in every
case of Arbitration which may arise under and by virtue hereof,

One Arbitrator shall be chosen by the Governor for the time being
of Our said Territory and one by the Trustees for the time being
or the party or parties interested in and entitled under and by
virtue of these presents, which two Arbitrators (before they enter
upon the said Arbitration) shall elect a Third as Umpire, who
shall determine any disagreement between the two said Arbi­
trators; but, if the said Trustee or Trustees for the time being, or
the party or parties interested in and entitled under and by virtue
of these presents, shall refuse or neglect to choose an Arbitrator
on his, her or their part within one Calendar month after being
required so to do by public Advertisement in the Government
Gazette or otherwise, then both Arbitrators shall be chosen by
the Governor for the time being of Our said Territory, which Arbitrators shall also elect an Umpire in the manner above mentioned. Provided Always that, if the aforesaid Quit Rent shall be at any time unpaid for the space of Twenty days after the same shall become due (although no formal demand shall have been made thereof), it shall be lawful for Us, our Heirs and successors, by Our Governor for the time being of Our said Territory, or other person duly authorised in that behalf, to re-enter upon the said land or any part thereof with its appurtenances, and thence to remove the said Trustees or Trustee for the time being or the party or parties interested in and entitled under and by virtue of these presents, and to hold the same; and the rents, issues and profits thereof to have, receive and take to and for the use of Us, Our Heirs and Successors, until We or they shall therewith and thereby be fully paid and satisfied the Quit Rent thereon and every part thereof and all arrears of the same due at the time of our said entry or which shall accrue due during the time of our possession by virtue thereof, together with all costs and charges attending the non-payment of the said Quit Rent and Our entry upon the said Land. Provided also that, if the fees payable on this Our Grant be not paid and the Grant claimed by the said Trustees or Trustee for the time being or the party or parties interested in and entitled under and by virtue of these presents or some person lawfully authorised on their behalf within six calendar months after Notice of its being ready for delivery shall be given in the Government Gazette or otherwise, or if the conditions, reservations and provisos herein contained or any part thereof be not duly observed and performed by the said Trustees or Trustees for the time being, or the party or parties interested in and entitled under and by virtue of these presents, then the said Land shall be forfeited and revert unto Us, Our Heirs and Successors, and these presents and every matter and thing herein contained shall cease and determine and become absolutely void to all intents and purposes; and it shall be lawful for Us, Our Heirs and Successors, by Our Governor for the time being of Our said Territory or other person duly authorised in that behalf, to re-enter upon the said Land or any part thereof, and the said Trustees or Trustee for the time being or the party or parties interested in or entitled under and by virtue of these presents and all occupiers thereof, therefrom wholly to remove; Provided Always, and it is hereby further declared that it shall be lawful to and for the said Trustees and the survivor of them, and the Heirs, Executors and Administrators of such survivor at any time or times hereafter, with the consent of the said Reverend Henry Hodgkinson Bobart and Elizabeth Mary, his Wife, or the survivor of them, such consent and approbation to be testified in writing under the hands and seals of the said Reverend Henry Hodgkinson Bobart and Elizabeth Mary, his Wife, and to be attested by two or more credible witnesses, to make sale or to convey in exchange for or in lieu of other Lands, Tenements or Hereditaments of equal or better value all or any of the said lands and hereditaments hereby Granted as aforesaid or any part thereof, and the fee simple and inheritance thereof to any person or persons whomsoever, either together or in parcels, for such price or prices or for such other equivalent in Lands or Tenements as shall seem reasonable. And, for the purpose of effectuating such dispositions and conveyances, it shall and may
be lawful for the said Trustees and the Survivor of them, and the Heirs, Executors and Administrators of such survivor at such request and by such direction so testified as aforesaid by any Deed or Deeds, Instrument or Instruments in writing, sealed and delivered by them, him or her in the presence of and attested by two or more credible witnesses, absolutely to revoke, determine and make void the power for the sale and exchange of the Lands and Hereditaments hereby granted, and, by the same or any other Deed or Instrument to be sealed, delivered and attested as aforesaid, to limit, declare, direct or appoint any new or other Trusts of and concerning the said lands and Hereditaments, which shall be thought necessary and expedient for the purpose of effectuating such sales, exchanges, dispositions and conveyances. And Also that, upon such exchange as aforesaid, it shall be lawful for such Trustees and the survivor of them and his heirs, executors and administrators to give or receive any sum or sums of money for equality of exchange, and Also, upon payment of the money arising by the sale of any part or parts of the said Lands hereby granted, or to be received by way of equality of exchange, to sign and give proper Receipts for the same, which Receipts shall be sufficient discharges to any person or persons for so much of the money as shall be therein acknowledged or expressed to be received; and such person or persons shall not afterwards be answerable for any loss, misapplication or non-application of such money or any part thereof; and when any of the Lands hereby Granted shall be sold for a valuable consideration in money, and such proper Receipts shall be signed and given for the purchase money as aforesaid, and also when any of the said Lands hereby Granted shall be disposed of or conveyed in exchange for or in lieu of other Lands, Tenements and Hereditaments as aforesaid, and the Fee simple and Inheritance of such last mentioned Lands, Tenements and Hereditaments shall be well vested in the said Trustees or the survivor of them, or the Heirs, Executors or Administrators of such survivor, all and every of the Lands so sold and conveyed, or such part or parts thereof as shall be sold and conveyed, shall be and remain for ever freed and absolutely discharged of and from all and every the uses, estates, Trusts, Limitations, Powers, Provisos and Appointments in and by these presents limited, expressed and declared, and then and from thenceforth these presents and the Grant hereinbefore contained shall be and enure respectively as to so much of the said premises hereby granted as shall be respectively sold and conveyed as aforesaid to the use of such purchaser or purchasers, and his and their heirs and assigns respectively for ever. Provided Nevertheless that, when any part or parts of the said Lands hereby made saleable as aforesaid shall be sold as aforesaid or any money shall be so received for equality of exchange, all and every the sum and sums of money, which shall arise from such sales and exchanges, shall with all convenient speed be laid out and invested by them the said Trustees and the survivor of them, his heirs, executors or administrators, by and with the consent and approbation of the said Reverend Henry Hodgkinson Bobart and Elizabeth Mary, his Wife, or the survivors of them testified as aforesaid, in the purchase or purchases of freehold lands, tenements and hereditaments, free from all incumbrances, to be situated in the Colony of New South Wales or elsewhere, of a clear and indefeasible estate of inheritance in fee simple, of as good value in all respects as the lands and hereditaments hereby granted and
FITZ ROY TO GREY.

hereinbefore made saleable, or such of them as shall be sold, and as well the lands and hereditaments so to be purchased as all and every the lands and hereditaments which shall be vested in the said Trustees, or the survivor of them, his heirs, executors or administrators, in exchange for or in lieu of all or any part or parts of the lands and hereditaments hereby granted as aforesaid, shall be respectively settled and conveyed by the said Trustees and the survivor of them and the heirs, executors or administrators of such survivor, to such of the same uses and upon such and the same Trusts and for such and the same Interests and purpose, and with, under and subject to the same powers, provisos, declarations and agreements, as are hereinbefore expressed and declared, of and concerning the same lands and hereditaments hereby granted, or as near thereto as the deaths of parties and other contingencies will then admit of. And it is hereby agreed and declared that, until the money arising by such sale or sales as aforesaid shall be invested in a purchase or purchases in the manner hereinbefore directed, it shall and may be lawful for the said Trustees and the survivor of them, his heirs, executors or administrators, by and with the consent and approbation of the said Reverend Henry Hodgkinson Bobart and Elizabeth Mary, his Wife, or the survivor of them, testified as aforesaid, in case they or either of them shall be both dead, with the proper authority of the Trustees or Trustee for the time being, to place out such money at Interest upon real security within the said Colony, and also from time to time, with such consent and approbation as aforesaid, or of their own proper authority as the case shall happen, to alter and transpose such securities and funds when and so often as to the said Trustees or Trustee for the time being shall seem meet; and the Dividends, Interest and Annual proceeds, which shall from time to time arise by or in respect of such money as to be invested as aforesaid, or by or in respect of any other sum or sums of money which shall come to the hands of the said Trustees or any of them by any alteration or transposition of such securities as aforesaid, shall go and be payable and be applied to and for such uses, intents and purposes, and in such manner as the Rents and Profits of the said lands and tenements to be purchased would go or be payable or applicable in case such purchase or purchases was or were actually made. Provided Always and it is hereby declared that, if the said Trustees or any future Trustee or Trustees to be appointed in the place or stead of any of them, as hereinafter is mentioned, during the continuance of the aforesaid Trusts, shall happen to die or desire to be discharged from the said Trusts, or refuse or become incapable to act in the execution of the same, in such case and when and so often as the same shall happen, it shall and may be lawful to and for the said Trustees or the survivor of them, his heirs, executors or administrators, with the consent and approbation of the said Reverend Henry Hodgkinson Bobart and Elizabeth Mary, his Wife, or the survivor of them, testified by some writing under their, his or her hands and, after the decease of such survivor, of his or their own proper authority, by any Deed or Writing under their hands and seals attested by two credible Witnesses, to nominate and appoint any other person or persons to be a Trustee or Trustees for the purposes aforesaid in the stead or place of the Trustee or Trustees so dying, desiring to be discharged or refusing or becoming incapable to act as aforesaid; and, when and so often as any new Trustee or Trustees shall be nominated and
Deed of land grant to trustees for H. H. and E. M. Bobart.

appointed as aforesaid, all the Trusts, Estates, Monies and Premises, which shall be then vested in the Trustee or Trustees so dying, desiring to be discharged, or refusing or becoming incapable to act as aforesaid, shall be thereupon conveyed and assigned and transferred in such manner and so that the same shall and may be lawfully and effectually vested in the surviving or continuing Trustees, and such new or other Trustee or Trustees, upon the same Trusts and for the same interests and purposes as are hereinbefore expressed and declared of and concerning the same respectively, and that such new Trustee or Trustees shall in all things act in the execution of the said Trusts as fully and effectually as if he or they had been originally appointed a Trustee or Trustees in these presents. Provided Always and it is hereby declared that the said Trustees hereby appointed, and such new Trustee or Trustees to be appointed as aforesaid, and the heirs, executors, administrators and assigns of them and each of them shall be charged and chargeable respectively only for such monies as they shall actually receive by virtue of the Trusts hereby in them reposed notwithstanding his or their giving or signing any Receipts for the sake of conformity; and any one or more of them shall not be answerable or accountable for the other or others of them or for the acts, receipts, neglects or defaults of the other or others of them; but each and every of them only for his and their own Acts, Receipts, Neglects or Defaults respectively; and that any one or more of them shall not be answerable or accountable for any Banker or other person with whom or in whose hands any part of the Trust Monies shall or may be deposited or lodged for safe custody, or otherwise in the execution of the Trusts hereinafter mentioned; nor for any other loss, misfortune or damage, which may happen in the execution of any of the aforesaid Trusts, or in relation thereto, unless the same shall happen by or through their or his own wilful neglect and defaults respectively. And Also that they the said Trustees, and each and every of them, and the executors, administrators and assigns of them, and each and every of them shall and may, by and out of such monies as shall come to their respective hands by virtue of the Trusts aforesaid, retain to and reimburse himself and themselves respectively, and also pay and allow to his and their Co-Trustee or Co-Trustees, all costs, charges, damages and expenses, which they or any of them shall or may suffer, sustain, expend, disburse or be put to in the execution of the aforesaid Trusts or in relation thereto. In Testimony Whereof, We have caused this Our Grant to be sealed with the Seal of Our said Territory.

Witness our Trusty and Well beloved Sir George Gipps, Knight, Our Captain General and Governor in Chief of Our said Territory and its Dependencies, at Government House, Sydney, in New South Wales aforesaid, this Eleventh day of June in the Fifth year of Our Reign and in the year of Our Lord one thousand eight hundred and forty two.

GEO. GIPPS.

I hereby certify that the foregoing is a true copy of the Registry of the original Deed as extracted from the Register of Grants in this Office, No. 60, pages 511 to 531 inclusive.

E. DEAS THOMSON.
Colonial Secretary and Registrar.

Colonial Secretary's Office, Sydney, 14th April. 1847.
Earl Grey to Sir Charles Fitz Roy.

(Despatch No. 120, per ship John Fleming; acknowledged by Sir Charles Fitz Roy, 9th November, 1847.)

Sir,

Downing Street, 30 March, 1847.

In my Dispatch No. 68 of the 29th of November last, I transmitted to you the Draft of an order, proposed to be made by Her Majesty in Council under the authority of an Act passed in the last Session of Parliament, for the purpose of regulating the occupation of Land for Pastoral purposes in New South Wales.

In doing so, I expressed my hope that I should soon be enabled to submit the proposed order to Her Majesty for her sanction, and to forward it to you as a Law.

I greatly regret that in this hope I have been disappointed.

In the Dispatch to which I have referred, I informed you that I considered it of so much importance to obtain the advice, upon this subject, of the late Governor of New South Wales, that I should wait for his arrival in this Country (then expected almost immediately) before I proceeded further with the contemplated Measure.

Sir George Gipps reached England later than had been anticipated, and in a state of health which rendered it impossible for him at first to attend to business. Subsequently, however, his health having apparently improved, he was enabled, before his friends and his Country suffered the great loss of his lamented death, to give me advice and assistance of the highest value in the revision of the proposed regulations, of which some important modifications were consequently made. Some further delay has been occasioned by the necessity of obtaining the best legal advice I could command in rendering the technical form of the Order, of which the substance had been settled, as perfect as possible; and it was in consequence not until the 9th of March, that the Draft thus prepared could be submitted to the Queen in Council, when, having been sanctioned by Her Majesty, it has acquired the force of Law; and I have now, by the first opportunity which has since occurred, the honor of forwarding to you the order which has thus been made.

I have thought it right to enter into this explanation in order that it may be in your power to satisfy the Members of your Council and the Inhabitants of New South Wales generally that no unnecessary delay has taken place in completing an arrangement, which is I know anxiously expected by them, as deeply affecting the future prospects of the Colony.

I trust that this order in Council, which I at length transmit, will be found to contain provisions calculated to promote both
the immediate and the future welfare of the Colony; and I have the more confidence that this will be the case, as, while upon many points the wishes most earnestly pressed upon me by the Stockholders have been acceded to, the arrangement as a whole had obtained the approbation of Sir George Gipps, than whom no one had on this subject more accurate and extensive knowledge, or a sounder judgment.

I have, in the Dispatch already quoted so fully, explained the views upon which this order in Council is founded, and its main objects, that it is needless that I should again revert to those topics. I will, therefore, in the present communication confine myself to some few observations on the most material changes which have been made in the provisions of the order, as finally made by Her Majesty in Council, from those contained in the original Draft of the Measure, and also on some points specially brought under my notice by gentlemen interested in the subject, and now in this Country, to whom I caused that Draft to be communicated.

The most material of the changes, which have been made in the regulations at first proposed, is that by which, instead of leaving the classification of the Lands of the Colony to be settled by yourself, it has been made by Her Majesty's direct authority, and is embodied in the Order in Council.

Great objection was made by some of the Gentlemen connected with the Colony to the proposed delegation of authority upon this subject to the Governor; and, in urging that objection, arguments were used which convinced me that, if such a delegation of authority were made, you would have to encounter very strenuous efforts on the part of a numerous and powerful class of the Inhabitants of New South Wales to induce you to include, amongst the unsettled Lands, much of the Territory which ought more properly to be Classed with the intermediate Lands.

I have in my former despatch explained to you; the great importance which I attach to avoiding an error of this kind, with a view to the interests of future Settlers, and how great was my anxiety that no undue extension should be given to the Lands to be defined as "unsettled," and which would thus be put out of the power of the Crown, and rendered unavailable to the public for purchase for the long period of Fourteen (14) years.

Entertaining this view of the subject, the letters which I have received convinced me that I should relieve you from a painful and invidious duty, and from a very serious responsibility, if I could succeed in defining, by provisions to be introduced into the order in Council, the Lands to be Classified as "unsettled" and
as “intermediate”; and, finding that by Sir George Gipps’ assistance this could be done in a manner which I considered satisfactory, I gladly availed myself of his aid to effect this improvement in the regulations.

You will perceive that the intermediate Lands have been so described as to provide for the probable Course of Settlement along the banks of navigable rivers, and also for the improvements which may hereafter arise on each side of any Railways constructed in the Colony.

It was once proposed that the Squatter should have the right of buying any Block of not less than 320 Acres within his Run; it was intended that he should have this privilege even as to Blocks of half that extent; but, in the Order as passed by Her Majesty, this has been modified by introducing the same regulations as to the shape of the Blocks, and the proportion of Water frontage, which experience had already dictated in Similar Rules framed in the Colony.

All the Gentlemen, whom I heard on the Regulations, concurred in representing that 30 days was too short a time within which to allow persons to make good a default in the payment of Rent. I think their representations on this point were quite reasonable, and the term has accordingly been extended to 60 days.

To the rule that a Lease may be declared forfeited by two Justices, it has been thought proper to add a Proviso in favour of the Squatter that such forfeiture should not take effect, unless submitted to and confirmed by the Governor.

With regard to intermediate Lands, I may take this opportunity of correcting a misapprehension, which I have reason to think has materially influenced the remarks made by Mr. Boyd, as well as probably by Mr. Scott, on that Class of Lands.

Although liable at the end of each year to be put up to Sale, the Squatter on these lands will be perfectly secure for 8 years against any one who merely requires a Lease. The actual occupier can only be deprived of his holding, if his Run or any part of it should be demanded for purchase; and, even in that case, he will have a right of preemption, and, if he should not avail himself of this right and thus allow some other person to purchase the land, he will still have a claim for the value of any improvements he may have made.

I have mentioned this, because I think that at first sight it was not understood how the proposed Leases for 8 years would be reconcilable with the contingency of a demand for part of the Lands at the end of every year.
I believe I have now noticed all the more general remarks contained in the letters, which I have received; and I have also drawn your attention to the principal changes made in the Regulations since the original Draft of them was forwarded for your information. I can only state in conclusion that they have been the result of a very serious deliberation; that they have not been framed without inviting and hearing the opinions of a variety of persons in this Country, connected with the Colony; and that, whilst I look with satisfaction on the concessions which they contain to that enterprising Class by which the products and the wealth of New South Wales have been so largely increased of late years, I trust that they also secure proper accommodation for other Classes of the Community, who may desire to occupy land for other purposes, and that they will be found not inconsistent with the gradual spread of the settled population beyond its present boundaries.

I have, &c.,

GREY.

[Enclosure.]

ORDER-IN-COUNCIL.

At the Court at Osborne House, Isle of Wight, the 9th day of March, 1847.


Whereas by an Act passed in the present year of Her Majesty, intitled, "An Act to amend an Act for regulating the sale of Waste Land belonging to the Crown in the Australian Colonies, and to make further provision for the management thereof," after reciting that it might be expedient that various rules and regulations should be made, respecting the more effectually making demises or licenses for any term of years not exceeding fourteen, of any such waste lands as therein mentioned, and respecting the reservation on such demises or licenses, of any such rents or other pecuniary services, and respecting the insertion therein of such conditions and clauses of forfeiture as are therein mentioned, and respecting the division of the said Colonies into districts within which alone such demises or licenses might be made to take effect, and respecting the renewal of any such demises or licenses, and respecting the conflicting claims of different persons to obtain any such demise or license, and respecting any right of pre-emption which it might be proper to give to the holders of any such demise or license, and respecting the forfeiture of any such demises or licenses, on the conviction of any holders thereof, of certain offences in any such Colony, and respecting any other matters and things which might be requisite, either for carrying into more complete effect the occupation in manner therein mentioned, of such waste lands as aforesaid, or for preventing the abuses incident thereto; it was enacted, That it shall be lawful for Her Majesty, by any Order in Council, to make and establish all such rules and regulations as to Her Majesty should seem meet for the purposes...
And whereas it is expedient that the rules and regulations herein contained, should now be made and established, for regulating the occupation of the waste lands of the Crown in the Colony of New South Wales, it is hereby Ordered by the Queen's most Excellent Majesty, by and with the advice of the Privy Council, that within the said Colony of New South Wales, the rules and regulations comprised in the following chapters, shall henceforth be observed, and have the force and effect of law.

CHAPTER I.

As to the Division of the Lands in New South Wales.

Sect. 1.—The lands in the Colony of New South Wales shall, for the purposes of the present Order, be considered as divided into three classes and be dealt with accordingly, as they may be situated in Districts to be denominated respectively as the settled, the intermediate, and the unsettled districts.

Sect. 2.—The settled districts of the Colony shall comprehend:

First—The nineteen contiguous counties, the boundaries of which were settled and proclaimed before the 1st January, 1838.

Second—The counties or reputed counties of Macquarie and Stanley.

Third—The lands which may be within a distance of twenty-five miles, to be measured or reckoned from any point of the corporate limits of the town of Melbourne in the county of Bourke.

Fourth—The lands which may be within the distance of fifteen miles from any point of the outward limits of the town of Geelong, in the county of Grant.

Fifth—The lands which may lie within the distance of ten miles from any point of the outward limits of each of the following towns or townships, viz.:


The town which has been established at the head of the navigation of the River Clarence.

The town of Macquarie in the county of Macquarie.

The town of Ipswich in the county of Stanley.

Sixth—The lands which may lie within the distance of three miles from any part of the sea, throughout the extent of the Colony, measured in a straight line.

Seventh—The lands which may lie within the distance of two miles from either of the two opposite banks of any of the following rivers, viz.:

The Glenelg from a point to be fixed by the Governor, not lower than where the Glenelg receives the waters of the Crawford, nor higher than where it receives the waters of the Wannon.

The Clarence from a point to be fixed by the Governor, at a distance not less than ten miles above the Government township, at the head of the navigation, and not less than fifty miles from the sea (measured in a straight line).
The river now known by the name of the Richmond, from a point to be fixed by the Governor, at a distance not less than twenty miles from the sea, measured along the course of the river.

**Sect. 3.—As to the intermediate districts.**
The intermediate districts shall comprehend the lands lying within the counties or reputed counties of Bourke, Grant, and Normanby, in the district of Port Phillip, which are not hereinbefore directed to be included in the settled lands; also all the lands in the county or reputed county of Auckland, which are not included in the settled lands as hereinbefore mentioned; also the entire district of Gipps Land, except the parts included in the settled lands as hereinbefore mentioned; also the counties, either already formed or intended to be formed, between the county of Auckland and the county of St. Vincent; also any county or counties of which the boundaries may be fixed and proclaimed on or before the 31st December, 1848.

**Sect. 4.—As to the unsettled districts.**
The unsettled districts shall comprehend all the lands of New South Wales, excepting such lands as are now, or hereafter lawfully may be, comprehended within the limits of the settled and intermediate lands within the said Colony.

**CHAPTER II.**

**Rules to be Enforced within the Unsettled Districts.**

**Sect. 1.—It shall be lawful for the Governor for the time being of the said Colony, or the officer for the time being administering the Government of the Colony, and he is hereby empowered to grant leases of runs of land within the unsettled districts, to such person or persons as he shall think fit, for any term or terms of years, not exceeding fourteen years in duration, for pastoral purposes, with permission, nevertheless, for the lessee to cultivate so much of the lands respectively comprised in the said runs as may be necessary to provide such grain, hay, vegetables, or fruit for the use and supply of the family and establishment of such lessee but not for the purpose of sale or barter; and so, nevertheless, that such leases shall in no case prejudice, interrupt, or interfere with the right of the Governor or other officer for the time being administering the Government of the said Colony to enter upon any of the lands comprised in the said leases for any purpose of public defence, safety, improvement, convenience, utility, or enjoyment, agreeably to the provisions for those purposes contained in the 9th section of the second chapter of this Order in Council, or otherwise.

**Sect. 2.—The rent to be paid for each several run of land shall be proportioned to the number of sheep or equivalent number of cattle which the run shall be estimated as capable of carrying, according to a scale to be established for the purpose, by authority of the Governor. Each run shall be capable of carrying, at least, four thousand sheep, or equivalent number of cattle, according to the scale aforesaid, and not in any case be let at a lower rent than ten pounds per annum, to which two pounds ten shillings per annum shall be added for every additional thousand sheep or equivalent number of cattle which the run shall be estimated as capable of carrying.

**Sect. 3.—In order to estimate the number of sheep or cattle which each run will carry, before the granting of the said lease as hereinbefore mentioned, the intended lessee or occupier shall name a
valuer, and the Commissioner of Crown Lands shall either act as
valuer, or name one to act for him; and these two valuers shall
have power to choose, if necessary, an umpire; but if they cannot
agree in the choice of an umpire, he shall be appointed by the
Governor, or the officer for the time being administering the Gov-
ernment of the said Colony.

Sect. 4.—The rents to be paid according to the scale above
mentioned, are to be reserved exclusively of any existing assess-
ments of taxes or rates on sheep and cattle, and are to be paid
without abatement on account of the existing or any future assess-
ments of taxes or rates on sheep and cattle, and in no way to
interfere with the right of the Colonial Legislature to impose
from time to time such assessments as may be deemed advisable.

Sect. 5.—The rent for each run shall be payable yearly in
advance, at such time and place as shall be respectively specified
in the lease of the said run of land. In the event of default being
made in payment of the rent, the lease shall be forfeited, but the
lessee shall be permitted to defeat the forfeiture, and prevent its
becoming absolute and indefeasible, by payment within sixty days
from the date of the original rent day, of the full annual rent,
with the addition of a sum equal to one equal fourth part of the
yearly rent due from him, by way of penalty; but unless the
whole of the said yearly rent, with such penalty as aforesaid, shall
be duly paid within the term of sixty days, counting from the
original rent day inclusive, the lease shall be absolutely and in-
defeasibly forfeited. And it shall be competent to any individual
to demand of the Governor, or of the Officer for the time being
administering the Government of the Colony, or of any Officer or
Officers acting by his authority for the present purpose, that a fresh
lease of the run so forfeited be offered to sale, under the general
rule hereinafter provided for that purpose in section 12 of this
chapter.

Sect. 6.—During the continuance of any lease of lands occupied
as a run, the same shall not be open to purchase by any other
person or persons except the lessee thereof. But it shall be lawful
for the Governor, or the Officer for the time being administering
the Government of the said Colony, to sell to such lessee any of the
lands comprised in the lease granted to such lessee, provided that
the quantity of the lands sold to such lessee shall not be less than
one hundred and sixty acres, and that the price to be paid for the
same shall not be below the general minimum price of one pound
for each acre: Provided also that, if the portion or lot of any
such run sold to such lessee be less in extent than three hundred
and twenty acres, the expenses of the survey of the portion so sold
shall be paid by the purchaser.

Sect. 7.—Every lot to be sold under the provisions before men-
tioned shall be subject to the following conditions:—
First—Each lot must be rectangular, unless the features of the
country, or the course of any river or stream, render a deviation
from the rectangular form necessary; and in every case, two sides
at least of the lot must be directed to the cardinal points of the
compass.
Second—The two opposite sides of any stream or watercourse which, according to the practice of the department of the Surveyor General, ought to form a boundary between different sections or lots, shall in no case be included in the same lot.

Third—No single lot shall have more than four hundred and forty yards of water frontage for one hundred and sixty acres, or more than a like proportion of water frontage for any quantity greater than one hundred and sixty acres, but the water frontage shall be reckoned according to the distance from one extreme point thereof to the other in a right line, and not according to the bendings of the watercourse or river; and the Governor, or Officer for the time being administering the Government of the said Colony, shall have the right of refusing to sell any lot or lots, in every case where it may appear to him that the sale of such lot or lots respectively, might give an undue command over water required for the beneficial occupation and cultivation of the lands adjoining either side of any stream or watercourse.

Sect. 8.—It shall be lawful for the Governor, or Officer for the time being administering the Government of the said Colony, to except, out of any such sale or sales as aforesaid, all such lands as it may appear to him expedient to reserve for any of the public uses for which it is enacted by the third clause of the Act passed in the fifth and sixth years of Her Majesty, chapter 36, intituled "An Act for regulating the sale of waste lands belonging to the Crown in the Australian Colonies," that lands required for public uses may be excepted from sales authorised by that Act, and if there be reason to suppose that any of the lands applied for under the regulations hereby expressed possess peculiar advantages, whether of water frontage or otherwise, which would render it fit that a higher price should be paid for such lands, the Governor or the Officer for the time being administering the Government of the said Colony, or any Officer authorised by him for the purpose, may require the said lands to be assessed by valuers appointed, in manner provided in section 3 of the second chapter of this Order in Council, in order that the value, if estimated by them or their umpire at more than one pound per acre, the higher amount may be paid for such lands accordingly.

Sect. 9.—That nothing in these regulations, or in any lease to be granted under the powers hereby vested in the Governor, shall prevent the said Governor, or Officer for the time being administering the Government of the said Colony, from making grants or sales of any lands within the limits of the run or lands comprised in such lease for public purposes, or disposing of in such other manner as for the public interest may seem best, such lands as may be required for the sites of churches, schools, or parsonages, or for the construction of high roads or railways and railway stations, or other internal communications, whether by land or water, or for the use or benefit of the aboriginal inhabitants of the country, or for public buildings, or as places for the interment of the dead, or places for the recreation and amusement of the inhabitants of any town or village, or as the sites of public quays, or landing places on the sea coast or shores of navigable streams, or for the purpose of sinking shafts and digging for coals, iron, copper, lead, or other minerals, and effectually working coal, or
iron, or copper, lead, or other minerals, or for any other purpose of public defence, safety, utility, convenience, or enjoyment, or for otherwise facilitating the improvement and settlement of the Colony; but so that the quantity of land which may be granted or sold to any railway company shall not exceed in all the rate of one hundred acres for every mile thereof in length.

Sect. 10.—That if at any future period a railroad be made through or near to the districts comprising unsettled lands, all lands within the distance of two miles from that railroad shall, notwithstanding any lease of the run within which such lands shall be situated, be liable to be sold at the end of each successive year from the date of the said lease; provided that at least sixty days previous notice shall have been given to the lessee, and so that such lessee shall be entitled to all the same conditions reserving to the previous lessee the right of pre-emption and the value of improvements as are hereinafter mentioned, with reference to the case of a sale at the expiration of the full term of such lease.

Sect. 11.—All occupants of Crown Lands, who shall have been in licensed occupation of the same for at least one year at the time when this Order in Council shall come into effect, are to be entitled to demand leases of their respective runs under the present regulations, within six months from the date of the publication of this Order in Council by the Governor or other officer administering the Government of the said Colony, but not afterwards; and all occupants, who have been in licensed occupation of their lands for a shorter period than the term of one year, shall be entitled upon the expiration of the same term of one year, without having forfeited their respective licenses, to demand leases of their respective runs, under the regulations herein contained; provided such lease shall be lawfully demanded within six months after the expiration of the full term of one year, but not afterwards.

Sect. 12.—When any run of lands, after being occupied, shall be and of forfeited or become vacant without the previous occupant's having exercised his right of renewal hereinafter reserved, it shall be competent for any person, desirous of acquiring a lease of such run of lands, to give notice to the Governor, or Officer for the time being administering the Government of the said Colony, of his, her, or their desire to purchase anew the lease of such run of lands, and immediately after such notice the Governor or Officer administering the Government of the said Colony shall direct sealed tenders to be sent in at such time and place, and in such form as he shall think fit, by the person giving such notice as aforesaid; and also by such other person (if any) as may be disposed to enter into competition for the said lease; and every tender so to be made shall state the term of years for which it is proposed to take the said run, and whether, in addition to the minimum rents required agreeably to the provisions contained in sections 2 and 3 of the second chapter of this Order in Council, it is proposed to offer any, and if any, what amount of premium for the lease; and the said tender or tenders shall be opened in the presence of two or more persons authorised by the Governor or Officer for the time being administering the Government of the said Colony for that purpose, and if there shall be more than one tender, the tenders shall be opened at the same time, and if there shall be only one tender the lease of the run shall be given to the person making
such tender, provided the rent offered shall be admissible under
the provisions contained in sections 2 and 3 of this chapter of the
Order in Council; but if there shall be more competitors than one,
the lease of the run shall be given to such person or persons as
shall tender the highest amount of premium for the same; but if
two or more tenders shall be made for the same run and no one
of them be higher than all the rest, a future day shall be announced
by the persons who open the tenders, on which day it shall again
be competent to all persons to offer fresh tenders in the same
manner as hereinbefore provided in regard to the first tenders.

Sect. 13.—If any individual be desirous to acquire a new run of
land which has never been occupied before, he shall be at liberty
to send in a sealed tender, at such time and place, and in such
form, as may be appointed by the Governor or Officer administering
the Government of the said Colony for receiving tenders for new
runs, and shall set forth in his tender a clear description of the
run for which he applies and of the boundaries of the same, and
shall state whether, beyond the amount of rent to be ascertained
as hereinbefore provided, he is willing to offer any, and if any,
what amount of premium for the lease, and such tenders shall be
in all respects dealt with as hereinbefore provided in section twelve
of this Order in Council for tenders for runs, which have been
forfeited or fallen vacant, save and except that, if it shall occur
that two or more persons have thus applied for different runs, of
which part of one run would include part or the whole of an­
other run, the Governor or Officer for the time being administering
the Government of the said Colony, or the person or persons autho­
rised by him to act in this behalf, shall declare what shall be the
several runs, for which if shall be competent to parties to tender,
and another day shall then be named, at which the previous appli­
cants, and all other persons shall be at liberty to offer fresh
tenders for the runs so delivered.

Sect. 14.—A lease shall be liable to forfeiture in three modes:—
First—it shall be forfeited for non-payment of rent as provided
in section 5 of the 2nd chapter of this Order in Council.
Second—it shall be forfeited absolutely, immediately upon any
conviction for felony against the lessee; and
Third—in the event of his conviction by a Justice of the District
for any offence against the law, the case may be enquired into
within three months after the conviction by two or more Justices,
who, if they think fit, may adjudge the lease to be forfeited with or
without compensation for the value of the improvements, according
to the nature of the offence: Provided always, that no such adjudic­
ation of forfeiture pronounced by the Justices shall take effect
until confirmed by the Governor or Officer administering the Gov­
ernment of the said Colony.

Sect. 15.—Upon the expiration of a lease, it shall be competent
for the Governor or Officer administering the Government of the
said Colony, to put up all or any part of the lands included in a
run for sale, subject to the following conditions:—
First—the previous lessee shall have the option of purchasing
the land for its fair value in an unimproved state, which shall
never be estimated at less than £1 per acre.
Second—If declined by the previous lessee, the value of any improvements on the land offered for sale shall be ascertained by valuers appointed under the provisions contained in section 3 of the second chapter of this Order in Council: Provided nevertheless, that the sum, so to be estimated and allowed for, is in no case to exceed the amount of the actual outlay made by the lessee.

Third—The upset price shall then consist of the joint value of the land and the improvements, and, if the land be sold, the amount of the improvements shall be paid over to the previous lessee, and only the balance be retained by the Government.

Sect. 16.—If no part of the run be sold, the previous lessee shall be entitled to a renewal of the lease of the whole, or, if any part of the run, not amounting in all to one equal fourth thereof, be sold, such lessee shall be entitled to a renewal of the lease for the remaining parts of the lands comprised in his run, subject to the reservation of an increased rent described in the next hereinafter following section of these rules and regulations; and provided, nevertheless, that the boundaries of the different classes of land in the Colony shall not in the mean while have been so far extended as to bring the said run within the class of settled lands; and provided also that, if brought within the class of intermediate lands, the lessee shall only obtain a renewed lease of the said run under the rules hereinafter laid down as applicable to that class of lands.

Sect. 18.—The rent of every lease of a run of land, after the expiration of the first lease granted under this Order in Council, is to be paid by any new lessee on the number of sheep and cattle which the run shall be estimated to carry in its improved, instead of its unimproved state, in the same manner as provided for in sect. 3 of the second chapter of this Order in Council; but, as an encouragement to improve, the lessee whose lease shall be renewed is to be exempt from paying any increase beyond fifty per cent. upon the amount of rent reserved under the expired lease.

CHAPTER III.

Rules Applicable to Intermediate Lands.

Sect. 1.—Within lands coming under the description of intermediate lands the interest in runs shall be acquired, held, and determined upon the same terms and conditions as above laid down for unsettled lands, excepting that the leases shall not be made for more than eight years in duration, and that, at the end of each successive year from the date of the lease, it shall be competent for the Governor or Officer for the time being administering the Government of the said Colony, provided he shall have given sixty days’ previous notice, to offer for sale all or any part of the lands within any such run, subject to the same conditions in favor of the lessee as are above laid down in case of a sale at the expiration of the full term of a lease of unsettled lands.

CHAPTER IV.

Rules Applicable to Settled Lands.

Sect. 1.—Within the boundaries of the settled lands, it shall be competent for the Governor or Officer for the time being administering the Government of the said Colony, to grant leases of lands exclusively for pastoral purposes, for terms not exceeding one year; and it shall further be competent for the Governor or Officer for

Leases for eight years with liability to sales under certain restrictions at end of every year.
1847.
30 March.
Rules applicable to settled lands.
the time being administering the Government of the said Colony, if he deem it expedient, to make general rules, under which the holders of purchased lands within such districts of settled lands may be permitted to depasture, free of charge, any adjacent Crown lands: Provided that the depasturage of such unsettled lands free of charge shall in no way interfere with the right of the Government at any time to dispose of the same, either by sale or by lease for one year as above mentioned.

And the Right Honorable Earl Grey, one of Her Majesty's Principal Secretaries of State, shall give the necessary directions herein accordingly.

Wm. L. Bathurst.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 121, per ship John Fleming.)

Downing Street, 30 March, 1847.

Sir,

With reference to my Dispatch of the 29th of January, No. 91, I have now to acquaint you that the Lords of the Treasury have consented to direct the repayment to the Colonial Agent of only £39 8s. 11d., being the value of the articles stated to have been landed from the Schooner "Frolic" at Port Essington, and retained for the use of that Settlement; and that, as regards the further items of £11 16s. 4d., and £3 14s. 8d., which are referred to in the Colonial Secretary's letter enclosed in Sir G. Gipps' Dispatch No. 117 of the 16 of June last, the Court of Directors of the East India Company have agreed to reimburse those sums, in addition to the £240 for which they had already held themselves accountable on account of the hire of the "Frolic."

These two sums therefore, namely £11 16s. 4d. and £3 14s. 8d., will be paid by direction of the Commissioners for the Affairs of India to the Colonial Agent, to be placed by him to the credit of the Government.

I have, &c.,

Grey.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 64, per ship Caledonia; acknowledged by earl Grey, 4th December, 1847.)

My Lord, Government House, 30th March, 1847.

I have the honor to inform Your Lordship that, on the 28th of January last, I granted (in Council) twelve months' leave of absence to Sir Thomas Mitchell, Surveyor General of this Colony, to enable him to proceed to England on urgent private affairs.

Sir Thomas Mitchell sailed from hence on board the ship "Walmor Castle" on the 27th instant, and, during his absence, his duties will be performed by the Deputy Surveyor General, Captain Perry.
It is right that I should point out to Your Lordship that, although upon receiving Sir Thomas Mitchell's assurance that the business, which took him to England, was of great importance and such as could not be transacted by correspondence from this Colony, I considered that I should not be justified in refusing to grant him the leave he applied for, it is evident that if the duties of the Survey Department can be conducted by the Deputy Surveyor alone without inconvenience to the public service (which was the case during the long period of Sir Thomas Mitchell's late exploratory expedition and as it will be now), in the event of any vacancy occurring, it will not be necessary that both the appointments should be filled up.

I have, &c,
CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 66, per ship Caledonia; acknowledged by earl Grey, 21st September, 1847.)
My Lord,
Government House, 30th March, 1847.
With reference to my Despatch, No. 9 of the 9th January last, I have the honor to forward herewith Memorials addressed to the Queen and to the two Houses of Parliament by certain of the Inhabitants of the District of Goulburn in this Colony, praying that the Transportation of Criminals to New South Wales may not be renewed.
I also enclose a copy of the Resolutions which were passed by the Meeting at which the Memorials were adopted.
I have, &c,
CHS. A. FITZ ROY.

[Enclosures Nos. 1 to 3.]
[Copies of these memorials are not available.]

[Enclosure No. 4.]

RESOLUTIONS.
The following series of Resolutions were unanimously adopted at a Public Meeting, held at the Royal Hotel in Goulburn on the 1st of December, 1846, convened for the purpose of considering the best means for preventing the renewal of Transportation to New South Wales.

Major Lockyer in the Chair.
Resolution 1st.—That this meeting, having carefully considered the Despatch of the Right Honble. The Secretary of State to His Excellency Sir Charles Fitz Roy, dated the 30th of April, 1846, suggesting whether a modified and carefully regulated introduction of Convict labourers into New South Wales may not under certain limitations and conditions be advisable, feels called upon to record the dissent of the Inhabitants of this Town and District in public Meeting assembled from such a proposition.
HISTORICAL RECORDS OF AUSTRALIA.

1847.
30 March.

Resolutions at meeting against revival of transportation.

The offer therein made by the British Government to renew Transportation to this Colony ought in the opinion of this meeting to be unconditionally declined as "the moral and social evils of the Convict System, the contamination and vice which are inseparable from it, are evils from which no pecuniary benefit can serve as a counterpoise." This meeting is also of opinion that, if the Act of Parliament, 5th and 6th Victoria, Cap. 36, were repealed and the minimum upset price of Land reduced to a scale similar to other British Colonies, means would speedily be provided towards defraying the passage of free Emigrants of unexceptionable character with families, more especially if the authorities of the Mother Country would co-operate in raising a portion of the funds which will be necessary. In this way, an adequate supply of labour might be obtained without the imputation of breaking faith with the Emigrants, whom labour brought to the Colony since the year 1840; and Capitalists would be encouraged to settle in the Colony, the real prosperity of which would be thereby promoted, and the highest interests of its Inhabitants also advanced.

Carried unanimously. EDWD. LOCKYER.

Resolution 2nd.—Resolved: That the Meeting is also opposed to the unjust and pernicious system which now prevails in Van Diemen's Land of granting conditional pardons to Convicts who have served certain specified periods of probation to enable them to emigrate to the neighbouring Colonies, and is of opinion that, as the Colonists have surrendered the advantages incidental to Transportation, the British Government is not justified in continuing to expose them to its evils.

Carried unanimously. EDWD. LOCKYER. Chairman.

Resolution 3rd.—Resolved: That the following Petition to Her Majesty the Queen, praying Her Majesty not to sanction the renewal of Transportation to this Colony, and to adopt measures to protect the Colonists in future from the evils to which they are now exposed by the influx from the neighbouring penal Colonies of men conditionally pardoned, be adopted by this meeting, and, when signed, that it be sent to His Excellency the Governor with a request that he will be pleased to forward it for presentation to Her Majesty.

Carried unanimously. EDWD. LOCKYER. Chairman.

Resolution 4th.—Resolved: That similar Petitions be forwarded to the Imperial Parliament; that Earl Grey be requested to present the Petition to the House of Lords, and William Ewart, Esqr., that to the House of Commons; and that the Committee be instructed to communicate with influential persons at home to use their exertions against the renewal of Transportation to this Colony.

Carried unanimously. EDWD. LOCKYER. Chairman.

Resolution 5th.—Resolved: That the following Gentlemen be appointed a Committee with power to add to their number to obtain signatures to the Petition, and otherwise to carry out the objects of the meeting. Revd. M. Brennan, Revd. Robert Cartwright, Gunning; R. M. Campbell, Esqr., Winzelo; Messrs. Craig, Bull. Moses, Fox and Turnbull. Mr. Mather, Inverlochy; Mr. Emanuel, Mr. Lord, Mr. Armstrong, Bungonia; and Mr. Hughes.

Carried unanimously. EDWD. LOCKYER. Chairman.
Resolution 6th.—Resolved: That the framers of the Report of the late Committee of the Legislative Council on the subject of the revival of Transportation are unworthy the confidence of the Colonists, and that this Meeting denounces them as Men who have betrayed the trust reposed in them. Carried unanimously.

Edwd. Lockyer, Chairman.

Sir Charles Fitzroy to Earl Grey,

(Despatch No. 67, per ship Caledonia; acknowledged by Earl Grey, 20th September, 1847.)

My Lord,

Government House, 31st March, 1847.

I have the honor to request permission to issue Letters of Denization to the person named in the Margin, who emigrated denization for this Colony in the year 1833, and who is now residing in George Street, Sydney, where he carries on the trade of a Tailor and Draper.

His application, which I enclose, is recommended by several Magistrates and respectable Mercantile Firms in the City of Sydney.

I have, &c.

Chs. A. Fitzroy.

[Enclosure.]

The humble Petition of Samuel Folk,

To His Excellency Sir Charles Augustus Fitzroy, Knight, Captain General and Governor in Chief of the Colony of New South Wales, etc., etc., etc.,

Most respectfully sheweth,

That Petitioner is a native of Berlin in the Kingdom of Prussia, now about 48 Years of Age, and served in the Prussian Army in the ever memorable Battle of Waterloo.

That Petitioner afterwards resided about 14 years in England, and subsequently, that is to say in the year 1833, Emigrated with his Family to this Colony and has carried on the business of a tailor and Draper in George Street North in the City of Sydney since his arrival, and where he now resides.

That Petitioner, having now been 14 years in this Colony, would humbly represent that his conduct, since his arrival therein, has been such as to entitle him to the name of a good Citizen; but, in consequence of his alien birth, he is at present deprived of the advantages that might be derived therefrom; he has now a Family of Six Children, and, having adopted this Colony as his home, he is anxious to be placed on a footing with other Citizens.

Petitioner then respectfully referring to the annexed recommendations Most humbly Prays That your Excellency will be pleased to recommend him to Her Majesty's Principal Secretary of State for the Colonies as a fit and proper Person to receive Her Most Gracious Majesty's Letters of Denization for this Territory and the dependencies thereof and as in duty bound Petitioner will ever pray, etc.,

Sydney, 25th March, 1847.

Samuel Folk.

* Marginal note.—Samuel Folk, Native of Berlin.
HISTORICAL RECORDS OF AUSTRALIA.

1847.
31 March.

Testimonial in favour of S. Folk.

We, the undersigned Magistrates, Merchants and Citizens of Sydney, in the Colony of New South Wales, having been acquainted with the applicant, Samuel Folk, for several years, do hereby certify that he is a person of good fame, character and reputation, and a worthy member of society, and earnestly recommend the prayer of his Petition to the favorable consideration of His Excellency the Governor.

H. Macdermott, J.P. J. V. Robinson.
Daniel Cooper, Jr. Campbell and Co.
Th. Smith and Co. W. Walker.
W. S. Deloitte, J.P. Jas. N. Smith.
B. Boyd. Smith and Campbell.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 68, per ship Caledonia.)

My Lord,

Government House, 31st March, 1847.

On the receipt of your Lordship's Circular Despatch of the 30th May last, containing an application from Mr. John Hughes for information relating to his two sons, Henry and William, who were stated to have emigrated to New South Wales, I directed the necessary enquiries to be made respecting these individuals; and I have now the honor to inform Your Lordship that two Brothers of the names mentioned appear to have arrived at Sydney by the ship "Duke of Roxburgh" in 1842, and to have been employed in April, 1843, at a Station occupied by a Mr. Hugh Ross of Darling Downs, but that in June following William Hughes was unfortunately killed by the Native Blacks, whilst in charge of a Flock of Sheep belonging to Messrs. Russell, in whose service he then was at another Station in the same District. The other brother Henry Hughes is stated to have left New England, and to have been employed about two years ago in the Moreton Bay District; but respecting him no other information can at present be procured. I have, &c.,

CHS. A. Fitz Roy.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 70. per ship Caledonia; acknowledged by Earl Grey. 18th September, 1847.)

My Lord,

Government House, 1st April, 1847.

I have the honor to bring under your Lordship's favorable consideration the claim of Mr. La Trobe to the receipt of his full Salary as Superintendent of Port Phillip from the date of his giving up the temporary charge of the Government of Van Diemen's Land on the arrival of Sir William Denison at Hobart Town on the 24th January, to the period of his resuming
his duties as Superintendent at Melbourne on the 24th of February last, which, at the rate of £1,500 per annum, would amount to £139 7s. 11d. It appears that during this period he has as yet received no Salary whatever either in Van Diemen's Land or at Melbourne.

I also beg to bring under your Lordship's favorable consideration the claim of Captain Lonsdale to the receipt of full Salary at the rate of £1,500 per annum during the period he acted as Superintendent at Port Phillip during Mr. La Trobe's absence in Van Diemen's Land. Under the Regulations* applicable to cases of this nature, Captain Lonsdale has only received salary during the period in question at the rate of £1,000 per annum, being one half of his Salary as Sub-Treasurer at Melbourne, and one half of the Salary of the Superintendent. The difference to which he would be entitled, if your Lordship should decide in favor of this application, would be £190 5s. 7d.

To meet these respective claims, if favourably entertained, I beg to state that, by a Memorandum prepared by the Auditor General of this Colony, it appears that a sum more than sufficient has arisen in the saving, which has taken place under the arrangement made to provide for the duties of Mr. La Trobe whilst acting as Lieutenant Governor of Van Diemen's Land, and for the duties of the Sub-Treasurer during the same period.

The amount of the present claims as already stated being as follows:

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<thead>
<tr>
<th></th>
<th>Amount</th>
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<tbody>
<tr>
<td>Mr. La Trobe</td>
<td>£139 7 11</td>
</tr>
<tr>
<td>Captain Lonsdale</td>
<td>190 5 7</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>£329 13 6</strong></td>
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</tbody>
</table>

and the amount of saving being . . . . . . 332 19 6

there will be an excess beyond what is necessary to cover the amount required of . . . . . . £3 6 0

As the payment of these sums, therefore, would not cause any additional expense beyond what would have been necessary in the ordinary course, if the duties had been performed by the accustomed Officers, and as the amount is still at the disposal of Her Majesty as a saving on Schedule B of the Constitutional Act, 5 and 6 Victoria, Cap. 76, I trust that your Lordship will grant the necessary authority for their allowance.

I have, &c.,

Chs. A. Fitz Roy.

* Marginal note.—Par. 3 of Sec. II of Ch. III.
STATEMENT of the total Sum saved under the arrangement necessary to provide for the duties of the Superintendent of Port Phillip, during the absence of His Honor Mr. La Trobe, whilst acting as Lieutenant Governor of Van Diemen's Land, from 10th October, 1846, to 24th February, 1847; and for the duties of the Sub Treasury during the same period.

<table>
<thead>
<tr>
<th>Situation</th>
<th>Name of Party permanently holding the Situation</th>
<th>Name of Party temporarily appointed</th>
<th>Amount payable for the period, at the Rate of Salary fixed for the situation</th>
<th>Amount paid for the period, at the Rate of Salary attached to the temporary Appointment</th>
<th>Amount Saved</th>
</tr>
</thead>
<tbody>
<tr>
<td>Superintendent</td>
<td>C. J. La Trobe</td>
<td>Wm. Lonsdale</td>
<td>£ 1,500 s. 570 d. 17 0</td>
<td>£ 750 s. 285 d. 8 6</td>
<td>£ 285 8 6</td>
</tr>
<tr>
<td>Sub Treasurer</td>
<td>Wm. Lonsdale</td>
<td>Alex. McCrae</td>
<td>£ 500 s. 190 d. 5 7</td>
<td>£ 250 s. 95 d. 2 9</td>
<td>£ 250 95 2 9</td>
</tr>
<tr>
<td>Chief Clerk in</td>
<td>Alex. McCrae</td>
<td>do.</td>
<td>£ 250 s. 99 d. 2 9</td>
<td>£ 125 s. 47 d. 11 11</td>
<td>£ 47 11 4</td>
</tr>
<tr>
<td>the Sub Treasury</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>£ 332 19 10</td>
</tr>
</tbody>
</table>

Total saved £ 332 19 10

WM. LITHGOW, Aud. Gl.

Audit Office, Sydney, New South Wales, 24th March, 1847.

SIR CHARLES FITZROY TO EARL GREY.

(Despatch No. 74, per ship Ann Milne.)

My Lord,

Government House, 1st April, 1847.

In my opening Speech to the Legislative Council at the commencement of their last Session, I announced my intention of proceeding, as soon after the close of the Session as my other duties would permit, to visit the interior Districts of the Colony.

I have now the honor to inform Your Lordship that, in pursuance of this intention, I proceeded on the 9th of November last on a tour through the Western Districts, including those of Bathurst and Wellington, visiting several of the Squatting Stations beyond the Boundaries of location, and returning to Sydney on the 11th December, having travelled in all about six hundred miles.

On this 1st February, I again set out on a tour through the Settlements and Country on the borders of the Hunter's River, proceeding by Steam to Newcastle, and thence by Morpeth, Maitland, and Singleton to Cassilis, returning by Muswellbrook to Maitland, reaching Sydney on the 15th of that month.

On the 1st of March, I embarked on board the Steam Packet for Port Macquarie, which I reached on the 3d. and, after visiting
the neighbourhood of that Settlement, I started for the Squatting District of New England, proceeding over the chain of Mountains which forms the boundary of the Macquarie District, and also of the Colony within the limits of location in that direction. I had prosecuted my journey as far as Armadale in New England (the limit to which I proposed to extend it), when I met with a severe accident,* from the effects of which I am still suffering. I was, however, able to return to Sydney on the 23d of last month.

It is not my intention to trouble your Lordship, in this communication, with any detailed observations on the subjects which came under my notice during these tours, as I shall have opportunities of bringing such of them as may require any special reports before Your Lordship in other Despatches; but I may remark that the respectful and hearty welcome that awaited me at every Town and Settlement I visited, and which I am persuaded had its origin in the peculiarly British feeling, which appears to animate all classes in this community, afforded a gratifying proof of the loyalty of Her Majesty’s subjects in this distant Colony.

I had the pleasure of seeing the Country to great advantage during one of the most favorable seasons for vegetation ever known; and I have every confidence that the Colony is in a state of progressive prosperity; but it is impossible not to entertain the conviction that the continuance of its prosperity must mainly depend upon a supply of labour sufficient to enable the Settler to pursue his avocations at a reasonable expense, and with a prospect of adequate remuneration, instead of being, as he is at this moment, dependent in a great measure upon the caprice of the labourers, a state of things which I believe to be equally detrimental to the interests of both parties; for, in too many cases, it must render the employer indifferent to the characters or moral condition of those he is compelled to employ, while it is obvious that the good conduct of the labourer will depend in a great measure on the competition he meets with. If, as is the case now, the demand for labour be so much greater than the supply, the value of character is reduced to almost nothing as regards the obtaining of employment, and thus must always have a pernicious effect on the general habits of industry of the labouring classes. It is very essential, therefore, for the sake of the general prosperity that an adequate supply of labour should be kept up; and I respectfully but earnestly entreat your Lordship’s favorable consideration of the proposition for the resumption of Immigration to this Colony, which I had the honor to submit in my Despatch No. 19 of the 30th January last.

* Note 42.
I propose also to call your Lordship’s attention, in a future Despatch, to the total inoperativeness of that part of the Constitutional Act, which relates to the District Councils. I found every one of these Institutions in complete abeyance, and everywhere considered as inapplicable to the present social condition of this Colony.

I have, &c.,

Chs. A. Fitz Roy.

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 75, per ship Ann Milne; acknowledged by Earl Grey, 26th November, 1847.)

My Lord, Government House, 1st April, 1847.

With reference to my Despatch, No. 74 of this date, reporting to Your Lordship the Tours I had made to several distant portions of this Colony during the last summer, I feel bound in justice to myself to request Your Lordship’s consideration of the heavy expenses which I was of necessity compelled to incur in prosecuting these Tours, although I travelled as economically and plainly as I could. These expenses are, of course, independent of those which are necessarily imposed upon me for the maintenance of my Establishment at the Government House in Sydney.

I have no complaint to make of the Salary allotted to the Governor of this Colony; but I can assure your Lordship that it is not more than adequate to the support of the appointment in a becoming manner; and I would beg to point out that I have not the same additional advantages, such as those of Convict labour, or a Country House* maintained at the public expense, that were enjoyed by my Predecessors; while the local Society, which has claims to be entertained at the Government House, has latterly greatly increased and is increasing every year.

I need not point out to Your Lordship the great advantage of frequent and unrestrained communication between the Governor of the Colony and the people whom he governs, an intercourse which is not only essential to keep up those friendly relations which ought to exist between them, and which must necessarily be advantageous to the best interests of the Colony, but must also go a great way to cherish and preserve those feelings of attachment to the Mother Country, which it is so desirable to maintain.

To effect this object, no other mode appears to me so efficacious as frequent Tours made by the Governor throughout the Colony, particularly to the more remote portions of it. I attribute in a

* Note 43.
great measure the good feeling that existed between the people of all classes in my two former Governments* and myself, and the little trouble in consequence thereof that was given to Your Lordship's Department during my administration of those Governments, to the practice I made of visiting some portions of them every year; and it is my anxious desire to continue this practice during my administration of this Government, for I am convinced that there is no Colony where it would be productive of greater benefit; although, for the reasons I have stated, I fear that I must forego the performance of this important portion of my duty, unless Your Lordship should be disposed to entertain favorably the request which I am about to make, namely, that my travelling expenses, while engaged in Tours of duty through the Colony, may be defrayed either from the Territorial Revenue, or from the surplus on Schedule B, which, by the Constitutional Act, is placed at the disposal of Her Majesty; but, as there is no certainty of there being at all times a sufficient sum from this latter source disposable for the purpose, I would venture to suggest the former funds as the most preferable.

In further support of this request, I beg to represent that, both in Prince Edward Island and in the Leeward Islands, my travelling expenses were defrayed by Government; in the former by an allowance from the Crown Land Fund, in the latter from the British Treasury; I therefore trust Your Lordship will not consider my request unreasonable.

I have, &c,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 71, per ship Caledonia; acknowledged by earl Grey, 14th October, 1847.)

My Lord,

Government House, 2nd April, 1847.

I do myself the honor to transmit to Your Lordship a Memorial from Mr. Stephen Partridge, late Superintendent of Convicts at Port Macquarie, soliciting compensation for the loss of his Office, which, in consequence of the arrangements in progress in pursuance of the instructions of Her Majesty's Government for the reduction of the Convict Establishments in this Colony, was discontinued at the termination of the year 1846, the number of Prisoners at that station having been much reduced, and measures having been taken for breaking up at an early date the whole of the Establishments at Port Macquarie maintained at the expense of the British Treasury.

Mr. Partridge, it appears, was formerly a non-Commissioned Officer in the 46th and 48th Regiments and has been employed

* Note 44.
in the Convict Service of the Colony for more than twenty years. To his late Office, he was appointed in the year 1836, and he therefore held it for a period of upwards of ten years.

To persons whose employment has ceased under circumstances similar to those attending the discontinuance of Mr. Partridge, it has been usual, under a Despatch from the Secretary of State of the 29th September, 1831, No. 27, to pay a gratuity equal to the salary enjoyed by them for one or two years, according as they may have been more or less than ten years in the Public Service.

Taking into consideration the long services of Mr. Partridge, and the favorable testimony borne to his character by the several Officers under whom he has been employed, as shown by their Certificates of which Copies are annexed to his Memorial, I have authorised the issue to him from the Military Chest, under the sanction of the Despatch referred to, of the sum of Two hundred pounds, being equal to his Salary at the rate of £100 per annum for two years; and I beg to submit this payment for your Lordship's favorable consideration and approval.

I have, &c,

Chs. A. Fitz Roy.

[Enclosure.]

The Memorial of Stephen Partridge, Superintendent of Convicts at Port Macquarie,

To His Excellency Sir Charles Augustus Fitz Roy, Knight, Companion of the Royal Hanoverian Guelphic Order. Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, etc., etc., etc,

Most Humbly Sheweth,

That your Memorialist arrived in this Colony with H.M. 46th Regt. the 11th March, 1814, and ultimately exchanged into the 48th Regiment, in which he held the rank of a non-commissioned officer for some years, and, while serving in such capacity, was frequently employed upon arduous duties in escorting expeditions of discovery into the interior, under the then Surveyor General of the Colony, Mr. Oxley, and others; as well as in repressing the outrages of the Aborigines at that early period of Colonial enterprise; and, in consequence of his zealous attention to such duties, he was promised a Colonial appointment if he would leave the Army and give up his expectations in that Service.

That, relying on such promise, Your Excellency's Memorialist applied for and obtained his discharge, being thereupon appointed overseer of H.M. Lumber Yard at Sydney, in which capacity he afforded so much satisfaction to his superiors that, after two years' performance of such duty, on the formation of a Penal Settlement at Port Macquarie, Your Excellency's Memorialist was selected to fill the onerous situation of Superintendent of Convicts at that Station, an office which he Still continues to hold.
That, according to the system of Penal discipline pursued for a very long period at the Settlement referred to, in which Your Excellency’s Memorialist during so many years had the control of a large body of convicts who were the refuse of the whole Colony, his duties were of a highly arduous, fatiguing and harassing nature, and that Your Excellency’s Memorialist sedulously devoted the best energies of his mind, as well as the best years of his life, to carry out the orders he received from time to time, in such a manner as to merit the approbation of the various commandants under whom he served, which, he trusts, is abundantly testified by the documents hereunto appended.

That Your Excellency’s Memorialist has been the father of thirteen children, six of whom are, at the present time, of tender ages, varying from 4 to 9 years; while he has himself attained the age of Fifty six years; and that the heavy expenses incidental to the support and education of so numerous a family, combined with various adverse casualties arising out of the recent depression with which the Colony has been afflicted, have prevented Your Excellency’s Memorialist from making any provision, as yet, either for the support of those children who are still dependant upon him, or for his own maintenance in old age and infirmity, which is now rapidly approaching him.

That, had Your Excellency’s Memorialist remained in the Army, he would at least have been long since entitled to his discharge upon the highest pension allowed to retired non-commissioned Officers, which would have enabled him to provide for his family and to maintain himself without labor.

That Your Excellency’s Memorialist has recently been officially informed, considerable reductions are contemplated at this Station, in carrying which into effect his services as Superintendent of Convicts will be dispensed with at the end of the present year.

Your Memorialist, therefore, most humbly prays, in consideration of his long and arduous employment under the Government of this Colony during a period of Twenty eight years independent of his Military Service, and the whole of which has been marked by undeviating rectitude, as well as most strenuous exertions to advance the interest of the Public Service, That your Excellency will be beneficently pleased to award your Memorialist such a pecuniary compensation on the abolition of his office as in Your Excellency’s wisdom his Services shall appear to have merited.

And your Memorialist as in duty bound shall ever pray,

S. PARTRIDGE,
Port Macquarie, New South Wales, 8th October, 1846.

[Sub-enclosure.]

TESTIMONIALS.

I HAVE known the bearer, Mr. Stephen Partridge, to have been a non commissioned officer in the 46th Regt. out of which he joined the 48th Regt. from which period of his services having expired, he obtained a respectable discharge. I have also known him to be a Government Overseer at Sydney for two years, from whence he was promoted by Governor Macquarie to the Superintendence of Convicts at this Station under my command, the duties of which situation he has discharged entirely to my satisfaction; and I have always found him to be an honest, sober, industrious and well conducted man.

F. ALLMAN, Commandant.

(Countersigned)—

CHARLES HORRY ROBERTS, Ensign, 48th Regt., Foot.
This is to certify that Mr. Stephen Partridge, Principal Superintendent at this Settlement, has, during my command here, on every occasion manifested most unremitting and zealous exertions in the discharge of his public duties, and his constant activity and vigilance to prevent the escape of runaways, and to support the discipline and regulations of this place, joined to his individual character, merit my utmost approbation, and that I should recommend him as a highly meritorious officer.

On my appointment to the command of the Penal Settlement of Port Macquarie in 1828, I found Mr. S. Partridge the Superintendent of Convicts there; and I certify that, during the period of my command to the early part of 1832, I had every reason to be satisfied with his conduct in the discharge of the various and important duties he had to perform.

Sir, Commandant's Office, Port Macquarie, 29th April, 1827.

In retiring from the command of this settlement, I consider it a duty I have to discharge in acknowledging the high sense I have of the manner in which you have invariably discharged the important duties of your appointment as Superintendent of Prisoners at this Settlement; and I shall not fail in acquainting the local Government of the valuable servant they have in you.

To Mr. Partridge, Supdt. of Prisoners.

Mr. Stephen Partridge was selected by Government to accompany me to the Penal Settlement of Port Macquarie as Superintendent of Convicts, on the first formation of that Settlement in the year 1821; during the three subsequent years and upwards which I conducted that Establishment as Commandant, Mr. Partridge in the fulfilment of his duty as a public Officer was most efficient, zealous and conscientious; his unremitting attention to the many and serious duties that devolved on him as Superintendent always commanded my most unqualified approbation; and I most sincerely venture to hope that his long and faithful services will meet with favorable consideration.

F. Allman, late Capt., 48th Regt.

Despatch acknowledged re resignation of bishop from Executive council.

Proposed act re precedence of bishop.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 76, per ship Ann Milne.)

My Lord, Government House, 2d April, 1847.

Immediately on the receipt of Your Lordship's Despatch, No. 28 of the 28th August last, informing me that the Queen had been graciously pleased to accept the resignation of his seat in the Executive Council of this Colony, which had been tendered to Her Majesty by the Bishop of Australia, I communicated to His Lordship a copy of this Despatch, and I have now the honor to enclose the Copy of a letter which he addressed to me in reply.

I have also the honor to enclose copies of an Address, which was presented to the Bishop by the Members who had so long been associated with him in the Council and of his Lordship's answer.

With reference to that part of Your Lordship's Despatch which adverters to the relative position which the Bishop will now hold in the Colony, and intimates that your Lordship would not be prepared to object to the passing of a local Law repealing so much of the existing Charter of Justice as gives the Chief Justice of this Colony precedence of the Bishop, provided no
objection thereto should be raised on the part of the Chief Justice; I beg to state that, from various accidental causes, I have not yet had an opportunity of consulting with Sir Alfred Stephen on the subject; but I will not fail to do so before the commencement of the next Session, and I shall be guided by the result.

I have only further to state that the additional Royal Instruction, transmitted in Your Lordship's Despatch No. 58 of the 14th November last, authorising the appointment of Her Majesty's Attorney General for this Colony to be a Member of the Executive Council instead of the Bishop reached me by the last Packet, and Mr. Plunkett was duly sworn into Office on the 30th ultimo.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

BISHOP OF AUSTRALIA TO SIR CHARLES FITZ ROY.

Sir, Sydney, 11th January, 1847.

I have the honor to acknowledge the receipt of the letter addressed to me by the Colonial Secretary, as directed by Your Excellency, enclosing a copy of a Despatch from the Right Honorable the Secretary of State for the Colonies, stating that the Queen had been graciously pleased to accept my resignation of my seat in the Executive Council.

In requesting that Your Excellency will be pleased to convey to Her Most Gracious Majesty an expression of my most humble thanks for Her Majesty's goodness in acquiescing in my desire to be relieved from a position, which during the three last years has been unsatisfactory to me, I beg permission at the same time to state my readiness to give effect to this Act of resignation, either from the date of the receipt of the Instrument appointing my successor, or from any earlier date which it may be Your Excellency's pleasure to apprise me of.

With regard to the other point included in my communication to Sir George Gipps and referred to in the Despatch of Lord Grey to Your Excellency, namely the relative position in precedence to be held by the Bishop when no longer a Member of the Executive Council, I can but state my readiness to accept that rank, which Her Majesty may be pleased to assign to me, in accordance with the usage generally established in the Colonies. At the same time, I trust I may be permitted to state that I should be very reluctant to have it supposed that my application upon this subject had any designed reference to the relative position in Society of any other functionary; or that any proposed alteration in the existing Charter of Justice was to be the consequence of any step which had been taken by me.

I have, &c.,

W. G. AUSTRALIA.

[Enclosure No. 2.]

MEMBERS OF EXECUTIVE COUNCIL TO BISHOP OF AUSTRALIA.

My Lord,

Her Majesty having been pleased to accept Your Lordship's resignation as a Member of the Executive Council of New South Wales, we cannot allow Your Lordship to retire from the position, which you have so long and so usefully filled in that capacity
amongst us, without expressing our sincere regret that a sense of duty has compelled Your Lordship to withdraw Your valuable services from the Council of this Government, and our high appreciation of the motives which have influenced Your Lordship in adopting this step.

We are enabled to look back with the greatest satisfaction on the invariable good feeling, which during so many years has characterized our association with Your Lordship as a Member of this Council.

We acknowledge with sincerity the zeal, ability and extended information which Your Lordship has so frequently and successfully brought to bear on the questions of importance and difficulty which have been submitted for our consideration. When any difference of opinion has existed amongst us, our discussions, altho' conducted with the animation which is useful in eliciting just conclusions, have been entirely free from any acrimony calculated to interrupt the friendly feelings which have happily subsisted between the Members individually.

We gladly avail ourselves of this opportunity of expressing to Your Lordship our sincere respect for Your Lordship's personal character, our high estimation of your talents, and our earnest good wishes for Your Lordship's welfare and for Your continued success in the performance of the arduous and most important duties, which belong to Your high spiritual Office.

We have, &c.

M. C. O'COXXEIX, M.L.C.
E. DEAS THOMSON, M.L.C.
C. D. RIDDELL, M.L.C.

Legislative Council Chambers, Sydney, 15th April, 1847.

[Enclosure No. 3.]

Reply by bishop to address from members of executive council.


Gentlemen,

I am incapable of making any adequate return for this honorable mark of attention. As the best acknowledgment in my power to offer, allow me to assure you of the respect and esteem which I entertain towards you with whom I have been so long associated in an important public trust.

After having continued a Member of the Executive Council under three successive administrations, I should be unwilling to have it supposed that I relinquish my seat without a well-considered and sufficient reason.

It would betray a want of becoming deference to Her Majesty's pleasure, of respect for His Excellency our present Governor, and for you my late Honorable Colleagues, of consideration for the inhabitants of this territory who have so many claims upon my services and of due regard for my own character, if any motive less cogent than a question of principle could have determined me to retire from a station so distinguished.

But the Imperial Parliament in appointing the form of Government for this Colony, having so framed the constitution of the Legislative Council as to make me think it unadvisable to accept
a Seat in it, I became gradually convinced that my continued participation in the counsels of the Executive Government would be contrary to the principles of sound policy; as it required me to take a share in advising upon public measures without any attendant opportunity of publicly vindicating the advice which might be given.

The unsheltered responsibility attached to such a position would have induced me long since to retire from it, but that such a step might then have been construed into desertion of the Representative of my Sovereign; whom it was evidently my place to support so long as his measures, in my judgment, continued to be for the general good.

My desire has at all times been that this Country should be well inhabited and well-governed; in other words that it should be prosperous and happy. My uniform aim, as a Member of the Executive Council, has therefore been to promote by suitable inducements the removal hither of sufficient numbers of industrious and religious people of both sexes; and to uphold the legitimate influence of the mother-country, without which we cannot maintain internally any just balance of political power, nor so much as protect ourselves against foreign aggressions.

Your Excellency and you Gentlemen, Members of the Executive Council, will permit me to assure you of the satisfaction afforded me by the terms in which you speak of my services; and you will be pleased to accept my thanks for this and many previous acts of kindness. And, in earnestly desiring that your consultations may always tend to the benefit of our community, I do not know any thing that could be wished more likely to advance this object, than that there may be a continuance of the same kindly feelings, and of the same disposition to sacrifice personal considerations to a sense of public duty, as have prevailed in this Honorable Council during the many years that I have taken part in its deliberations.

I have. &c.,
Sydney, 15th April, 1847.

W. G. AUSTRALIA.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch marked "Separate," per ship Ann Milne.)

My Lord,
Government House, 2d April, 1847.

Adverting to my Despatch No. 76 of this date, and to the relative positions in this Colony held by the Chief Justice, the Commander of the Forces, and the Bishop of Australia, I deem it right to state that, in my opinion, it would be extremely desirable to adopt any practicable measure for altering the Table of Precedence in this Colony, so as to assimilate it to that which exists in almost every other of Her Majesty’s Colonial Possessions.

In this Colony, as Your Lordship is aware, the Commander of the Forces takes precedence after the Chief Justice and before the Bishop; but, in the event of the death or absence of the Governor, he, under Her Majesty’s Commission, assumes the Government, and, of course, with the Government, the highest rank in
it, which, however, he is compelled to resign and to return to his former position on the arrival of a New Governor or the return of the old one.

Your Lordship will probably smile, as I should do had I not lived so much in Colonies, at the idea of these alterations in precedence causing mortification to any sensible mind; and I am by no means prepared to say that any feeling of the kind would be entertained by so amiable and high minded a gentleman as Sir Maurice O'Connell; but, as I know that matters of far more trifling importance than this frequently cause jealousies and disagreements between the families of Public Officers (and when these occur the harmony of a whole Colonial Society is very easily upset and divided), I cannot but think that one scale of precedence had better be established and recognized in all Colonies, placing the Officer, who is to succeed to the Government in the event of an unexpected vacancy, next in rank to the Governor; and therefore, should I be able to persuade Sir Alfred Stephen to concur with me in this opinion, I shall be inclined to introduce such a measure as Your Lordship suggests.

I have, &c,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 72, per ship Caledonia; acknowledged by earl Grey, 15th September, 1847.)

My Lord, Government House, 3d April, 1847.

With reference to my Despatch No. 50 of the 27th February last on the subject of the appointment of a Colonial Botanist, I have the honor to inform your Lordship that several influential gentlemen of the Colony, who are interested on the subject, are extremely anxious for the appointment of Mr. J. C. Bidwell, a gentleman of superior qualifications, who is now in the Colony; and I have every reason to believe that this appointment will be a very proper one, and that it will give general satisfaction.

I have also reason to believe that Mr. Bidwell is perfectly competent to conduct a correspondence with the Botanic Societies of other Countries, and to restore the Institution to the Scientific character, which it is desirable it should maintain.

I have, &c,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 73, per ship Caledonia.)

My Lord, Government House, 3d April, 1847.

I have the honor to acknowledge the receipt of Your Lordship's Despatches as per margin.* I have, &c.,

CHS. A. FITZ ROY.

* Marginal note.—Nos. 37 to 68; Mly., 1 to 3; Cir., 30 Sept...; Cir., 8 Octr.
Fitz Roy to Grey.

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 78, per ship Ann Milne; acknowledged by earl Grey, 26th October, 1847.)

My Lord, Government House, 4th April, 1847.

I have the honor to transmit, for Her Majesty's gracious consideration, a Petition addressed to the Queen by the Town Council of Melbourne, praying, for reasons therein stated, that Her Majesty will be pleased to disallow the Act lately passed by the Legislative Council of the Colony, intituled, "An Act to amend the Laws incorporating the Town of Melbourne."

I also enclose a Copy of Mr. La Trobe's Despatch forwarding to me this Petition.

My own Report on the Act in question is contained in my Despatch No. 10 of the 9th January last, transmitting the several Acts passed by the Legislative Council during their last Session.

I have, &c, [Enclosure.]

[Enclosure.] CHS. A. Fitz Roy.

[A copy of the despatch, dated 11th March, 181+7, with the petition, will be found in a volume in series III.]

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 79, per ship Ann Milne; acknowledged by earl Grey, 4th April, 1848.)

My Lord, Government House, 5th April, 1847.

I have the honor to transmit the Copy of a Petition addressed to me by many influential and respectable Inhabitants of the Town and neighbourhood of Geelong in the Port Phillip District of this Colony, renewing an application which they have made on former occasions to the effect that Geelong may be made a Free Warehousing Port.

The application, Your Lordship will find on reference to the correspondence which has passed on the subject between Your Lordship's Predecessors in Office and Sir George Gipps has hitherto been refused for the reasons therein stated, and so recently as the 24th December, 1845, by Mr. Secretary Gladstone's Despatch of that date, No. 3.

It appears to me, however, that there has been a material change in the circumstances that induced these refusals. During the period which has elapsed since the date of the Despatch to which I have referred, the Trade of Geelong has grown into considerable and increasing importance. It is the natural shipping Port of a very extensive and fertile tract of Country; and, with the facilities that would be afforded by constituting it a...
Free Warehousing Port, I am led to believe that the trade would increase rapidly both in extent and importance. In the present state of the Law, all its supplies from abroad must be received by the way of Melbourne at greatly enhanced prices.

Under these circumstances, therefore, and notwithstanding the increased expense which would attend this measure, I feel justified in recommending the prayer of the Petition to Your Lordship's favorable consideration. I have, &c,

CHS. A. FITZ ROY.

[Enclosure.]

[A copy of this petition will be found in a volume in series III.]

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 80, per ship Ann Milne.)

My Lord,

In reply to the enquiries which, in your Lordship's despatch No. 31 of the 5th September last, you directed me to institute relative to a sum of money stated to have been left to Patrick Keane by his son, John Keane, lately deceased at Goulburn Plains in this Colony, I have the honor to inform your Lordship that, having referred to the Bench of Magistrates at Goulburn, I find that John Keane was drowned in October, 1844, that an Inquest was held upon the body, and that the Coroner, having collected the effects of the deceased, caused sale to be made of them, and remitted the proceeds to the Master in Equity who states, "that the sum of £52 19s. 6d. only was collected in the estate of John Keane deceased intestate, and that the same has been wholly absorbed in payment of the expenses of collection and in distribution to Creditors." I have, &c,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 81, per ship Ann Milne; acknowledged by earl Grey, 27th October, 1847.)

My Lord,

At the request of Mr. James Croke, Clerk of the Crown and Crown Prosecutor of the District of Port Phillip, I have the honor to transmit a letter addressed to Your Lordship by that gentleman, soliciting, in the event of the separation of Port Phillip from New South Wales, that he may be appointed Attorney General of the former Colony.
I also transmit the testimonials referred to by Mr. Croke, who, in a subsequent communication which I received from him, requests it may be explained that the originals of these Testimonials which, in his letter to Your Lordship, he states were transmitted by him to Lord John Russell on the 14th September, 1840, were transmitted at the time Lord Glenelg and not Lord John Russell was Secretary of State for the Colonies. Mr. Croke also states that the date of his appointment to his present Office is the 26 December, 1838, and not the 26 December, 1839.

I believe I may safely recommend Mr. Croke's application for Your Lordship's favorable consideration, as, although my own experience of his qualifications is of course very limited, so far as they have come under my observation they justify him in seeking promotion; and Mr. Justice Therry, the Attorney General, and the Colonial Secretary, who have had better opportunities of forming an opinion of them, bear testimony to Mr. Croke's fitness for the Office he seeks.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[A copy of this letter, dated 31st March, 1847, with testimonials attached, will be found in a volume in series III.]

EARL GREY TO SIR CHARLES FITZ ROY.

(A circular despatch, per ship Sterling.)

Sir, Downing Street, 8th April, 1847.

I transmit to you the enclosed printed Papers, relating to the system of Irrigation in the Lombardo-Venetian Provinces, a subject of extreme importance to most of our Colonial Possessions.

I have to desire, that you will circulate within the Colony under your Government the information contained in these Papers, and that you will give such encouragement, as you may after mature consideration think fit, to the introduction into the Colony of a system of Irrigation, founded, as far as Local circumstances may permit, upon the principles adopted in the Lombardo-Venetian Provinces.

I have, &c.,

GREY.

[Enclosure No. 1.]

CONSUL-GENERAL DAWKINS TO VISCOUNT PALMERSTON.

(Received 2 March.)

My Lord, Milan, 22 February, 1847.

In compliance with the instructions contained in your Lordship's despatch No. 5 of last year, I have now the honour to
transmit to your Lordship such information as I have been able to procure in regard to the system of irrigation and drainage in this country.

The accompanying papers contain—1. A translation of a memorandum which I have obtained through the Government here, in answer to the queries inclosed in Lord Ebrington's letter to your Lordship of November last. 2. A translation of the law by which the drainage of marsh lands is regulated in these provinces. And, 3. A translation of the regulations under which parties are enabled to procure water for irrigation and other agricultural purposes.

In addition to the above I am promised still further information, which I hope shortly to obtain from a gentleman who has devoted great attention to the subject of irrigation; and in the meantime I would beg to refer Lord Ebrington to Dr. Bowring's report on the Lombardo-Venetian Provinces, printed and laid before Parliament in 1837, and which contains many valuable and interesting details.

I have procured and sent to Her Majesty's Embassy at Vienna, in order that they may be forwarded from thence by messenger, copies of those works on irrigation which have been pointed out to me here as containing the most valuable and practical information.

I have, &c,

CLINTON G. DAWKINS.

[Sub-enclosure No. 1.]

PAPER furnished by the Government of Milan, in answer to the Queries contained in Lord Ebrington's Letter to Lord Palmerston, of November, 1846.

(Translation.)

IRRIGATION being for the improvement of agriculture can be freely introduced, either by proprietors or by tenants, upon the later coming to an agreement with the proprietors. The Government does not interfere beyond exacting the due observance of the public sanitary regulations, which prohibit permanent irrigation* within a certain distance of towns.

The expenses required for irrigation are at the charge of those concerned.

The introduction of irrigation being free, in case any one opposes the measure, the question is decided by competent tribunals, and if the claims of the opposing party are just, they are investigated and estimated by competent periti (public appraisers or surveyors).

If works of irrigation are undertaken by tenants or temporary occupiers of land, at their own cost, certain preliminary agreements are generally entered into, if the proprietor thinks fit, whereby the amount of the expenses, the advantages to be derived from them, whether by the proprietors or occupiers, are settled, and according to this agreement the share to be borne by the respective parties is fixed, so that each party may have a fair profit. There is no general rule fixing the quota of the expenses to be defrayed by the respective parties, as these must necessarily vary according to circumstances.

The works requisite to irrigate a piece of ground can be extended to the purchase of water, and to conducting the same, and to rendering the fields fit to receive it; or the works may be limited to the use of waters already existing upon the property to be irrigated, whether it be freehold or occupied by a tenant.

Works of irrigation undertaken by private individuals are directed by practical people, paid by and dependent upon those individuals. The works would be under the superintendence of engineers belonging to the Government in those cases only where the Government itself undertook to conduct water through, or for the benefit of, different territories and provinces. The water right and the questions that may arise as to the use and property of the same come under the cognizance of the judicial and administrative authority.

The waters are measured according to the laws of hydrometries. "Moduli" and "Bocche," regulators and mouths, which vary in their form and dimensions in

* Permanent irrigation refers to rice-grounds, which are prohibited within five miles of towns.
different provinces, are used to measure it out. Smaller openings or mouths, "Bocche Secondarie" and "Partitori," are used to redivide it, concerning which full particulars are given in the Italian writers on hydraulics.

Water drawn from a river or a public canal can be purchased either by paying General down the capital price or by paying a yearly rent, or it can be acquired at a principles perpetual lease;* in this latter case, however, a sum of money must be paid down irrigation in the first instance as a premium (a titolo di adeale).

The prices vary according to the qualities of the waters and the situation, and government but few and incomplete data can therefore be given as to the value of waters for irrigation. It may however be stated, as an example, that by a Vice-Regal secret of November 24, 1822, the minimum price of the water of the Naviglio Grande and of the Canal of Pavia was fixed for the standard Milanese inch, oncia?

At 14,000 Austrian livres, if granted as absolute property.

At 600 at a perpetual rent.

At 500, if on a lease for an indefinite time, and only for the summer season.

At 60, if only on a lease for the winter season, and beyond five miles from Milan.

In some districts of the Provinces of Pavia and Lodi, the water is let out at so much per pertica.¶ Thus the water for summer irrigation from the Cavo Marocco in a rotation of fourteen days (that is to say, it is given out at intervals of fourteen days), is sold at the rate of 5 Aust. liv. 80 cent, for each pertica to be irrigated.

In those parts of the Province of Lodi which are watered by the abundant stream of the Muzza, the irrigation of one pertica in a fourteen days' rotation costs from 3 to 1 Austrian livres.

The waters of the Canal of Ivrea in Piedmont, and of the Canal of Carlo Alberto, are sold at the rate of from 1 Aust. liv. 38 cent, to 2 Aust. liv. 22 cent, per pertica. The uninterrupted flow of water for irrigating the rice-grounds is sold in certain parts of Lower Lombardy and Piedmont, for one-fourth of the rough produce derived from them, in other parts, for one-half, in others for one-third, according to the fertility of the soil and the local circumstances.

The expense required to prepare the surface of a piece of ground for irrigation cannot be stated with precision, as it must depend upon the work to be done. Neither can the quantity of water be specified that may be required for a given extent, as it must necessarily vary according to the nature of the soil and the cultivation it is subjected to. The following data may however be of use:

For Rice-grounds. It is generally admitted in Lombardy, that in an average soil one oncia of water is sufficient to keep flooded from 360 to 400 pertiche of rice-ground.

For the Marcite, or constantly-flooded meadow grounds. It is calculated that one oncia of water is sufficient for twelve or fourteen pertiche on an average, and supposing the waters to run to waste,§

For the common Meadow lands. According to the writer De Regi, one oncia of water suffices to irrigate forty-four pertiche of a gravelly soil in twenty-four hours, or thirty-six pertiche of arable land where the soil is of a more sandy nature.

It is very rarely indeed that mechanical means are used in Lombardy to raise water for the purposes of irrigation.

The agriculturists of Lombardy do not use water artificially prepared and mixed with manure or earth in suspension or chemical solution. It is certain, however, that waters containing dissolved vegetable or animal matter, when used for irrigation are very fertilising. An example may be seen at the gate of Milan. The meadows of the rich property of Camporino, watered by the Vettabia Canal, into which all the drains of the city flow, produce six, and in good years even eight crops of grass.

The irrigated meadows can be drained at any moment by cutting off the supply of water by closing the doors of the sluices.

In no part of Lombardy is irrigation carried on by infiltration.

* (Si se consegne ad enfi-tensi)—i.e. the right of using the water on payment of a certain fixed rent, which right cannot be disputed or taken away so long as the rent is punctually paid.

† An Oncia corresponds to the quantity of water which passes through an aperture six inches (English) high and eight inches wide, open two inches below the surface of the water, which, with its pressure, determines a given velocity.

¶ Seven and a-half pertiche equal one acre English.

|| About 4s. English.

‡i.e., None of the water which has irrigated a higher level to be available for the irrigation of a lower level.
The particles of manure, etc., carried along by the waters, are deposited by them on the irrigated lands, but no artificial means are used in this respect.

The fields and meadows are irrigated in the summer season at fixed intervals, according to their exposure, to their declivity, to the nature of the soil, to the species of cultivation they are under, and also according to the dryness or windiness of the season.

No fixed or positive rules can be laid down on this head, the elements which determine their application being too vague and variable.

[Sub-enclosure No. 2.]

LAW of November 20, 1810, respecting the Drainage and Improvement of Marsh Lands.

(This is the only law existing in Lombardy on this subject.)

(Translation.)

Napoleon, Emperor of the French, King of Italy, etc.

Eugene Napoleon, Viceroy of Italy, etc.

SECTION I.

Of the Improvement of Marsh Lands.

Article 1. Landed property in marshes is governed by laws that concern it exclusively. The Government orders the improvements which it considers useful or necessary.

Article 2. All improvements, whether by drainage or by filling up and levelling, are performed either by the State, by the proprietors, or by persons specially undertaking (or contracting for) the work, under the sanction of the Government.

Article 3. In regard to such improvements as may interest or benefit the proprietors, should the latter voluntarily decide upon effecting them, they are to present the plan upon which they propose to proceed for the inspection and approval of the Government. In the contrary case, an order is issued, compelling them to carry out the required improvements in a given time; and to this order is annexed a plan, according to which they are to be executed.

Article 4. Such of the proprietors as do not consider it for their interest to undertake the works in question, must make a declaration to that effect, within three months from the date of receiving the order.

Article 5. The majority of the proprietors of the land to be improved can compel the dissentient minority, through the Board of Public Works, to contribute their share of the expense, or to sell or cede their property to those interested, a suitable indemnification being awarded to them. The majority is determined by the superficial extent of property possessed; and should the extent be equal, by the number of persons interested.

Article 6. When a marsh belongs to one single proprietor, or when the several proprietors are agreed, permission to effect the improvement is never refused to such proprietor or proprietors; provided only that they undertake to carry it out on the plan and within the time specified by the Government.

Article 7. If the marsh belongs to a single proprietor, or to a society of proprietors, who do not consent to improve it within the period and according to the plan specified, or who will not perform the conditions required of them, either because the proprietors do not all agree, or because among them there are one or more parishes (communes), the Government will grant the right of undertaking the improvement to those parties whose proposals it may consider most advantageous. A preference will always be given to proposals made by proprietors, whether communes or individuals, to proposals made on equal terms by non-proprietors.

Article 8. The requisition of the parties desirous of undertaking the improvement shall be made to the General Direction of Public Works, and shall specify the precise quantity of land to be improved, the several proprietors, the number of years in which the work is to be completed, and shall offer a competent security as a guarantee for the fulfilment of the obligations contracted.

Article 9. The General Direction, etc., causes the requisition to be published in the places where the lands to be improved are situated, and in the chief town of the department. It fixes the period of three months within which those interested are to declare whether they propose to undertake the works of improvement at their own expense; warning them at the same time that, should they decline, it will propose to the Government to confide the execution of the work to such other persons as the latter may think fit.

Article 10. Should the above-mentioned term elapse without the proprietors declaring their willingness to undertake the necessary works, the General Direction, etc., in concurrence with the requisitionists, agrees upon the plan of execution, and the guarantees to be given, transmitting the proposal to the Minister of the Interior, who will submit it to our approval, with the advice of the Council of State.
Section II.

Of the extent, quality, and valuation of the Marsh Lands to be improved.

Article 12. When the Government undertakes the works of improvement, or
confides them to others, certain deputies are appointed by the Prefecture, and these are
chosen from among the largest proprietors of the marshes to be improved.

Article 13. These deputies are to appoint one surveyor (or appraiser, periti), and
send his name to the Prefecture, the contractors (undertakers of the works) appoint
another, and the Prefect a third.

Article 14. If the improvements are made on account of the State, the Prefect
appoints the second surveyor, and the Minister of the Interior the third.

Article 15. The marsh lands to be improved are divided into several classes, the
number of which shall not exceed ten. These classes are formed according to the
different degrees in which the land is overflowed. If the value of portions of the
marsh lands depends upon causes other than that of their amount of submersion,
than in each case alone, the classes are formed without reference to the degree of
submersion; but always in such a manner that all the lands of the same presumed
value may be placed in the same class.

Article 16. The boundaries of the different classes are traced by the surveyors
(periti) on the graduated plan used as the basis of the undertaking.

Article 17. The plan, thus prepared, is submitted to the approval of the Prefect.

Article 18. The plan remains deposited in the office of the Prefect for one month.
Those whom it concerns are invited by public notice to examine it, to make known
their objections; and whether it may be drawn up in its exactness, upon the calculation of the limits upon
the effects of the improvement will extend, and upon the several classifications of
the ground.

Article 19. Having taken the above precautions, and received the answers and
observations of the contractor and surveyors (periti), the Prefect may order any
examination or verification he may think fit, availing himself of the engineers of
the Royal Corps of Roads and Water-Courses.

Article 20. In case those persons interested persist in their claims, the question
is decided by the civil courts, according to the terms of the Decree of 8th June, 1805.

Article 21. As soon as the plans shall have been definitely decided upon, the
two surveyors (periti) named by the proprietors and the undertakers of the work,
repair to the spot, and after having collected all the necessary information, proceed
to a valuation of each of the classes composing the marsh land, having regard
to their real value, to the amount of the estimate made in their marshy state,
without occupying themselves with a separate valuation for each property. The two
surveyors (periti) make out and prepare this valuation in the presence of the
third surveyor named by the Prefect, who acts as arbitrator in disputed cases. In
the case contemplated in Article 14, it is the surveyor (perito) named by the proprie-
tors and the one appointed by the Prefect, who together perform the above-
mentioned duties; and they prepare and make out their estimate under the eye of
the third surveyor (perito) appointed by the Minister of the Interior, and he it is
who in this case acts as arbitrator if required.

Article 22. The procura-repositors of the valuations of the classes remain for one
month at the office of the Prefecture. The parties interested are apprised by public
notice; and in cases of appeal the Council of the Prefecture gives judgment accord-
ing to the forms observed in the civil courts. In every case the valuation must be
submitted to the Council of the Prefecture, which, with the advice of one or more
of the Royal Corps of Engineers of Roads and Water-Courses, will sanction or
amend it. This Council may decide in favour of or against the opinion of the
surveyors (periti).

Article 23. As soon as the estimate is definitely settled, the works for the improve-
ment are to begin, and these are to be continued and completed within the periods
specified in the Act granting the required permission, and under the penalties
therein set forth.

Section III.

Of Marsh Lands during the progress of the Works for their improvement.

Article 24. In cases where the improvements cannot be completed in three years,
and where the obstacles arise from the vast extent of the marshes, or from the diffi-
culties and slowness of the works, the Act giving the required permission may
assign to the undertakers of the works a portion of the price of the produce of the
land which shall have been the first to derive benefit from the works.

Article 25. The disputes, which the Act of permission may give rise to in this
respect, come under the cognizance of the public courts of law.
Law re drainage and improvement of marsh lands in Lombardo-Venetian provinces.

SECTION IV.

Of marshes after their improvement, and of the estimate of their value.

Article 26. When the works carried out on account of the Government, or by virtue of permission are terminated, they are verified, and the allotment is proceeded with.

Article 27. All claims (demands or complaints) are taken cognizance of by the public courts of law.

Article 28. As soon as the fact of the completion of the works is established and approved, the surveyors (periti) mentioned respectively in Articles 14 and 21, accompanied by the third surveyor, named, as the case may be, either by the Prefect or by the Minister of the Interior, proceed in concert to classify the improved lands according to their new value and the species of culture of which they may be susceptible.

Article 29. The division by classes is verified, settled, and accompanied by an estimate in a form similar to that hereinafore prescribed for the division and valuation of marsh lands about to be reclaimed.

SECTION V.

Of the Regulations with regard to the payment of the Indemnities due to the Proprietors.

Article 30. The value of the improved lands being definitely settled, the undertakers of the work present to the Prefecture a schedule containing—
1. The names of the proprietors.
2. The superficial extent of their property.
3. The classes in which each property is placed, according to the original graduated plan.
4. The first valuation calculated according to the superficial extent of the classes.
5. The amount of the new value of the property after the completion of the improvements, regulated according to the second estimate and the second division into classes.
6. Finally, the difference between the two valuations.

Article 31. If there should remain in the marsh portions of land which it has been practicable to improve, these give the undertakers of the work no title to compensation.

Article 32. The sum total of the greatest value acquired by means of the improvement is divided between the proprietors and the contractors who have effected it, in such proportions as shall have been determined upon in the Act of permission.

Article 33. When the improvements are executed by the State, the relative expenses are regulated according to the dispositions of Article 55 of the Decree of May 6, 1806.

Article 34. The proprietors are severally entered in a register, in which is marked the sum due by each to the parties who have carried out the improvement. This register, compiled from the plan indicated in the preceding Articles, and seen and approved of by the Council of the Prefecture, shall be published by the Prefect, with a notice declaring the rates and the terms and times of payment; that is, should the works have been executed by the State, and accompanied with a notice that in cases of non-payment the debts shall be handed over to be recovered by the receiver of public taxes. The same notice allows the parties by whom the money is due, the term of one month, within which they are to declare the manner in which they intend to liquidate the debt incurred to the contractors or undertakers of the works.

Article 35. The proprietors are exempted from payment in money, if they make over a corresponding portion of land, calculated according to the valuation of the last estimate. In this case they only pay the tax of one lira (8d.) for registering the deed making over the property.

Article 36. If the proprietors are unwilling to cede the land itself, they must pay at the rate of 4 per cent, on the amount of the capital due by them. The capital is always redeemable in portions of not less than one-fifth of its amount.

Article 37. The indemnities, due to the contractors or undertakers of the work for the increased value caused by the improvements, have rights of priorities over the whole of the augmented value, provided only that the contractors cause the Act of permission to be inscribed in the office or offices of mortgages of the district or districts in which the reclaimed lands are situated.

Article 38. The mortgage of any individual whatever which shall have been registered previously to the improvement of the lands, is limited by means of the inscription required by the preceding Article, to a portion of property equal in value to the first valuation of the improved lands.

Article 39. In all cases the register or catalogue described in Article 34 shall be considered as a fiscal document,* and may be made out and published by the orders of the Prefect, through the medium of the public receivers of the direct taxes.

Article 40. The list of the parties from whom money is due, with the documents proving that the notice alluded to in Article 24 has been made public, shall be transmitted by the Prefect to the Minister of the Interior.

* i.e., May be published free of any tax.
Article 41. In cases where the payments are put off or delayed, the State shall acquire the right to the same sort of mortgage as that granted to the contractor or undertakers of the work by Articles 37 and 38, by causing the decree by which the improvements were ordered, to be inscribed in the office or offices of the district or districts where the improved lands are situated.

Article 42. Any person whatever may make a requisition for permission to improve or reclaim any low or marshy lands, the property of the State, provided he engages to execute the work within a given time, and gives security for the fulfilment of his undertaking.

Article 43. The Government will afford in such cases every facility both as regards the manner and the time of payment for such marsh lands, according to circumstances, and in conformity with the plans that will be presented to us by the Minister of the Interior.

Section VI.

Of the Preservation of the Works.

Article 44. While the improvements are in progress of execution, the canals, ditches, drains, banks and other works connected with the same, are maintained and kept up at the expense of the contractors or undertakers.

Article 45. From the moment that the works are delivered over to the proprietors of the improved lands, the custody and duty of keeping them up are at the charge of the latter.

Article 46. The Prefecture, with the assistance of the Royal Corps of Engineers of Roads, etc., proceeds to mark out as many districts (circondarii) as may be compatible with the extent and position of the improved lands, and organizes the different associations of the proprietors that are interested, according to the method described in our Decree of May 20, 1806.

Article 47. The Minister of the Interior, upon the report of the General Direction of Roads, etc., approves or amends the plans of such districts and the regulations of their respective delegations, causing them to be inspected by the Corps of Engineers.

Section VII.

General Dispositions.

Article 48. When the plan of improvement referred to in Article 17 extends over several departments, it is transmitted in entire to each of the respective Prefects. The regulations prescribed in Article 18 are observed in all the Prefectures, and the approval of the same is reserved to the Minister of the Interior, upon the report of the General Direction of Roads, etc.

Article 49. Should there be a question of reclaiming large and vast marshes extending over several departments, a special commission composed of persons from each of the several departments will exercise the powers conferred by the present decree upon the Council of the Prefecture. All complaints against the proceedings of this commission are decided in the public courts of law.

Article 50. In the case contemplated in the preceding Article, upon the report of the Prefects of the departments in which are situated the lands to be reclaimed, such a number of persons will be proposed as may be thought necessary to form a commission.

Article 51. These will be chosen from among those persons of the several departments interested, who are best acquainted with the localities and with the various subjects on which they are to give their opinion. The nomination shall be made by us.

Article 52. The mode of calling together the members of the commission, the times and places of meeting, the regulations for its government, the offices and custody of the papers, the expenses, and finally, all that may concern its organization, shall in all cases be settled by the Executive.

Article 53. All disputes that may at any time arise respecting rights of property shall be handed over to the civil courts, and this without in any case suspending or retarding the works of improvement.

Article 54. Whenever for the purpose of carrying out the improvements, there may be a question of pulling down the water-mills or such like buildings, or of changing their site, or of altering the elevation of their waters, the necessity of the case will be left to the decision of the Direction General, etc., upon the report of the Royal Corps of Engineers. The amount of the estimated value is paid by the State when the State undertakes the works; and if the works are undertaken by contractors, the sum awarded must be paid down before they can be permitted to stop the mills or such like establishments.

Article 55. For the occupation of the ground requisite to open ditches and drains a considerable indemnity will be paid to the proprietors.

The Ministry of the Interior is charged with the execution of the present decree, which will be inserted and published in the "Bollettino delle Leggi."
1847.
8 April.

Regulations re water for irrigation and agricultural purposes.

Statement transmitted re irrigation in Lombardy.

Account of system of irrigation and drainage in Lombardy.

[Sub-enclosure No. 3.]

EXTRACT from the Law relating to the expenses of Public Works and the Administration of Public Waters.

(Translation.)

Every individual is bound to cede the ground necessary for the channels, embankments, etc., of rivers, canals, and drains, and generally for all works connected with waters which have for their object the public good; and fair compensation will be awarded where it is due.

Any individual wishing to procure water, whether the property of private persons or of the public, for agricultural purposes or for turning mills, etc., may conduct it through the property of others, paying the value, and one-fourth more, of the land occupied by the water-course. The party thus obtaining water is bound to keep the water-course in good order, as well as the banks and buildings belonging thereto, and to indemnify the owner of the property through which it passes, for any injury that may result to his estate from neglect in this respect.

These water-courses must be conducted through such part of the property as the periti (public appraisers or surveyors) may think fit, as causing the least injury to the owner, due regard being had to the convenient application of the water.

Owners of lands on a lower level cannot refuse a passage to the waters flowing from the higher levels. The owners of the higher levels are charged with the expense of making the necessary channels for these waters, and with the protection of the property through which they pass, and are also bound to pay compensation for whatever injury may be occasioned to the said property. This regulation, however, does not invalidate any agreement or arrangements that may be made between the respective proprietors.

[Enclosure No. 2.]

CONSUL-GENERAL DAWKINS TO VISCOUNT PALMERSTON.

My Lord,

In my despatch No. 15 of the 22nd February last, I mentioned that I was in expectation of receiving some additional information respecting the system of irrigation and drainage in Lombardy; and I have now the honour to transmit to your Lordship a translation of a paper in five parts, which has been drawn up by a gentleman who is one of the persons in this country most competent to afford information on the subject. In this paper the writer enters into various details and considerations, more especially with reference to the possibility of introducing into Ireland some of the regulations in force in Lombardy. Perhaps some of these considerations may appear superfluous, but the subject is so interesting, and the object of the writer so laudable, that I have not hesitated to submit them to your Lordship.

I beg leave to add that I am greatly indebted to Mr. Campbell, the Vice-Consul at Milan, for his assistance in procuring this information.

I have, &c.,

CLINTON G. DAWKINS.

Statistical information on Lombardy, more especially with reference to the System of Irrigation, and the possibility of applying it to Ireland.

A. (Translation.)

The opinion of Arthur Young, that the superiority of the Milanese districts in all that relates to irrigation, over the rest of Italy, is to be attributed to better laws and regulations, has led many erroneously to suppose that the same laws would at once produce the same effects in other countries. This notion has given an impulse to many projects for the execution of which the human will is not alone sufficient; but the previous dispositions of nature herself must be taken into account.
The climate of Lombardy to that of India, where during the summer the rains are
heavier and the nights longer. It is merely intended to point out, that nature, by
Nile than to India, although in other seasons it does not differ from the neigh­

for the rice than humidity itself, since in pure fresh water the rice does not thrive,

heat is tempered by the storminess of the days and the uniform length of the
means of the clearness of the days and the shortness of the nights, obtains here,

This country during summer may be compared rather to the valley of the

and the Adda, the land is irrigated to the extent of 8-10ths of its surface, whilst
between the Adda and the Clisio it is only irrigated to the extent of 5-10ths; and
lower down, towards the junction of the Po with the Mincio, it does not reach 1-10th.

It is only in that part of the ancient State of Milan which a century ago became
united to Piedmont, that is, the plain westward of the Ticino, where irrigation
is almost as extended as hereabouts.

Under the denomination of the Milanese districts must be comprised those of
Lodi and Pavia. The influence of the wise laws and customs of our forefathers
cannot be doubted, but the way has been paved by a union of natural circumstances,
difficult to be met with elsewhere.

The first of these natural circumstances is the general serenity of the atmosphere
during the summer season, notwithstanding the remarkable abundance of rain that
falls in the course of the year. The mass of water that falls in Upper Italy is perhaps
greater than in Ireland; but whilst in the latter country it is distributed over 200 days
(being a greater number by 50 than in England), in Lombardy, on the contrary, in
the different parts of the plain between Pavia and Brescia, the rainy days in a series
of years average only from 30 to 40. The sun shines in Lodi almost the half of
the year, in Milan more than half, in Brescia two-thirds. During the winter and
spring, hard rain is frequent, and still more so during the autumn, as still more so during
June, July, and August, in the different parts of the irrigated plain, there are on an
average from 56 to 72 days of perfectly bright clear (sereno) weather; and
although there are some cloudy days, only from 3 to 5 are really rainy. An occa­

Ireland there are doubtless occasional seasons of drought; but it is not on such
exceptions that the fitness or unfitness of an expensive system of irrigation should
be judged. There are thus in Lombardy sometimes from 40 to 50 days of continued
bright clear weather (sereno continuo), interrupted only for some hours by a furious
storm, which pours out an immense flood of water, even as much as a decimetre
at one time. This water, however, does not prevent the earth from appearing just
as dry as it did previously, at the return of the sun. In all these months, June, July,
and August, the heat is usually strong and unabated, though it does not indeed
reach certain extremes which are felt in more southern latitudes, and in the long
summer days in some parts of the north. The thermometer never rises beyond
33 centigrades, and scarcely ever falls during the night below 25 centigrades. Thus
in the height of the summer the minimum temperature of our nights corresponds
with the mid-day summer-heat of Ireland. When long and clear days are succeeded
by short summer nights, and when in the morning, after so short an interval, the
glare of the sun is almost unbearable, irrigation is the greatest benefit that can be
conferred on the land.

The advantages of irrigation in Lombardy are often purchased at the most
exorbitant price, although in some places it can only be put in practice at intervals
of one or two weeks. Hence no effort is spared to procure water for this purpose.
In the high flat country, and in the hilly country, although the storms there are
frequent and the nights cooler, horticultural produce is scarce, in consequence of the
powerful heat of the sun not being tempered by irrigation. The inhabitants in those
parts are obliged to have almost all their vegetables and garden-stuff from the
irrigated grounds in the neighbourhood of Milan and Treviglio.

It is owing to these peculiar circumstances that the Indian cultivation of rice
is carried on in Lombardy—a cultivation unknown in similar latitudes (45° to 50°
North), at an altitude reaching even to 150 metres above the level of the sea. The
water which in summer floods the rice-grounds acquires a constant daily and
nightly temperature scarcely lower by one or two degrees than that of the atmos­
phere, which last, be it understood, varies very little, and it engenders continually
that abundance of carbonic acid gas which is met with in the water of the rice-
grounds. The dilution of carbonic acid gas in the water is perhaps more necessary
for the rice than humility itself, since in pure fresh water the rice does not thrive,
even though a soil copiously manured carry nourishment to its roots. In this
respect the rice-grounds differ essentially from the merceite. Rice-grounds may
possibly succeed in the climate of Ireland, it being rather fresh than cold.

In saying, however, that rice is an Indian cultivation, it is not meant to compare
the climate of Lombardy to that of India, where during the summer the rains are
heavier and the nights longer. It is merely intended to point out, that nature, by
means of the clearness of the days and the shortness of the nights, obtains here,
though, rainy weather as is the same result as in lower latitudes, where the
heat is tempered by the storminess of the days and the uniform length of the
nights. This country during summer may be compared rather to the valley of the
 Nile than to India, although in other seasons it does not differ from the neigh­

account of system of irrigation and drainage in Lombardy.
1847.
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Account of system of irrigation and drainage in Lombardy.

uniform dryness—a singular fact in a country covered with tepid and evaporating waters. The hygrometer, which in winter indicates an excess of humidity, and remains for many days at 96°, falls often as low as 2° in summer. The winds, which in the British Islands, in Portugal, in France, and in Norway, bring rain, are in Lombardy the surest indication of fine weather. The winds from the east are the only ones which can penetrate into our plain without passing over continuous ranges of mountains. The lowest openings in the Apennines are from 200 to 1,000 metres in height, and those of the Alps about 2,000. The winds must consequently pass over high and cold regions, and condense the humidity with which they are charged; and when thus condensed they fall again by specific gravity into the warm valley of the Po, where, like sponges, they absorb anew the evaporations from the tepid and muddy water that is spread over the plain. Were not this the case, these plains would perhaps be uninhabitable, like the Tuscan Maremme, or the mouths of the Ganges, where the humid atmosphere is never felt as far as this, and hardly gives any sign of its existence in the vegetation on this side the Mincio.

In addition to the winds in Ireland, the currents of the ocean must be taken into account, which have their origin as far south as the Cape de Verde, and even the West Indies; and also a current (Rennell's current) coming from the coast of Spain, which embraces the Island east and west and sweeping round it also to the north. These currents give birth, along part of the coast, to the vegetation of the southern climes, viz., the Arbutus and the Myrtle. The mountains which are scattered here and there in different groups, do not arrest, by a continuous range, the passage of the air even on clear days. In Lombardy the saline influence is never felt as far as this, and hardly gives any sign of its existence in the vegetation on this side the Mincio.
It has been already stated that to the east of the Adda, the irrigated ground occupies only 5-10ths of the surface, while to the west of that river it occupies 8-10ths. This is occasioned by the different origin of the water, which, to the east of the Adda, is derived in great part from the Serio, the Brembo, and the Ollio Rivers, which have their sources in the secondary ridges of the Alps where there are only some small tracts of country subject to perpetual snow. Hence, at the time of the greatest need of irrigation the water diminishes, notwithstanding the industrious inhabitants of those districts exhaust the rivers to the utmost by means of small watercourses. Water for the purposes of irrigation is still more scarce on the southern bank of the Po than it is in the districts above mentioned, because the rivers issuing from the Apennines are fed more by rain water than by snow water; and as they are therefore diminished in summer, the farmer finds but a small return for the expense necessary to fit the land for irrigation. Such is not the case with the Ticino, which in summer is so abundantly supplied, that besides furnishing copious means of irrigation, it bears to the Po the greater portion of its waters. And the Po, to which all these rivers are tributaries, although its course is short, and the surface of its basin does not equal half that of the Rhine, being in the proportion of 5 to 11, yet, according to the calculation of Elia Lombardini, discharges a greater average quantity of water than the last-named river.

It is not however alone sufficient for purposes of irrigation to have an abundant and regular supply of water, and a powerful and uninterrupted sunshine; it is requisite besides to have a country of a peculiar conformation; it is necessary to have vast plains accessible to the water and exposed to the sun. It is not merely sufficient to lead the water to them, but it is necessary also that it should not remain there to stagnate. A continuous declivity is therefore required, not too great, otherwise the water would carry away with it the manure, and thus wash out the land. This is precisely the privilege Lombardy possesses. From the Lake Verbeno or Maggiore to the mouth of the Mincio, it forms one single plain inclined to the Po, and from thence to the Adriatic. The most elevated point is near the Verbeno at Somma, 266 metres above the level of the sea; the lowest is on the level of the Po, where it passes into the Venetian territory, only seven metres above the level of the sea. The fall then is about 260 metres on a line 200 miles, or about 1½ in 1,000. The water can consequently be conducted from field to field, and also made to circulate in oblique and complicated lines, in order to meet all the different wants and exigencies of the farmer. There are, to be sure, some undulations of the soil, in which the water, if left to itself, would stagnate, and where in barbarous times marshes must have existed. But the agriculturist has employed himself here in collecting the waters and leading them to a lower level. It suffices for such purpose merely to dig a ditch, the bottom of which has an inclination somewhat less than the neighbouring fields. The two lines carried on for some miles converge finally at the same level. The water can then spread itself out over the surface of the soil, and descend afterwards from field to field. Thus it is not raised, but is transferred from higher to lower levels.

An abundance of subterraneous waters are to be found along the northern edge of the irrigated plain, that is, in a direction from Milan to Mantua, and these are collected in what are here called *Fontanili*. This is a kind of well made in the bottom of a ditch. The well is kept clear by fixing therein a common wooden cask or tub without a bottom. The water is forced up into the tub by the pressure of the other water with which the surrounding gravelly soil is saturated. The water from several of these tubs is then led into a channel which conduct it by a gentle declivity into fields more or less distant. In the district of Melzo alone, to the east of Milan, between the Lambro and the Adda, about twelve miles in extent, 200 of these *Fontanili* may be counted. These waters being of subterraneous origin, are in winter of a temperature higher by many degrees than that of the atmosphere, and than that of waters which have run for a considerable time in the open air; they are, nevertheless, very good for meadow irrigation. But as in summer the constant subterraneous temperature is much lower than that of the atmosphere, these subterraneous waters are not fit for the rice-grounds until they become warmed by circulating through several fields.

There are some swampy grounds, however, which no artificial means can reclaim, from their lying between more elevated land, from whence the water flows to the lower level, where its further progress is intercepted. These grounds produce only a marshy grass or hay, of little value.

But all these *Fontanili*, and in general all the water derived from rivulets and torrents, produce but a very limited supply. Of the 30,000,000 tons or cubic metres of water and upwards, which in the summer is spread over the fields here every day, about three-fourths come from the lakes which lie along the northern border of our plain, like deep ditches, between the open country and the natural bulwark of the Alps. Now, although the lakes are very high above the level of the sea, they are rather below that of the immediately-contiguous plain, and they can only pour out their waters upon a lower and more distant part. And as the water, in traversing this distance, must first descend in the shape of a river, following the natural declivity, and afterwards in the shape of a canal, and as this...
Account of irrigation and drainage in Lombardy.

1847.
8 April.

in Lombardy.

HISTORICAL RECORDS OF AUSTRALIA.

Account of irrigation and drainage in Lombardy.

The soil of Lombardy is composed of a mass of erratic pebbles and large gravel, tending in the lower part of the country to a siliceous sand, needing water the more in proportion to the facility with which it affords a passage to it; in fact, the soil obtains the greatest advantage from the water, and suffers the least disadvantage. These beds are however sometimes ditches in his fields, not to irrigate, but to drain them. In some parts subsoil

residuations respecting it, is not so extensively adopted as in the Milanese districts.

The soil of the Mantuan districts, resembling rather that of part of the British islands. For these reasons the Mantuan farmer, similar in this respect to the English, cuts with their labouring implements, and also to cut through certain secondary dykes, in order to save the principal one. This struggle has been going on between an army of dykes, which are constructed of a clayey earth, like ramparts, with a solidity proportioned to the mass of water they have to support. This mass is immense, since the Po, during the great floods, carries down twenty-four times the quantity of water that it does when at its lowest, that is, 500 tons every second. The dykes of the Po in these provinces are nearly 300 English miles in length, and much more in the Venetian provinces. Besides these principal dykes, there are many secondary dykes, which protect certain districts, at all events, from smaller inundations. The greater number of the villages in this quarter are built on earthen mounds, which seem to have existed from the earliest ages.

In general the natural beds of the rivers act as drains to the water spread artificially over the fields; there are however artificial works for draining. In the Mantuan districts they may be reckoned at the along they may be reckoned

of which is numbered, and where are erected butts to shelter the sentinels. When a breach in the dyke takes place, intelligence of it flies from station to station. In these emergencies the engineers have the power to call out the whole population with their labouring implements, and also to cut through certain secondary dykes, in order to save the principal one. This struggle has been going on between an active and intelligent race and the inundations of the Po for more than 2,000 years. Hence one of the causes why, as has been already stated, in the low part of the country, viz., about the mouth of the Mincio, irrigation is only practised on one-tenth of the surface. The population is in fact more interested in repelling than in calling in the aid of the water. Another reason is the very clayey nature of the soil of the Mantuan districts, resembling rather that of part of the British islands. For these reasons the Mantuan farmer, similar in this respect to the English, cuts large ditches in his fields, not to irrigate, but to drain them. In some parts subsoil draining (tombaughter) is beginning to be practised. There are many tracts of country in a similar condition between the Po and the Apennines; and this is a second reason why irrigation, notwithstanding the similarity of the laws and regulations respecting it, is not so extensively adopted as in the Milanese districts.

In moments of danger all the mouths of the channels which traverse the dykes are closed, and behind them again the sluices of the smaller canals. If the water reaches to a height marked the prima guardia, sentinels are stationed at all those places where the dykes are near the deep current of the river. If the water rises to the height marked seconda guardia, two men are stationed at intervals of 300 paces (150 metres), at places marked by a small stone column fixed in the ground, each of which is numbered, and where are erected butts to shelter the sentinels. When a breach in the dyke takes place, intelligence of it flies from station to station. In these emergencies the engineers have the power to call out the whole population with their labouring implements, and also to cut through certain secondary dykes, in order to save the principal one. This struggle has been going on between an active and intelligent race and the inundations of the Po for more than 2,000 years. Hence one of the causes why, as has been already stated, in the low part of the country, viz., about the mouth of the Mincio, irrigation is only practised on one-tenth of the surface. The population is in fact more interested in repelling than in calling in the aid of the water. Another reason is the very clayey nature of the soil of the Mantuan districts, resembling rather that of part of the British islands. For these reasons the Mantuan farmer, similar in this respect to the English, cuts large ditches in his fields, not to irrigate, but to drain them. In some parts subsoil draining (tombaughter) is beginning to be practised. There are many tracts of country in a similar condition between the Po and the Apennines; and this is a second reason why irrigation, notwithstanding the similarity of the laws and regulations respecting it, is not so extensively adopted as in the Milanese districts.
There are various ways of applying water to agricultural purposes, not only in different parts of the country, but also on one and the same farm. The method of spreading a thin veil of moving water over the ground is adopted for the marcite alone. These marcite amount only to about 10,000 acres, the hundredth part of the irrigated land, which may be reckoned at 1,000,000 acres.

This method of cultivation requires the whole surface of the ground to be artificially laid out. A flat, or a uniformly-inclined surface, is not sufficient. The field must be divided into sections by small rectilineal ditches or canals, each section being inclined in a particular direction, so as to receive the water on one side, and to let it flow to the opposite side, where it falls into a ditch which conducts it to another section. The water runs by this means over the whole surface, covering it uniformly in every point and everywhere with equal flow. If too rapid, it would cool and impoverish the soil; if too deep, it would cause aquatic weeds to spring up; if too slow, it would be brought into fermentation, and produce an unhealthy vegetation; and these slight differences would entirely change the nature of the crop. The cultivation of the marcite, therefore, requires great exactness, and to be most accurately understood. It requires water of an equal temperature, that will neither freeze in winter nor ferment in summer, and that can be freely and plentifully supplied both day and night. Finally, it required twenty times as much, and sometimes more than would be requisite to keep the land constantly flooded, because, besides the evaporation and absorption, it is necessary to provide for the continual movement and circulation above described.

The common meadows (prati stabili), but not cultivated as marcite, and those fields which are cultivated alternately as meadow and arable land, require water only at intervals of one or two weeks, and for a certain number of hours each time. The ground sown with wheat and rye has no real need of irrigation, because this grain not by nature liking wet, being sown in this country towards the end of October, grows up through the winter and spring rains, and becoming ripe at the commencement of the hot weather, is cut towards the end of June.

That grain which being sown in the spring comes to maturity in the summer, has the greatest need of water from time to time. Such for instance is Indian corn, which suffers quickly from drought, if the great heats are not interrupted by seasonable rains. This kind of crop, although not requiring a constant flow of water like the marcite, absorbs nevertheless a much greater quantity than the simple meadow; because the earth, being broken up by the plough, is more porous, and not being covered with rich herbage, more exposed to the heat of the sun.

The surface of the rice-grounds is never on an incline like the marcite, but always flat, so that the layer of water may be of an equal depth in every part; thus if the land is naturally on a slope, it is divided by dykes (arginelli) into different sections or terraces, one lower than the other.

In several low deep flats that exist chiefly on the banks of rivers a species of rice-ground is cultivated, which remains flooded even during the winter. It does not answer to plough this land, but it is dug with large spades with which the roots of the marshy grass are turned up to the sun. These rice-grounds are called Risae di tappa, or arpa rice-grounds. They have the advantage of not requiring manure, the marshy grass roots answering that purpose. A good farmer, however, will endeavour to transform these rice-grounds, even at a great expense, into marcite, so as to be able to profit by them during the winter.

The quantity of water then that is required for these different species of cultivation varies very considerably indeed. One hectare (2½ acres) of marcite, taken by itself would require what is termed in Lombardy one oncia (or inch) of water which may be reckoned at about 2½ tons a-minute, or 3,600 tons a-day.

The same measure of water would suffice in one day for rather more than twice as much, i.e. with maize, or three or four times as much, with common meadow land; and thus in the course of one week it would serve for the irrigation of seven different crops or of fourteen pieces of arable land in two weeks. For though these last absorb more water each application, they do not require it so

B. 1847.

Cultivation of Marcite.

(Translation.)

Account of system of irrigation and drainage in Lombardy.

8 April.
Account of system of irrigation and drainage in Lombardy.

frequently as the meadow lands. Finally, the same measure of water applied to a rice-ground would suffice, under ordinary circumstances, to keep from twenty to twenty-five hectares constantly flooded.

But these quantities, besides varying according to the nature and situation of the land, are calculated upon the supposition that each species of cultivation is placed by itself, or isolated as it were, which never happens, because every farm comprises within its bounds each sort of cultivation, and in this case the water, which flows from the marcite serves to irrigate a piece of arable or meadow land by turns. The floodings of the rice-grounds naturally are absorbed to a certain extent by the immediately contiguous lands, and are either advantageous or prejudicial, according to the nature and cultivation of these lands. Supposing, for instance, the adjoining land to be also cultivated as rice-ground, in that case the absorption or infiltration would be a less quantity, as tending to render a less quality, as tending to render it less effective to keep it flooded. With land cultivated as marcite, on the contrary, it would be an injury. In some cases agreements on this subject are drawn up; in others long-standing usages exist between proprietor and proprietor, or customs prevail from time immemorial, on the principle of the predial servitude of the Roman law.

Though the infiltration above referred to may occasionally be of service, it cannot be said that irrigation by infiltration is practised in Lombardy, either simply or by means of covered conduits, in consequence of the generally light and porous nature of the soil and of the general declivity of the land. The system of covered conduits is adopted in the Netherlands, because there the plains have not a slope as in Lombardy. Indeed the Polder are for the greater part pent up (incassate) between waters higher than themselves, and therefore the draining of large irrigated surfaces would be difficult. For this reason, in the climate of the Netherlands (much less hot than Lombardy) it suffices to introduce a certain quantity of water into the ditches, in order that it may pervade the under soil, and by capillary attraction contribute to keep the vegetation fresh and moist.

From what has been said respecting infiltration and watercourses, it is manifestly advantageous that a farm should be of a certain size, and that all its parts should be contiguous to each other, by which means a less quantity of water will be required. In this case the lower land is destined to that species of cultivation which can best profit by the waters flowing from the higher land, so that the water is always of use in some part or other, and does not remain idle a single day or hour.

Thus, always excepting marcite, three oncia of water, or about 10,000 tons a-day, may be reckoned sufficient for a farm of 100 hectares (250 acres), divided into common meadows and fields of wheat, rye, maize, oats, flax, rape-seed, etc. The quantity of water will perhaps fall short, if the farmer, as happens in the neighbourhood of Milan and Lodi, has a greater proportion of meadow than of arable land. It will, on the other hand, be more than enough if the meadow land is in a less proportion, as in the neighbourhood of Pavia. If the land is so situated as to make all the water available, and to allow none of it to run to waste, but apply it to the warm land, the same measure of water would suffice for a property half as large again as for one not possessing these advantages. But the least introduction of marcite changes all these calculations, this cultivation requiring much greater masses of water.

In northern climates where the evaporation in the day-time is less, and where it ceases entirely at night, and where rain is more frequent, the irrigation of arable land appears almost superfluous, and from the non-foot nature of irrigation will be applicable only to meadow land, to the cultivation of flax, and to garden ground. It does not appear, therefore, that the quantity of water consumed in the light soil partly used as rice-grounds, and under the sunny sky of Lombardy, can be a fair criterion of the quantity that may be required in other latitudes.

We now come to the use that is made of water to manure the land. The waters used for irrigation are of various qualities. Those which are drawn from the Ticino, on their first arrival upon the land, are limpid and rather cold in winter, owing to the great distance they have to traverse after leaving the lake. But after remaining in the ditches and flowing over well-manured land, they gradually become fatter. The channels and watercourses of one farm contribute to the fertility of another.

The waters from the Adda are less limpid in proportion as they are drawn from the lower part of the river, because the muddy torrents from the lesser mountains are mixed with the Alpine and lake waters. It is observed that in the course of time in some canals, in the Muzza for example, the continual deposit of chalky substances dissolved in the water and left upon the sandy soil traversed by the canal, forms a concretion similar to that observed by geologists in many parts of the world, chiefly on the shores of the lakes of Canada, and in the basins of the Venetian Lagnes, which in Milan is called feretto and castacane, and in Venice Carante.

In newly-formed canals great leakage is generally observed, but this diminishes as the porous soil becomes choked with the various substances carried along by the water. The brooks and torrents that flow from the earthy hills of the tertiary formation,
bring down much muddy water which clogs the ditches. But in the course of
the year this mud is cleared out, and together with the weeds and other accumula-
tions is spread over the neighbouring land. In the monte it is observable that the
effectiveness of the level becomes a little changed in the course of time, principally
because that part of the land upon which the water first flows catches and retains
the deposit, while the lower part receives the water cleared and filtered through
the heritage of the higher part. This of itself must be of service, and must act to
be certain extent as manure, but it cannot be considered in the light of manuring
by artificial means; in fact such a method of manuring the land could not be
adopted. In the first place there would be no place from whence to procure the earth
or marsh, the neighbouring land being all equally level, equally cultivated, and there
being no hillocks or portions of rough ground available for mixing with the water,
unless perhaps at a distance of some miles, owing to the above-mentioned extent and
continuity of the plain. In the second place, because similar substances made use
of abundantly by many farmers, would clog the watercourses, and alter the course
and the exact measure of the water used for irrigation. In the third place, the
supposed benefit would be far it, Lod, Crema, Cremona, Mantua, Como, etc., flows
almost entirely into the neighbouring rivers and lakes. In Milan the manure from
the stables is either sold by the proprietors, or sent to their estates in the country.
The sweepings of the streets are collected principally by the peasant cultivators of
the non-irrigated lands to the north of the town. The contents of the privies, etc.,
are carried away by another set of cultivators, and are mostly applied to the
suburban garden ground.

The subterraneous canals or sewers carry off chiefly the rain water, and also a
portion of the refuse water from the kitchens, stables, urinals, and some privies.
There is no doubt that the monte irrigated by this water are excessively fertile, and
produce as much as eight good crops of grass in the year; but they comprise only a
few square miles of the land, so that this system cannot be said to have been applied
on a large scale. The greater part of the manures above alluded to
are carried away in summer by sudden rains, temporali, which naturally overflow
the precise measure of the water allotted for irrigation. The canal that receive-
the greater part of this water is the Vettabia. But the real secret of the fertility
of our irrigated lands consists in the numerous farm-yards, which, in a triangle of
20 miles or a little more, between Milan, Loi, and Pavia, contain about 100,000
head of cattle, 100,000 fat pigs, and 25,000 horses. The manure proceeding from
these is never mixed with water, but on the contrary the liquid portion of it is
collected and thrown on a layer of earth, which when impregnated is spread over
the fields. This at least is the practice of the best and the majority of the farmers.

From what has already been said it will be perceived, that in the application of
different kinds of husbandry or courses, regard must be had not only to the chemical
principles which forbid the constant repetition of the same crop, but also to the
best use which can be made of the water, so that it may always be employed for
different purposes in different parts of the property. For as water costs money like
an apparatus of irrigation.

The supposition, also, that irrigation derives great advantages from the drainage
of towns, is founded on fact, but it is only within a very limited extent. The
drainage of the town of Pavia, Lod, Crema, Cremona, Mantua, Como, etc., flows
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different purposes in different parts of the property. For as water costs money like

property. In such case the farmer has only to put the simple question—"Given a certain quantity of water, how can it be applied in the most profitable manner?" But the question becomes more difficult when the water can only be applied on certain days, for certain hours, in consequence of its being shared by different proprietors. In such cases perhaps the water may not be able to be had in such quantities and times as the nature of the soil requires, and delays of all kinds intervene.

The alternate use which several proprietors make of one and the same body of irrigation quantities and times as the nature of the soil requires, and delays of all kinds interfere.

For instance, in Lombardy, the *rota d'acqua* (rotation of water) on different days and hours, is called in Lombardy. The following *orario* or time-table of a water-right in the Province of Lodi will show how the distribution is effected.

**Oroario for the year 1835 during the summer season:**

A has the right to the water for 14 hours consecutively, beginning at 4 o'clock in the morning of the 1st of April, until 6 o'clock in the evening. At 6 o'clock the water is allotted to B for 16 consecutive hours, that is until 10 o'clock in the morning of the 2nd of April. It is then allotted to C for 24 hours consecutively: then for 18 hours to D; then for 2 hours to E; then for 25 hours to F; then for 30 hours to G; then for 23 hours to H; then for 19 hours to I; then for 21 hours to J. Thus eight days or 192 hours are completed. The rotation then begins again with A.

From this it will be seen that the measurement and fair distribution of water by day and night is one of the most important functions of the farmer. Hence the regulating engineer and the keeper (custode) of the water are persons upon whose precision, diligence, and fidelity everything depends. But the distribution of the water is effected in the most simple manner, viz., by shutting or opening, according to a given scale and measure, the sluices or doors which give egress to the water from the common canal into the channels for the service of the respective farmers. This is done without any difficulty or expense.

After what has been said with regard to the variety of the produce, and to the courses observed, it is impossible to determine what is the weight of the produce of a piece of land. This would imply some predominating staple produce, such as rice in India, corn, potatoes in Ireland. But the digression is premature in produc such as flax, linseed, wheat, rape seed, hay, straw, firewood, calves, milk, cheese, etc., cannot be compared in weight to each other. The rent of the land should rather be compared. In short the rent of an irrigated farm should be compared with that of a non-irrigated farm in the same part of the country.

And here it is necessary to guard against an illusion which is very frequent among those who have not personal experience of the system of irrigation. It is asked, what is the price of the best irrigated land? If a comparison is drawn between the best irrigated land of the low country, and some barren and sterile land of the high country, it may be said that while the heath lands, after the heath and furze upon them have been taken away, are worth about two pounds sterling the pertica, or about £15 the acre, a piece of irrigated land of average value, with its proportion of meadows and fields, would be worth with all its buildings and water rights, at least four or five times as much; and a property plentifully supplied with water, and with well-arranged marcette and garden land, especially if in the vicinity of a town, might let yearly for what the heath land would sell for. This again must depend, however, upon the local demand for hay, milk, butter, etc., and upon the facility of obtaining manure from towns. But this value is not confined to irrigated estates alone, because there are properties both in the low and in the high country which are not irrigated, but where vines, mulberry trees, corn, and in certain parts olives, are produced, and lemon gardens (*agovami*) cultivated. These are let for an annual rent and make corresponding annual sum, and make a one pound non for a weak and dry soil in the low country. It is not so much an adjunct to its fertility as a remedy for its sterility. This may be seen on following the course of the Ticino, by comparing the upper part or high table land of Somma, with the middle and lower part, and the low district of Abbiategrasso and Pavia. Irrigation is a particular method of applying capital to land which is the best adapted to the locality, but it is not of itself more profitable than any other. It may perhaps be even a more expensive method than any other, and one which can only be carried out with the aid of various circumstances and customs which are subsidiary to irrigation itself. It is a kind of cultivation adapted for wealthy and orderly people.

**How is water allotted and measured out, and at what rates paid for?**

(Translation.)

The economical part of the question must now be considered. The question is asked, what is the general expense of adopting the earth for the purposes of irrigation?

Let two cases be put: the first that the water be already spread over the country, and that the selling and having of it is only for buying and having of it; but the second that irrigation is to be introduced into a perfectly new country. To begin with the first—
The capital commonly paid for the perpetual use of an acqia of water (or about 3,600 tons per day), may be put at 18,000 francs, and even more. The price depends like any other merchandise, on the demand. It depends also in a lesser degree on the quality of the water.

Whoever does not wish to pay the capital for the water can have the perpetual use of it on paying an annual sum which naturally corresponds with the interest (from about 500 to 1,000 francs). But if the water be taken only on a lease for a few years, a fifth or a sixth less is paid (from 400 to 800 francs). The winter water (acqua invernale) is not much used, because the marcitie are very scarce, and the other crops profit little by it. The use of some waters also ceases, in consequence of the greater or less abundance of water in the rivers, which is owing, as stated previously, to natural circumstances. Thus to preserve sufficient water in the Adda for navigation, the custom is to suspend on the 20th September of every year, the egress of water for irrigation from the Muzza, the largest of all the canals leading out of it. This practice continues even to the present time, although the reconstruction of the public roads has rendered the navigation of part of the lower Adda superfluous. The use of the winter water costs usually only a tenth of the summer water (10 francs); it is more sought after in the neighbourhood of Milan than elsewhere, and consequently costs more there (about 80 francs).

In some parts the price of the water is not reckoned by measure, but by the surface to be irrigated. For example, from 40 to 50 francs is paid for a hectare of arable land (24 acres) to be flooded at regular intervals, two or three times a month.

In some places the price is paid in kind, that is, the third part or the half of the rough produce is given as an equivalent; but this is of rare occurrence.

It may be asked, to whom should the price be paid, or to whom is it most fitting that the waters should belong?

In the Milanese districts the waters of the great navigable canals belong to the Crown. The others are almost all the property of private individuals; that is to say, some belong to cities and communes, as the Naviglio Cittico of Cremona, and the Pave, which last is also navigable and belongs to the inhabitants of Bovato. Some belong to hospitals and other charitable institutions; some to a partnership of proprietors, as for instance the Muzza, for which they pay the Government an annual sum of about 40,000 francs, to be employed in the necessary repairs. The greater part of the second and third class watercourses bear the name of the family at whose expense they were constructed, for example, the Naviglio Pallavicino, the Cavio Belgiojoso, etc.

In the Province of Mantua and in the Venetian States, the waters are Crown property. They are leased out by the Government, but not for a perpetuity. It may be remarked, that although by this method the waters are given out with greater regularity than when they belong to private individuals, still the Government method is less advantageous to the farmer, because, in consequence of the comparative uncertainty of their duration, he cannot venture upon all those expenses which would be required to adapt the land to receive them with the greatest advantage.

It would seem, therefore, that a Government wishing to introduce irrigation into a country, should at its own expense undertake the construction of the larger canals, but should then dispose of the right to the use of the waters in perpetuity, leaving to others the care of branching them out, or distributing them to the different farms.

Let us now suppose that the irrigatory system is to be introduced into a perfectly new country. Let us endeavour to calculate the capital that would be required to invest in such an undertaking, whether by the Government or by private individuals, in order to bring about the same order of things as exists in the plain between Milan, Lodig, and Pavia, since that is the part where irrigation is most extended, occupying eight-tenths of the surface, or about half a million of acres.

The canals of the first magnitude which issue from the Ticino and the Adda, comprising the Muzza Canal, may be reckoned at 200 kilometres in length. According to the recent cost of works of a similar kind, they may be valued on an average at from 20,000,000 to 25,000,000 of francs. It is true that all these canals are used for navigation as well as for irrigation; but the additional expenses which this entails, are chiefly dependent upon the superabundance of the waters required for irrigation, and which are rather injurious than otherwise to the navigation.

The expense of the second class watercourses belonging to private individuals can be estimated from what was expended within our memory on the four canals, the Lorini Marocco, the Belgiojoso, the Taverna, and the Borromeo. These four canals together convey about a tenth part of the water required to irrigate the whole district; and as the cost of these canals has been from 5,000,000 to 6,000,000 of francs, the general expense of the whole district may be rated at 50,000,000 or 60,000,000.

Third and fourth class canals or watercourses are those which supply one or more farms in particular. Canals of this nature are carried sometimes for some miles distance, and the works require a considerable outlay, especially when they cross other canals, either passing under them by means of syphons, or over them
by bridge canals (ponti canali). An example may be seen in the reconstruction of a distributing sluice (bocca distributrice) of the Muzza, which cost a private family 100,000 francs. It will then be below the truth, if these works are estimated at 100,000 francs for every square kilometre of surface, or in all about 260,000,000.

The outlay of capital carries with it a proportionate expense for the preservation of the canals, their clearing out, repairs of the their clearing out, repairs of the canals, and the salaries of the engineers, accountants, and others who attend to the administration and preservation of the waters. This being an annual outlay, corresponds to the sinking of an equal amount of capital. The course of a milliard of francs alone being 40,000 francs, may represent the interest of little less than a million.

A calculation may be made in the same manner for all the canals of every denomination. The expense of levelling the ground to render it fit for irrigation, raising every field to a horizontal position, or to a regular slope, may be greater or less, according to whether they are intended for the more artificial cultivation of rice-grounds or marécots. The earth is often removed from one field to another, and even to greater distances. On an average it is not less than four or five decimetres deep over all the surface of 2,000 square kilometres, each of which is a million of square metres. The above-mentioned removal of the surface then will be at the least a milliard of cubic metres, without taking into account the improvements and changes after a trial has been made of the waters. It would not then be an exaggeration to estimate it at perhaps double the expense of the canals. It might be said to reach to more than 400,000,000 of francs.

After these works are finished, thick and continuous rows of trees are necessary to render the sides of the watercourses solid, to break the force of the wind, to temper the heat of the sun, and to supply firewood in a country where there are no natural forests or bogs, and where the distance from the mountains is great. The first works in a plantation may be estimated at from 10,000 to 12,000 francs for every square kilometre, or from 20,000,000 to 24,000,000 francs. The buildings required for the herds of cattle, haylofts, granaries, magazines for cheese, mills for shelling the rice (pelatura), it only valued at 100,000 francs for every square kilometre, will amount to 200,000,000 francs.

Hitherto we have not taken into consideration the indirect works for draining and protection which are made in the neighbourhood of the rivers whose several courses have been mentioned in the first part of this paper, as walls, dykes, etc., as well as the salaries of the engineers, accountants, and others who attend to the districts, on to an equal surface of half a million of acres, and under similar circumstances with respect to soil and climate, such as may really be found in some plains of Asia to the south of Himalaya mountains, should be prepared to expend in the preparatory works more than a milliard of francs, either from its own funds or from those of private companies. In this estimate is not included the necessary quantity of cattle and other stock which would be requisite for this system of cultivation, amounting to another 100,000,000 of francs.

It is evident also, that if the hand that directed this great undertaking were seconded by numerous families furnished with capital, and already expert and persuaded of the good effect that would be derived from such an order of things, the expense would be out of all proportion greater, and perhaps it would be impossible to reap the entire benefit of the work, until after many years.

There is no doubt that these great enterprises might easily be undertaken in colonies, among families who bring with them from the mother country the habits and traditions relating to such operations; but not among a people unacustomed and new to such a system of agriculture. It is not enough to construct a water-course in order to bring a large tract of country under irrigation. Even in Lombardy, where irrigation has been in practice during 2,000 years, it is no easy undertaking to extend it to those lands which have remained long neglected. It is necessary that all the neighbouring proprietors should come to a resolution to purchase the use of the water which may have been recently made to flow near their estates by some enterprising individual. It is necessary that they should bind themselves to buy it at a certain price, since the offer in these cases precedes the demand, and delay is practised with a view of obtaining the water at a lower rate. It is requisite that the proprietors come to an understanding regarding the execution of all the secondary canals and the bridges and other works, and finally the levelling of the surface of the ground in proportion to the level of the water.
matters, requiring diligence, capital, and a perfect understanding among many, are never executed all at once, but often require generations before they are completed.

Much loss is always sustained at first in the conducting of newly acquired water, arising both from the leakage inseparable to it, and from the constant repairs and alterations necessary for the newly constructed works. Consequently, enterprises of this kind do not become profitable till after a lapse of many years. For example, the Variglio Pallanceino was the cause of long-continued distress to the illustrious family who constructed it; and the Caso Loring Marocco in our own time has required not less than half a century's perseverance of two enterprising families to make it profitable.

And here it is as well to say a few words as to the comparatively recent period (the 15th century) at which irrigation is supposed by some to have been introduced into Lombardy. Extensive works for irrigation may be traced from time immemorial. The construction of the dykes of the Po are attributed by the ancients to the Etruscan colonies of Adria and Mantua; in fact, tombs containing Etruscan vases have been found at the mouth of the Miscio. The costly construction of the dykes indicates the existence of a people who had valuable fields to defend. Lucan describes the bursting of the dykes just in the same way as they happen at the present time; and Virgil not only speaks of irrigation, but alludes to the distribution of the water, the sluices, etc.

"Clausite jam rivos pueri, sat prata biberunt."

Strabo speaks of the abundance of millet in Cisalpine countries, in consequence of the copious supply of water. Very many watercourses, farms, and villages, in Lombardy, still bear the names of Roman families: Mutia, Fusa, Pompeia, Cornelia, Albudia, Terentia (Muzza, Fusa, Villa Pompeyana, Cornelianio, Albuziano, Terenzano, Balbiano, etc.).

It is easy for a Government to give an irrigating canal to a province, but it is not so easy to impress on the minds of the people that general co-operation which is necessary to enable them to make a thorough change in the whole surface of the country. For this reason it would seem that irrigation is not one of those remedies that could be applied hastily to a nation. It must be confessed, however, having regard to Ireland, that the large size of estates in that country would diminish greatly the obstacles and the number of those whose prejudices must be overcome. On the other hand, however, in proportion as the properties are large, the difficulty as to capital is increased.

If a milliard of francs be divided over a surface of 200,000 hectares, or 500,000 acres, it gives about 5,000 francs per hectare, or about 2,000 francs (80l. 11s.) per acre, a sum approximating to the real value of the land; and it follows from this, as elsewhere, that the natural value of uncultivated ground being almost nothing, the value of cultivated land approaches to the capital invested in the works and in the stock. Human industry may vary the works and the stock to suit the nature of the ground and climate, but these works and stock always represent the capital.

In irrigating and in draining, it is necessary to give or take away from the ground one of its productive constituents, water. But irrigation is not of itself, as many imagine, a work of greater value or utility than draining, manuring, or any other method of improving the soil. In the low plains of Lombardy, the great value of the soil is derived from the capital or labour applied to it, under the form of water, meadow or marcele. On the hills, and on the shores of the lakes, the greatest value of the properties is derived from the capital or labour applied under the form of vine-terraces (ronchi), olive and lemon gardens. In the one case the capital or labour are applied to a very dry flat soil, a proper supply of water; in the other, the capital affords to a steep and rocky surface a proper supply of productive earth. But the principle of fertility is labour, of which the water and the earth are mere instruments and materials.

D.

(Translation.)

It was stated in the preceding part, that to bring a million and a half of acres into good cultivation by means of irrigation, a milliard of francs would at least be required. But it was not stated that in fact, in this country, a still greater sum has been expended.

The irrigation of Lombardy was not carried out suddenly, neither was it brought to maturity all at once. Before irrigation could be made use of, it was necessary, so to say, to invent the principle of it. Knowledge and capital, under the stimulus of necessity, combined or brought together artificially the four geographical facts already noticed, viz., the poor siliceous soil, its continuous slope, the summer clearness and dryness of the sky, and the abundance of water flowing during the summer from the mountains. The inhabitants of the country were obliged at first to carry on their works without any preceding model for their guidance, without any general system or plan or law, and they advanced only by imitating gradually the improvements of their neighbours. The works in consequence were unconnected and irregular, often thwarting each other, wanting water in one place, with a superabundance
 Account of
system of irrigation
and drainage
in Lombardy.

in another, leading it from distant parts, and then reaching levels which might
have been better supplied from nearer at hand. The works of irrigation that now
remain, are only a part of what was done and undone in the course of 5,000 years,
interrupted by so many vicissitudes and so many barbarian influences. It cannot
be expected, then, that the works as now completed should be so perfectly carried
out as if there had been a pre-arranged plan. A glance at the map will show the
irregular form of the Provinces in Lombardy, which, like the streets of her old
towns, are crooked in comparison with the right lines that predominate in the
provinces and cities of the United States. So it is with the sinuosities of the waters
in her fields, in some places running in different directions and levels, meeting in
such a complicated manner as to be an object of curiosity to the traveller. A well-
arranged plan would not have cost so much work or capital. Not many years ago
an intelligent person proposed a new general arrangement of all waters for irrigation,
with the certainty, that although the loss to be incurred would be great, proprietors
would be richly compensated for the outlay by the expenses for repairs thereby
lessened, and by a more regular distribution. But the project was incompatible
with the rights of property vested in numerous families.

Let it however be supposed that the works of the engineer are perfect, those of the
farmer can never be said to be so. There is no irrigated farm, on which a more
perfect arrangement of the levels may not be imagined, where some improvement
might be introduced. But in order to carry on such indefinite and perpetual
amelioration, the farmers themselves must have an interest in it, by some agreement
entered into by them with the proprietor. Every farmer has time during some
days in the year when work is slack, to turn to or when unemployed, men and
beasts. Sometimes a cultivator ceases to use a watercourse, because a proprietor has
changed the course of a stream, or because in selling or dividing a patrimony, the
ownership of the water is separated from that of the land, or because water can
be purchased elsewhere at a cheaper rate. But water from another source is some-
times of a different level, with a different place of ingress and egress, spreading
itself out over the property in another manner. It may be extended to new fields,
or rice versa, be of slight benefit to others which were previously supplied. Hence,
in every generation, the irrigatory system is more or less changed over the whole
surface of the country, by the gradual and daily attention of the farmers themselves.
This, however, would not be the case, were it not the custom that each proprietor
takes into account every improvement that is made, within certain limits and condi-
tions, and acknowledged such improvement as a part of the rent due to him, in lieu
of ready money.

The custom of a repayment for improvements (miglioramento rimborsabile) is
supported by another institution, that of consignments (consegne) and of a farm
balance (bilancio agrario), an institution peculiar, it is believed, to this country.

The consegna is an exact statistical account of the farm, representing the state
of every part of it, as it given over to the farmer. Field by field is described, indicat-
ing the situation of each; its size, form, and the cultivation it has been subjected
to; the fences, canals, sluices, bridges, roads, footpaths, buildings, etc. In the
plantations all the trees, which by a distinctive peculiarity in the irrigatory system,
here surround and intersect the estates in all directions, are numbered one by one,
and are placed in various classes, according to their quality and size, each of which
has a value according to a fixed tariff. Hence, if at the expiration of his lease the
farmer does not return an equivalent, he is debtor of the sum wanting, and, rice versa,
he is creditor, if the plantations have increased.

The same system of valuation is applied to the state of cultivation in which the
farmer receives and restores every field. For example, the farmer becomes a creditor,
if, having received ground with an unequal surface, he makes it level; if having
received it in the shape of an arable field, he returns it as a marcello. An account
is kept, besides, of the different courses the land has been subjected to; also of the
preparatory operations to be carried out in the next season, and to be completed
by his successor in case the lease be ended. An account is also kept not only of
the quantity and quality of the dung that he leaves ready to put on the ground,
but also the state in which he leaves the land manured. Encouraged by such a fair
and provident custom, the farmer looks on the land as his own, and employs dili-
gence, time, and money in those improvements which last long after the lease is
finished; and at the expiration of it, or on the renewal of it for another term, be-
in the bilancio di riconsegna, receives back his capital, after having enjoyed the
interest of it in the increased annual income derived from his field.

What a difference between this balance (bilancio) in our agricultural system and
the confusion, etc., of the Irish convene, where the object of every tenant seems to
be to leave the soil perfectly naked and exhausted, as if the world was to be at
an end at the termination of every year.

The system of miglioramento rimborsabile presupposes the existence of the bilancio
di consegna and riconsegna, and the bilancio presupposes the existence of the censito.
This is the general description of the country, in which every field is described
with its dimensions and shape, and classed according to the condition it stood in at
the time it was surveyed (censito), and its value at that time. This is an institu-
tion which has very great influence in the continual improvement of the land, because
it encourages an indefinite investment of capital. In other countries the land-tax and other taxes on property are for the most part assessed upon the actual and effective income of the farm, and increase or decrease with that income. This apportionment of the burdens on riches seems an act of justice, but it is an error in political economy. In fact, if the value of highly-cultivated land corresponds with the quantity of capital invested; if the capital so invested produces but a small return in the shape of interest, that is, a slight increase of income; if on the increase of income a proportionate additional tax is immediately laid, it may easily come to pass that the small interest may become very, very small, nay, almost nil. Every judicious measure will then be wanting for the proprietor to come forward with fresh capital; and the graduated tax, in its improvident injustice, stops all improvement, particularly irrigation. This profound truth was felt during the last century by the great political economists of Lombardy, who, unknown to the rest of Europe, directed, unobserved, the destinies of their country. They required, therefore, that in the censo, each field should be numbered and marked out according to its value, or the number of crowns (seudi) it was then worth. The land-tax is assessed to this day on the valuation (estimo) then made. Hence the Province of Milan, being valued at 24,000,000 seudi, and that of Cremona at 14,000,000, the taxes in these two provinces are paid in the proportion of 24 to 14. In every province and in every commune, each field contributes according to the number of seudi it has been valued at. This system is also applied to the communal taxes or parish rates, which in part help to keep in repair the roads, to support the schools, pay the doctor's salary, etc. In a commune which has for instance a valuation (estimo) of 20,000 seudi, if an extra tax of 2,000 livres is put on, it would be in the proportion of a centime for every seudo; and a field valued at 70 seudi would pay 70 centimes. Two fields of an equal extent of surface, and of equal value at the time the censo was taken, that is, a century back, contribute an equal share of the tax, as if they were still of the same value, although one of them in the meantime may have improved and give a greater income than the other. The increase of income is thus free from all tax; consequently every one is incited to increase his income even with the smallest investment of capital.

It is necessary to give these details to show to what depth the simple query goes, "What is the general expense per acre of forming the surface of the earth for irrigation?"

Perhaps legislation, according to the system of the miglioramento rimborsabile and the censo, might have at least a portion of that beneficial influence on the Irish people which those institutions have had on the people of Lombardy.

**Power of obtaining Water for purposes of Irrigation.**

(Translation.)

In Upper Italy, every proprietor has the right to conduct water across his neighbour's fields. No one considers oppressive a right which he may use to his own advantage, while it cannot be used to his disadvantage; in fact, before this right can be exercised, a previous payment must be made. The necessary space to be occupied by the watercourse, so as to ensure its working properly, is valued and deducted from the contribution of of every seudo; the whole value of the ground, and one-fourth more, is paid before it can be occupied, and this price includes a compensation for all direct injuries that the water may inflict on the land which it traverses. Although the channel occupies the surface of the soil which is made over for that use, the rights of property are not destroyed, nor is the property itself dismembered thereby; the estate, in the eye of the law, continues to maintain its integral form, so that, if in the course of time the channel should be closed, or be opened in another direction, the strip of surface would be redeemed from serviti, and be rejoined to the original estate. Without this, in the continual modifications of the system of irrigation, the ground would be furrowed with strips of land belonging to some strange property, which it might be impossible to cultivate or to possess without continual and complicated disputes. For this reason, the proprietor continues to pay the government and communal taxes according to the number of seudi d'estimo on his land, in the same way as if he were in the full enjoyment of the surface occupied by the water; and so, in fact, he may be said to be, since he enjoys the interest of its value, and a fourth more, and he may in the course of time recover possession of the land itself.

There seems no reason why a legislative combination of the serviti d'acquedotti and the miglioramento rimborsabile should not be introduced elsewhere. The system of the serviti d'acquedotti, as existing here, was adopted by the French in their legislative session 1845-46.

It might perhaps be introduced into Ireland to the same extent as it was practised according to the municipal statutes that existed formerly in some parts of this country, viz.—In draining an estate, the proprietor of the upper ground had the right to send the water on to the lower level, and the proprietor of this last was obliged, at his own expense, to continue the course of the water to the...
Account of the system of irrigation and drainage in Lombardy.

1847.

8 April.

Properties not subdivided in the neighbourhood of Cities.

As families have the free power to divide their properties, the size of the farms is proportioned to the particular species of cultivation to which they are best suited. Nearly and gladed country requires farms of a certain talent, and not dissimilarly otherwise the farmer has not a free circulation for the waters and the rotations, he becomes dependent on his neighbours, and he cannot establish the division and graduation of labour among his people; and as the country adjacent to the cities of Milan, Pavia, Lodi, Crema, and Cremona, is irrigable, the farms are required to be of a proportionably large extent. Were an irrigated farm to be divided into two parts, and only one half of the buildings must be constructed to satisfy the entire farm; the farmer would have continual interruptions in the use of the water, and many days in the year would have no occupation for his horses and men. Small properties are found on the hills, and even among the mountains, and exactly in the parts most remote from the large towns.

Condition of the Cultivators, Farmers, and Labourers.

Some observations remain to be made on the condition of the farmers and labourers, which is so different in different parts of this country. In that quarter where irrigation is the most prevalent, that is, between the Ticino and the Adda, the condition of the farmers is like that of English farmers. They cannot properly carry out a system of agriculture on a large scale, without possessing a hundred horned cattle, a good number of horses, pigs, and a certain stock of grain, hay, straw, manure, and agricultural implements. They usually pay a year's rent in advance, or give a security for the payment. They must therefore be provided with a considerable capital. The greater part of these farmers belong to the middle class; they cultivate their own land. Many pass their younger days at school, and often at the universities, and through family connections and other circumstances gradually settle down as farmers. They dwell for the most in large isolated houses (case), and are the class the most looked up to by the rural population, because in Italy the great proprietors usually reside in the towns, and even when they go into the country (villeggiare), they do not frequent the low country, but the more healthy and pleasant situations on the hills and on the lakes. The farmers are the highest class known to the immediately surrounding population. There are some among them who have cultivated the same land for several generations. The peasants live near the houses of the farmer, indeed their dwellings in general run in rows round the courtyard of the farm-house, and are included in the consape. These dwellings are for the most part built of brick and mortar, and roofed with tiles. They consist usually of one room on the ground floor with a chimney in it, and one over it on the second floor for a bed-room.

The peasants are differently remunerated according to the assistance they give in looking after the beasts, in making cheese, in tilling the ground, and in guarding and managing the waters; many receive part of their food, soup of rice and vegetables, seasoned with lard or butter; they have often also the different residues of the milk which they make into a common sort of cheese, some pork or veal, and a small fish from the neighbouring waters. Some also have wine that is brought from the other side of the Ticino and the Po, very rarely any other liquor. They have generally a piece of ground for a garden, which they cultivate as thev please; they have a share in the crops they labour on, chiefly in that of flax. This article is spun by the women during the winter, and woven by them at home, for domestic use as well as for sale. Their material everyday existence would not be otherwise than prosperous, if at the end of the summer the vicinity of so much water, chiefly in the rice-grounds, did not produce fevers and other diseases, which shorten their average length of life.

The agricultural poor are usually provided with medical assistance at the expense of the communes, and are received without the slightest difficulty into the numerous hospitals. In the administration of the communes those individuals are not proprietors but who only pay the personal tax, and also all males who are of age and merely domiciliated in the commune, have a representative, who takes a share in the management. In Lombardy the commune is quite distinct from the parish, which last contributes indeed to the relief of the poor, but in a different way.

With respect to the moral condition of the peasantry, those in the low country are in some sort instructed at the expense of the commune, but their intellect is not so developed, nor are they as quick or intelligent as those on the hills and lakes. But many of them possess wonderful expertness in distributing the waters and levelling the land. The most rude are the herdsmen (famigli), have the appearance of the shepherds of primitive Switzerland. The day labourers (villeggiatori) are little dissimilar from those of the same class among the Irish. Besides the natives, there are in the low country many mountaineers that
come down during different seasons for particular purposes. Reapers from the Apennines of Piacenza and of Bobbio come for the wheat and rice harvest; sawyers from the Italian Tyrol to saw the fire-wood; vine-dressers from the lakes to put in order the few vineyards scattered here and there; bricklayers and others of different trades.

The herdsmen of the Province of Bergamo come into the plain with their herds and families, like the nomadic tribes, at the end of autumn, when their Alpine pastures are covered with snow, and add to the fertility of the soil. The mountaineers live very frugally while in the plain and save their money. It is worthy of remark that the sawyers, although they scarcely taste any other food than polenta (a sort of pudding made from Indian corn), and drink only water, are stronger and less exhausted by labour than the inhabitants of the plain, who use both animal food and wine.

In the irrigated country to the east of the Adda, the farmers are generally less rich than those before mentioned, and agriculture is carried on with less capital; but the number of proprietors who cultivate their own land is greater, and the peasants have a larger share in the produce and with less constant labour. Meadows and rice-grounds are less frequent in this quarter, but the cultivation of grain, flax, and mulberry trees is considerable. The country is more healthy, and the people make a larger use of wine. Although the proprietors themselves do not live in the low country, the population there is most dense. Whilst in England and Ireland the average number of inhabitants is said to be about 100 per square kilometre (250 acres), in the different districts hereabouts it varies from 115 even to 290 per square kilometre. The population in these parts may be reckoned at nearly the same amount as in Flanders. It may be observed, that the system of irrigation and of the consegna requires the aid of several hundred engineers, whose continual intercourse with the farmers must have contributed to the advancement of agriculture some generations in advance of the rest of Europe. The population is not addicted to turbulence or hereditary revenge. Indeed their natural quietness is one of the conditions without which the regular and alternate use of the waters could not be carried on.

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 82, per ship Ann Milne; acknowledged by Earl Grey, 27th November, 1847.)

My Lord,

Government House, 8th April, 1847.

I have the honor to report to Your Lordship that, in consequence of several charges of irregularity in the performance of their duties having been preferred against Mr. and Mrs. Smythe, the Storekeeper and Matron of the Female Factory at Parramatta, by Mr. Gilbert Elliott, the Visiting Justice of that Institution, I deemed it my duty to cause a Board, consisting of the Colonial Treasurer, the Deputy Commissary General, and the Clerk of the Executive Council, to assemble to investigate and report thereon.

Before, however, I could receive the Report of this Board, Mr. and Mrs. Smythe committed so gross a breach of the Regulations of the Factory by giving a Ball within its precincts, which led to a scene of intoxication, riot and insubordination among the women under confinement therein, that I felt I had no alternative left but to dismiss them immediately from their situations, which I did; and have now the honor to report the appointment in their room of Mr. and Mrs. Edwin Statham, whom I selected from among numerous other candidates, believing them to be persons of respectable character and well qualified for the Office.
I have further to state that, subsequently to the dismissal of Mr. and Mrs. Smyth, Deputy Commissary General Ramsay forwarded to the Colonial Secretary two letters, addressed to him by Mr. Bell, formerly Storekeeper of the Factory, a man of notoriously bad character, containing accusations having reference to Mr. and Mrs. Smyth's loss of Office, of a disgraceful nature against Mr. Elliott, all of which, upon being referred by my desire to that gentleman, were completely and satisfactorily refuted by him. The whole of the correspondence relating to this matter having been forwarded by the Deputy Commissary General in the course of his duty to the Lords Commissioners of Her Majesty's Treasury, I am compelled to trouble Your Lordship with copies of it, which, I trust upon perusal, will bear me out in the decision at which I arrived.

It only remains for me to add that Mr. Elliott is an excellent Public Officer, and a man of unimpeachable integrity, and that Mr. Bell is the person whose Petition "for compensation for loss of Office and restoration to his former position, and for indemnification for the expenses he incurred in the course of the legal proceedings instituted against him on behalf of the Government" during the administration of my Predecessor, was rejected for the reasons therein enumerated by Your Lordship in Your Despatch No. 63 of the 20th November last, which I received by the last Packet.

I have, &c.,

CHAS. A. FITZ ROY.

Schedule of Correspondence relating to certain charges preferred by Mr. Bell, late Storekeeper of the Female Factory, Parramatta, against the Visiting Magistrate of the Establishment, transmitted with the foregoing Despatch.

1847.
8th February ... Deputy Commissary General to the Colonial Secretary, enclosing
22d May ....... Letter from Mr. Bell preferring certain charges against the Visiting Magistrate of the Female Factory.
23d February ... Colonial Secretary to the Deputy Commissary General, forwarding
13th February ... Visiting Magistrate's reply to Mr. Bell's charge, together with
13th February ... Letter from the Colonial Surgeon.
19th February ... Deputy Commissary General to the Colonial Secretary, enclosing
18th February ... Further charges preferred by Mr. Bell against the Visiting Magistrate.
22d March ....... Visiting Magistrate's explanation.

[Copies of this correspondence will be found in a volume in series II.]
GREY TO FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 83. per ship Ann Milne; acknowledged by earl Grey, 25th October, 1847.)

My Lord, Government House, 9th April, 1847.

I have the honor to transmit, for Her Majesty's gracious consideration, a Petition to the Queen, praying for the adoption of such measures as to Her Majesty may seem meet for securing to the District of Port Phillip an immediate and regular supply of free immigrant labour, commensurate with the wants of the community.

I have already, in my Despatch No. 19 of the 30th of Jan. last, so fully communicated my own opinions of the expediency of recommencing a system of Emigration from the Mother Country to this Colony, that it is unnecessary for me to say more in transmitting this Petition, together with a copy of the Despatch from Mr. La Trobe to myself forwarding it to me, than that I fully concur in the opinion which that intelligent Officer has expressed on the subject, and especially in that which relates to the great necessity for the introduction of female Immigrants.

I have, &c,

[Enclosure.]

Chs. A. Fitz Roy.

[A copy of the despatch, dated 10th March, 1847, enclosing the petition, will be found in a volume in series III.]

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 122, per ship Sterling.)

Sir, Downing Street, 10 April, 1847.

I have laid before the Queen the Addresses enclosed in your Dispatch No. 30 of the 19th October last, in which the Legislative Council of New South Wales have presented their congratulations to Her Majesty on the birth of a Princess.

You will acquaint the Council that The Queen has received with much satisfaction this assurance of their loyalty as well as of their dutiful interest in an event so intimately connected with Her Majesty's domestic happiness and the succession to the Crown of these Realms.

The Address to Prince Albert, which also accompanied your Dispatch, has also been forwarded to His Royal Highness.

I have, &c.,

Grey.
HISTORICAL RECORDS OF AUSTRALIA.

1847.
10 April.

Sir CHARLES FITZ ROY To EARL GREY.
(Despatch No. 84, per ship Ann Milne.)

My Lord,

Government House, 10th April, 1847.

I have the honor to acknowledge the receipt of your Lordship's Despatch No. 36 of the 25th September last, transmitting Copies of a correspondence between Your Lordship's Department and Mr. Holmes, relative to an undue amount of Quit Rent which Mr. Holmes states that his son has been called upon to pay for certain land occupied by him in this Colony.

Your Lordship also encloses a copy of a letter from the Colonial Land and Emigration Commissioners, in reply to a reference which Your Lordship had caused to be made to them on the subject.

In obedience to Your Lordship's Instructions, I called upon the Colonial Treasurer for an explanation of Mr. J. B. Holmes' allegation, "that the claim of Quit Rent had been enforced upon him with regard to lands which do not belong to him," and I have now the honor to forward that Officer's statement of the facts of the case.

With respect to the general question of Quit Rents, my Despatch No. 1 of the 1st of January last will have put your Lordship in possession of the measures which, with the advice of my Executive Council, I adopted for setting this vexed question at rest. I am happy to say that they have hitherto worked so as to realize my anticipations; and I trust they may have been formed to meet your Lordship's approval.

I have, &c,

CHS. A. FITZ ROY.

[Enclosure.]

MR. C. D. RIDDELL TO COLONIAL SECRETARY THOMSON.
Revenue Branch, Colonial Treasury.

Sir,

Sydney, 18th March, 1847.

I do myself the honor to acknowledge the receipt of your letter of the 22nd Ultimo, enclosing a Despatch from the Right Honorable the Secretary of State, together with copies of correspondence with Mr. J. B. Holmes on the subject of an alleged overcharge of Quit Rent upon certain land held by him near Maitland; and, in compliance with your request that I would report upon the statements therein made, I beg leave to state that, so far as regards the Colonial Government, no holder of a Grant from the Crown could be ignorant of the intention to enforce payment of the Quit Rent thereon reserved; for, since the 1st January, 1830, no fewer than 27 notices respecting Quit Rents have been officially published, from none of which could it possibly have been inferred that the Government had given up the right of levying or the intention to levy the Quit Rents; moreover, the repeated applications of the Collectors were of themselves sufficient to remove all grounds for such a supposition.
With respect to the complaint urged by Mr. Holmes, that he is called upon to pay Quit Rents for Land which does not actually belong to him; I have to observe that in 1842 it was given as the opinion of the Crown Law Officers that, in cases where Grants were divided, whoever was found in any portion thereof, was liable for the amount of Quit Rent due upon the entire Grant; the Collectors were therefore instructed to inform any parties, demurring to the payment on the grounds of not possessing the whole of the lands, that the Government did not recognize any subdivision of Grants.

The letter alluded to by Mr. Holmes was received at the Treasury, but was inadvertently left unanswered; had any reply been made, however, it could only have been a reiteration of the instructions furnished to the Collectors. I have, &c.,

C. D. Riddell.

[Sub-enclosure.]

MEMORANDUM of Notices respecting Quit Rents, published in N. S. Wales since the 1st January, 1830.

1830, Oct. 1. Land Regulations. Form K.
1831, Aug. 5. Government Notice, Paragraphs 11 to 16.
Nov. 12. An important notice repeated, 1st Octr., 1834.
1833, Feb. 11. Notice repeated of February 11th, 1832.
1834, Feb. 19. Redemption allowed at 10 years' purchase.
1835, Jan. 20. Redemption at 10 years' purchase.
1836, Feb. 8. Redemption at 10 years' purchase.
Oct. 1. Redemption by importing Immigrants.
1837, Feb. 7. Repeating the notice respecting Redemption at 10 years' purchase.
1838, Sep. 5. Sydney.
1841, Jan. 1 a Notice repeated of February 11th, 1833.
Sep. 6. Notice by the Colonial Treasurer.
1842, Jan. 23. The notice of the 4th Sep., 1841, repeated.
Apr. 1. Redemption at 10 years.
May 26. Names of persons appointed to collect Quit Rents.
1843, Feb. 1. Discount allowed to persons paying voluntarily, with reference to the notice of Sep. 4th, 1842.
1844, Jan. 22. Redemption of Quit Rent on Town Allotments.
July 26. Notice by the Colonial Treasurer.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 124, per ship Sterling.)

Sir,

Downing Street, 12 April, 1847.

In answer to your Despatch No. 4* of the 7th November last, requesting that additional assistance may be allowed in the Office of your Private Secretary on account of the increased amount of Correspondence which would be occasioned by the new Settlement of North Australia, I have to refer you to my Despatch No. 62 of the 15th of November last, which announced the abandonment by Her Majesty's Government of the plan of establishing that Settlement. I have, &c.,

GREY.

* Note 45.
EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 125, per ship Sterling.)

Sir,
Downing Street, 12 April, 1847.

I have received Your Despatch dated the 2nd October, 1846, No. 28, in which you transmit the copy of an address to yourself from the Legislative Council of New South Wales, requesting that you would forward to me for the information of Her Majesty a series of Resolutions respecting the minimum upset price of Land in that Colony.

I have laid those Resolutions before The Queen, but I regret that, for the reasons explained in my Despatches of the 29th of November, 1846, No. 68, and of the 30th March, 1847, No. 120, it has not been in my power to advise Her Majesty to adopt or to give effect to the views, which the Legislative Council of New South Wales have explained in their Resolutions.

I have, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(A circular despatch, per ship Sterling.)

Sir,
Downing Street, 12th April, 1847.

Regulation I transmit to you the Copy of a Regulation, defining the mode in which Postmasters and other Officers in the Colonies acting under the orders of Her Majesty's Postmaster General, are to conduct their correspondence, whenever it may affect the Governor or Orders given by his authority.

This Regulation will form Sec. 5 of Chap. 6 of the Book of Rules and Regulations for Her Majesty's Colonial Service; and the Sections in that Chapter, which are at present numbered 5 and 6, must be altered respectively to 6 and 7.

I have, &c.,
GREY.

[Enclosure.]

(This regulation will be found in the “Book of Rules and Regulations” for the colonial service.)

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 126, per ship Sterling.)

Sir,
Downing Street, 13 April, 1847.

I have received your Despatch No. 27 of the 1st of October last, enclosing a Copy of an Address presented to you by the Legislative Council of New South Wales on the 22d of the preceding Month, praying that you would place the sum of £1,000 on the Estimates for the ensuing year for the purpose of
GREY TO FITZ ROY.

liquidating a debt due for the erection of the Jewish Synagogue in Sydney, and that you would place on the same estimates a sum not exceeding £200 for the support of a Jewish Minister. You report that, with regard to the grant for the Building, you had been induced to accede to the application of the Council, but that you had deemed it advisable to reserve for the consideration of Her Majesty’s Government the question of the Stipend to the Minister.

Sir George Gipps, in his Despatch No. 205 of the 25th November, 1845, adverted to the inconvenient practice, which had at that time become frequent in the proceedings of the Council of presenting Addresses to the Governor, urging him to incur expenses which had not been provided for in the Estimates laid before them; The tendency of such Addresses, as Sir George Gipps justly observed, being to nullify the provisions of the 34th Clause of the 5th and 6th Vic., Cap. 76, which enacts that it shall not be lawful for the Council to pass or for the Governor to assent to any Bill appropriating money to the public Service, unless such appropriation should first have been recommended by the Governor. The course, which Sir George Gipps proposed to adopt for meeting that difficulty, was the insertion in a supplementary Estimate, to be presented by him to the Council towards the end of the Session, of such of the sums asked for, as might be considered reasonable, allowing the rest to remain unnoticed except in particular cases which might demand special attention. That course was approved by Mr. Gladstone’s Despatch No. 41 of the 15th June, 1846, although such approval could not have been made known to you at the date of your Despatch now before me.

I entirely concur in the view taken by Sir George Gipps of this question. It is quite clear that the provision, by which the right of originating money votes is reserved to the Governor, will be rendered virtually of no value, if the practice of voting such Addresses as that, which is referred to in your present Despatch, is established, and if in each case the Governor is to return a distinct answer to each Address. By such a course of proceeding, his power, in reference to money questions, would be practically reduced to that of a mere veto. You will, therefore, in future take care to conform to the rule proposed by Sir George Gipps.

With regard to the particular case which now forms the subject of reference, I entertain serious doubts as to the propriety of such Grants being made at all by the Council in aid of the Jewish Religion. But, independently of that question, I am of opinion that there is a very strong objection to the making of such Grants, not by virtue of any general Law, but by special
1847.
13 April.

Policy to be adopted regarding assistance for Jews.

Votes for individual cases. Such Grants, even if they should originate with the Governor, would be liable to the suspicion of partiality; but, when virtually originated by the Vote of a popular Body, they are almost sure to lead to very serious abuse. For that reason, it appears to me that, if assistance is to be given at all from the Colonial Revenue towards the maintenance of Jewish Synagogues, it should be done by an amendment of the Church extension Act of the Colony, which should give the Jews, according to some definite rule, a claim to pecuniary assistance for the support of their Religious Establishments. If the opinion of the Council and of the Inhabitants of the Colony generally should be very strongly in favor of so wide an extension of the principle of granting assistance from the Colonial Revenue for the Religious instruction of the Members of different religious Communities, I am not prepared to instruct you to refuse your assent to such a proposal, although I should certainly regret its adoption. I cannot, however, in the absence of such a general law authorize you, in consequence of the Address presented to you, to place on the Estimates the proposed Salary for the Jewish Minister; and I should have been glad if you had not consented to make provision for the liquidation of the debt incurred in building the Synagogue.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 127, per ship Sterling; acknowledged by Sir Charles Fitz Roy, 16th February, 1848.)

Sir,
Downing Street, 13 April, 1847.

With reference to the Despatches, enumerated in the margin,* from your Predecessor respecting the conveyance to the Australian Agricultural Company of the Lands, which they have occupied for several years under the provisions of their Charter, and various arrangements from time to time since their incorporation in 1824 assented to on behalf of the Crown by my Predecessors, I have now to apprise you of the decisions which the Government have taken on this subject, and to give you the necessary instructions for completing the Title Deeds of the Company.

I do not propose on the present occasion to recapitulate the several matters which, as between the Crown and the Company, required to be adjusted, nor do I think that any useful purpose will be accomplished by my drawing your attention to the correspondence on this subject that has passed between this Department, the Company and the Law Officers of the Crown. Upon

* Marginal note.—No. 34, 5 Feb., 1844; No. 110, 22 May, 1844; No. 58, 19 March, 1845.
my accession to Office, I found that progress towards completing
the Company's Title had already been made; that communica-
tions had taken place between Lord Stanley, as well as my
immediate predecessor and the Company; that the Law Officers
had been instructed to prepare the necessary instruments to
convey the Lands to the Company with the right forthwith to
alienate a considerable portion. It was, however, discovered that,
in consequence of the conditions and restrictions imposed by
their Charter, and the Act (5 Geo. 4, c. 71) under which it was
issued, this conveyance, to be at all available to the Company
for the purpose of selling land, could not be effected without
the sanction of Parliament. Accordingly application was made
to the Legislature for authority to the Crown to grant, and to
the Company to hold or to dispose of Land, freed and discharged
from the conditions and restrictions to which I have above
adverted. Parliament has thought proper to sanction that appli-
cation, acting I presume upon the assumption that many of
the reservations in question are wholly inapplicable to the state
of things at present existing in the Colony, while others are of
doubtful advantage to the Public; and I now transmit for your
information and guidance a copy of the Act passed during the
last Session, empowering Her Majesty by Warrant to authorize
you execute a conveyance to the Company of any Lands in the
Colony, freed and discharged from all conditions and restrictions.
Since the passing of this Act, I am unable to perceive that any
adequate advantage to the Crown, commensurate with the dis-
advantage to the Company, will be secured by continuing the
conditions and restrictions respecting the tenure and Sale of
Land, which in the early negotiations with the Company or at
any subsequent period may have been contemplated on either
side, whilst I am greatly impressed on the one hand with the
evil that must result from Land remaining unproductive in the
hands of the Company, and on the other with the importance to
the Colony at large of encouraging the introduction of Capitalists,
whether they may intend settling upon Land, the property of the
Crown, or of an influential and well established Public Company.
I have, therefore, felt justified in submitting to the Queen the
advice that Her Majesty should issue a Warrant directing you
to cause to be prepared a Deed conveying to the Company the
Land specified in the Warrant, freed and discharged from all
conditions and restrictions. I may also add that, in submitting
this advice, I was not altogether uninfluenced by the altered
state of the Company's Settlements as respects Convict Labour.
Her Majesty, approving of the course proposed, has been graciously pleased to affix the Royal Sign Manual to a Warrant directing you to execute a Deed according to the Form therein set forth, which Warrant I now transmit to you in original; and I have to instruct you to lose no time in giving due effect to Her Majesty's Commands.

It is unnecessary for me to advert in detail to the Provisions of the Deed; but there is one point on which some further explanation may be convenient. You will not fail to observe that it includes the Land at Newcastle where the Company have their Coal Works. It has been thought advisable that the same principle, dispensing with conditions and restrictions applied to the other Lands, should be extended to the Land containing Coal, and that the Company should be released from any engagement to the Crown respecting the Coal Mines, at the same time that the Government is to be released from any stipulations which otherwise would be binding upon it in consequence of a former Agreement with the Company giving them exclusive advantages in the working of Coal, which agreement henceforth is to be considered at an end.

I have, &c.,

[Enclosure No. 1.]

(This was a copy of the statute. 9 and 10 Vict. c. ccxi.)

[Enclosure No. 2.]

(A copy of the warrant is not available.)

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 128, per ship Sterling.)

Sir,

Downing Street, 13 April, 1847.

I have to acknowledge the receipt of your Despatch No. 39 of the 24th October last, reporting Mr. Latrobe’s departure from Port Phillip for the purpose of assuming the temporary administration of the Government of Van Diemen’s Land.

I approve of your having appointed Captain Lonsdale to be Acting Superintendent during Mr. Latrobe’s absence, as well as the other provisional arrangements which you made on that occasion; and it has afforded me much gratification to receive the favorable testimony which you likewise bear to the qualifications of Mr. Latrobe for the duties which have thus devolved upon him.

I have, &c.,

GREY.
FITZ ROY TO GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 129, per ship Sterling.)

Sir,

Downing Street, 14 April, 1847.

I have to acknowledge the receipt of your Despatch No. 3\(^*\) of the 7th November, pointing out the difficulties which you were apprehensive would arise from an error in a portion of the Royal Instructions which my Predecessor had transmitted to you as Governor of the Colony of North Australia.

As my Instruction of the 15th November, No. 62, will long since have apprised you of the abandonment by Her Majesty's Government of the above mentioned Colony, it is unnecessary that I should further notice the subject of your present Despatch.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 130, per ship Sterling; acknowledged by Sir Charles Fitz Roy, 29th December, 1847.)

Sir,

Downing Street, 14 April, 1847.

I herewith transmit to you the copy of a Letter from R. K. Purves, who wishes to know what has become of his Uncle, John Heanry, who went out to Port Phillip in the year 1839 or 40, and has not for some time past been heard of.

I have to request you would cause the necessary enquiries to be made on the subject and report to me the result.

I have, &c.,

GREY.

[Enclosure.]

MR. R. K. PURVES TO .

Gentleman, Haddington, 29th March, 1847.

I will feel obliged if you will favor me with an answer to inquiry re this, requesting you let me know if my Uncle is still alive or not, J. Heanry. For he was sent out to Port Phillip for to be one of the Government Pilots in year 1830 or 1840; bis name is John Heanry; and we had a Letter from him in 1842, but have not ever heard of him up to this day; therefore, Gentleman, I should take it very kind if you will let me know if he is still there in your service yet.

I am, &c.,

ROBT. K. PURVES.

My address is:—Robt. K. Purves, Fishmonger, Haddington.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 88, per ship Ann Milne.)

My Lord, Government House, 14th April, 1847.

With reference to my Despatch of the 30th January last No. 26, forwarding returns relating to Land and Emigration

* Note 45.
1847.
14 April.

Returns re land at Port Phillip.

for the year 1846, I now do myself the honor to transmit, in compliance with your Lordship's Despatch No. 19 of the 12th August last, the following supplementary Returns for the District of Port Phillip, namely,

Returns of Lands sold during the years 1843, 1844, 1845 and 1846.

Returns relative to Land under Lease or License, or subject to Quit Rents for the same years. I have, &c,

CHS. A. FITZ ROY.

[Enclosures.]

Copies of these returns will be found in a volume in series III.

16 April.

Statements required re fees paid to officers and commissions paid on escheated properties.

EARL GREY TO SIR CHARLES FITZ ROY.

(A circular despatch, per ship Sterling.)

Downing Street, 16th April, 1847.

The Lords Commissioners of the Treasury having considered it necessary to revise the Charges made in cases of Escheats in those Colonies, in which that Revenue is still vested in the Crown, I have to direct you, in pursuance of their Lordships' wishes, to transmit to me, first, a Table exhibiting the Amount of Fees now paid to the Officers within your Government entitled to Emolument for their Services on such occasions; and secondly, a Table, framed by yourself, showing the Amount of Commission which, with a due regard to economy and to securing a fair remuneration to the Officers concerned, it would be proper to allow them for Sales and Payments on escheated Property, whether the charges be made by Public Officers, Auctioneers, or any other person. When it is received, this Table will be communicated to the Lords Commissioners of the Treasury for their Lordships' approval or alteration. I have, &c,

GREY.

16 April.

Requisition for charts of Endeavour strait and Barrier reefs.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 90, per ship Ann Milne.)

My Lord, Government House, 16th April, 1847.

I do myself the honor to inform you that the Colonial Agent General has been requested to procure from the Hydrographer's Office, Admiralty, and to forward for the use of this Government, six charts of Endeavour Strait from Booby Island to Cape York, surveyed by Captain Blackwood, R.N., 1844; and Six Charts of the Barrier Reefs from Raine Island to Cape York, surveyed by Captn. Blackwood, R.N., 1843-44; and that I have
authorised their estimated expense, including Freight and all other charges, to be issued to the Deputy Commissary General from the Colonial Treasury, viz., One Pound five shillings. I have therefore to beg that Your Lordship will have the goodness to cause the necessary order to be given for an equal sum to be paid to Mr. Barnard from Her Majesty’s Treasury, to enable him to procure and forward these Charts.

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 131, per ship Sterling.)

Sir,
Downing Street, 17 April, 1847.

I have received your Despatch No. 58 of the 6th of November last, in which you report that, subject to the approval of Her Majesty’s Government, you had sanctioned an increase of £100 a year to the Salary of the Sub-Treasurer at Port Phillip to commence from the 1st of October last.

This communication suggests and requires the remark that it is always inconvenient to propose an increase of Salary to any one Officer, unaccompanied by an explanation of the probable or possible tendency of the measure to give birth to corresponding claims on the part of other Officers. In most instances, the establishment of one such precedent gives rise to numerous other claims.

Before finally submitting your recommendation for the consideration of the Lords Commissioners of the Treasury, I should wish to receive from you such a report as I have indicated. But, in order to prevent that inconvenience which must arise to Captain Lonsdale from the subsequent disallowance of any payments actually made to him, you will consider this increase to Captain Lonsdale’s Salary as provisionally sanctioned, pending the final decision of Her Majesty’s Government on the subject.

I have, &c.,
GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 91, per ship Ann Milne.)

My Lord,
Government House, 17th April, 1847.

I do myself the honor to inform you that a Requisition has been forwarded to the Colonial Agent General for Arms, Clothing, etc., for the Mounted Police of this Colony for the year 1848, and that I have given the necessary authority for the estimated expense of the articles demanded, including freight
and all other charges, to be issued to the Deputy Commissary General from the Colonial Treasury, viz., Seven hundred pounds. I have, therefore, to beg that your Lordship will have the goodness to cause the necessary order to be given for an equal sum to be issued to Mr. Barnard from Her Majesty’s Treasury to enable him to comply with the Requisition.

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(A circular despatch, per ship Sterling; acknowledged by Sir Charles Fitz Roy, 23rd December, 1847.)

Sir,

Downing Street, 19th April, 1847.

I transmit to you herewith Six Copies of the last Annual Colonization Circular, which has been issued by the Commissioners of Colonial Lands and Emigration; and, in conformity with their request, I have to direct you to cause the information contained in that Circular to be corrected and brought down to the latest period, so far, at least, as it is applicable to the Colony under your Government.

You will return me one of these Copies in its amended state, as soon as possible; and, in future, the Circular will be annually transmitted to you for the purpose of receiving such corrections as circumstances may render necessary, and being returned to this Country before the 1st of January in each Year.

I have, &c.,

GREY.

[Enclosure.]

This was a periodical publication. The number enclosed consisted of twenty-four small quarto pages, and contained details of arrangements for immigrants, and of the demand for labour, of prices of commodities, of wages, of the disposal of crown lands, of the privileges for military and naval settlers, and of the cost of bringing land into cultivation in the north American and Australian colonies.

EARL GREY TO SIR CHARLES FITZ ROY.

(A circular despatch, per ship Sterling.)

Sir,

Downing Street, 19th April, 1847.

A question having arisen how far, and on what conditions, the Ordnance Department may be entitled to the Professional Services of the Law Officers of the Crown in the various Colonial Possessions, I have to acquaint you that the following general arrangement has been entered into with that Department on the
subject; and you will make it known to the Law Officers of your Government, in order that no doubt or difficulty may arise, in any case in which their Professional Services may be required by the Ordnance Officers at ———.

1st. The Crown Lawyers of all the British Colonies must distinctly understand that it is one of the conditions on which they hold their Offices, that they should act as the Legal Agents and Advisers of the Board of Ordnance within their respective Colonies, it being reciprocally the engagement of the Board to employ them in preference to any other Legal Agents or Advisers.

2nd. In any Colony in which a Law Officer of the Crown is paid by a Salary, his remuneration for Services rendered to the Board of Ordnance annually will bear to his Annual Salary, as nearly as may be, the same proportion which the demands of the Board of Ordnance on his time and attention, during the Year, may have borne to the demand made, during the same period, on his time and attention by the Colonial Government.

3rd. In Colonies where the Law Officers of the Crown are remunerated by Fees, the Fees to be paid by the Board of Ordnance for the Services of any such Officers will be neither greater nor less than the Fees, which any such Officer may receive in respect of duties of equal importance and difficulty for the Local Government.

I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 94, per ship Ann Milne; acknowledged by earl Grey, 11th December, 1847.)

My Lord,

Government House, 20th April, 1847.

I have the honor to enclose herewith a copy of a letter from Mr. John N. Beit to the Colonial Secretary of this Government, forwarding a paper containing "Proposals for procuring a continued influx of German Emigrants into the Colony of New South Wales," together with a copy of the answer which I caused to be returned to Mr. Beit.

Having referred Mr. Beit’s paper to Mr. F. L. S. Merewether, the Immigration Agent, I obtained from him a report on the subject, of which I also enclose a Copy.

The whole question is so fully and ably commented on by Mr. Merewether that I deem it unnecessary to trouble your Lordship with any lengthened observations upon it, as I entirely adopt the views which that Officer has so clearly set forth in the Report in question. I agree with him in thinking that Mr. Beit’s proposed plan of Emigration is in many respects impracticable as well as objectionable, and therefore not one which should be
 adopted by this Government. Any general scheme of assisted foreign emigration would, indeed, be not only opposed to the principle laid down in the Appropriation Clause of the Land Act,* but obviously unjust to the interests of the Mother Country, whilst it is quite hopeless to expect that, if the money for conducting it were advanced by the Government, it would ever be returned by the Emigrants themselves out of the proceeds of their wages, either directly or by means of an advance from their employers, as proposed by Mr. Beit. Such schemes of repayment, although frequently tried in this Colony, have, I understand, almost invariably failed. The few who have redeemed their engagements in this respect have consisted of the best conducted, whilst those of indifferent character have made no effort to comply with their engagements. The result necessarily has been, that the least deserving are those who have most profited by the Plan. Although, therefore, I see great objections to adopt any extensive scale or any other plan of foreign emigration, yet I am fully impressed with the persuasion that in a limited way a portion of the moiety of the proceeds of the Land sales placed at the disposal of the Lords Commissioners of the Treasury could not be employed in any way more calculated to benefit the Colony, or to develop many of its dormant but valuable resources, than to permit the introduction on bounty of the skilled labourers of the Continent of Europe, following trades or callings which are not prosecuted in the United Kingdom, and provided the Emigrants be brought out at the instance of the parties who may desire to employ them on their own properties, and not in the way of mercantile speculation, as was the case in most instances when the bounty orders were formerly granted. There would be no risk, under such a system, that the parties on their arrival would become a burthen on the public, or fail to find immediate employment, being under engagements entered into previously to their embarkation from Europe. The local Government would not of course promise the bounty to any parties, whom it did not consider to be responsible and respectable, and capable in every way of fulfilling their engagements.

Entertaining these views, I have, as recommended by the Immigration Agent, caused a notice to be issued, of which I enclose a copy, promising bounties on the introduction of labourers of certain descriptions, not procurable in the United Kingdom, by persons actually requiring their services on their own properties. It has been impossible to define with perfect precision several descriptions of labourers on whom bounty will be allowed under the Notice in question; but it is not apprehended that any inconvenience can arise from this circumstance.

* Marginal note.—5 and 6 Victoria, Cap. 36, S. 19.
as it will of course be competent for the local Government to refuse any application for such as may not accord with the principle on which the Notice is based.

It will be perceived that the Notice is issued subject to the approval of Her Majesty's Government, and in every case the applicants will be referred to the Land and Emigration Commissioners for your Lordship's final approval of the application.

The Immigration Agent, in his Report above referred to, proposes that the amount of Bounties under the Notice in question should for the present be limited to £20,000; and as, under the 3rd section of the same, the promises will extend over two years, I do not consider that any inconvenience can arise in furnishing the necessary funds from the Territorial Revenue for the payment of the Bounties, in addition to the introduction of the 5,000 Statute Adults recommended by my Despatch of 30th January last (No. 19), provided the payment be made for the latter by the issue of Debentures as therein proposed.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

MR. J. N. BEIT TO COLONIAL SECRETARY THOMSON.

Sir, 2 Jamison Street, Sydney, 25th January, 1847.

Availing myself of your verbal permission, I take the liberty of handing you subjoined the proposals for the introduction of German Emigrants into this Colony, with the request that you will take an early opportunity to submit the same to His Excellency the Governor, soliciting at the same time from His Excellency for me the favor of an interview of Explanation.

As several objects, which call me to Europe, render it necessary that I should be in London before the approaching Sessions of Parliament are too far advanced, I propose to leave by one of the Vessels which will sail in the first week of February, and hope that a favorable decision on these proposals may be adopted in sufficient time to allow the previous completion of the necessary arrangements.

I have, &c.,

JOHN A. REIT.

[Enclosure No. 2.]

PROPOSALS for procuring a continued influx of German Emigrants to the Colony of New South Wales.

Sydney, the 25th Jan., 1847.

The desirability of introducing German labourers and cultivators into this Colony is so generally understood and admitted that it would be superfluous to discuss that subject at the present time. when the want of a sufficient supply of labor is so severely felt: but I may perhaps be allowed to premise, that no consideration would induce me to engage in the undertaking if I had not obtained a very clear and distinct conviction that the benefits and advantages which would accrue to the German Emigrants of all classes, who would be led to this Colony, exceed greatly those which any other field for Emigration affords them.
The German Emigration for the last ten years has exceeded 20,000 Souls annually, who resort chiefly to the United States, and lately also to the Brazils and other parts of South America, which they can reach at an expense within the limits of their scanty means; and, although they have there many hardships to encounter, and greater difficulties to surmount, than they would experience here, they could direct their attention to this Colony only if adequate facilities were offered them to defray the cost of their passage.

From past experience, I feel warranted to assert that, if judicious arrangements are made and energetically carried out, the emigration of Germans to this Colony will not be entirely confined to the laboring poor, but that numerous young farmers, sons of country clergymen and of small landed proprietors, who are unable to obtain farms and whose limited property (from £200 to £500) prevents their marrying and establishing themselves at home, will soon follow the laboring Emigrants, after their success is ascertained, and become a most desirable class of Settlers; and this may be effected without reducing the amount which is to be applied to defray the expense of Emigration from the United Kingdom.

The first requisite appears to me to obtain from the Secretary of State for the Colonies an extension to this Colony of the privileges, which upon my application* were readily granted in 1842 to the Germans emigrating to New Zealand, namely, that, upon the report of the British Charge d’Affaires at Hamburg upon the persons embarked at that Port for this Colony, the Colonial Minister will authorise His Excellency the Governor to naturalize them after arrival, and to allow them to participate in the privileges arising out of the Land fund in the same proportion as other British Subjects.

I feel confident that, if at the request of some Members of the Legislative Council and other influential Gentlemen, His Excellency the Governor would express himself favorably upon the application to the above effect, which I would make on behalf of the Germans on my arrival in London, that it would liberally be conceded.

This obtained, I beg leave to submit that the German Immigration might most beneficially be conducted upon the following two several methods:—

1. For any eligible German Emigrants, authorised to land and settle in this Colony, whose passage is defrayed without any assistance from Government, £15 in Land Scrip pr. Adult (irrespective whether cabin or Steerage passengers) should be granted to such Emigrants, or to the individuals at whose expense they have been brought out; such Land Scrip to be received by Government in payment for land purchases in the usual way at par.

2. To facilitate the immediate introduction of German labourers, His Excellency the Governor should be solicited to apply any sum not less than £12,000 to defray after arrival the passage of an adequate number of Immigrants in British Ships at the fixed price of £15 pr. Adult, and a gratuity of 10s. pr. head to the Surgeons of the Ships.

* Marginal note.—Vide my letter to Lord Stanley of 2nd May, 1846, in the correspondence on New Zealand, laid before Parliament, June 1st, 1846.
These Emigrants should be under stringent Indentures to serve for 3 years after arrival, such master, to whom they may be assigned by the proper Officer of Government appointed for that purpose, as Shepherds, herdsmen, vignerons, Servants in husbandry, etc., etc., for the annual wages of £——— for Single Male adult, and £——— for a man and his wife, together with specified rations, which should be liberally extended in the case of families who have children under the age at which they can find employment, house-room, fuel, and a Sufficient piece of Garden land to cultivate vegetables being also secured them.

By the same indenture, the emigrants should likewise be bound to repay to Government the amount advanced for their passage of £15 pr. Adult by a deduction of £5 pr. Adult pr. annum from their wages, and which is to be paid in advance to the Government by the Master to whom they are assigned. The remainder of their wages should be payable quarterly or half yearly, and a clause should be introduced enabling them to determine the indentures after 3 Months' notice, upon their paying up the balance of the passage money which may remain due from them.

These indentures Should be drawn here by the Law Officers to make them fully binding in conformity to the laws of the Colony and the forms with counterpart and German translation printed, so that they would have only to be filled up and be executed before the British Charge d'Affaires at Hamburg, whose fees for certifying the indentures and transmitting the lists for naturalization Should not exceed 1s. pr. Adult.

It will be seen that by this arrangement the Colony will obtain without any expense an immediate and continued supply of labor and a most desirable increase of population, conferring at the same time real and permanent benefits upon the industrious individuals, who will adopt this fine and prospering country as their future fatherland.

If these proposals should be entertained, it will be expedient, in order to carry them out successfully, to secure the active cooperation and agency of an eminent German Mercantile House, which from its own position enjoys general confidence, and which possesses the means and has the inclination to make the requisite disbursements. Such Agents should be duly authorised by the Governor of this Colony under Sanction of the Home Government to select the Emigrants, enter into the prescribed engagements with them, and to despatch them to their destination.

If His Excellency the Governor would do me the honor to entrust me with conducting the necessary negotiations, and my firm (which in that event would be domiciled in this city) with the future reception of the Immigrants and other local arrangements, I have no doubt that the old established and well known House of De Chapeaunouge and Co. of Hamburg will consent to undertake the functions for Germany; and that the operations will be conducted by them with such zeal and ability that, with the assistance of Providence, several vessels with Emigrants may be expected to arrive here before the expiration of the present year.

JOHN N. BEIT,
of the firm, John Beit and Sons, Nelson, New Zealand.
Letter acknowledged.

Proposals returned.

Statement re previous foreign immigration.

HISTORICAL RECORDS OF AUSTRALIA.

[Enclosure No. 3.]

COLONIAL SECRETARY THOMSON TO MR. J. N. BEIT.

Colonial Secretary’s Office, Sydney, 2nd February, 1847.

Sir,

I do myself the honor to acknowledge the receipt of your letter of the 25th ultimo, submitting certain proposals for the introduction of German Emigrants into the Colony; and, in reply, I am directed by His Excellency the Governor to inform you that this is a matter which can only be entertained by the Home Government, but that His Excellency will forward a copy of your communication to Her Majesty’s Principal Secretary of State for the Colonies.

I have, &c.,

E. DEAS THOMSON.

[Enclosure No. 4.]

MR. F. L. S. MEREWETHER TO COLONIAL SECRETARY THOMSON.

Immigration Office, Sydney, 22nd March, 1847.

Sir,

I do myself the honor to return herewith Mr. John Beit’s Paper on German Immigration, which was referred by you for my report under Blank Cover of the 4th Ultimo.

Before entering on the consideration of Mr. Beit’s proposals, it may be convenient that I should briefly bring under His Excellency’s notice the former proceedings of the Government respecting foreign Immigration to this Colony.

On the 28th October, 1835, a Notice was issued by this Government, of which the following was the preamble:—

“as a part of the arrangements intended to be adopted with a view to facilitate the introduction into the Colony of useful and respectable Emigrants from any part of Europe, His Excellency the Governor directs it to be notified that a pecuniary aid, to the amount and under the conditions hereinafter specified, will be granted to those Settlers who shall be at the charge of bringing Emigrants to Sydney.”

After mentioning the rates and conditions of payment, the notice states that, “in the case of Foreigners brought to the Colony for the cultivation of the vine or olive, or for the Manufacture of Wine or Oil, certificates of age but not of character will be dispensed with.”

In accordance with the terms of this Notice, Messrs. James and William McArthur of Camden and Mr. Andrew Lang of Hunter’s River procured permissions from the local Government to introduce a limited number of persons from the Continent of Europe accustomed to the culture of the Vine. Having experienced some difficulty in obtaining from the continental authorities such a sanction of their proceedings as would enable them to procure or remove the desired laborers, the Agents of both the abovenamed parties applied about the same time to the Secretary of State (then Lord Glenelg) for such official letters to His Majesty’s Consuls in the countries, from which they sought to obtain the laborers, as would remove the impediments which had been in their way.

To these applications Sir George Grey replied* that Lord Glenelg could not authorise the official communications asked for, because he “ apprehended that such a proceeding would tend to create erroneous impressions as to the nature of the engagement into

* Marginal note.—Letters dated 29 March, 1837, printed in House of Commons, Paper No. 359 of the year 1837, pp. 70, 71.
which the parties have entered, and for the fulfilment of which they must look not to His Majesty's Government, but to the individual Settlers who are anxious to obtain their services; and that although under the special circumstances of the two cases Lord Glenelg would permit each of the parties to introduce as many as six German families under the terms of the Colonial Notice, yet that His Lordship's permission so given could not be allowed to form a precedent for other cases. The reasons for this latter decision were stated by Sir George Grey in the following terms:

"In sanctioning the appropriation of the proceeds of the sales of Crown Lands in New South Wales to Emigration, His Majesty's Government have been influenced by the desire of promoting at once the interests of this Country and of the Colony, and that with this object they have not contemplated the application of those funds to any other emigration than that of families from Great Britain or Ireland. It is obvious that no direct benefit could be derived by this Country from the Emigration to New South Wales of families from any part of the continent of Europe; and His Majesty's Government would therefore be unwilling to admit the principle of permitting the funds derived from the sales of land to be made available towards the introduction of foreigners into the Australian Colonies."

The correspondence from which the above extracts are taken was forwarded to Sir Richard Bourke, the then Governor of this Colony, with instructions to "let it be understood in the Colony that the terms of the Notice of October, 1835, were not for the future to be considered as extending to Emigrants introduced from foreign countries." A Notice to that effect was accordingly issued on the 17th October, 1837, and the allowance of Bounties on Immigrants from foreign countries has been in consequence discontinued.

The objections, entertained by Lord Glenelg to the introduction of foreign labourers as contemplated by the Notice of the 28th October, 1835, appear from the correspondence referred to to have been the two following:

1. That it would be inexpedient for the Government to take any part in promoting the emigration of foreign labourers, which would afford even a pretext for imputing to it responsibility for any disappointments which such labourers might experience on their arrival in the Colony.

2. That the fund, out of which it was proposed that their passages should be paid for, was inapplicable to any other than British Emigrants.

The mere perusal of Mr. Beit's Paper, without reference to the correspondence referred to in its margin, might leave the impression that in 1842 the Colonial Minister deviated more widely than he really did from the principles on which Lord Glenelg's disallowance of the New South Wales Notice respecting foreign Immigration was based. After mentioning that, if adequate encouragement and assistance were afforded to them, a large number of labourers from Germany would yearly emigrate to this Colony, and that they would be followed by small capitalists, Mr. Beit proceeds to state as follows:

"The first requisite appears to me to be to obtain from the Secretary of State for the Colonies an extension to this Colony of
the privileges, which upon my application were readily granted in 1842 to the Germans Emigrating to New Zealand, namely, that, upon the Report of the British Charge d’Affaires at Hamburg upon the persons embarked at that port for this Colony, the Colonial
Minister will authorise His Excellency the Governor to naturalize them after arrival, and to allow them to participate in the privileges arising out of the Land fund in the same proportion as other British Subjects.”

When first I read this passage, I certainly understood that not only had Lord Stanley readily given his direct sanction and encouragement to, an Emigration of German labourers to New Zealand, but that he had authorised the Governor to pay for their passages out of the Land Fund upon their naturalization, in the same manner as if they had been born British Subjects. On reference however to the correspondence which passed on the subject of the emigration in question, I find that such was by no means the case. In consequence, it is to be inferred, of an intimation given to Lord Stanley that a considerable emigration of Germans to New Zealand was in contemplation, His Lordship thought it necessary in March, 1842, to address a letter to Mr. Liveling* of Hamburg, stating, “That any Germans, settling in New Zealand or its dependencies without the express sanction of Her Majesty’s Government, would be aliens, and liable to all the disabilities affecting persons of foreign birth throughout the British dominions.” In consequence of this communication, Mr. Beit, on behalf of a number of families who desired to emigrate to New Zealand under the auspices of an association formed at Hamburg, applied to Lord Stanley “for the necessary sanction for the removal of the disabilities which might affect them.” In answer to this application, Mr. Hope stated, that “Lord Stanley would be disposed to afford every practicable facility to the emigration to that Colony of a body of persons who were likely to form valuable Settlers;” and that, having been “led to believe that the Association on whose behalf Mr. Beit wrote included persons who were disposed to become purchasers of land from Her Majesty’s Government, His Lordship would be prepared to extend to them the usual privileges in regard to conveyance of Emigrants to the Colony from the Land Fund,” meaning of course that the purchase money paid by the German capitalists might be expended on the introduction of German labourers.

One of the conditions, on which Mr. Beit proposed in his letter to Lord Stanley that the desired “removal of the disabilities,” etc., from the intending Emigrants should depend, was “That proof should be afforded to the British Consul at Hamburg that the Emigrants were supplied with adequate means, so that no apprehension need be entertained of their becoming chargeable to the Colony.” The correspondence having been referred to the Foreign Office in order that the necessary instructions might be given to the Consul at Hamburg, it was there understood that this proposed condition had been approved by Lord Stanley; and Lord Aberdeen applied in consequence for information as to the precise interpretation which the Consul, Colonel Hodges, should be desired to “give to the words adequate means.” In reply, Mr. Stephen, by

* Marginal note.—Mr. Beit’s letter to Lord Stanley of 26 April, 1842, printed in House of Commons’ Paper No. 323 of the year 1843, P. 220.
† Marginal note.—Letter of 12th May, 1842. Commons’ Paper No. 322 of the year 1843, P. 221.
Lord Stanley's direction, requested Lord Canning to "call the attention of the Earl of Aberdeen to the fact that the proposed instruction to Colonel Hodges appeared to be founded rather on Mr. Beit's own proposal than on the terms of the letter, addressed to him by Lord Stanley's direction on the 12th May last"; and added that "Lord Stanley adhered strongly to the opinion there expressed of the inexpediency of any Emigration taking place of German labourers unaccompanied by Capitalists."

It appears then that the principles, on which Lord Stanley's decision in this case was based, were:

1. That, if Germans emigrated to New Zealand, they should do so in a body comprising both Capitalists and labourers.

2. That the sums paid to the Government for land by the Capitalist Emigrants might be expended on the removal to the Colony of labourers of their own country and selection; or that German labourers' passages should be paid for out of the Land fund to such an extent, and to such an extent only, as the German Capitalists contributed to that fund.

3. That an Emigration of German labourers without Capitalists should be discouraged as far as it was in the power of Her Majesty's Government to do so.

The plan now submitted by Mr. Beit appears to involve the following principles at variance with those adopted by Lord Stanley in the New Zealand case:—

1. That German labourers should be encouraged to emigrate without capitalists, relying for employment on the British capitalists already settled in the Colony.

2. That, without any contribution from German Capitalists to the Land Fund, the Government should guarantee payment of the German labourers' passage money at a certain fixed rate, upon their arrival in the Colony, trusting to repayment on the labourers being hired by an advance of wages to be then made to them for the purpose by their employers.

3. That German Capitalists, who might be attracted to the Colony by the success of the labourers who preceded them, should receive a small remission in the purchase of land, in consideration of their having paid for their passages without assistance from Government.

It by no means follows that Lord Stanley might not have seen reason to act upon other principles in respect to a more extensively colonized country such as this, had a German Emigration hitherto been under His Lordship's consideration. But I have thought it necessary to point out the difference between the principles which in that instance received Lord Stanley's sanction and those involved in Mr. Beit's proposals, because it might be inferred, from the tenor of Mr. Beit's remarks, that the New Zealand case referred to by him was a more complete precedent in support of this plan than it really is.

The first of Mr. Beit's two proposals for the promotion of German Immigration is stated as follows:—

"For any Eligible German Emigrants, authorised to land and settle in this Colony, whose passage is defrayed without any assistance from Government, £15 in Land Scrip per adult (irrespective whether Cabin or Steerage passengers) should be granted to such..."
1847.
20 April.

Criticism of proposals by J. N. Beit for German immigration.

Emigrants or to the individuals at whose expense they have been brought out, such Land Scrip to be received by Government in payment for Land purchases in the usual way at par."

For reasons of policy which are little likely, I conceive, to be abandoned, Her Majesty's Government has deliberately refused to sanction the allowance of a Bounty, either in Land or Money, to British Subjects coming to this Colony as Cabin Passengers. It cannot then be expected that such a privilege should be conceded to foreigners. Mr. Beit's proposition, therefore, that "£15 in Land Scrip" should be granted to Cabin Passengers from Germany cannot of course be entertained.

Should it be deemed politic to apply to this Colony the principle, conceded by Lord Stanley in the New Zealand case, that money contributed to the Land fund by German Capitalists might be expended on the introduction of labourers of their own country for the cultivation of the land bought by them, there would, I conceive, be no objection to an allowance of "£15 in Land Scrip" for every adult German labourer qualified as required by the Government, whom the Capitalist Emigrant might bring out with him for his own service, provided that such allowance could be arranged consistently with the requirements of the Act 5 and 6 Vict., Cap. 39 and particularly with that provision of the Nineteenth Clause, which secures the expenditure of one half of the Land fund on Emigration from the United Kingdom.

If, however, Mr. Beit's proposal were adopted, the "£15 in Land Scrip" would be claimable not only by persons bringing out German labourers for their own Service, but by those also who might choose to send them to the Colony as a mercantile speculation. Such a principle is, as far as I am aware, unsupported by any precedent, and it appears to me to be one from which the Government should withhold its assent.

The second of Mr. Beit's proposals is in the following terms:—

"To facilitate the immediate introduction of German labourers, His Excellency the Governor Should be solicited to apply any sum not less than £12,000 to defray after arrival the passage of an adequate number of Immigrants in British Ships at the fixed price of £15 per adult, and a gratuity of 10s. per head to the Surgeons of the Ships."

"These Emigrants should be under stringent Indentures to serve for 3 years after arrival such master to whom they may be assigned by the proper Officer of Government appointed for that purpose, as Shepherds, herdsmen, vignerons, servants in husbandry, etc., etc., for the annual wages of £— per single male adult, and £— for a man and his wife, together with specified rations which should be liberally extended in the case of families who have children under the age at which they can find employment, house-room, fuel, and a sufficient piece of garden land being also secured them."

"By the same Indenture the Emigrants should likewise be bound to repay to Government the amount advanced for their passage of £15 per adult, by a deduction of £5 per adult per annum from their wages, and which is to be paid in advance to the Government by the Master to whom they are assigned. The remainder of their wages should be payable quarterly or half yearly, and a clause should be introduced enabling them to determine the indentures after 3 months' notice, upon their paying up the balance of the passage money which may remain due from them."
Mr. Beit does not define the meaning which he attaches to the word "adult," nor does he state how the passages of the children, whose introduction he contemplates, are to be paid for. Under the old System of Bounty Emigration to this Colony, males who had reached the age of Eighteen years, and females who had reached the age of Fifteen years were reckoned as adults; but, under the present system, which adopts the Passengers Act computation, fourteen years is the age which constitutes an adult, and two children below that age are considered as equivalent to an adult.

Assuming Mr. Beit's intention to be that the passages of children under 14 years of age should be paid for by their parents out of funds possessed by them previously to their embarkation, and that the sum to be paid upon their arrival should be limited to £15 per head for persons of fourteen years of age and upwards, the average sum to be paid in the Colony for each family cannot be computed at less than £45, that is £30 for the father and Mother, and £15 for one child. Whether such a sum would be paid down by the employers, as proposed by Mr. Beit, even for "vignerons," appears to me to be extremely doubtful; but I am satisfied that it would not be obtained for "Shepherds, herdsmen, and servants in husbandry." So far at least, then, as respects labourers of these latter callings, Mr. Beit's scheme for the repayment of the amount to be advanced by the Government appears to me to be quite impracticable.

The sending of the Emigrants to the Colony without an Engagement and then subjecting them of necessity to one for three years appears to me to be a measure, which it would be most undesirable for the Government to be concerned in, even were it feasible. If a Settler were to commission a private Agent in Europe to select a certain number of labourers for him, and to bind them to his Service for three years, and if the labourers so selected came to the Colony with that definite engagement, and proceeded at once to their employment without being at all placed under the charge of the Government, no objection could be urged against the arrangement, or none at least to which the Government would be a party. But under Mr. Beit's plan the charge of the Emigrants on their arrival, and the business of placing them suitably in service would devolve upon the Government. If it were by possibility so fortunate as to obtain for every labourer an engagement for three years, and to receive back from every employer the passage money of the labourer and his family, it would by no means follow that the Government would be left in quiet possession of the sums which it had thus regained. On the contrary, it would have to encounter numerous complaints and appeals for redress, which could not be entertained without involving some restoration of the money taken from the employers. If a master turned out to be a bad one, the labourer would represent himself as a poor friendless stranger who trusted that, in selecting for him a service to which he was to be bound for so long a period as three years, the Government would have exercised greater caution, and he would petition for a release from the unfortunate situation in which through his confidence in the Government's watchfulness over his interests he had allowed himself to be placed. If, on the other hand, a labourer proved to be a bad one, the Government would be assaulted by the employer, who would ask for repayment of the amount advanced by him, in order to extricate himself from the dilemma of having either to retain a
useless man for three years for the purpose of reimbursing himself out of his wages, or to lose his money by allowing the man to quit his service.

Mr. Beit indeed proposes that a clause should be inserted in the Indentures providing for their determination in any case, "after three months' notice, upon the labourer's paying up the balance of the passage-money which may remain due from him." To the employer, however, this provision would afford no relief, and to the servant but a very limited one, because at the ordinary rate of wages a labourer with a wife and family to support could not make up the required amount in much less time than three years.

For the reasons above stated, it appears to me that Mr. Beit's proposals cannot receive the sanction of this Government. As, however, it by no means follows that in rejecting Mr. Beit's particular plan the Government should also negative the general proposition that in the present stage of this Colony's progress it would be expedient to afford some encouragement to the immigration of such foreigners as would materially assist in the development of its resources, I take the liberty of submitting to His Excellency's consideration the following remarks and suggestions with reference to the leading points which are presented in the several documents to which I have adverted in the preceding portion of this Report.

The formation of a large settlement of foreigners, however advantageous it might be in the case of New Zealand, would not I think be so desirable in this Colony as to merit any special encouragement from the Government. The public benefits derivable from the introduction of foreigners would be most effectually obtained by their dispersion either in small groups or in single families among the British population. Their amalgamation with the latter would thus be more certain and more speedy, and the advantages arising from their practical experience in branches of industry, with which British Settlers are unacquainted, would be more widely diffused. Although, therefore, I should be disposed to allow to individual foreigners, intending to employ their capital in the production of commodities not producible in the United Kingdom, the privilege of having the money, paid by them to Government for land, expended on the introduction of labourers of their own choice, I would deny that privilege whose object would be to establish here a Settlement of their countrymen on a large scale. Such a company, should its operations receive the sanction of Her Majesty's Government at all, ought, in my opinion, to draw upon its capital for its supply of foreign labourers as well as for its land.

So great is the scarcity of labour at the present time that, if two or three or even more ship-loads of farm servants or shepherds from Germany or any other part of the continent of Europe were now to arrive here, I should have no apprehension about their finding immediate employment. I am, however, disposed to think that, except in particular descriptions of husbandry in which British labourers are unskilled, the Settlers Generally would feel a decided preference for Servants of their own country and tongue, if they were to be obtained. Should there then take place a concurrent Immigration of British and Foreign labourers, the latter would, I apprehend, obtain employment but slowly, and many of them would probably be thrown upon the Government for support. I am, therefore, of opinion that the Government should refrain
from taking any measures tending to encourage the removal lither of large bodies of foreign labourers, even though their immigration should be attended with no expense to the Colony further than the contingent one of their maintenance for some time after arrival. Any direct assistance or encouragement, which the Government may be disposed to give, should be confined to labourers emigrating under specific arrangements for their employment, entered into either with capitalists accompanying them, or with persons settled in the Colony.

The principle laid down by Lord Glenelg that our Land Fund ought not to be expended on the Emigration of foreigners should, I think, be rigidly adhered to with respect to such descriptions of labour as the Mother Country can supply us with. The State might fairly be accused of injustice to its own subjects as well as of imprudence, if it were to expend that fund in placing foreigners in situations which the redundant labourers of the United Kingdom would be qualified as well as glad to fill. But at the same time it appears to me to be quite consistent with a due regard to the claims of the British poor, as well as conducive to the General interest, that those Colonists, who apply their land and capital to the production of wine or oil or any other commodity with the culture and manufacture of which British labourers are totally unacquainted, should be allowed to supply themselves with the requisite servants from foreign countries, and to draw upon the Land fund for a portion at least of the expense incurred in their introduction. On this subject, I do not think that I can better submit my views to His Excellency than by adopting the language in which Colonel Macarthur addressed Lord Glenelg in support of the policy of the Government’s Notice of the 28th October, 1835: “Great benefit” (I quote from a letter dated 15th March, 1837, and printed in House of Commons’ Paper, No. 358 of Session 1837, P. 69) “is likely to accrue to the parent country as well as to the Colony from the production of Wine, olive oil, silk, dried fruits, and other valuable articles, for which the climate and soil of New South Wales are ascertained to be well adapted, and which require only practical knowledge to ensure their successful cultivation. Without this knowledge, there must be a great loss of time as well as of capital in the first essay: whereas, by the introduction of a few families possessing the requisite experience and skill, not only will this loss be prevented, but their knowledge will become generally diffused among the Colonists. The natural resources of the country, thus be brought into earlier and more advantage­ous operation than would otherwise be possible, at the same time that new fields will be opened for Colonial enterprise, and for the employment of the surplus labour of the parent country.” Having further described the capabilities of the Colony and the progress made in their development, Colonel Macarthur expresses his hope that, “at a future time, His Lordship will admit the policy, and adopt the principle of permitting a limited portion of the funds arising from the sale of Colonial land to be made available towards the introduction into the Australian Colonies of foreigners skilled in the culture of such products as natives of the United Kingdom are unacquainted with; first, because the introduction of persons so skilled is a public benefit, and their number will always be small in proportion to that of Emigrants from this Country, and, Secondly, that, unless thus aided, it is in vain to expect that any individual will embark capital in an undertaking so uncertain as
the introduction into a distant country of useful families, when there can be no assurance or guarantee that, after the expense and trouble incurred, they will not quit his service, either from caprice, or to engage with parties whose capital not having been expended in their introduction into the Colony can afford to pay them a higher rate of wages."

Fully concurring in these views, I venture to express my own confident hope that His Excellency may be induced to press upon Her Majesty's Government the expediency of now "admitting the policy and sanctioning the principle," on which in 1837 the Colonial Government promised an allowance of Bounties on the introduction of certain skilled labourers "from any part of Europe." If I rightly interpret the 19th clause of the act, 5 and 6 Vict., Cap. 36, one half of the Land fund, and one half only, is now secured by Statute to the poor of the United Kingdom who may desire to remove to this Colony.* The remainder, subject to certain specified charges, is applicable either to Emigration or to such other public objects as Her Majesty may deem most conducive to the colonization and improvement of this portion of Her dominions. As respects one half of our Land fund then, the Queen and Parliament have confirmed Lord Glenelg's principle that it should be expended in such a manner only as would directly benefit the Mother Country as well as this Colony. But the remaining portion they have released from the influence of that principle by allowing its application to purposes in which the Colony, or, in other words, such of the people of the United Kingdom as have made the Colony their home are alone directly interested. Of such purposes, none appears to me to be more deserving of a reasonable share of support from the fund in question than the introduction of skilled labourers from foreign countries, who will not only develop the resources of the soil within their own immediate sphere of Employment, but will multiply our means of further production by serving as schoolmasters in their several departments of industry to the rising population of the Colony.

Assuming that a Bounty should be allowed on foreign labourers of certain callings, the next matter for consideration is what the rate of such Bounty should be. On this question I have felt considerable difficulty in arriving at a decision, the object being to economize as much as possible the limited sum which would be applicable for the purpose, and at the same time not to fix the rate so low as to defeat the end in view. From Mr. Beit's paper as well as from every other source of information to which I have had access, I learn that, so far as the Germans are concerned, they should not only be able to pay down a portion of their passage money before embarkation, but that they would also be willing to pay a further portion out of their earnings in the Colony. I should not desire, in the first instance at all events, to impose this tax on Bounty Emigrants from foreign countries to any greater amount than they could reasonably be expected to spare out of their first

* Note.—The words referred to are "one equal half part at least of such gross proceeds shall be and the same is hereby appropriated towards defraying the expense of the removal from the United Kingdom to the Colony wherein such Revenue accrued of Emigrants not possessing the means of defraying the expense of their Emigration thither." These terms might possibly admit of the fund being expended on the removal of any poor Emigrants from the United Kingdom: but the introduction of the Enactment doubtless is that it should be applied to the benefit of British subjects only.
year's wages; but to this extent they might fairly be required to meet the contribution made out of the Public funds towards a provision of their conveyance to this Colony. I cannot, however, advise that the Government should sanction a plan which would entail upon itself the collection of the sums to be repaid by the Emigrants; and I propose, therefore, that the desired object should be attained by allowing a lower rate of Bounty than would be necessary if it were intended that the entire passage-money should be provided by the Public. The effect of this arrangement would be that a Settler introducing a foreign labourer would have to advance to the Ship-owner a sum sufficient to make up the difference between the Government allowance and the actual cost of the passage, and would repay himself out of the labourer's wages as they became due.

I propose that the Bounties should be limited to married couples of an age not exceeding 50 years, and such of their children as shall have reached the age of fourteen years, and that the rate should be fixed at £18 per head. This would probably be more than sufficient to cover the entire cost of their passages, if obtainable in ships sailing from ports within their own Country. But as they would be likely to come to the Colony in small bodies, they would generally, I presume, be obliged to take ship from London, and to find their way thither at their own expense. It is also to be considered that the cost of a family's outfit for so long a voyage as that to this country is very considerable. I have, therefore, proposed a rate which ought to be sufficient to cover the expense of their passages from London to the Colony including maintenance for a few days after their arrival. Should their employers not be at hand to remove them immediately from the Ship. For children below the age of 14 years, I would allow no Bounty at all, but would leave their full passage money to be paid by their parents; Neither would I allow Bounty for any unmarried persons unaccompanied by their parents. This arrangement would operate as a premium on the selection of the most desirable class of Emigrants, that is young married couples, and couples whose children are of an age to be useful. *

Having now stated the principles on which it appears to me that the immigration of foreigners to a limited extent might be encouraged, and the mode in which encouragement should be given, I may be permitted to bring my suggestions and recommendations to a point by submitting the following Draft Notice for His Excellency's consideration.

Notice.

Whereas, by reason of the difference of climate and Soil, many commodities producible in this Colony, such as Wine, Oil, Silk, etc., are not produced in the United Kingdom, and the skilled labourers requisite for their culture or manufacture cannot in consequence be obtained by the Colony from the Mother Country; and whereas it is deemed expedient to afford to such of the Colonists, as may desire to employ their land and capital in the production of such commodities as aforesaid, the means of providing themselves with the required labourers from such foreign countries as can supply

*Note.—I think it necessary to explain that the principle of requiring Bounty Emigrants to pay the whole or any portion of their young children's passage-money is one which I recommend only with reference to the case of foreigners. I should strongly depurate its re-admission into the general system of Bounty Emigration from the Mother Country.
1847. 20 April.

Draft of proposed notice re foreign immigrants.

His Excellency the Governor directs it to be notified that, subject to the approval of Her Majesty's Government, and under the conditions hereinafter mentioned, there will be granted to settlers, who shall be at the charge of bringing into New South Wales for their own services Emigrants from the Continent of Europe, a pecuniary aid or bounty at the following rates:

1) For a married man and his wife, neither of whose ages shall exceed on embarkation fifty years, £36.

2) For each child, Male or female, above the age of fourteen years, for whose parents, or either of them, the foregoing Bounty is allowed (but for no other children or unmarried persons), £18.

II. Before any payments are made under this Regulation, the Immigrants on whose account they are claimed must present themselves before a Board appointed by the Governor to inspect them. Each married man and each of his unmarried Sons, who shall have reached the age of eighteen years, must produce to the Board testimonials of good character, and of their being duly qualified for the particular employments which they have been brought to the Colony to fill. These testimonials must be signed by clergymen and respectable inhabitants of note in the place of the Immigrant's former residence, and authenticated by a certificate of the Secretary to the Land and Emigration Commissioners in London, that after enquiry that Board has seen no reason to doubt their correctness or credibility.

Every individual, for whom Bounty is claimed, must produce a certificate, shewing his or her parents' Christian names and Surnames, and the age of which he or she is known or reputed to be; and this certificate must be also authenticated by the Secretary to the Land and Emigration Commissioners.

If the Board shall be satisfied with these documents, and that the persons presented before them are within the prescribed ages, of sound mind, of good bodily health and Strength, and, in all other respects likely to be useful members of their class in society, and that they have been duly supplied during the voyage with a sufficiency of good and wholesome provisions and water, the latter in the proportion of at least three quarts per day for every Emigrant, and with reasonably comfortable accommodation, a Report to that effect will be made by the Board, and, so soon thereafter as it shall be shewn by the person bringing out the Emigrants that he has removed them from Sydney or Melbourne (as the case may be) for the purpose of placing them on his own property, a warrant will be issued for the payment of the sum to which he shall be entitled under this Notice.

III. Any Settler, desiring to avail himself of the Bounties promised by this Notice, must transmit to the Colonial Secretary at Sydney, or to the Superintendent of Port Phillip, at Melbourne, a list, specifying, as accurately as circumstances will permit, the number, condition, and calling of the persons whom he may propose to bring out. In no case will Bounties be allowed, unless the claimant shall have made such application, and shall have received in reply an official intimation that (subject as already stated, to the approval of Her Majesty's Government) Bounties will be granted on the introduction of the persons described in his list. The document containing this intimation must be produced before the Board by the claimant, who will be required, at the same time,
to prove to the satisfaction of the Board, that the Immigrants have been imported in pursuance thereof. And, in order to Guard against the inconvenience of long outstanding claims against the Government, Bounties will not be allowed unless the Immigrants described in the application shall be presented to the Board within two years after the date of the notification of acceptance by the Colonial Secretary.

IV. To define the several descriptions of labourers for whom Bounties will be allowed under this Notice would be impossible, and an attempt to do so would be inconsistent with the object in view, which is to provide the supply of labour requisite for the progressive development of the capabilities of the soil as they may from time to time become further known. It may, however, be stated as a general rule that the Government will limit the allowance of Bounty to such labourers as are requisite for raising articles, the produce of the soil, and for bringing them into their simplest marketable shape. In illustration of this principle, the cases of Wine and Silk may be instanced. In the former, Bounties will be given for all descriptions of labourers necessary for the culture of the Grape, and the manufacture and casking of the wine. In the latter case, Bounties will be given for the labourers required for the production and preparation of the raw material, but not for its manufacture.

Bounties will not be allowed under this Notice for persons above the labouring class, such as Overseers, nor for any labourers of a description obtainable from the Mother Country.

V. The fund available for the purposes of this Notice being very limited, it must not be expected that the Government will be able at once to promise the payment of Bounties on every application which it may see no reason to disapprove. In any case, however, in which the Government may be restrained by no other cause than want of means from giving an immediate assent to an application, such application will be noted in the Colonial Secretary's Office, with a view to its being entertained in preference to others of a later date, whenever the requisite funds may be at the disposal of the Government.

VI. It is to be distinctly understood that no Quarantine or other expenses whatever, attendant upon the introduction of Emigrants under this Notice, will be defrayed by Government, excepting the Bounties herein before mentioned.

VII. To prevent misapprehension and disappointment, and to ensure a rigid adherence to the principle of this Regulation, it is proper to state that the whole of the conditions thereby imposed will be strictly construed. Parties therefore, who may introduce Immigrants not qualified by age, calling, character, or otherwise, will do so entirely at their own risk, and will have no claim on the Government to obtain the Bounties offered by the present Notice.

Should His Excellency neither himself disapprove of such a Notice as the above, nor see reason to anticipate its disapproval by the Secretary of State, the Notice might perhaps be published in the Colony at once; and I have with that view inserted amongst the conditions, on which the allowance of Bounties would depend, "the approval of Her Majesty's Government." Settlers desiring an early supply of labourers would then be enabled to submit their applications to this Government, and could receive its decision upon them, subject to the Secretary of State's confirmation. And,
in the event of this confirmation being given, their Agents, procuring information thereof at the Colonial Office in London, could at once proceed to take measures for the selection and despatch of the Emigrants.

To extend the benefit of the Notice to Capitalists of foreign origin, actually settled in the Colony, nothing more is needed than that the local Government should entertain their applications in the same manner as those of Settlers of British origin. In the case of a Foreign Capitalist desiring to emigrate hither for the purpose of engaging in any business requiring labourers of a description to which the notice would apply, and wishing to bring such labourers with him, there might perhaps be allowed a remission in the purchase of Crown Lands to the amount which he would be entitled to claim, were his labourers introduced in the ordinary way under the provisions of the Notice. The labourers would in such case be the medium through which he would remit to the Colony the funds destined by him for investment in lands to be bought from the Government for the purposes of his business. I am aware that this suggestion could not be carried into effect without some modification of the Land Sales Act; but I am disposed to think that the alteration necessary for the purpose would not be objected to either by Her Majesty's Government or by Parliament, Seeing that the proposal is not inconsistent with the general principles of the Act, and that great public benefit would result from the settlement amongst us of working capitalists, possessed of practical experience in the branches of production which it is the object of the notice to encourage.

It will doubtless be considered necessary that the Government should fix some definite amount, beyond which it would not extend its liabilities under the Notice which I have proposed. The term, for which I have suggested that the Bounty permissions should be in force, is two years, being the same as that appointed in the Regulations formerly in force. Perhaps His Excellency would not object to fix £20,000 as the sum to which the liabilities of the Government on this account should for the present be limited.

I have not proposed any stipulation respecting the form in which the agreements between the Immigrants and their employers should be drawn up, because I think it a matter in which it would be very unadvisable for this Government to interfere; and there will be no necessity for its interference, should it not adopt Mr. Beit's plan of binding the Emigrants to three years' service with a view to securing from them the repayment of their passage-money. It may, however, be desirable that the Law Officers should be requested to prepare a short Memorandum on the present state of the Law of the Colony as it would affect such agreements, and to add any suggestions or remarks which might be useful for the guidance of the Land and Emigration Commissioners or any other Officers of Her Majesty's Government from whom information on the subject might be sought in England.

Mr. Beit's offer of his services as an Agent for the management of German Immigration does not appear to require any remark in reference to the carrying out of the suggestions which I have made, as in the event of their adoption no such agency would be employed by the Government. The business would be conducted by the private agents of the Settlers.
I beg to append to this Report two letters with which I have been favored on the subject of German Immigration, the one from Mr. James Macarthur of Camden, who has for some years had German Vine-dressers in his service, the other from Mr. Kirchner, a German Gentleman resident in Sydney, who, I understand has been recently in communication with several influential Settlers desirous of obtaining Vine-dressers, etc., from his native country.

Francis L. S. Merewether.

[Sub-enclosure No. 1.]

Mr. J. Macarthur to Mr. F. L. S. Merewether.

Sir, Sydney, 11th February, 1847.

In reply to your Enquiries on the subject of Immigration to this Colony from the Continent of Europe, I beg to State that, in 1838, six families of Vignerons from the Duchy of Nassau were sent out under engagement to my brother Wm. Macarthur and myself, to be employed in the cultivation of our Vineyard at Camden. In 1843, we brought out several more families from the same place.

Of these people, about half remain in our service, the others are employed in Vineyard cultivation at Hunter's River and in other Districts.

From the experience thus obtained, I can have no hesitation in expressing my conviction of the importance as regards Imperial, as well as local interests, of introducing into this Colony several thousand persons skilled in Vine culture, the making of Wine, the preparation of dried fruits and other processes of rural economy, with which the peasantry of the British Islands are unacquainted.

My brother, Colonel Macarthur, who selected and engaged the families from the Duchy of Nassau, would be happy to afford all the information in his power, should the subject be favorably entertained, as I trust it will, by the Home Government.

It was with difficulty that he found any one, in 1837, to embark on what was then considered so perilous an adventure. From the accounts sent home by this first party, a very different feeling prevailed when he subsequently visited the Duchy of Nassau; and at this time I have reason to believe that a large number of persons, of the description required, would gladly emigrate to this Colony from the Rhenish Wine growing Provinces.

I have also been informed that many of these people would pay one half of the Passage Money at Rotterdam, or at all events an amount equal to the cost of their passage to the American States, and would willingly enter into engagements to repay the balance by yearly instalments from their Wages.

Such an arrangement would not fail in my opinion to be attended with the best consequences morally, whilst the advantages, in an economical point of view, and in keeping up a stream of useful Immigration to our shores, are too obvious to require comment.

A supply of skilled labour of a similar kind, and in some respects perhaps better suited to this Colony, may, I am assured, be obtained from the Swiss Cantons, more especially the Pays de Vaud and Neufchâtel.

Mr. La Trobe can, I have no doubt, afford valuable information in this respect, and would have it in his power greatly to facilitate any plan that might be devised for introducing Emigrants from those countries.

Jas. Macarthur.

[Sub-enclosure No. 2.]

Mr. W. Kirchner to Mr. F. L. S. Merewether.

Sir, Prince Street North, Sydney, 11th March, 1847.

In accordance with your desire, I beg leave to offer a few suggestions on the subject of importing into this Colony German immigrants skilled in the culture of the Vine and manufacture of Wine.

The best vine-dressers in Germany are to be found on the Banks of the Rhine, the Neckar, or in the Rhenish Provinces of Prussia and Bavaria, and the Duchies of Nassau, Baden and Hesse. Frankfort on the Main from its central situation is adapted for the place of meeting for such as wish to Emigrate: the British Consul resident in that city would perhaps be of service in selecting the most suitable out of their number. Some difficulty would exist in getting none but single men, as the German peasant generally marries young; families however should not be objected to. Women and children even from their early youth are accustomed to work in Vineyards. If Government should be disposed to defray the passage of the German vine-dressers, I should propose that this boon might be extended to all individuals from fourteen to forty five years old; the travelling expenses of the younger and older branches of families could I have no doubt be raised and would be gratefully borne by the Immigrants themselves.
Besides Vinedressers, every Vingrower ought to have at least one competent Wine cooper, who thoroughly understands the whole process of making Wines, the mixing, fortifying, fining, filling up, etc., who would make also all necessary casks, and ought moreover have a knowledge of preparing sparkling wines.

An offer from £15 to £20 yearly wages, with the usual rations and a free passage, ought to induce many Vinedressers to emigrate to this Colony. Coopers might ask something more, perhaps from £20 to £25.

If the Germans are to embark from an English Port, the travelling expenses to London would cost at least £2 pr. head; and it is difficult to say how much this amount may be swelled by any detention in taking them on board their Vessel. I am told that the lowest price of a Steerage passage from London to Sydney is £20 pr. Adult; but a large number of passengers might perhaps cause a reduction in this charge.

If a considerable number of Vinedressers, say about one hundred, were to be introduced into this Colony at once, a great saving would be effected by chartering a Vessel at Hamburgh or Rotterdam to proceed to Sydney direct. I consider that £15 pr. head would then be ample to cover all expenses.

Another advantage accruing to the Colony from a direct communication with Germany would be the probability of its inducing other Emigrants to come out at their own expense.

Many a one, who may be eager to seek his fortune in this Colony, is deterred from want of opportunity; not understanding the English language, and without friends and advisers in England, he is altogether at a loss, how and where to procure a passage to New South Wales, and at last he embarks in one of the Vessels bound for America, rather than venturing into the labyrinth of London to seek there for a passage to Australia.

If bounties for the passage of German Vinedressers are to be granted, I should propose that all parties desirous of employing any be required to send in an application (stating number, wages, etc.) and that an engagement binding both master and servant should be concluded in Germany. The Immigrant would then know, what he had to expect, and could not possibly be disappointed, while his employer would be bound to take him into service according to the terms of his application, and there would be little fear that a number of poor friendless foreigners might be thrown upon the charity of the Colonists, even were, by any unforeseen circumstances, our labour market to become as glutted as it was a few years ago.

Allow me, Sir, in conclusion to assure you of my willingness to give any further information (if in my power) that you may require on this subject, which I consider of such vital interest to my adopted country, and at the same time likely to be productive of great benefit to many of my needy countrymen.

I have, &c,

WM. KIRCHNER.

SIR CHARLES FITZROY TO EARL GREY.

(Despatch No. 95, per ship Ann Milne; acknowledged by earl Grey, 2nd January, 1848.)

My Lord,

Government House, 21st April, 1847.

I have the honor to enclose herewith a copy of a letter from Captain Long Innes, applying for a remuneration for his services as Visiting Justice of the Convict Establishment at Cockatoo Island, from the date of his appointment to that situation on the 1st of August, 1842; and which I beg to recommend to Your Lordship's favorable consideration. It is probably not unknown to Your Lordship that, at the Establishment in question, Convicts of the most desperate and abandoned characters have been confined, either when awaiting their removal to a penal settlement whilst under sentence of transportation, or for safe custody when unfit to be entrusted in the ordinary service of the Government. Such has been the vigilance exercised by the authorities in charge of the Island, and which I have reason to believe the active superintendence of the Visiting Justice has greatly contributed, that, during the long period it has been used.
for the purpose in question and notwithstanding its proximity to Sydney, no Convict in Irons has ever effected his escape, and only one out of Irons has done so. For the arduous and responsible duty of this Office, it appears that Captain Innes has never received any remuneration whatever, although the number of Convicts has averaged about 250 during the period he has performed it.

It may be proper to explain to Your Lordship that Captain Innes has held the situation of Superintendent of Ironed Gangs in the District of Sydney from the 21st August, 1841. For this duty, he received from the Colonial Treasury an allowance of £182 10s. per annum, but which was reduced to £109 10s. from 1st January, 1844, with the use of a Government Cottage for his residence and forage for two horses necessary for the performance of his duty. In consequence of the rapidly decreasing number of Convicts in Ironed gangs, it is not intended to include in the Colonial Estimates any further remuneration to him on this account after the present year. Capt. Innes has also received £100 a year from the 16th October, 1841, as Visiting Justice of the Sydney Gaol, the largest and most important in the Colony. He has also received an allowance of £50 a year, since the 23d July, 1844, as Visiting Justice of the Lunatic Asylum at Tarbar Creek, which it is his duty to visit at least once a week, although situated at a distance of about seven miles from his residence.

In addition to his other duties, Capt. Innes has sat daily for the last five years as a Magistrate in the Court of Petty Sessions held at the Hyde Park Barracks at Sydney, and which is exclusively confined to Convict cases; For this service he has never received any remuneration. I consider that this circumstance strengthens his present claim; and I now, therefore, leave it to Your Lordship's decision, with my earnest recommendation that the services which I have brought under your Lordship's notice may receive the liberal consideration of Her Majesty's Government; and that Captain Innes may be authorised to obtain the allowance for which he applies at the rate of £100 a year from the date of his appointment as Visiting Justice at Cockatoo Island, and so long as it may be expedient to maintain that appointment and he may continue to perform the duties of it.

I have, &c.,

Chs. A. Fitz Roy.

[Enclosure.]  

Mr. J. L. Innes to Colonial Secretary Thomson.

Sir,

Sydney, N. S. Wales, 1st April, 1847.

I do myself the honor most respectfully to request you will have the kindness to bring under the notice of His Excellency the Governor the peculiar circumstances, under which I have been
situated for the last Five Years, as Visiting Magistrate of the Penal Establishment at Cockatoo Island, during which period I have performed this most arduous and responsible duty, without receiving from the Home Government, to which it particularly belongs, one farthing in remuneration for the anxiety, trouble and fatigue it has occasioned me; from the Colonial Government, I have received forage for one horse, and nothing more.

I would most respectfully state, for the information of His Excellency, that I took formal charge of the Island in August, 1842, although I had been actually in charge of it for some time previous; that, from that period to the present time, the most desperate characters in the Southern Hemisphere have been under my Majesterial control, and that for some time (that is for some months) there were amongst Four Hundred and Twenty of them, one Hundred and Forty five Convicts, most of them trebly convicted, and then under Sentence of Transportation to the Penal Settlement of Port Arthur at Van Diemen's Land, whose constant plots, intrigues and attempts at insurrection rendered daily visits to the Island almost indispensably necessary; that I have during that time frequently landed upon the Island (a distance of four miles from the scene of my immediate duties) before sunrise; that up to the present moment the most unceasing vigilance and promptitude is necessary; that no Prisoner in Irons (and only one out) ever effected his escape; and above all that, owing to the preventive and precautionary measures which in conjunction with the excellent Superintendence I have adopted, severe and rigorous punishments have been less frequently had recourse to than at any other Establishment of a similar description in the Australian Colonies. I may add that, in order to facilitate the performance of my duties, I have actually purchased a new and valuable Boat from my own private resources.

Under all these circumstances, I trust His Excellency will not consider I am asking too much, when I respectfully but earnestly request him to recommend my case to the favorable consideration of Her Majesty's Government in England; that I may be remunerated for my services as Visiting Magistrate of Cockatoo Island from their commencement on the First of August, 1842, at the same rate allowed me by the Colonial Government for Darlinghurst Gaol, namely One Hundred pounds per annum.

Should any testimony be required as to the accuracy of my Statements, or to the manner in which my duties have been performed, I can only refer to His late Excellency Sir George Gipps, to yourself, and to that universal judge, public opinion.

I have, &c.

J. LONG INNES, J.P., V.M.
I regret my inability to assent to this proposal. The decision given by Lord Stanley on the subject, in his Despatch of the 17 May, 1844, appears to me to have been well-founded; nor am I at all clear that, consistently with the Australian Land Sales Act, it would be possible to grant the proposed indulgence to Mrs. Green. You will cause Mrs. Green to be so informed, assuring her, at the same time, of the regret with which I find myself constrained to adopt this conclusion.

I am, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 96, per ship Ann Milne; acknowledged by earl Grey, 25th October, 1847.)

My Lord,

Government House, 22 April, 1847.

I have the honor to inform Your Lordship that, having communicated to the Town Council at Melbourne a copy of your Lordship's Despatch, No. 27 of the 25th August, 1846, respecting the Petition from that Body that the Mails from England to Port Phillip might be landed at that Port instead of being conveyed to Sydney, I have the honor to transmit herewith a copy of a letter from the Acting Superintendent, enclosing one addressed to him by the Town Council, further representing their views on the subject, and pointing out the preference they entertain to the Mails being despatched by the first private Ships direct to Melbourne instead of being detained for the Sydney Mail Packet, and that the route by Hobart Town or Launceston is far preferable to that via Sydney. I am not prepared to offer any objection to the course preferred by the Town Council; on the contrary, in consequence of the long distance the letters received by the Sydney Mail Packets have to be conveyed overland to reach their destination in the Port Phillip District, and the consequent expense to the parties to whom they are addressed, I am disposed to concur with them in thinking that it is the most desirable under the present arrangement of sailing Packets direct from England to Sydney. If, however, the proposal to establish a postal Steam communication between Sydney and England via Singapore, adverted to in my Despatch of the 1st November, 1846 (No. 47), should, as I anxiously hope, be favorably entertained by Her Majesty's Government, it may be well worthy of consideration whether the advantage of that arrangement should not be secured to the District of Port Phillip by the transmission of the Melbourne Mails by the way of Sydney; but in that case it may perhaps be expedient to make some liberal allowance in respect to the overland postage, which for a single letter is now 1s. 3d. exclusive of the sea rate.
In the present state of the question, however, it would of course be premature to enter more largely into the minor details, which it will be proper to arrange for the general convenience, should Steam communication be finally determined upon.

In connexion with this subject, I beg to refer your Lordship to my Despatch, No. 67 of 29th December, 1846, transmitting a Petition from the inhabitants of the District to Her Majesty respecting it.

I have, &c.,

C.H.S. A. Fitz Roy.

[Enclosure.]

[A copy of this letter, dated 11th February, 1847, with the enclosure, will be found in a volume in series III.]

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 135, per ship Sterling.)

Sir, Downing Street, 23 April, 1847.

I have received your Despatch of the 5th November last, No. 53, in which you report that the Legislative Council of New South Wales have voted the sum of £150 as Salary for the Agent General of the Colony for the year 1847, and that, in accordance with the instructions contained in my Predecessor’s Despatch, No. 4 of the 24th December, 1845, you considered yourself at liberty to make provision for the payment to Mr. Barnard of £100 from the Funds arising from the Sale of the Crown Lands.

You have correctly understood the Instructions to which you refer. The payment to Mr. Barnard of £100 per Annum from the Crown Land Revenue must be continued until you shall be in possession of any instructions from Her Majesty’s Government to the Contrary.

I am, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 136, per ship Sterling; acknowledged by Sir Charles Fitz Roy, 30th December, 1847.)

Sir, Downing Street, 24 April, 1847.

I transmit to you herewith a Copy of a Letter from the person described in the margin,* containing an application for information relative to Charles O’Connor, who is stated to have Emigrated to the Colony under your Government; and I have to request that you will transmit to me such information as you may be able to obtain on the subject of the enquiry.

I have, &c.,

GREY.

* Marginal note.—Alice Connors.
GREY TO FITZ ROY.

[Enclosure.]

MRS. A. CONNORS TO SECRETARY OF STATE.

Dungarvan, 16th April, 1847.

I BEG to state to Your Lordship respecting the fate of my brother Charles O'Connor, a native of Toorenena in the County of Waterford and resident in Sydney, New South Wales, since in or about the year 1823, resided with Dr. Littles at Hunter's River. I am further to state to Your Lordship that no accounts have been received from him since in or about the year 1840; he was then a Resident in the above place.

I am in hopes that the Right Honorable the Secretary of State will cause a communication to be made with His Excellency The Governor of Sydney, New South Wales, requesting of that British Minister to cause an inquiry to be made respecting the fate of my Brother; and, as soon as there is an answer received at Your Lordship's Office respecting his fate, I am in hopes that an answer stating the particulars will be communicated to me.

I am, &c,

ALICE CONNORS.

in care of Mr. Edward Connors, Buttery, Dungarvan, Co. Waterford, Ireland.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 137, per ship Sterling; acknowledged by Sir Charles Fitz Roy, 21st December, 1847.)

Sir,

Downing Street, 24 April, 1847.

I have to inform you that the ship "Joseph Somes" has for conveyance been chartered for the conveyance of 250 Exiles from Millbank, Parkhurst and Pentonville Prisons to Port Phillip.

I am, &c,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 138, per ship Sterling; acknowledged by Sir Charles Fitz Roy, 17th October, 1847.)

Sir,

Downing Street, 26 April, 1847.

I transmit to you herewith the Copy of a Petition from Henry H. Dixon and Elizabeth Dixon, praying that enquiry may be made relative to the Property left by the late William Noble of Sydney, New South Wales; and I have to request that you will furnish me with any information which you may be able to obtain on the subject.

I am, &c,

GREY.

[Enclosure.]

The humble Petition of Henry Hillier Dixon, and Elizabeth, his wife,

To the Right Honorable Earl Grey, Her Majesty's Secretary of State for the Colonial Department,

Sheweth,

That William Noble died at Sydney in New South Wales about 15 years ago intestate, leaving no relatives in that Country,
but leaving in this country, John Noble, Thomas Noble, your Petitioner, Elizabeth Dixon (formerly Noble), and Frances Upton (formerly Noble), his Nephews and Nieces, and only next of kin him Surviving.

That the deceased was well known at Sydney, and was, as your Petitioners have been informed, murdered in his house there by 3 Convicts who were afterwards hung for the Offence.

That the deceased left some real Estate, which has been sold by Messrs J. E. and W. E. Manning of Sydney under a Power of Attorney from the Assignees of John Noble, the eldest Nephew of the deceased, who became Bankrupt and who was his heir at Law.

That your Petitioners have heard and believe that the deceased William Noble left considerable personal Estate, but your Petitioners are unable to bear the expense of employing an Agent at Sydney to act for them.

That Mr. Williams of No. 16 Lower George Street, or in Pitt Street, Sydney, knows about the deceased's property, and has been several times applied to by letter on the subject, but no answer can be obtained from him.

Your Petitioners, therefore, humbly pray that your Lordship will be pleased to direct enquiries to be made at Sydney as to whether the deceased William Noble left any and, if so, what personal Estate; and, in case he left personal Estate, that Your Lordship will be further pleased to direct Your Petitioners as to the course which they should pursue for the recovery of their share, and interest therein.

And your Petitioners will ever pray. Hy. Hilliee Dixon.

Petitioners' Address:—at Messrs. Thornton and Sons. 174 Bligh Street, Southwark.

EARL GREY TO SIR CHARLES FITZ ROY.

Sir, Downing Street, 27 April, 1847.

I transmit to you herewith Copies of a Correspondence with the Agent General for New South Wales, from which you will perceive that I have thought it necessary to decline, under the altered Circumstances of the Constitution of the Colony, to express any sanction or authority in Cases of requisitions for Services which have been sanctioned by the Local Legislature. You will take particular care to specify distinctly in each requisition whether the Service will be defrayed from funds at the disposal of the local Legislature, or from the British Treasury, or the Revenues of the Crown.

I am, &c.,

GREY.

[Enclosure No. 1.]

MR. E. BARNARD TO UNDER SECRETARY STEPHEN.

Sir, No. 5 Cannon Row. 17 March, 1847.

I have the honor to transmit to you, for the information of Earl Grey, the copy of a letter from the Colonial Secretary at New South Wales, conveying to me the directions of His Excellency the
Grey to Fitz Roy.

Governor to forward to that Colony a quantity of paper, which appears to have been already ordered, and also to procure and transmit two Pier Glasses of the description specified by the Colonial Architect; and I am to request that you will favor me with his Lordship's authority for complying with the directions conveyed to me.

The estimated cost of the two Pier Glasses required amounts to the Sum of £99 17s. 5d.

I have, &c.,

Edwd. Barnard.

[Sub-enclosure No. 1.]

Colonial Secretary Thomson to Mr. E. Barnard.

Sir,

Sydney, New South Wales, 3rd October, 1846.

A quantity of paper being required for papering the Ante and Drawing rooms of the New Government House in this Colony, I am directed by His Excellency the Governor to inform you that he has written for what is necessary, and desired that the account may be sent to you for payment, and to request therefore that you will, after seeing that the paper is duly forwarded, discharge the same, and provide for the freight. The quantity required, calculating the paper to be of the usual width of 20 inches, and allowing one fifth additional for matching the pattern and providing for casualties, is estimated at Six hundred yards; and the sum of Seventy pounds has been ordered to be paid into the Military Chest here, in order that you may obtain an equal Sum in England, to pay for the Paper, packing and freight.

I am further directed to request that you will obtain and forward to this Colony two Pier Glasses for the new Government House - of the dimensions and description specified in the enclosed copy of a letter addressed to me by the Colonial Architect. The expense of each Glass has been estimated at Forty five pounds, and the frame at ten Pounds, the total cost of both, including Packing, Case and freight at one Hundred and Twenty five Pounds, which sum has been ordered to be paid into the Military Chest in order that you may receive an equal Amount in England.

I have, &c,

E. Deas Thomson.

[Sub-enclosure No. 2.]

Mr. M. W. Lewis to Colonial Secretary Thomson.

Sir,


In attention to your Instructions relative to the Pier Glasses required for Specification of the New Government House, I do myself the honor to state the width of the two piers between the Windows being respectively four feet three inches, and four feet four required. inches the extreme width of the Frames must be confined to these dimensions, but should, in order to obtain the plates as wide as possible, be as narrow as the strength requisite for holding the Glass may be deemed sufficient; and, with respect to the height, the Architraves of the Windows being sixteen and a half feet from the floor to the top of the Slabs on which the Glasses will stand being three feet, I am of opinion that to obtain a good effect, the plates exclusive of the frames should be not less than nine or ten feet, and the top of the frame or carved work be irregular instead of straight.

I have, &c,

Mortimer W. Lewis, Col'l Archt.

[Enclosure No. 2.]

Under Secretary Stephen to Mr. E. Barnard.

Sir,

Downing Street, 24 April, 1847.

I have laid before Earl Grey your letter of the 17th Ulto., Letter in which you enclose a copy of a Communication from the Colonial Secretary to the Government of New South Wales, conveying to you the directions of the Governor to send out to that Colony some paper, which appears to have been already ordered and also to procure and send out two pier Glasses for the Government House, at the estimated cost of £99 17s. 5d., and you request Lord Grey's authority for complying with those requisitions.

In reply, I am directed to observe that the alteration which has taken place in the constitution of the Government of New South Wales, since the period when these instructions were framed, which
rendered it necessary that you should obtain the authority of the Secretary of State for every expenditure which you should incur as Agent for that Colony, has placed the control of the Colonial Finances exclusively within the power of the Local Legislature, and has in His Lordship's opinion virtually superseded those instructions.

Lord Grey therefore considers that it would not only be useless, but highly inexpedient that the Head of this Department should continue to sanction expenditure incurred under the authority of the Governor and Legislative Council of New South Wales, because there is no longer an Audit, in the course of which proof of such sanction would be required, and because the expression of that sanction involves the Secretary of State in a responsibility for expenditure which he has no power to forbid or to control, however useless or inexpedient he might consider it. For these reasons, Lord Grey can express no sanction or authority in regard to any requisition which you may receive from the Local Government of New South Wales, except in cases wherein the expense may be chargeable either on the British Treasury or on the Crown Revenue; and his Lordship will instruct the Governor to specify distinctly, whenever he may submit any requisition, the charge of which would be defrayed from either of those Sources.

I have, &c,

JAS. STEPHEN.

SIR CHARLES FITZROY TO EARL GREY.
(Despatch No. 97, per ship Ann Milne; acknowledged by earl Grey, 9th October, 1847.)

My Lord,

Government House, 27th April, 1847.

Remittance by In obedience to the instructions contained in Mr. Gladstone's Despatch, No. 11 of the 28th March, 1846, I have the honor to transmit a Bill of Exchange drawn upon the Court of Directors of the Bank of Australasia, London, for the sum of Forty three pounds, twelve shillings and two pence, being the balance of the amount of Fees on my Commission as Governor of this Colony, which it was not in the power of Her Majesty's Government to remit.

I have to apologise for the delay which has occurred in making this remittance; but, the matter being of a private nature, I had laid aside Mr. Gladstone's Despatch, and it has escaped my memory until the present time.

I have, &c,

CHS. A. FITZROY.

EARL GREY TO SIR CHARLES FITZROY.
(Despatch No. 140, per ship Sterling; acknowledged by Sir Charles Fitz Roy, 20th November, 1847.)

Sir,

Downing Street, 28 April, 1847.

Sir George Gipps' Despatch, No. 214 of the 18th December, 1845, was communicated to Mr. Moger with reference to the
claim of that Gentleman upon Mr. G. M. Slade, Clerk of the Bench at Moreton Bay; and I transmit to you a copy of a Letter from Mr. Moger upon the subject.

I am aware of the difficulty of exercising any interference on the part of the Government in the Adjustment of claims between Individuals arising out of private transactions; but, as it appears that this debt was created by the circumstances of Mr. Moger having become liable for the deficiencies of Mr. Slade as a Public Defaulter, it seems to me that Mr. Moger has an equitable claim to such assistance from the Government as it may be possible to render to him in this case.

You will, therefore, take care that the Sum of Fifty Pounds per annum is deducted from Mr. Slade's Salary in half yearly payments, as desired by Mr. Moger, and remitted to that Gentleman through Mr. Barnard, the Colonial Agent. That amount will be nearly equal to the annual payment which Mr. Slade would have been required to make in order to maintain the insurance, which he offered to effect on his life to secure the eventual liquidation of Mr. Moger's claim on him. I have, &c,

GREY.

[Enclosure.]

MR. G. MOGER TO UNDER SECRETARY HAWES.

Sir, Bath, 21 April, 1847.

With reference to the interview you kindly granted me on Saturday last, introduced by Lord Duncan, I beg to state the amount of Debt due to me from Mr. G. M. Slade of Moreton Bay, New South Wales, is Seven Hundred and Eighty Pounds which a copy of the accompanying letter, dated 23d June, 1845, fully proves. The account has been sent to Mr. Slade thro. the Colonial Office, the correctness of which he does not deny.

I would humbly ask that the sum of Fifty Pounds per Year be reserved from Mr. Slade's Salary and paid to me by half yearly payments, the period when these should be made, I leave entirely to you, only observing that I trust no future payment be made to Mr. Slade without the said deduction on my account.

I beg to express my best thanks for your kind attention and I have, &c,

[Sub-enclosure.] GEORGE MOGER.

[This was a copy of the despatch from lord Stanley to Sir George Gipps, dated 23rd June, 1845; see page 382, volume XXIV.]

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 141, per ship Sterling; acknowledged by Sir Charles Fitz Roy, 25th October, 1847.)

Sir, Downing Street, 28 April, 1847.

In transmitting to you the enclosed Copy of a Letter from the Secretary to the Board of Admiralty, I have to request that
you would furnish me with the information required by the Lord Commissioners as to the possibility of organizing a Depot at Sydney for supplying Coals to Her Majesty's Steam Vessels, and the probable Cost per Ton.

I am, &c.,

GREY.

[Enclosure.]

CAPTAIN HAMILTON TO UNDER SECRETARY STEPHEN.

Sir,

Admiralty, 20th April, 1847.

My Lords Commissioners of the Admiralty having been informed that Coal of a very good quality, and perfectly fit for the supply of Steamers, is to be procured both in New Zealand and in New South Wales, at a price very much below that which is charged for Coal sent out from this Country, I am commanded by their Lordships to request that you will move Earl Grey to direct enquiries to be made by the Governors of the above two Colonies, as to the probability of organizing a supply of Coals to form a Depot at Auckland and Sydney, and as to the probable cost per Ton, including the charge of such Checks upon delivery as shall be thought sufficient to secure the good quality of the Coal.

My Lords are informed that the Coals in Newcastle in New South Wales are used by all the Colonial Steamers plying upon the Coast, and that it can be bought at the Pit's mouth at 8s. 8d. pr. Ton and delivered at Auckland at 30s. pr. Ton, while the price of English Coal with Freight varies from £3 10s. to £4 10s. The subject, therefore, is of considerable importance; but, at the same time, My Lords are aware that the price of Colonial Coal will depend entirely upon the possibility of making arrangements for a continuous supply, as the price has varied at Sydney from 20s. to 60s. in case of a sudden demand; and it is upon this point more especially that their Lordships solicit Lord Grey's co-operation and advice.

I am, &c.,

W. A. B. HAMILTON.

Sir CHARLES FITZ ROY TO EARL GREY.

(Despach No. 98, per ship Ann Milne.)

My Lord,

Government House, 28th April, 1847.

I have the honor to acquaint your Lordship that, having communicated to the Speaker of the Legislative Council of this Colony your Lordship's Despatch, No. 40 of the 7th October last, stating that a few copies of Hansard's Parliamentary Debates could be procured from the Publishers at a reduced price, that Officer has requested me to express the thanks of the Legislative Council for your Lordship's considerate attention in respect to this matter, and to inform Your Lordship that a copy of the Work alluded to is already in the Library of the Council.

I have, &c.,

CHS. A. FITZ ROY.
FITZ ROY TO GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 99, per ship Ann Milne; acknowledged by earl Grey. 29th October, 1847.)

My Lord,

Government House, 29th April, 1847.

I do myself the honor to transmit to your Lordship as requested by the applicant, the accompanying Petition of Mr. Caswell, soliciting a further extent of Land than he has already obtained from the Colonial Government.

In doing so, I would beg to observe that Mr. Caswell is a Lieutenant on the Half pay of the Royal Navy, and that he emigrated to this Colony in the year 1829, bringing a Capital which the Colonial Government considered to give him a claim to 1,920 acres of land, according to the existing Regulations, and this extent he obtained; but Mr. Caswell subsequently received an additional 640 acres; these he claimed as a right, although they were accorded to him as a boon.

In the year 1837, Regulations were promulgated in the Colony, formed upon instructions from Her Majesty’s Government, by which Settlers, arriving as Mr. Caswell did under certain promises or alleged promises from Home, were authorised to receive additional Grants of land, not, however, exceeding the extent originally given to the individual. The Board or Commissioners, to whom the matter was referred, recommended that Mr. Caswell should have 2,560 acres, but Sir George Gipps considered that the secondary Grant of 640 acres before alluded to should be taken as an additional Grant in conformity with the rule laid down, and consequently awarded Mr. Caswell only 1,280 acres of land, in which he has been confirmed.

Mr. Caswell has since appealed against this decision, which, however, has been upheld by the Despatch of Lord Stanley No. 4 dated 7th January, 1843; and, in his present Petition, Mr. Caswell solicits a reconsideration of his case; but under all the circumstances I am not prepared to recommend to Your Lordship any revision of the former view taken in the matter.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

THE Memorial of Lieut-t. Wm. Caswell, R.N.

To His Excellency Sir Charles Augustus Fitzroy, Knight, Captain General and Commander in Chief of the Territory of New South Wales, and its Dependencies, and Vice Admiral of the same, etc., etc., etc.,

Humbly Sheweth,

That, In the year 1828 after a service of Twenty three years in Her Majesty’s Navy, He emigrated to this Colony with a family of two children, now increased to eight.
That, Previous to your Memorialist's departure, He received from the Admiralty their Circular, dated 11 of August, 1827.

That He also received from the Colonial Office, Downing Street, their Circular enclosing the Land Regulations of 1827.

That, On your Memorialist's Arrival in the Colony, he applied for a Maximum Grant of 2,560 Acres.

That Your Memorialist was referred to the Land Board to prove his Capital, and that, in pursuance of the Report of the Land Board, Governor Darling awarded him 1,920 Acres only which he received under protest.

That Your Memorialist protested against the Quantity, because his Commission was only valued by the Land Board at £500, while its true value was £1,800, which amount your Memorialist has already received from it in half pay, and, according to the calculations on Human Life, hopes a fair chance of receiving as much more.

That Subsequently Governor Darling allowed your Memorialist 50 Acres, and, as expressed in a Letter dated 9th December, 1830, No. 30/2506, "as part of his primary Grant."

That Your Memorialist frequently applied to Governor Darling to make good to him 2,560 Acres, to which he was entitled.

That Eventually on the eve of Governor Darling's departure he made a Minute ordering your Memorialist 590 Acres to complete his Primary Grant, which Minute is deposited in the Colonial Secretary's Office; and your Memorialist begs particularly to direct your Excellency's attention to it.

That Your Memorialist, in consequence of the Minute, was, by letters dated 21st Octr., 1831, and 21st of April, 1832, Nos. 31/2675 and 32/332, *desired to retain the same on the conditions of a Primary Grant.*

That Your Memorialist then laid out his Capital on the Land, with the view to the obtaining an Additional Grant for improvements, as promised in the Regulations of 1827, which were handed to him at Downing Street.

That, In the year 1838, your Memorialist applied with others, under the Regulations of 1826 and 1827, for an Additional Grant of 2,560 Acres for Improvements, as provided for and promised by the Regulations before alluded to.

That Your Memorialist was referred to the Commissioners of the Court of Claims, who were appointed to investigate the applications for Additional Grants.

That Your Memorialist proved his Claim fully before the Commissioners, who recommended that He should receive 2,560 Acres as an Additional Grant on the conditions of a Naval Officer.

That Your Memorialist was told by the Commissioners he had made the greatest Improvements then proved before them.

That Sir George Gipps without assigning any reasons allowed him 1,280 Acres only.

That Your Memorialist in vain endeavoured to have the serious injustice remedied.

That, In your Memorialist's former Memorial, he relied so entirely on the recommendation of the Commissioners, and the circumstances of his having received this 2,560 Acres on the conditions of a Primary Grant, that he did not make mention of having received 1,920 Acres under Protest, a circumstance which he submits is of such weight as to entitle the case of your Memorialist to further and serious consideration.
That Your Memorialist begs to represent to your Excellency that, in consequence of the Letters desiring him to receive and retain the Land on the Conditions of a Primary Grant, He was induced to lay out the whole of his Capital in Improvements, never doubting that the Government would give him the additional quantity promised on those conditions, and which is the only recompense he can receive for having such a large Capital, which might have been so much better invested for the benefit of his numerous family, had he not considered that the obtaining of Land might prove equally valuable to them hereafter.

That Your Memorialist, aware of your Excellency’s readiness to investigate all cases of injustice, earnestly claims your Excellency’s examination of this to your Memorialist most important case, having the fullest confidence that your Excellency will concur in the decision arrived at by the Commissioners, and order your Memorialist the Quantity of Land awarded by them.

And your Memorialist will ever pray.

WILLIAM CASWELL, L.R.N.

Balickera, Raymond Terrace, 24th March, 1847.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 143, per ship Sterling.)

Sir, Downing Street, 30 April, 1847.

I have received your Despatch, No. 41 of the 26th of October last, transmitting a Petition from Mr. Willoughby a Settler at Port Phillip, praying for employment under the Colonial Government.

That application is grounded on the faith of Mr. Willoughby having married the Widow of Mr. Bateman,* one of the first explorers of Port Phillip.

I must leave this Application to be considered by you; but I have, at the same time, to observe that I cannot perceive that the Circumstance in which he rests gives the Applicant any special claim on the Government.

I am, &c,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 144, per ship Sterling; acknowledged by Sir Charles Fitz Roy, 9th September, 1847.)

Sir, Downing Street, 30 April, 1847.

I have received your Despatch of the 29th October, 1846, No. 44, recommending a Compliance with an Address in which the Legislative Council of New South Wales have requested you to place on the Estimates for the year 1847 certain Sums as a Compensation to the holders of the Offices, which were abolished in the year 1843 and 1844.

On referring to the preceding Correspondence, I find that your immediate Predecessor submitted to Lord Stanley the

* Note 28.
directly contrary advice, and that his Lordship sanctioned and adopted Sir George Gipps's opinion. I find also that this opinion rested on no light or insignificant grounds; but, on the belief, common both to Lord Stanley and to Sir George Gipps, that to make such a concession would render it impossible to maintain one of the most important provisions of the Constitutional Act.

Your Despatch of the 29th October contains no reference to this very grave difficulty. It is a simple expression of your own judgment that Sir George Gipps and Lord Stanley were in error. But you do not afford me any explanation of the nature of the mistake which you ascribe to them.

It is impossible for me to subscribe to advice opposed not only to such Authorities, but to the arguments by which they were guided, when you offer that Advice unaccompanied by any Statement of fact or any reasoning in disproof of the conclusion to which you are opposed. I am perfectly ready to resume the Consideration of the subject. But Lord Stanley's Instruction must be taken as your guide for the present, and until some further explanation shall have convinced me that his Lordship's judgment on this question was erroneous.

I am, &c,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 145, per ship Sterling; acknowledged by Sir Charles Fitz Roy, 10th September, 1847.)

Sir,

Downing Street, 30 April, 1847.

In your Despatch dated the 6th of November, 1846, No. 54, containing a review of the proceedings of the Legislature of New South Wales during their last Session, occur some passages, which I will transcribe, in order that the remarks for which they appear to me to call may be less liable to misapprehension. Those passages are as follows:

"The most important change has consisted in submitting the Estimates of the Expenses for the Administration of Justice and for certain other Services, for which permanent Appropriations had been made by Local Acts to the consideration of the Council."

"I have also to inform you that, on receiving an Address from the Council requesting me to place before them the whole of the Items charged on Schedule A for the Expenses of the Administration of Justice, in consequence of my having found it necessary to ask for a Supplement on the Sum of £20,000 to cover the additional amount required, I did not hesitate to cause the necessary Estimate to be laid before them; The Council having expressly declared that, in asserting their right, under these circumstances, to review the whole of the Items of the Schedule,
they had no intention of proposing alterations in any of the Salaries to which the faith of Her Majesty's Government had already been pledged."

"I have the gratification to announce that, in fulfilment of their assurance, not only did the Council abstain from proposing any alterations in the Salaries of the Offices referred to, but voted the whole Amount of the Supplement asked for without demur or alteration of any kind. I considered it my duty to propose this Supplement to the Council at the present time in order to establish the principle for future guidance; but I am happy to say that the estimated Balance, which will remain unexpeended at the close of the present year on Schedule B, will, I have reason to believe, place the necessary Funds at my disposal to meet the Supplement; and I shall therefore not be required to avail myself of the liberality of the Council, a circumstance which I had the pleasure to announce to them in my Closing Address."

It appears, from the preceding statements, that the application object of which you made for a Supplementary Vote, was not made in submission to any extreme pressure for Money, since you did not find it necessary to avail yourself of the Vote when you had obtained it; but that your real object was to establish a general principle for future observance. That principle, if I rightly gather your meaning, was that the Legislative Council had an absolute right to appropriate the Fund set apart by Parliament for the Administration of Justice throughout the Colony, as often as application may be made to them for any Money in aid of that Fund.

If this concession had been made to avert the pressure of any Financial difficulty, however serious, Her Majesty could not, even in that case, have been advised to sanction it. The 34th and the 37th Clauses of the Statute, 5th and 6th Victoria, Cap. 76, withdraw from the control of the Legislative Council, and vest in Her Majesty, the Fund appropriated by the Schedule marked A annexed to that Statute. There can be no doubt that such is the effect of this Statute, or that such was the design of Parliament. I should have supposed it superfluous to make any formal protest against the opinion that the Legislature of any British Colony is entitled to set aside any part of an Act of Parliament, and more especially of the very Act under the authority of which the Legislature is constituted.

In the present case, not only was there a total absence of any such Financial Difficulty, as I have supposed; but the Fund, selected by you for the purpose of ascertaining the right which you ascribe to the Legislative Council, was precisely that Fund over which it is least desirable that they should exercise any
Disapproval of submission of estimates for administration of justice to legislative council.

Possible disallowance of appropriation act.

Instructions for strict observance of statutory provisions re administration of justice.

Possible disallowance of appropriation act.

Control. It is appropriated for the administration of Justice throughout the Colony; and Parliament, for the most obvious and weighty reasons, judged it right to place the sums devoted to that purpose beyond the management of a Popular Legislature, actuated, as such a Body must always to some extent be, by the fluctuating opinions and feelings of their Constituents.

Your Despatch leaves me in great uncertainty as to the extent to which you have thus abandoned to the control of the Legislative Council, the Funds which Parliament placed at the disposal of The Queen, and under the audit of The Lords Commissioners of The Treasury. If, however, I am to understand that the Judges' Salaries have, with your consent, been made the subject of an Annual Grant, it will much enhance the regret with which I have read your account of this proceeding. I, however, do not attempt to enter upon the field of mere conjecture as to the details of what may have occurred. The concession, whether more or less extensive, appears to me to have been contrary to Law and indefensible.

If, when the transcript of the Ordinance shall reach me, I shall find it really to comprize an Appropriation by the Legislative Council of any part of the Funds set apart by Parliament for defraying the charge of the Civil List, it will be my painful but inevitable duty to advise Her Majesty to disallow it.

With regard to the future, I am to lay upon you the most precise injunction to adhere to the terms of the Statute, 5th and 6th Victoria, Cap. 76, whatever may be the difficulties in which the observance of that Law may involve you. If any deficiency of Funds for the Administration of Justice should really occur, and if the Legislative Council shall refuse to make good that deficiency, except on the condition of your again concurring with them in an infringement of the Act of Parliament from which they derive their Powers, you will refuse to accept the aid preferred on such terms, and will, either by retrenchments or by postponing such Judicial services as may be the least important, confine your Expenditure under that Head within the limits of the Civil List.

I have, &c.

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 146, per ship Sterling; acknowledged by Sir Charles Fitz Roy, 19th January, 1848.)

Sir,

Downing Street, 30 April, 1847.

I transmit to you herewith the Copy of a letter, which has been addressed to me by Mr. Serjeant Stephen, bringing under my consideration the case of Mr. Sidney Stephen of Melbourne, Port Phillip, who, after practising as a Barrister for several
years in New South Wales and Van Diemen's Land, was, by an order of the Supreme Court of the latter Colony in December, 1842, disbarred upon a charge, unfounded as it now appears, of professional misconduct, which Order has been, however, reversed on Appeal to Her Majesty in Council.

In consideration of the hardship of Mr. Stephen's case, I have to desire that you will take an opportunity of offering to him any Public employment, which may become vacant at Port Phillip, and for which he may be properly qualified.

I have, &c.,

[Enclosure.]

GREY.

MR. SERJEANT STEPHEN TO EARL GREY.

My Lord,

I take the liberty of addressing Your Lordship, as head of the Colonial Department, on the case of my Cousin Sidney Stephen, late of Van Diemen's Land, and now of Melbourne, Port Phillip, Barrister at Law. Being one of his nearest relatives in this Country, and having lately received a letter from him, in which he consults me and looks to my assistance in the affair to which the present application relates, I conceive myself authorized to act in his behalf in thus laying his case before Your Lordship.

Mr. Sidney Stephen, having been called to the Bar in England by the Society of Lincoln's Inn, went out many years ago to New South Wales, and, after practising at the Bar there for a considerable period, proceeded in the year 1839 to Van Diemen's Land, where he continued to exercise his profession till 1842; when, by an Order of the Supreme Court dated 17 Decr. in that year, he was disbarred upon a charge (entirely unfounded, as it now appears) of professional misconduct.

The consequence was utter ruin to himself and his family, consisting of a Wife and 7 children dependent upon him for support. All that remained was to appeal to H.M. in Council, a step which was accordingly taken; and, after a lapse of more than 4 years, viz., on 29th March last, judgment was given in the Appeal, reversing the order of the Court below.

I enclose for Your Lordship's information the printed papers in this Appeal, and a copy of the judgment of the Judicial Committee, as supplied to me by the Appellant's Solicitor; from which it will appear that that Court came unanimously to a very clear opinion Exoneration of that there was no ground whatever for the sentence, and that there was nothing whatever in the whole case, casting any imputation upon him, and that he left the Court with his private character and his professional conduct altogether unimpeached.

In the mean time, Mr. Stephen has been struggling, as he best could, with the discredit and penury inflicted by this Sentence. Compelled by its effects to leave Van Diemen's Land, he removed about two years ago to Melbourne, Port Phillip, at the Bar of which Settlement he obtained, with some difficulty, a provisional admission until his Appeal should be decided; but the income hitherto derived from his practice there has been inadequate (as he assures me) to the wants of his family, and he has been unable, in consequence of the disgrace at Van Diemen's Land, to solicit with effect such public employments as have fallen vacant.
I submit, with the greatest respect and deference, that under these circumstances Mr. Stephen has a strong equitable claim to the favorable consideration of Her Majesty’s Government.

The persons appointed to administer justice to Her Majesty’s Subjects in Van Diemen’s Land have been in effect declared by the Judicial Committee to have grossly miscarried in the exercise of that duty, as regards Mr. Stephen; and, though I wish to speak with temperance of their conduct towards him, I may be permitted to remark that they are answerable in this case for the demerits of the accusation, as well as of the Sentence (the proceedings against Mr. Stephen having been commenced by them *mero motu* and not on the suggestion of any other prosecutor); and that on the Appeal they deemed it expedient to abstain from all attempt to justify what they had done, having declined to avail themselves of an opportunity afforded them by the Judicial Committee to transmit a Statement of the grounds on which they had proceeded.

On the other hand, it is obvious that the reversal of the order, though involving the restoration of Mr. Stephen to his privileges as a Barrister for the future, affords no compensation to him for the injury sustained, and that no such compensation can be claimed from the Judges themselves, who are sheltered by their position from any personal liability for the consequences of their Sentence.

I am induced, therefore, to hope that Your Lordship may think it consistent with your Official duty (as no other species of relief can be suggested) to express to the Local Authorities at Port Phillip that Her Majesty’s Government would view with approbation the Appointment of Mr. Stephen to any Office, for which he might be thought duly qualified; and I may add that such an intimation would be the more likely to be effectual, because, at former periods and before the unmerited disgrace at Van Diemen’s Land, Mr. Stephen had been in fact entrusted (as I understand) with public Employment by the local Authorities in Australia and had discharged it with zeal and ability.

Trusting to the indulgence of Your Lordship, if I have failed in any point of form in calling Your Lordship’s attention in the manner I have done to this case of extraordinary hardship.

I remain, &c.,

HENRY STEPHEN,

Serjeant at Law, and Commr. of Bankruptcy for the Bristol District.

12 York Crescent, Clifton Bristol, 15 April, 1847.

[Sub-enclosure.]

JUDGMENT OF PRIVY COUNCIL.

At a Meeting of the Judicial Committee of Her Majesty’s Most Honorable Privy Council, Council Office, Whitehall. Monday, 29th March, 1847.


In the matter of Sydney Stephen, Esq.

Copy from Mr. Gurney’s Shorthand notes, as corrected by one of their Lordships.

JUDGMENT.

Lord Brougham,

Their Lordships heard this case at great length. It is needless to go into the particulars. We gave great attention to the whole of the Documents and the whole of the matters alleged, the more so, as it was *ex parte*; and we endeavoured to discover upon what grounds this very severe sentence had been inflicted upon a Barrister and Attorney (for he is both) so long ago unhappily as the year 1842, so that,
before the result of their Lordships' Judgment can do him any good, five years will have elapsed of his suspension. This is a most painful consideration; for their Lordships have unanimously come to a very clear opinion that there was no ground whatever for the sentence; that being the case, it is unnecessary for me to go further, but to express, what we all feel, very great concern that he should have been kept out of his Professional rights so long, his character to a certain degree suffering. No words shall escape me, complaining of the severe language used by the Court, because if the parties felt, what they seem to have done, that they have of their own accord and free will, have misrepresented the case to the Court by making use of language, not dictated by any fear of any of the Judges, but only to prejudice me, the whole proceeding is a mockery, a perfect farce, and his calling himself the Plaintiff in point of truth is shocking; it is dreadful in morals and conscience, it is shocking.

We lament that such expressions should have dropped from the learned Judges, because they tend to injure the character of an innocent and injured man, and because serving the case fully we cannot entertain the least doubt that there is nothing whatever in the case to support even the lightest of these expressions. The grievance in Mr. Stephen's conduct, which the Judges seem to have throughout felt strongly, and which gave them a prejudice against him, was unprofessional conduct in taking a Bill of Exchange for £12 from a Client for fees as Counsel. Now their Honors ought to have recollected that, whatever may be the case of a Barrister, Mr. Stephen was an Attorney, a practising Attorney, as well as a Barrister; and, with respect to what is said of the Bargain and Settlement of the course behind the back of the Defendant's Attorney that he settled the action, and this Settlement could not damnify that Attorney in any way. As to the other grounds, that he was guilty of misconduct because he took a bill for Fees as if he had a claim, and because he brought the Suit in the name of Mr. Fisher or of another person, instead of his own (which observe he had a perfect right to do upon the Bill, if he had the holder) in the first place; it must be remembered that he could not be aware of anything very gross or flagrant in claiming the fees, for it is only upon his own confession that the Court discovered the fact of the Bill being for fees; it was a Bill, and no proof of consideration was required to support the Action upon it; consequently he was not bound to state what the consideration was. Then the Judges say that, by setting up Mr. Fisher instead of himself, he prevented the equities between the parties to the Bill from enuring to the Defendant's benefit; but the fact is that not only the Action was brought, but the transfer was made, after the Bill became due, and therefore the equities enured between Plaintiff and Defendant. However it is needless to go into the case; all these things were fully corrected before.

It is very much to be lamented that the Court took the course they did below in this case. Without pronouncing any censure upon the Judges for the injurious language which they used, or the mistaken course which they pursued, justice to Mr. Stephen's character compels their Lordships to declare that there is nothing whatever in the whole case casting an imputation upon him, and that he leaves the Court with his private character and his professional conduct altogether unimpeached.

Reverse the whole orders of the Court, and direct him to be restored.

[Fitz Roy to Grey.]

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 100, per ship Ann Milne; acknowledged by Earl Grey, 19th October, 1847.)

My Lord,

Government House, 30th April, 1847.

I have the honor to acknowledge the receipt of Your Lordship's Despatches "Military," Nos. 2 and 3, of the 24th and 30th November, communicating to me the determination of Her Majesty's Government to increase the Military Force in New Zealand with the least possible delay, and instructing me to make immediate arrangements with the Officer Commanding the Troops in this Colony for sending the whole of the disposable force now serving here to Wellington with the utmost practicable despatch.

[The printed case for the appellant was annexed.]
With reference to these instructions, I beg to transmit copies of communications, which have passed between Lieut. General Sir Maurice O'Connell and myself on the subject, by which your Lordship will perceive that the Lieut. General proposes, as soon as transport can be procured, to send the whole of the 58th Regt. now in this Colony to New Zealand, retaining here the 99th Regiment.

This arrangement will increase the force in New Zealand (including Serjeants and Drummers) to 1,935 men of the Regular Troops exclusive of Artillery and Marines, and will leave New South Wales with only 830 Rank and File, or, with Serjeants and Drummers, 887 men, a number that will not be more than sufficient for the duties which are absolutely required to be performed by the Military. These duties will be the protection of Sydney, the Convict Guards over the Stockades at Blackheath and Newcastle, a Detachment at Melbourne, lately increased to 100 men on the earnest representation of Mr. La Trobe, and rendered necessary by the occasional religious Riots between the lower orders of the Catholic and Protestant portion of that Town, and another Detachment at Moreton Bay which it is advisable to keep there to prevent the aggressions of the Blacks who are numerous in that vicinity, and have on several occasions shown a disposition to hostility, which, I am of opinion, it is more desirable to keep in check by a small Military force than to run the chance of a collision between these people and the Settlers, and the consequent retaliatory proceedings which would ensue.

The Detachments hitherto stationed at Bathurst and Port Macquarie have been directed to be immediately withdrawn, that at the latter place being no longer required as the Convict Establishment there has been broken up.

In case your Lordship should desire an explanation of my reasons for considering the presence of a Military force of not less than 600 Men in Sydney and its immediate vicinity to be indispensable, I beg to observe that this number will not be more than sufficient to furnish the necessary guards over the Commissariat and Treasury, and those over the Convicts in the Wolmolloo Stockade, and at Cockatoo Island and the Magazine on Goat Island. Moreover, although the lower classes in Sydney are generally well behaved and orderly, yet your Lordship must be aware that there are many desperate ruffians amongst its population; and I am very much disposed to believe the knowledge that there is a strong Military force at hand has much to do with the preservation of the public peace. I am informed that, on more than one occasion, Mobs of the most turbulent character have assembled which it has been found totally beyond the power
of the local Police to overawe, and nothing but the interference of the Military has dispersed.

I believe that there is every disposition on the part of the Legislative Council to maintain a respectable Police force in Sydney and throughout the Colony; but unfortunately the present high price of labour renders this impracticable; when men of the class from which such a force would be formed can obtain high wages as labourers or mechanics, leaving them a considerable portion of their time at their own disposal, it is not to be expected that they will enter a service, which is irksome in its duties, and which subjects them to the restraints of discipline. Wherefore the Sydney Police, although adequate to the ordinary duties required of it, is not, and cannot be made as efficient as it ought to be.

I may mention incidentally that such is the demand for labour that no Soldier stationed in this Colony finds the slightest difficulty in obtaining a loan of money for the purpose of purchasing his discharge; and this practice has been carried to such an extent as to cause serious inconvenience to the service, and complaints on the part of the Commanding Officers of Regiments.

It is right that I should also mention that, exclusive of the Specie in the Colonial Treasury and Military Chest, I am credibly informed that there are nearly seven hundred Thousand Pounds in Specie in the different Banks in Sydney; and I need not point out to Your Lordship the inducement that the knowledge of this fact would be for plunder, should the Mob of Sydney ever get beyond the control of the Executive Power.

Under these circumstances, I trust your Lordship will believe that I have not wished to retain a larger force in the Colony than is imperatively necessary.

CHS. A. FITZ ROY.

[Enclosure No. 1.]

SIR MAURICE O'CONNELL TO SIR CHARLES FITZ ROY.

Sir,
Head Quarters, Sydney, 8th April, 1847.

I have the honor to submit, for the consideration of Your Excellency, copy of the Orders I have received from the Horse Guards to increase the Force at New Zealand to 2,000 men from the Corps stationed in this Colony, and to state that, to carry this order into effect, it will be necessary to detach the whole of the 58th Regiment to that Colony.

A state of the 99th Regiment, the only Corps that will remain in New South Wales after the departure of the 58th Regiment, is herewith enclosed; and I request to have Your Excellency's opinion, whether you consider this force to be sufficient for the service of Sydney and of the few outstations, where your Excellency may desire to have small Detachments stationed.

I have, &c,
M. C. O'CONNELL, Lt. General.
Instructions re transfer of military to New Zealand.

Despatches transmitted.

Letter acknowledged.

Lord Fitz Roy Somerset to Sir Maurice O'Connell.

1847.
30 April.

Instructions re transfer of military to New Zealand.

Despatches transmitted.

Letter acknowledged.

[Sub-enclosure No. 1.]

LORD FITZ ROY SOMERSET TO SIR MAURICE O'CONNELL.

Sir, Horse Guards, 27th November, 1846.

In transmitting for your information and guidance the enclosed copy of a letter from Earl Grey (with its accompanying enclosures) addressed to the Commander in Chief, I am directed to call your early and serious attention to the whole of the subject matter contained in each of these documents, but more especially to those points in the letter to the Governor of New South Wales (Sir Charles Fitz Roy) which relates more exclusively to the Force under your immediate command, and which may be thus stated.

To increase the Military Force in New Zealand with the least possible delay, and for that object to make immediate arrangements for sending there with the utmost practicable dispatch the whole of the disposable Force in New South Wales, the amount of which Earl Grey has calculated to be at least 900 men. His Lordship considering that, for the reasons stated in his letter, there is no longer the necessity which some years ago existed for maintaining a considerable Military Force to guard against the risk of an attempt to rise on the part of the Convicts, observing also that, with the exception of the Force at Sydney, the Troops are broken up into small detachments and obviously performing duties more analogous to those of a Police Corps than of a part of Her Majesty's regular Army, and therefore it is only reasonable that the Colonists should be called upon to provide for the formation of an adequate force of Police; or, if necessary, of Militia; but that under no circumstances is any delay to be permitted in sending to New Zealand the Force above named, nor is the arrangement for sending the 96th Regiment to India to be disturbed.

This brief transcript of the more general instructions from Earl Grey to the Governor is therein more specifically detailed as relating exclusively to Her Majesty's Military Service; but the Duke of Wellington especially enjoins you to give your most cordial and zealous support to the Governor in his endeavours to carry into effect every part of these instructions. His Grace also further desires that you will take the earliest opportunity of impressing upon the Officer Commanding Her Majesty's Force in New Zealand that it is an essential part of his public duty to afford the most useful and effective assistance in his power to the Governor, in the direction and management of all and every part of the detailed instructions transmitted to him by the Secretary of State.

You will be pleased to acknowledge the receipt of this letter by the earliest opportunity, and favor me, for the information of the Commander in Chief, with such observations upon the matter contained in it as, upon an attentive consideration of the whole subject, it may in your opinion be useful for His Grace to be acquainted with.

I have, Sec.,
FITZ ROY SOMERSET.

[Sub-enclosure No. 2.]

EARL GREY TO DUKE OF WELLINGTON.

My Lord Duke,
Downing Street, 24th November, 1846.

Referring to the letter which I received from Your Grace, under date the 31st Ultimo, and to its enclosures upon the subject of the Military Establishment for New Zealand, I do myself the honor to transmit to your Grace copies of three Despatches,* which I have addressed to the Governor of New South Wales and to the Lieutenant Governor of New Zealand, explanatory of the arrangements which it has appeared to Her Majesty's Government to be expedient to adopt with a view to the protection and safety of this last Colony; and I am at this moment to Your Grace the Queen's Commands that you give the necessary directions to the Lieutenant General commanding in New South Wales to transfer the disposable Troops in that Colony to New Zealand to the extent proposed.

I beg leave to add that it appears to me to be desirable that such directions as your Grace may address to that Officer should be sent by the Vessel appointed to sail from hence on the last day of this month.

I have, etc.,
GREY.

[Enclosure No. 2.]

SIR CHARLES FITZ ROY TO SIR MAURICE O'CONNELL.

Sir, Government House, Parramatta, 14th April, 1847.

I have the honor to acknowledge the receipt of Your Excellency's letter of the 8th instant, submitting for my consideration the Orders you have received from the Horse Guards to increase the Force at New Zealand to 2,000 men, together with the arrangements which Your Excellency proposes for enabling you to carry these orders into effect.

* Marginal note.—24th Novr., 1846.
In reply, I beg to state that, according to the Return enclosed in Your Excellency's letter, it would appear that, when the whole of the 99th Regiment is collected in this Colony, its strength will amount to Eight hundred and twenty nine Rank and File. This Force, I am disposed to think, will be sufficient for the service of Sydney and the few out Stations which it will be necessary to keep up, namely, Melbourne, the Stockades at Blackheath and Newcastle and Moreton Bay. The Detachments at Bathurst and Port Macquarie can, without the slightest inconvenience, be forthwith dispensed with, as well perhaps as a portion of the Detachment at Newcastle; but I consider that it is absolutely necessary (and I think your Excellency's experience will induce you to coincide with me in this opinion) that the Force stationed in Sydney, or within easy march of it, should not be less than six hundred Rank and File. I, therefore, trust your Excellency will not take measures for the departure of the 58th Regiment to New Zealand, until the return of the Detachments of the 99th Regiment from that Colony and from North Australia. The new Settlement recently established in that portion of New Holland, Your Excellency is doubtless aware, is to be immediately broken up.

I have, &c,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 147, per ship Eleanor Lancaster; acknowledged by Sir Charles Fitz Roy, 28th October, 1847.)

Sir,

Downing Street, 4 May, 1847.

Her Majesty's Government have for some time past contemplated the reduction of the whole of the Establishment which has hitherto been maintained in New South Wales for the management and control of the comparatively small number of Convicts remaining in the Colony on the hands of the Government.

I transmit herewith, for your information and guidance, copies of a correspondence on this Subject with the Board of Treasury.

It is unnecessary that I should attempt to furnish you with any detailed instructions on this subject. You will place yourself in communication with the Lieutenant Governor of Van D. Land, and concert with him such measures as may be necessary for carrying that arrangement into effect, with as little delay as possible, by transferring to that Colony, under the authority of the Act, II Geo. 4, Cap. 39, Sec. 4, those of the Convicts to whom Tickets of leave or Conditional pardons cannot properly be granted. Those of the Officers belonging to the Convict Establishment in New South Wales, whose Services will be no longer required, and who may be employed in Van D. Land, will be transferred to the Convict Department in that Colony, in order to prevent, as far as possible, the dismissal of Officers in such manner as to entitle them to prefer claims for retired Allowances. The Lords Commissioners of the Treasury will direct the necessary steps to be taken for reducing the Commissariat, Ordnance
and Army Medical Establishments in New South Wales, to such a scale as may be commensurate with the amount of the Military Force and the usual requirements of the Military Service on that Station.

You will further perceive that, in consideration of the circumstances already pointed out to you in my Despatch, No. 101 of the 27th February last, it will now be necessary to adopt some system of punishment, within New S. Wales, for those Colonial Convicts who would formerly have been sentenced to transportation; and, with reference also to the number of Convictions which may for some time to come be anticipated in a Society which contains, to so great an extent, the remains of the Convict population, Her Majesty's Government are prepared to allow the Colony the use of the Buildings belonging to the present Convict Establishment, for the reception of Colonial Criminals, except in so far as those Buildings, or the Sites which they occupy, may be in any respect eligible for and applicable to Army Services, or likely to become so. On that subject, reports will be called for through the proper Officers.

You will also take care to direct the transfer to Van Diemen's Land, with the Convicts, of all serviceable Clothing, Stores, or other articles appertaining to the Convict Service in New South Wales.

I have, &c.,

GREY.

[Enclosure No. 1.]

UNDER SECRETARY STEPHEN TO MR. C. E. TREVELYAN.

Sir,

Downing Street, 31st March, 1847.

I have laid before Earl Grey your letter of the 15th Instant, enclosing a copy of the Estimate received from the Officer in charge of the Commissariat in New South Wales of the probable expense to be incurred for the Convict and other miscellaneous Services in that Colony in the year 1847-8.

I am directed to request that you will inform the Lords Commissioners of the Treasury that the examination of that return confirms Lord Grey in the opinion, expressed in my letter to you of the 5th Instant, of the expediency of reducing with the least possible delay the whole of the expensive establishment, which is now maintained in New South Wales for the management and control of the comparatively small number of Convicts remaining in that Colony.

Lord Grey, therefore, proposes to direct the transfer to Van Diemen's Land of those Convicts to whom Tickets of Leave or Conditional Pardons cannot properly be granted.

Lord Grey apprehends that, by removing those Convicts to the larger Establishment in Van Diemen's Land, a considerable expense will be saved to the British Treasury; for, although this addition to the number of Convicts in Van Diemen's Land would of course add in some degree to the expense of the Convict Establishment in that Colony, and so far diminish the anticipated saving in the cost of that Establishment, the proposed arrangement will effect a more than proportionate saving in the General Estimate for Convict Services.
Lord Grey would, therefore, suggest to the Lords Commissioners of the Treasury the expediency of sending such Instructions as may be necessary for reducing the Commissariat Department in New South Wales as soon as these arrangements shall have been carried into effect.

The Governor of New South Wales has already been informed that neither the Settlement at Norfolk Island nor the Colony of Van Diemen's Land are any longer available for the reception of Convicts transported from New South Wales, and that it would, therefore, be necessary to adopt effective means for the punishment within the Colony of the Criminals who, according to the practice hitherto prevailing, would have been sentenced to Transportation. Considering the peculiar composition of the Society of New South Wales, and the number of Convictions which may for some time to come be anticipated in a Colony, the Population of which is constituted to so considerable extent from the remains of the Convict Class, Lord Grey would propose, with the concurrence of the Lords of the Treasury, to allow the Colony the use of the Buildings belonging to the present Convict Establishment.

When Lord Grey shall have received the decision of the Lords Commissioners of the Treasury on this point, he will address the proposed Instructions to the respective Governors of New South Wales and Van Diemen's Land.

I have, &c.,

J. STEPHEN.

[Enclosure No. 2.]

MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.

Sir,

Treasury Chambers, 21st April, 1847.

In reply to Your communication of the 31st Ultimo, I am commanded by the Lords Commissioners of Her Majesty's Treasury to acquaint you for the information of Earl Grey that my Lords entirely concur in opinion with His Lordship as to the expediency of making such arrangements for the transfer without delay to Van Diemen's Land of any Convicts remaining under penal discipline at New South Wales, as will admit of the reduction of the whole of the Establishment maintained in this last mentioned Colony for purposes connected with the Convict service; and My Lords will be fully prepared, upon being apprized that Instructions to the effect above adverted to have been given by Lord Grey, to cause the requisite steps to be taken for reducing the Commissariat, Ordnance and Army Medical Establishments in New South Wales to such Scale as may be commensurate with the amount of the Military Force and the usual requirements of the Military Service on the Station.

I am at the same time to request, with reference to the observations in your letter respecting the addition it may probably be requisite to make to the Establishments at Van Diemen's Land on the removal of the Convicts from New South Wales, that you will recall Lord Grey's attention to the suggestion in the communication from this Department of 18th March, 1843, regarding the transfer to Van Diemen's Land of Convict Officers whose Services might no longer be required in New South Wales; and that you will move His Lordship to direct such arrangements in this respect to be adopted on the present occasion as may prevent as far as possible the dismissal of parties belonging to the Establishment in New South Wales, in such manner as would entitle them to prefer claims for Retired Allowance.
1847.
4 May.
Convict buildings for reception of colonial convicts.

Convict stores to be transferred to Tasmania.

I am also to request that you will state to Lord Grey that, in consideration of the peculiar circumstances to which His Lordship has adverted, My Lords would not object to allow the Colony the use of the Buildings belonging to the present Convict Establishment for the reception of Colonial Criminals except in so far as these Buildings, or the Sites they occupy, may be in any respect eligible for and applicable to Army Services, or likely to become so. But, in order to ascertain in what cases it would be advisable they should be reserved for this purpose, My Lords conceive it would be desirable that Reports from the Officers of the Ordnance and Army Medical Departments, and of the Commissariat through the Officer Commanding the Troops, should be called for.

You will likewise suggest to Lord Grey that directions should be given for the transfer to Van Diemen’s Land with the Convicts of all serviceable clothing, Stores or other Articles appertaining to the Convict Service in New South Wales.

I am, &c,
C. E. TREVELYAN.

11 May.
Petition transmitted from A. Elyard.

Report on claims of A. Elyard for losses as marshal of vice-admiralty court.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 101, per ship Honduras; acknowledged by earl Grey, 20th March, 1848.)

My Lord,

Government House, 11th May, 1847.

I do myself the honor to transmit to Your Lordship, for the favorable consideration of Her Majesty’s Government, the accompanying Petition from Mr. Alfred Elyard, the Chief Clerk of the Supreme Court of this Colony.

In illustration of the case detailed at length in the Petition, I may state to Your Lordship that Mr. Elyard was regularly appointed by my Predecessor to be Marshal of the Vice Admiralty Court of New South Wales, the practice of which Court is regulated by an Order* of His late Majesty in Council, made in pursuance of the Act of Parliament 2d William IV, Cap. 51.

In obedience to the practice of the Court thus determined, Mr. Elyard was called upon in his capacity of Marshal to arrest the ship “Caroline,” and to retain possession of her until the Suit was judicially determined.

When this had been done, the Marshal, as usual, applied to the Proctor who had instituted the case for his regulated fees; and, failing to obtain them on application, he entered an Action at Law for their recovery, which resulted in a decision of the full Court to the effect, that the Proctor was not liable, and that the Marshal must seek his remedy against the Promonvent or party at whose instance the suit had been instituted in the Vice Admiralty Court.

It is asserted in Mr. Elvyard’s Petition (and I have no reason to question its accuracy) that the proceedings in the Vice

* Marginal note.—27th June, 1832.
Admiralty Court are conducted by the Proctors of the Court; that all fees payable to Officers of the Court have hitherto been paid by such Proctors, who have always been considered the responsible parties, and are virtually the only persons to whom the Officers of the Court can look for payment, as the parties to the suit are generally unknown to such Officers, and that it is impossible to recover the fees from these persons who are in most instances (as in this) Sailors suing for Wages, and who, when the Marshal’s fees can be demanded, have either gone to parts beyond the Seas, or, if still in the Colony, have not the means of paying them.

Thus, then, Mr. Elyard, in executing a process of the Vice Admiralty Court, which the Chief Justice certifies he was bound to obey, having no option in the matter, has incurred a heavy pecuniary loss and is evidently left without any remedy; and your Lordship may remark there are features in this case which in a peculiar manner aggravates the loss; the first is that the Marshal as such receives no Salary, but is remunerated entirely by the authorised fees of Court, and, secondly, a large proportion of the sum sought to have been recovered was actually money paid by him to the keeper or person left in possession of the ship.

Under all the circumstances of the case, I beg to add my support to the recommendation of Sir Alfred Stephen, that Mr. Elyard should have made good to him the loss entailed on him in the performance of his duty out of any savings that may be effected in the sums appropriated to the Services enumerated in Schedule B, annexed to the enactment 5 and 6 Victoria, Cap. 76.

I have, &c,

Chs. A. Fitz Roy.

[Enclosure.]

The Humble Petition of Alfred Elyard of Sydney, late Marshal of the Vice Admiralty Court,

To His Excellency Sir Charles Augustus Fitz Roy, Knight, Companion of the Royal Hanoverian Guelphic Order, Captain General and Governor in Chief of the Colony of New South Wales and its Dependencies and Vice Admiral of the same, etc., etc., etc.,

Sheweth,

That your Petitioner was, by a Commission under the hand of His Excellency Sir George Gipps, the late Governor of New South Wales, and under the seal of the Colony, bearing date the 18th day of May, 1840, appointed Marshal of the Vice Admiralty Court at New South Wales, and acted as Marshal of the said Court from the date of the said Commission until the 18th day of February last past.

That, by the act of Parliament, 2 William 4th, Chapter 51, Section 1, His Majesty with the Advice of His Privy Council is empowered under certain restrictions mentioned in the said Act from
1847.
11 May.

Petition of A. Elyard for compensation for losses as marshal of vice-admiralty court.

time to time to make and ordain such Rules and Regulations as shall be deemed expedient, touching the practice to be observed in Suits and Proceedings in the several Courts of Vice Admiralty, then or thereafter to be established in any of His Majesty's Possessions abroad, and likewise from time to time to make, ordain and establish Tables of Fees to be taken or received by the Judges, Officers and Practitioners in the said Courts for all acts to be done therein.

That His then Majesty, by an Order in Council bearing date at the Court of Saint James the 27th day of June in the year of our Lord 1832, and made in pursuance of the said Act of Parliament, was pleased to approve of certain Rules and Regulations touching the practice in Suits and Proceedings in the said Courts, And also to establish the Tables of Fees annexed to the said Rules and Regulations as the only Fees to be taken and received by the Judges, Registrars, Marshals, Advocates and Proctors of the Vice Admiralty Courts of the said Colonies, and by the said Order the Right Honorable the Lords Commissioners of the Admiralty were to give the necessary directions for carrying into execution all other provisions contained and set forth in the said Act of Parliament.

That, in virtue of your Petitioner's said Appointment as aforesaid, it became his Duty under the sixth Section of the said Rules and Regulations, so as aforesaid approved of by His said Majesty, amongst other things to execute all Warrants, Decrees, Monitions and other instruments, as should be issued from the Court of Vice Admiralty at New South Wales, and be directed to your Petitioner, and your Petitioner was to make Returns thereof.

That, under the Seventh Section of the said Rules and Regulations, all Actions in the said Vice Admiralty Court at New South Wales are to be commenced with an Entry by a Proctor in a Book to be kept in the Registry for that purpose called the “Action Book,” and before any Warrant is issued, the party applying for the same is to exhibit an Affidavit setting forth the nature of his demand; that application for payment had been made without effect; and that the aid and process of the Court is required for the enforcement thereof; and upon leaving this Affidavit with the Registrar of the Court, a Warrant specifying the amount of the Action may issue to arrest the Property proceeded against; And the Proctor, having obtained the Warrant from the Registrar, is to make a Copy of it, and then deliver the Warrant and copy to the Marshal with instructions for its execution.

That the eighth Section of the said Rules and Regulations, after setting forth how a Ship is to be arrested and how the execution of the Warrant is to be certified by the Marshal, says that the said Warrant having been served is to be delivered back to the Proctor to be by him entered into the Registry of the Court at the time when it purports to be returnable.

That John Ryan Brenan of Sydney is one of the Proctors of the Vice Admiralty Court at New South Wales, and has been practising as such in the said Court for some years past.

That, on or about the 14th day of June in the year of our Lord 1844, an Action was duly entered by the said John Ryan Brenan, the Proctor of one William Bolton, in the Action Book kept in the Registry of the said Vice Admiralty Court at New South Wales against the Ship or Vessel called the “Caroline” in a Cause of Substraction of Wages for the sum of £120, and a Warrant specifying
the amount of the said Action was issued from the said Court directed to your Petitioner as the Marshal thereof to arrest the said Ship or Vessel, which Warrant was, on the said 14th day of June in the said year, lodged by a Clerk of the said John Ryan Brennan with your Petitioner with instructions for the execution thereof.

That, by the said Warrant, your Petitioner was amongst other things empowered and strictly charged and commanded to arrest or cause to be arrested the Ship or Vessel, called the “Caroline,” her tackle, apparel and furniture, wheresoever your Petitioner should find the same, and the same so arrested to keep under safe and secure arrest until good and sufficient Bail should be given according to Law to answer the Action commenced in that behalf, or until the Action should have been duly satisfied.

That, under and by virtue of the said Warrant, your Petitioner the said 14th day of June in the year of our Lord 1844 arrested the said Ship “Caroline,” her tackle, apparel and furniture; and, having so arrested the said Ship as aforesaid, he did on the 18th day of the said month of June deliver back the said Warrant to the said John Ryan Brennan the Proctor, who had issued the same, with your Petitioner’s Certificate of its execution endorsed thereon and signed by your Petitioner; And the said Ship remained in the Custody of the said Court of Vice Admiralty under and by virtue of the aforesaid arrest from the said 14th day of June in the year of our Lord 1844 until the 17th day of January in the year of our Lord 1845, being a period of two hundred and eighteen days.

That, on or about the 6th day of November in the year of our Lord 1844, an application was made to the Supreme Court on the behalf of J. J. Hunter, the Master of the said Ship “Caroline,” for a Rule calling upon Samuel Frederick Milford, Esquire, the Deputy Commissary and Surrogate of the said Vice Admiralty Court, and William Bolton, the Promovvent in the said Action against the said Ship, to shew Cause why a Writ of Prohibition should not issue to prohibit the said Commissary and Surrogate from further proceeding in the said Suit against the said Ship “Caroline,” which Rule was on the 13th day of December in the year last aforesaid after hearing of Counsel on both sides made absolute for the Prohibition by the said Supreme Court on the ground that the Contract entered into by the said Boulton was under Seal, and of such a Special and unusual nature as to oust the Vice Admiralty Court of its jurisdiction.

That, in consequence of the said Writ of Prohibition having been served on the said Commissary or Surrogate, the said Ship the “Caroline” was on the 13th day of January, 1845, on the Motion of Mr. John Williams the Proctor for the said J. J. Hunter, the Master thereof, released from the Custody of your Petitioner.

That your Petitioner as the Marshal of the said Vice Admiralty Court was, under and by virtue of the said Rules and Regulations and Table of Fees so made and established as aforesaid, entitled to demand and receive for executing the said Warrant of Arrest the sum of £1 Is., which said sum was paid to your Petitioner by the said John Ryan Brennan, the Proctor who caused the said Warrant of Arrest to be issued out of the said Court. And your Petitioner is also entitled, under and by virtue of the said Table of Fees, to demand and receive for keeping possession of the said Ship or Vessel for each day in which she remained in your
1847. 11 May.

Petition of A. Elyard for compensation for losses as marshal of vice-admiralty court.

Petitioner's charge as Marshal of the said Court under the said Warrant of Arrest the sum of Four Shillings, which being for 218 days amounts to the sum of £43 12s.

That, after the said Ship or Vessel was released from the Custody of your Petitioner by the order of the said Vice Admiralty Court, your Petitioner applied to the said John Ryan Brenan, the said Proctor, who had caused the said Warrant to be issued out of the said Vice Admiralty Court, and to be lodged with your Petitioner, and who instructed your Petitioner as to its Execution, for payment of the said sum of £43 12s., which the said John Ryan Brenan refused to pay.

That, your Petitioner being unable to obtain payment from the said John Ryan Brenan of the said sum of £43 12s. or any part thereof, your Petitioner under the Advice of Counsel commenced an Action in the Supreme Court against the said John Ryan Brenan for the recovery of the said Sum, which Action came on for Trial on the 18th day of November, 1845, before His Honor Mr. Justice Dickinson and a Jury of four persons.

That, on the said Trial, it was proved that your Petitioner was the Marshal of the said Vice Admiralty Court, and that the said Warrant to arrest the said Vessel was issued at the instance of the said Mr. Brenan as the Proctor for the Promovent Bolton, and that one John Suttor was put into possession of the said Vessel by your Petitioner as Keeper thereof, and that he remained in possession from the 14th day of June, 1844, to the 17th day of January, 1845, being in all 218 days, after which it was contended, on the part of the Defendant the said John Ryan Brenan, that your Petitioner should have brought his Action against Bolton the Promovent in the Vice Admiralty Court and not against Mr. Brenan, his Proctor, who it was urged had merely acted in pursuance of his duty towards his Client, and a Verdict by Consent was returned for your Petitioner for £43 12s. subject to the opinion of the full Court as to whether your Petitioner was entitled to recover from Mr. Brenan or not.

That the matter afterwards came on for Argument before the full Court, and His Honor the Chief Justice, on Wednesday the 3rd day of February last past, delivered the Judgment of the Court thereon, and stated that the Judges had looked into the Cases cited and into the Act of Parliament regulating the Vice Admiralty Practice and the Regulations, Table of Fees and Forms established under it, and were of opinion that the Verdict in the case must be entered for the Defendant, and that your Petitioner was not entitled to recover.

That, in consequence of the aforesaid decision of the said Supreme Court, your Petitioner is unable to recover the said sum of £43 12s. or any part thereof, although the sum of £32 14s. has been actually paid by your Petitioner to the person keeping possession of the said Ship, while so as aforesaid under Arrest by virtue of the aforesaid Warrant.

That the Defendant's costs of the said Action have been taxed at the sum of £46 8s. 7d., for which your Petitioner's Goods and Chattels are now liable to be taken in Execution, and your Petitioner will also have his own Costs to pay, which he estimates at £50 or £60.

That your Petitioner as the Marshal of the said Vice Admiralty Court had no option in the matter, but was bound to execute.
the said Warrant; and he could not demand his fees until after
the duty was performed; and, if your Petitioner had refused to
execute the said Warrant, he would have been liable to an Action.

That the proceedings in the said Vice Admiralty Court are all
conducted by the Proctors of the Court for the respective parties
suing in that Court; and all fees, payable and paid to the said
officers of the said Court under the aforesaid Table of Fees, have
hitherto been paid by such Proctors, who have also hitherto been
considered as the only persons responsible for the same, and virtu-
ally are the only parties to whom the said officers can look for
payment as the parties to the Suit are generally unknown to such
officers; and, therefore, it is impossible for the Fees to be collected
from them, who are in most instances, as in this, Sailors suing for
Wages, and who have, at the time the Marshal's Fees for keeping
possession of a Vessel become payable, left the Colony and gone to
parts beyond the Seas, or if remaining within the Jurisdiction of
the Court have nothing to pay with.

That your Petitioner received no Salary for the execution of his
said Office of Marshal, and the fees received by him since he held
the said Office have been small and inadequate to the risk attached
thereto and to the losses sustained thereby.

Your Petitioner, therefore, most humbly prays that your Excel-
licity will be pleased to take the circumstances of his Case into your
favorable consideration and grant to your Petitioner such relief in
the premises as to your Excellency shall seem meet.

And your Petitioner as in duty bound will ever pray, etc.,
Sydney, 29th March, 1847. ALFRED ELYARD.

Opinion of Sir Alfred Stephen.

10th April, 1847.
I think it my duty to submit this case to His Excellency's most
favorable consideration. The Supreme Court Officers were natur-
ally the persons selected to fill the offices in the Court of Vice
Admiralty, the Chief Justice having been selected by Her Majesty's
Government to perform the duty of Judge of the latter Court. The
Rules and Practice of the V. A. Court are established, under
authority of an Act of Parliament, by certain High Officers of the
Court of Admiralty in London. Mr. Elyard, as Marshal, was bound
to obey the Mandates executed by him in the cases referred to.
He had no option in the matter; and I submit that the loss,
entailed on him by the performance of his duty, ought to be made
good to him.

ALFRED STEPHEN, 
C.J. and Judge of The Court of V. Admiralty.
A statement of the case of Mr. Brooks, in which the circumstances under which he claims additional land are explained, having been prepared during the administration of my Predecessor, I beg to enclose a copy of it for your Lordship's information, and at the same time to refer to Lord Stanley's Despatch, No. 21 of the 12th February, 1844, in reply to a former application from Mr. Brooks.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

MR. W. BROOKS TO COLONIAL SECRETARY THOMSON.

Lochend by Newcastle, 16th April, 1847.

I had the honor to receive your letter of the 5th Ultimo, in reply to mine of the 19th November last, wherein I renewed my application for an additional grant of land; and it appears that His Excellency the Governor does not feel himself at liberty to entertain my application, because my claim was negatived by the Secretary of State.

Under the circumstances, I have no other resource than to present a second Memorial to that Minister; and I humbly trust that His Excellency, in forwarding it to Lord Grey, will join with it his powerful recommendation, as I feel assured that his favorable judgment will be the result of his examination of my claim.

In Lord Stanley's reply to my Memorial, dated 12th February, 1844, it is intimated that he acquiesces in Sir George Gipps' view of my case, which is manifestly erroneous. I neither received my primary grant under the British Regulations of 1826; the first was declared by General Darling to be obsolete, the second was not in existence when I left my native land.

General Darling made no other adjustment of my claim than to transfer my position as an Emigrant from the rules of Nov., 1824, to those of April, 1826, under which he said, when I had expended the prescribed amount, I should receive an additional grant.

The Minister states that he thinks, with Sir George Gipps, that I received my original grant under the Local regulations of 1826, regulations which were first published while I was pursuing my voyage to the Colony, implicitly confiding in the good faith of Government. I bad in my pocket the British Regulations of 1824; they being set aside, I as a matter of course fall under those of April, 1826, but both possessed advantages which I could claim, so I was treated as a resident in the Colony by Sir George Gipps, and placed under the local regulations of 1826.

I claim to be treated as a British Emigrant of capital. I claim the privileges of the British Regulations I was bound to know, or in fact as in this case could possibly know. It can never be that an Emigrant may be deprived of the advantages promised him on leaving Britain by any local ordinance made while in his voyage.

It is manifest that, had I incurred the losses which I now suffer under any breach of faith on the part of a fellow subject, the laws of my country would have given me ample redress. I feel that my claim is without a flaw; on the justice of it I rest for redress; yet to the Representative of my Sovereign, I may state that I and my wife and children have suffered severely and long
by the delay of justice; my means were ample; I expended them in good faith; but it so happens that my additional grant will be the only return for all. I enclose the Memorial in triplicate.

I have, &c.,

WM. BROOKS.

[Enclosure No. 2.]

THE Memorial of William Brooks of Lochend, in the County of Northumberland, New South Wales,

To The Right Honorable Earl Grey, Her Majesty's Principal Secre-
tary of State for the Colonies, etc., etc., etc.,

Humbly Sheweth,

That Your Lordship's Memorialist presented a Memorial to Lord Stanley, Her Majesty's Principal Secretary of State for the Colonies, in the year 1843, of which a copy is annexed. That Sir George Gipps, then Governor of this Colony, transmitted said Memorial home, and along with it (as appears from Lord Stanley's reply) his own views of Memorialist's case. That, Lord Stanley having adopted Sir George Gipps' opinion, your Lordship's Memorialist was refused the prayer of his Memorial, on grounds to which he now most respectfully solicits your Lordship's attention.

The first was that Memorialist's claim appeared to have been adjusted by "General Darling in the year 1828." Your Lordship's Memorialist never knew of or was made acquainted with any adjustment save the first, viz., the removal of Memorialist from under the 1824 regulations, which were declared obsolete, to those of April, 1826.

The other ground was that Lord Stanley "agreed with Sir George Gipps that Your Lordship's Memorialist received his original grant under the local regulations of 1826, and that he is not entitled to any further advantages than those regulations secure to him."

Your Lordship's Memorialist, as a Loyal subject, a lover of his native country and all her institutions, cannot believe that the British Government will in any case so act to the meanest of His Majesty's subjects, as wittingly to permit an Emigrant of any grade to be deprived by a local ordinance, issued in the course of his voyage, of the rights or privileges solemnly promised to him when he left his Fatherland.

Your Lordship's Memorialist and his family have suffered many years' hardships and deprivation of those comforts, to which his capital and station in society entitled him, by the refusal of his secondary grant; for it so happens that it will now be the only remuneration for all his outlay, and his twenty years' labour.

Memorialist, therefore, most respectfully and earnestly entreats Your Lordship to order that his secondary grant of (2,560) Two Thousand, five hundred and sixty acres, be issued to him as
speedily as possible; and he humbly hopes that, as all the delay and all his sufferings have arisen from no fault of his, but from official errors or mistakes, that Your Lordship will order that some reparation may be made to him in such shape and in such a way as your Lordship's sense of justice shall dictate.

And Your Lordship’s Memorialist as in duty bound shall ever pray.

WILLIAM BROOKS.

Lochend, Co. Northumberland, N.S.W., 16th April, 1847.

[Enclosure No. 3.]

REPORT ON CLAIMS OF MR. W. BROOKS.

Mr. Brooks arrived in the Colony in December, 1826, and, upon proof of capital was, on the 19th February, 1827, authorised to receive a Grant of 640 Acres of Land, of which possession was duly authorised in May, 1827.

At this time Mr. Brooks held the office of Catechist, which having resigned, he on the 12th January, 1828, set forth his claim to additional Land under the Regulations given to him in Downing Street, dated in 1824. He was told in reply that these were obsolete when he arrived, but that, under the circumstances, he should receive a 2nd section to be added to the first as an original Grant.

In 1828, Mr. Brooks solicited a third section as a boon, although he at the same time considered that he was entitled to about 3 Sections under the Colonial Regulations of September, 1826, this 3rd Section he obtained to be taken with the first and second as one Primary Grant of 1,920 Acres.

The Regulations of June, 1837, respecting additional Grants, renders it necessary that all applications under it (in a case like the present when the parties were in possession of their original Grants above 7 years) should be made previously to December, 1837.

On 27th September, 1838, Mr. Brooks applied for an additional Grant of Land, when it also appeared that, on his leaving England in 1826, the Secretary of State furnished him with the Regulations of 1824, and not those of 1826, under which only, and those of 1827, the Regulations of 1837 are applicable; and Mr. Brooks was accordingly informed that his application did not come within them.

Several subsequent letters were received from Mr. Brooks on the subject without any favorable result, that Gentleman contending that the Regulations of 1824 equally entitled him to additional Land, and in 1843 the case was submitted to the Secretary of State, who negatived the claims (see M. 6316).

Mr. Brooks now renews the subject, requesting the additional Land to which he considers himself entitled, either under the Regulations of 1824 or 1826.

27th February.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 103, per ship Honduras.)

My Lord, Government House, 13th May, 1847.

Some time since, a Mr. Brown, a Settler near Maitland in this Colony, was found to be working a Coal Mine upon his land, contrary to the conditions of the Deed of Grant conveying
the land in question, which expressly reserved the rights of the Crown to all such Mines, in conformity with the Regulations made for the purpose of protecting the interests of the Australian Agricultural Company.

The Commissioner for the Company felt aggrieved at this invasion of their rights, and solicited that the Crown would take the necessary steps for abating the encroachment; and, as the reservation of the Mines is in favor of the Government, the legal proceedings were necessarily carried on in the name of the Attorney General, who has now obtained a verdict on all the points raised.

The extra Costs of employing Counsel, payment of Witnesses, and other necessary Fees, amount to the sum of £81 19s., which should in fairness be refunded by the Company, as the proceedings were wholly for its benefit; and, if your Lordship coincides with me in this view, I would suggest that application be made to the Directors in London for payment of the amount on account of the Colony.

I have, &c,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 148, per ship Eleanor Lancaster.)

Sir,

Downing Street, 14 May, 1847.

Her Majesty's Government have entered into an arrangement for the Lease of the Auckland Islands to the Messrs. Enderby, for the purpose of enabling them to establish a Station from whence to Carry on, on an extensive scale, Whale and other Fisheries in the South Seas.

I enclose a Copy of the Deed of Lease, which will apprize you of the Conditions of this Contract. I also transmit, for your information, Copies of a Correspondence with the Messrs. Enderby with reference to an Application made by them for the assistance of the Government in establishing authority and good order at their Stations in those Islands. You will perceive that Her Majesty's Government disclaim at present, on the part of the Crown, the power of investing the Governor of any adjacent Colony with authority to be exercised at the Auckland Islands; but, as the Government are desirous to facilitate, as much as possible, the objects of the projectors of this enterprise, you will afford all the aid and countenance in your power to the Agents employed in Carrying out the undertaking, which, if successful, there is every reason to believe will prove conducive to general interest and highly beneficial to those of the adjacent Colonies.
I trust that, until it may be found practicable to establish some competent and authorized form of Government within those Islands, the parties entrusted with the Agency of the undertaking may be enabled to check and prevent by their personal influence any serious irregularities.

Grey.

[Enclosure No. 1.]

[This was appendix No. 16, containing the lease, to the seventh general report of the colonial land and emigration commissioners, presented to parliament.]

Messrs. Enderby to Earl Grey.

My Lord, 13 Great St. Helen's, 15th April, 1847.

Although we have already expressed to Mr. Under Secretary Hawes our sense of the obligation, we are under to Her Majesty's Government and to Your Lordship in particular, for the grant which has been made to us of the Auckland Islands for the purpose of carrying on from thence the Whale and other Fisheries, recognizing, as we do, therein the manifestation of a desire on the part of Her Majesty's Government to contribute to the success of the project, we have performed, for re-establishing that important branch of the National Maritime Industry, we are anxious to testify our thanks in a direct communication to your Lordship, and these we now beg Her Majesty's Government, as well as your Lordship individually, to accept.

It is our intention to send out, shortly, a Vessel carrying a provisional Agent, invested with authority to take possession of the Islands on our behalf, and to act as our representative there until definite arrangements for carrying out our projected plan of operations can be made. As, in despatching such an Agent, it is essential that we should be able to furnish him with the fullest instructions for his guidance, we respectfully request that your Lordship will be pleased to afford us information as to the course he should pursue in the event (which, however, we do not contemplate) of the powers delegated to him by us proving insufficient, from unforeseen obstacles, to insure the accomplishment of his Mission.

From the proximity of the Auckland Islands to New Zealand on the one hand, and to Van Diemen's Land on the other, we assume that, in the case supposed, it would be to the Governor of one or other of those Colonies that he should address himself; but we should not, of course, presume to give him any directions to that effect, without your Lordship's sanction, even if indeed our doing so would be of practical utility.

Considering the National importance of the enterprise which we are seeking to promote, and the facilities which your Lordship has already been so instrumental in affording us, as evinced by the Grant of the Islands, we venture to express our hope that, as the complement of that measure, and in furtherance of our efforts, your Lordship will now vouchsafe to arm one or more of the Governors of the Colonies in the Pacific with authority to afford our Agent, and the individuals in our Service who may succeed him, every necessary assistance and support; and also to move the Lords of the Admiralty to cause similar orders to be issued to the British Commanders on the Naval Stations in those Seas.
GREY TO FITZ ROY.

We submit herewith to Your Lordship's inspection the Draft of the Letter of instructions which we propose addressing to our Agent on his departure; but which, for the reasons already stated, we are at present unable to complete. We shall feel obliged for any observations or suggestions with which, on returning it, your Lordship may be pleased to favour us in regard to its contents, and your Lordship may feel assured that they will receive our careful attention and consideration.

We have, &c.,

C. H. and G. ENDERBY.

[Sub-enclosure.]

LETTER OF INSTRUCTIONS.

Sir, 13 Saint Helen's Place, London, 1847.

You are already aware that we have obtained from Her Majesty's Government an exclusive Grant of the Auckland Islands, situated in Latitude 51° South, Longitude 166° E., and that our object in acquiring those Islands has been to make them the Seat of a Station, from whence to carry on the Whale and other fisheries, and thereby to promote as a secondary measure their Settlement and Colonization.

As we are desirous to secure ourselves in our rights by taking immediate possession of the Islands, and having a representative there to protect our interests, until the Plan of operations projected is matured, we have selected you to be our Agent for the purpose, and hereby so appoint you accordingly.

Enclosed herewith we furnish you with an abstract of the Deed of Grant, together with the necessary authority to enable you to take possession of the Islands on our behalf, as also to do what else may be requisite and lawful to maintain us in our Title.

You will be provided with a free passage to the Auckland Islands on board the , which vessel will convey you in the first instance to in , where immediately on your arrival you will put yourself in communication with our agent Mr. , to whom, and likewise to the Governor of that Colony or the Officer administering the Government, you will fully explain the nature of your mission and exhibit your credentials. You will then concert measures with Mr. for engaging on fair and equitable terms the services of a limited number of proper and efficient persons to accompany you to the Auckland Islands as Your assistants; and also for procuring (in addition to the Articles which you may take with you from hence) the necessary supplies of provisions, Stores, Seeds, Plants, Live Stock, etc., specified in the accompanying List.

Great care will be requisite in the selection of the individuals who may accompany you to the Islands; and it should be a condition of their engagement that they should remain with you for a given period, or until the arrival of the preliminary expedition from England. We think that the number of such persons need not necessarily exceed seven. It should comprise two intelligent Seamen, capable of taking soundings, managing a boat or lugger, and keeping a Log Book in case of your illness or absence; two Carpenters competent to repair a vessel, aid in the erection of Buildings, and give some general information as to the qualities and capabilities of the Timber growing on the Islands; an agriculturist skilled in the management of Seeds and plants; and two general Laborers, who have been accustomed to clearing and rough surveying, and also to look after Farm Stock. It is to be understood, however, that the whole of these parties will be completely subordinate to your orders, and required to make themselves generally useful in whatever way you may direct, without regard to their more special duties.

The Auckland Group consists of one large Island and several smaller Islets. The destination of your vessel, after leaving , will be Laurie Harbor, which penetrates far into the Chief Island, and affords according to all accounts a safe and commodious anchorage. Upon landing, you will locate yourself with your companions, in the best manner you are able, upon the spot most suitable for a central situation, and this will probably be found at the head of Laurie Harbor, as a fine well watered Valley is understood to lie there.

Your first care will be to explore and take a general Survey of the District immediately surrounding Laurie Harbor; because, judging from our present means of information, this will probably be the chief Station from whence the Fishery will be prosecuted. You will then progressively explore and survey the remainder of the principal Island, and afterwards make a survey of the whole of the surrounding Islets. To enable you to do this and to facilitate your operations generally, a proper Boat will be placed at your disposal, in which you will take soundings in the Harbours and Inlets, as also in the channels between the several Islands. It would be desirable too that you should prepare and transmit to us a rough outline map, shewing the configuration of the Islands and their relative position towards each other.
The Islands are devoid of Aboriginal Inhabitants, and no attempts have hitherto been made to give them a population. We do not anticipate that you will find located on them any Casual Settlers or Squatters, or that if so they will oppose themselves to your authority as our Agent. Should there be, however, any persons of this description, or should any seek to establish themselves after your arrival, it is by no means our wish needlessly to disturb them; but, in order to insure our rights, it will be necessary that, without exception, you serve them with a notice of ejectment to take effect within a given period. This will probably be sufficient to prevent them from erecting Buildings on the Land occupied, making Enclosures, or taking any other measures indicative of a right on their part to occupy the Land; but, should it prove unavailing, or should buildings have been erected previous to your arrival, you will signify to the parties that we will not engage to purchase such Buildings, though if suited for our purposes we will willingly take them at a fair valuation. You will consider these Instructions as applying equally to growing crops sown under similar circumstances. In every case you must be mindful to obtain from the parties in question a written acknowledgment that they are merely Tenants on sufferance. We are desirous to exclude all such persons as Runaway or Liberated Convicts, and as far as possible Individuals of doubtful reputation of whatsoever class, from becoming Members of the future population of the Islands; but, in the event of any respectable persons being set on any respectable portion of Sites of Land, or desirous to acquire them, you may express to them our willingness to receive them as Settlers, but that we cannot undertake to allot them the particular Sections of Land they may select for Lease or purchase. You will do well to give them clearly to understand that, under no circumstances, will they be permitted to carry on the fishery from the Islands. Should you, contrary to our expectation, experience opposition to your authority on the part of the Settlers, of any kind or others, you will devise means of communicating with the Governor of [ ] to whom Instructions will have been transmitted by Her Majesty's Secretary of State for the Colonies to afford you any necessary assistance and support.

As a matter of course you will keep a regular and copious Journal, in which you will record not only your own proceedings and those of your Subordinates, but also such observations as may occur to you on whatever matters may attract your notice; and you will take care to transmit to us Copies of it (in Duplicate) by every opportunity which may occur. This Journal should comprise a daily record of the weather, temperature, and prevailing winds.

As regards the acquisition of general information respecting the Islands, it is impossible that you should furnish us with too much or with information of too varied a character. Independently of your Journal, we shall be desirous of receiving from you, within as brief a delay as circumstances may permit, a descriptive account of the Islands generally, and of each one in particular. This should be divided under distinct and proper Heads, as position and extent; face of the Country; Mountains; Valleys; Rivers; Harbours and Anchorage; Climate; Soil; Natural Productions: Timber and other Chief Vegetable Substances; Minerals; Animal Kingdom; Birds: Fishes. The Account should be such as to enable us to form, generally, a correct judgment of the capabilities of the Islands, and especially of the eligibility of places for Settlement, viewed with reference to the facilities of water communication, form and character of the neighbouring country, quality of the Soil, etc., etc. In order, therefore, that we may run no risk of being ourselves misled or of misleading others, we beg to impress on you the propriety of carefully avoiding anything like exaggeration in your Description of the more favorable features of the Islands, and of not concealing any detracting features; in other words, we wish the bad to be stated as plainly and as fully as the good.

As a portion of the Live Stock, which you will take with you from [ ], should be selected with the view to breeding, you will do well to ascertain and note the particular Native Grasses on which the Sheep and Cattle so imported appear to thrive the best. Respecting Horned Cattle for breeding, we wish you to make choice of the small and hardy kind, because we have good authority for believing that these would prove more adapted to the Country than the larger Breeds; at all events, in the first instance, you will at the same time take pains to ascertain, by actual experiment, the soils best suited for the growth of Grain and Vegetables, and the proper seasons for sowing and planting. It would also be desirable to keep a record of the degree of prolificness attained by the different kinds of Live Stock so that we might have the means of instituting useful comparisons in these respects. Although, from their more southerly position, the Auckland Islands possess a somewhat colder climate than either Van Diemen's Land or New Zealand, still the difference is not so great as to raise any doubt of the fitness of the former to produce by cultivation whatever the two latter have been made to produce. In regard to seeds of European origin, intended for sowing in the Islands, you should take from England a portion only of the quantity required, and procure the remainder at our object being to afford you the opportunity of judging, from results, whether it be or not more advantageous to raise Crops from Seeds already acclimatized in the Southern Hemisphere than from those fresh imported.
As at this distance it is impossible to foresee and provide for every contingency which may arise in connection with your mission, much must necessarily be left to your own judgment and discretion. The present Instructions, however, which embrace all material points of consideration, will sufficiently enable you to understand our wishes and intentions in regard to your proceedings generally; and we rely, with confidence, on your acting as strictly in accordance with them as circumstances may permit. We are especially desirous that, in carrying out our views, you should, in your intercourse with all parties with whom you may come in contact as our Agent, uniformly act in a friendly and conciliatory spirit, and so, generally, conduct yourself as to give no just cause of complaint against you; and, although we wish you on all occasions to act with firmness, promptness and decision for the protection of our interests, we cannot too strongly impress on you the importance of your taking no steps for establishing our rights, should any infringement of them be attempted, that would not be fully sanctioned by the Law.

Hitherto, it has frequently been the practice for Whaling Ships of different Nations to resort to the Auckland Islands in order to refresh and refit, since the Islands, although uninhabited, yield great facilities for these purposes. We have no present design of interfering with this custom, and you will, therefore, carefully abstain from doing so. On parties from these or indeed from any Vessels landing, it will be merely necessary for you to represent to them the nature of our rights, and satisfy them of your authority as our Agent. You will impose no other restrictions on them than on other Individuals; and these restrictions will mainly consist in not allowing the formation of permanent Establishments on shore, nor the felling of Timber as an article of Trade. It would, however, be superfluous to acquaint casual Visitors with these restrictions, unless the first shewed a disposition to do the prohibited acts in ignorance of their being so; but, if when forewarned they should still persist and proceed to aggressions, which you find yourself unable to resist, you would, in such case, formally protest in the usual way against their unlawful proceedings, and transmit authenticated copies of the Protest to the Governor of and ourselves.

[Enclosure No. 3.]


Gentlemen, Downing Street, 24th April, 1847.

In answer to your letter of the 15th Instant, Earl Grey directs me to observe that it is not in his power by law to give you all the assistance in your projected operations at the Operations at the Auckland Islands, for which you have now applied. In the contingency of the encroachment at those Islands of persons settling themselves on Lands there without authority from the Crown, or from ourselves, no proceeding in the nature of a prosecution for wilful Trespass or of an ejectment would follow, because every such remedy presupposes the existence of Tribunals in which, and of Officers of Justice by whom it may be enforced. So, in the case of the Punishment of Crimes, the recovery of debts, the Establishment of Police Regulations, and the like, there must be a deficiency of those resources, of which men avail themselves for the assertion of their rights and for the protection of their persons and their property in every part of the Queen’s Dominions, in which there is any settled form of Government. For establishing such a Government at the Auckland Islands no provision has yet been made, nor can the deficiency be met by investing the Governor of any adjacent Colony with authority to be exercised at the Auckland Islands, because it is not competent to Her Majesty in the exercise of any prerogative of her Crown to adopt such a measure. Lord Grey will of course instruct the Governors of the adjacent Colonies to afford you all the aid and countenance in their power; but they will not be able to act authoritatively in the affairs of the proposed Establishment.

To give legal Authority to any measures for the preservation of order and the rights of property within these Islands, it will therefore be indispensable eventually to apply for the aid of Parliament;
and I am directed to state that Lord Grey will be happy to afford you any assistance in his power in making such an application, whenever you may consider it expedient to do so, adhering of course to the Agreement that the expense of any arrangement for supplying the want of some sort of local Government must be provided for by yourselves.

Lord Grey thinks it right that these difficulties should be thus distinctly recorded by himself, and that they should be in equal distinctness understood by you, in order that you may from the first direct your attention to the providing those substitutes for a regular administration of justice, which the persons in your employment may find in mutual confidence and forbearance, and perhaps in the voluntary adoption of such rules as may be best adapted for regulating their conduct towards each other, and for the prevention of offences which it might be impossible to punish.

I am, &c.,

B. HAWES.

[Enclosure No. 4.]

MESSRS. C. H. AND G. ENDEBY TO EARL GREY.

My Lord, 13 Great St. Helens, 29 April, 1847.

We have the honor to acknowledge the receipt of Mr. Under Secretary Hawes' letter of the 24 Instant, in reply to that addressed by us to Your Lordship on the 15th, respecting our intention to despatch a provisional Agent to the Auckland Islands for the purpose of taking possession of them on our behalf, and acting as our representative there until definite arrangements can be made for carrying out our ulterior objects.

We thank Your Lordship for the assurance, contained in the above communication, of your readiness to facilitate as much as possible, both now and at a future period, our projected operations at the Auckland Islands; and, although we regret to find, as regards the Mission of our Agent, that we have applied for assistance beyond what it is in Your Lordship's power for the reasons stated to afford us, still we venture to hope that the course of proceeding, which Your Lordship has signified your willingness to adopt, may prove sufficient to obviate any difficulties in the way of the accomplishment of the preliminary object which we have in view.

Your Lordship will be sensible that it would be both premature and superfluous for us, in merely despatching a temporary Agent to take possession of the Islands, to provide those means of Civil Government which the eventual development of our plans will alone render necessary, and which are stipulated by the terms of the Grant made to us.

Meanwhile we are solicitous that our Agent should be assured, in case of need, of whatever aid and protection Your Lordship may be able to afford him; and for ourselves Your Lordship may be satisfied that we shall take every precaution that may be possible to ensure adherence, on the part of all whom it may concern, to the line of conduct suggested in the concluding part of the letter now under acknowledgment. If there be no impropriety in the application, we would respectfully request to be furnished with a copy of the Instructions, which Your Lordship may address to the Governors of the Colonies adjacent to the Auckland Islands in reference to this matter, in fulfilment of the intention you have expressed.

We have, &c.,

C. H. and G. ENDEBY.
EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 149, per ship Eleanor Lancaster; acknowledged by Sir Charles Fitz Roy, 12th October, 1847.)

Sir, Downing Street, 14 May, 1847.

I herewith transmit to you the copy of a Letter from Messrs. Wade and Pennington, calling my attention to a charge, which, in the transaction of some Professional Business through a legal Firm at Sydney, they have been subjected on account of a Fee to the Chief Clerk in the Office of Superintendent of Convicts for certain Searches and Extracts made in his Department on that occasion, for which it would appear no payment ought to have been demanded.

I have to request that you would lose no time in calling upon Mr. Ryan for an explanation of the circumstances of the case, and that you would report to me the result of your enquiry.

I have, &c,
GREY.

[Enclosure.]

MESSRS. WADE AND PENNINGTON TO EARL GREY.

My Lord, 17 Serjeant's Inn, Fleet Street, 22d April, 1847.

We lately had occasion to transact some business through a highly respectable professional Firm at Sydney in New South Wales, in which a reference to the Books in the Office of the Superintendent of Convicts in that Colony became necessary. Among other charges contained in the Bill of Costs of our correspondents is one of a payment of a Fee of £5 5s. to Mr. Ryan, the Chief Clerk in the Superintendent's Office at Sydney for Searches and Extracts. As the payment appeared to us quite disproportioned to the work done, we considered it our duty to inquire whether there was any and what legal sanction for the demand. The result of these inquiries has been that the Chief Clerk is an Officer, who receives a Salary from the Government in lieu of all fees, and that the information rendered is only part of the Duties of his Office, and that he is bound to render it without any Fee or Reward whatsoever.

We conceive it our duty to call your Lordship's attention to this matter as in the present case it operates as a great hardship upon our Clients for whom the business was transacted, as they are Parish Officers and cannot be allowed in their accounts any payment, which has not the sanction of Law.

We have, &c,
WADE and PENNINGTON.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 150, per ship Eleanor Lancaster.)

Sir, Downing Street, 14 May, 1847.

With reference to my Despatch, No. 147 of the 4th instant, I transmit to you herewith, for your information, a Copy of a Letter which has been addressed by my direction to the Deputy.
Secretary at War, relative to the contemplated reduction of the Medical Department in New South Wales in consequence of the removal of the remainder of the Convict Establishment to Van Diemen's Land from that Colony. I have, &c.,

GREY.

[Enclosure.]

UNDER SECRETARY HAWES TO MR. L. SULLIVAN.

Sir, Downing Street, 13 May, 1847.

I am directed by Earl Grey to request you will state to the Secretary at War that directions have been given for breaking up the Convict Establishment in New South Wales, and, consequently, that, without anticipating the arrangements which the Military Authorities in the Colony may judge it advisable to make in regard to the disposal of the three Medical Officers mentioned in the margin, who, as the Secretary at War is aware, are borne on the staff of the Troops as well as on the Convict Establishment, it is not improbable that the remuneration assigned to them in consideration of their professional attendance on the Convicts may determine with the reduction of that Establishment; but that, as his Lordship must unavoidably leave it to the Governor to decide whether the Department of Convict Hospitals is to be abolished also, wholly or in part, the precise period when the services of those Officers may be dispensed with cannot at present be fixed.

I have, &c.,

B. HAWES.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 104, per ship Honduras; acknowledged by earl Grey, 29th November, 1847.)

My Lord, Government House, 14th May, 1847.

At the request of Mr. Campbell Drummond Riddell, the Treasurer of this Colony, I have the honor to transmit a letter which that gentleman has addressed to Your Lordship on the subject of the position he is entitled to occupy in the Executive Council, with regard to precedence according to the Rules laid down in the Royal Instructions. I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

MR. C. D. RIDDLE TO EARL GREY.

My Lord, Sydney, N. S. Wales, 19th April, 1847.

I take the very great liberty of drawing your Lordship's attention to the 20th Section of the Instructions under the Royal Sign Manual to the Governor of this Colony, of which the following is a Copy.

"And it is Our Pleasure that you do attend and preside at the Meetings of Our said Executive Council, unless when prevented by some necessary or reasonable cause, and that, in your absence, the Senior Member of Our said Executive Council actually present shall preside at all such Meetings, the seniority of the Members of the Council being regulated according to the order in which
their respective Offices are hereinbefore mentioned, and in all other cases according to the priority of their appointments as Members of the said Council."

Your Lordship will perceive that a distinction has been drawn between seniority as regulated by the order in which Members are named in a previous section, and priority of appointment to a Seat in the Council.

It is only when called upon to preside in the absence of the Governor that the Members are to rank in the order in which they are named in the previous Section.

In all other cases, it would appear that priority of appointment is to give precedence.

The Bishop of Australia being now no longer a Member of the Executive Council, my appointment to it is prior by several years to that of any of the other Members; and I humbly request to be allowed whatever privilege it was Her Majesty's intention to bestow on such priority of appointment.

This being the first time that a Member of the Council claims precedence under the above cited Clause, I understand it to be the wish of His Excellency Sir Charles Fitz Roy that it should be decided in England, which is the reason of my troubling your Lordship on this occasion.

I have, &c.,

C. D. Riddell.

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SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 105, per ship Honduras; acknowledged by Earl Grey, 18th December, 1847.)

My Lord,

Government House, 15th May, 1847.

In reply to Your Lordship's Despatch of the 16th November last No. 59, authorising a Pension for Mr. Allott, late crier of the Supreme Court of this Colony, equal to one half of his full emoluments on an average for the last ten years, I do myself the honor to state that, having communicated with the Chief Justice on the subject, it appears that no accurate Return can be made of Mr. Allott's Emoluments for any but irregular periods during that time; but that in 1841 the Fees of the Office amounted to £80 or thereabout, which may be considered an average year, altho' in 1842 they reached to £148.

Taking the Fees at the average of £80 and the Salary at £73—£153.

Mr. Allott would, under your Lordship's decision, be entitled to a Pension of £76 10s. per annum, or £3 10s. more than the Pension recommended for him by my Predecessor in his Despatch of the 24th May, 1846, No. 103.

I have not, therefore, under the circumstances thought it advisable to disturb the arrangement under which Mr. Allott receives a Pension of £73 a year.

I have, &c.,

CHS. A. FITZ ROY.
SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 106, per ship Honduras; acknowledged by earl Grey, 1st January, 1848.)

My Lord,

Government House, 16th May, 1847.

With reference to your Lordship's Despatch, No. 2 of the 10th July last, transmitting for my information the Copy of a letter addressed to Your Lordship's Under Secretary Mr. Stephen by the Secretary to the Board of Admiralty on the subject of the Lighthouses in Bass Straits,

I have now the honor to transmit the Copy of a communication addressed by the Colonial Secretary of Van Diemen's Land to the Colonial Secretary of this Government, covering the copy of a Report by the Port Officer of V. D. Land upon the site of the proposed Light House on King's Island, presuming that Your Lordship would wish to refer this matter for the further consideration of the Lords of the Admiralty before the site of the Light House is ultimately decided upon.

I have, &c,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

COLONIAL SECRETARY BICHENO TO COLONIAL SECRETARY THOMSON.

Sir,

Colonial Secretary's Office, 16th April, 1847.

I beg to enclose a Copy of a Report by the Port Officer of this Colony upon the site of the proposed Light House on King's Island, and to acquaint you, for the information of His Excellency Sir Charles Fitz Roy, that this letter not having been brought under the notice of the Lords of the Admiralty when they decided upon the situation of the Light House, the Lieutenant Governor is not disposed to take any steps in the erection of a Light on King's Island until he receives from Home the information that their Lordships have considered the Port Officer's objections, which appear to His Excellency to have great weight.

Should their Lordships decide that King's Island is a desirable situation for a Light, the Government of this Colony will gladly aid in its erection by constructing the Building as is now being done at Kent's Group, the Government of New South Wales providing the Lantern; but, as the whole expense of Supporting the Light at Kent's Group is defrayed from this Colony, the Lieutenant Governor considers it but just that the expense of supporting the King's Island Light House should be thrown upon the Government of New South Wales, inasmuch as but a small proportion of the Trade of this Colony will be benefitted by it.

I have, &c,

J. E. BICHENO.

[Enclosure No. 2.]

MR. W. MORIARTY TO COLONIAL SECRETARY BICHENO.

Sir,

Port Office, 22nd March, 1847.

On attentively perusing the letter of the Colonial Secretary of New South Wales, date as per margin,* together with the

* Marginal note.—15th Jan'y., 1847.
documents which accompanied it, viz., copies of a despatch from the R.H. the Secretary of State to His Excellency the Governor of New South Wales, and of a letter from the Secretary of the Admiralty to Mr. Under Secretary Stephen upon the subject of lighting Bass' Straits, I have been unavoidably led to the conclusion that, grave objections having been made on the part of this Government to the placing of a Light on King's Island, those objections could not have been before the Admiralty at the time that the letter of Their Lordships was forwarded, for, as I cannot but think that there was some force in the objections which were urged, it does not seem to me, on a matter of so much importance, that their Lordships would have decided the question without adverting in some way to the points which were raised. Under this view of the case, and presuming that, if this Government has forwarded a Despatch on this subject, some reply will be received, I would recommend that no step be taken by this Government towards placing a Light on King's Island, until the opinion of the Admiralty is made known with respect to the objections which have been raised.

It is of the less consequence that this question should be deferred, as I do not think we have at our disposal the means of proceeding with two Light Houses at once; and, as a reply may be received before the completion of the one in course of erection upon Kent's Group, it cannot much defer the ultimate accomplishment of the work on King's Island if it is deemed right to place a Light there.

Whether that it arose from the course of the enquiry before the Committee of the New South Wales Council as naturally following the questions put to the Gentlemen examined, or that the subject of placing a Light to mark the Southern part of the Northern entrance of Bass' Straits was viewed by them in its general bearings only, I have no means of judging; but it certainly appears that no Gentleman but Mr. Gilmore, commanding the "Shamrock" Steamer, alludes to any other position, whilst it appears to me that the spot incidentally mentioned by him, viz., New Year's Island, seems entitled by its more Western position, and as having a good roadstead under its lee, to superior consideration, and "ceteris paribus" as to the facilities of building, etc. I would with my present information prefer the Light being placed upon New Year's Island; but, as I have always avoided giving a positive opinion without the opportunity of personal examination, I should not wish to be understood as speaking definitely to the point.

Being strongly of opinion that a Light upon Cape Otway will be sufficient for the trade of this Colony, that one upon King's Island would be quite useless, if not prejudicial to it, and that the interest taken by this Colony in the question of lighting is abundantly evidenced by the Lights which already exist within its Territory, whilst its equitable feelings are not less apparent in the arrangement which it has entered into with respect to the Light about to be placed upon Kent's Group.

In addition to the recommendation which I have made of deferring King's Island Light, I would suggest very respectfully, for His Excellency's consideration, whether, if the Home Government and the Government of New South Wales consider it so essential
1847.
16 May.

In order that His Excellency may be more fully informed upon this subject, I do myself the honor of forwarding a copy of my letter of December 26th, 1845.

I have, &c.,
WM. Mobiarty, Port Officer.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 107, per ship Honduras; acknowledged by earl Grey, 11th February, 1848.)

My Lord, Government House, 17th May, 1847.

I have the honor to transmit the Reports for 1846 of the Officers of this Government employed in the Protection or Civilization of the Aborigines.

As it appeared to me on perusing these Reports that but little, if any, beneficial effects had arisen from the appointment of the Chief and Assistant Protectors in the Port Phillip District, I requested Mr. La Trobe to state whether, after the experience he had acquired of the working of this system, he would recommend its continuance, or, if not, whether he could propose any modification of it.

Your Lordship will perceive from the reply I received (a copy of which is annexed) that Mr. La Trobe is of opinion that the system has failed as regards all the higher and more important objects which it was expected would be obtained under it, and that, although he is not prepared to assert that it has exercised no good influence over the condition of the Aborigines, he believes any amelioration that has taken place in their character and habits is rather to be attributed to the improved state of feeling between these people and the Settlers than to the influence or exertions of the Protectors. My own opinion (as far as my experience in the Colony enables me to form one) coincides with Mr. La Trobe’s; but, as Mr. La Trobe proposes to make a further Report after paying another visit to the Aboriginal Stations formed under the Chief Protector, I shall defer offering any recommendation on the subject until I forward to Your Lordship a copy of that Report.

I also transmit a Copy of a Despatch from Capt'n Lonsdale (who acted as Superintendent of the Port Phillip District during the absence of Mr. La Trobe in Van Diemen’s Land), offering some remarks on the Chief Protector’s Report.

I have, &c.,
CHS. A. FITZ ROY.
SCHEDULE of Annual Reports of the Protectors of Aborigines of New South Wales, forwarded with the foregoing Despatch (No. 107).

District of | Report of
---|---
Moreton Bay | Mr. Commissioner Simpson.
Darling Downs | 
Clarence River | Fry.
MacLeay River | Massie.
New England | Macdonald.
Liverpool Plains | Mitchell.
Bligh | Hunter.
Wellington | Wright.
Lachlan | Beckham.
Morumbidgee | Bingham.
Maneroo | Lambie.

PORT PHILLIP DISTRICT.

Western Port | Mr. Commissioner Grimes.
Portland Bay | Fyans.
Murray | Smythe.
Gipps Land | Tyers.
Grant (County of) | Addis.
Burke | St. John.

Chief Protector, Port Phillip.

Revd. Mr. Watson.

[Enclosure No. 1.]

MR. J. LAMBE TO COLONIAL SECRETARY THOMSON,

Commissioner of Crown Lands' Office,

Sir,

Manero, 5th January, 1847.

In reference to your letter of the 21st Ultimo, requiring my annual Report of the state of the Aborigines of this District for transmission to the Secretary of State, I do myself the honor to report as follows:

During the past twelve Months, the Deaths, chiefly from old age, have exceeded the Births in a greater degree than in any previous year since I have been in this District. There have been no Collisions with the White population.

Last Season, a greater number of the Young Males, belonging to the Tribes on the Coast, engaged in the Shore Whale Fishery than on any former occasion; and there are now in addition about fifteen of the Young Men at Sea in Vessels employed on that Service. But, beyond a desire, which however appears to be growing, to thus make themselves useful, I can perceive no further improvement in the condition of the Aborigines of this District.

The accompanying Census, exhibiting the numbers of the different Tribes, is as correct as I could obtain it.

I have, &c.,

JOHN LAMBE, C.C.L.
Census of the Aborigines of the District of Manero, for the Year ended the 31st December, 1846.

<table>
<thead>
<tr>
<th>Name of Tribe</th>
<th>Males</th>
<th>Females</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gundary, Benjalia and Boatally</td>
<td>17</td>
<td>14</td>
</tr>
<tr>
<td>Wongaga, Tilba Tilba and Myha</td>
<td>58</td>
<td>18</td>
</tr>
<tr>
<td>Windella, Marabrine and Bowerga</td>
<td>100</td>
<td>63</td>
</tr>
<tr>
<td>Biggah</td>
<td>70</td>
<td>69</td>
</tr>
<tr>
<td>Twofold Bay</td>
<td>50</td>
<td>30</td>
</tr>
<tr>
<td>Tumbledo</td>
<td>10</td>
<td>5</td>
</tr>
<tr>
<td>Case Howe</td>
<td>32</td>
<td>19</td>
</tr>
<tr>
<td>Maharatta and Cambelong</td>
<td>18</td>
<td>11</td>
</tr>
<tr>
<td>Mowenbar</td>
<td>14</td>
<td>11</td>
</tr>
<tr>
<td>Snowy River</td>
<td>25</td>
<td>21</td>
</tr>
<tr>
<td>Total</td>
<td>393</td>
<td>256</td>
</tr>
</tbody>
</table>

[Enclosure No. 2.]

Report on the condition of the Aboriginal Natives of the Murrumbidgee District, January 1st, 1847.

1st. Supposed Number of Blacks in the District of Murrumbidgee — Five thousand.

2nd. Temporary residence—

<table>
<thead>
<tr>
<th>Place</th>
<th>Males</th>
<th>Place</th>
<th>Males</th>
</tr>
</thead>
<tbody>
<tr>
<td>At Tumut</td>
<td>50</td>
<td>At Lake Bingham</td>
<td>150</td>
</tr>
<tr>
<td>&quot; Geraphana</td>
<td>200</td>
<td>&quot; Nerang, Port Phillip</td>
<td>300</td>
</tr>
<tr>
<td>&quot; Zangar</td>
<td>200</td>
<td>&quot; Nap Nap</td>
<td>150</td>
</tr>
<tr>
<td>&quot; Murray Downs</td>
<td>200</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3rd. Change in their social condition. They do not appear to estimate much the comforts derived from settled habits of life, and, however well disposed Individual Blacks may be to remain stationary on certain Establishments, the other Blacks will prevent them remaining long in one place; in fact the Young Men would be afraid to pass over their ceremonies at the full Moon without making their appearance amongst their Tribe; in some cases they obtain leave to return to their adopted Homes. I am induced to consider that the recent orders of the Executive Government to the respective Crown Commissioners, that they will be very particular in instituting strict enquiries in every Case where an Aboriginal Native comes by his Death, either from his own Tribe or otherwise, will have a very beneficial effect, as I consider they should be made amenable to the British Laws, as the first step to order and civilization.

The Aboriginal Natives have remained pretty quiet at the advanced Stations this past Season; and, fortunately, there has not been any Collision of any consequence between the Natives and the White Settlers; they slaughtered some Cattle of a Mr. Green on the Lower Murray, and threatened to carry off the Females of the Family of a Mr. Hobler on the Murrumbidgee River, and that Gentleman was obliged for a time to collect all his Sheep Stock into the Head Station, and, information having been forwarded immediately touching these movements, I kept the Police constantly moving in these parts, to which alone I attribute the safety of the Persons' lives and Stock; in fact, I consider it absolutely necessary that a Small force of Mounted Border Police should be kept up under the orders of each Crown Commissioner at the advanced
Stations, as, when some of the Settlers or their Servants revenge themselves for either real or imaginary wrongs, their vengeance is fearful and sanguinary, and which engenders a deadly hate in the breasts of the Aboriginal Natives; and, I wish here clearly to be understood that this force should be distinct from any Police Force under the orders of the Bench of Magistrates.

There was a White Man killed at his encampment, en route to Adelaide, last July, approaching the Darling; this affair occurred beyond the Jurisdiction of any Officer of Government; two Troopers of my Division, however, with some Settlers followed down the River on hearing of this circumstance, but could not discover the real perpetrator of the outrage; I was recently informed that a strong suspicion was entertained that he had been killed by some of his own party; this affair at present is involved in some mystery.


5th. State and Prospects. The liberality, with which a few of the large Stockholders treat the Aboriginal Natives within this District, has a great tendency to keep them peaceable, and, aware that as long as they behaved themselves the Police will protect them, they have more confidence. I think, than they had: but there is a wide field before the high minded and Christian Philanthropist, assisted with Native Aboriginal Tutors, to further their mental improvement.

HENRY BINGHAM, J.P., C.C.L.

[Enclosure No. 3.]

REPORT upon the condition, etc., of the Aborigines inhabiting the Lachlan District during the Year 1846.

Question 1st. Relating to the condition of the Natives.

The condition of the Aborigines is in no way improving, neither do their habits change, and no moral improvement can ever take place, so long as they adhere to their present love of a Wandering life, and I deem it impossible to induce them to forget and resign their natural savage habits. I have known and witnessed instances where Native Children have been left by their Parents when very young, perhaps not more than five or Six years of age,” with Europeans, where they have been fed, clothed, and had every attention paid to wean them from their wild habits, and, for a few years, these Children have remained in appearance perfectly contented, and become very useful as Stockmen, Shepherds, Bullock Drivers, etc.; but, as soon as they attained Man’s Estate, they invariably evinced a desire to again join their Tribe, and nothing could induce them to remain; and, having once left their civilized home, they rarely return to it, but frequently become the Instigators and leaders in the attacks made upon the Settlers. The Natives who are termed civilized, which are those frequenting the old inhabited Districts, cannot be induced to follow any settled occupation, although they will occasionally do light work for a Short period.

Question 2nd. Their Numbers.

There are upwards of six hundred Aborigines in the Lachlan District.

Question 3rd. Residence of any particular place.

The Aborigines have no fixed place of residence, but each Tribe has its own particular portion of Country, which they seldom leave for any long period, except when going on an expedition for
the purpose of attacking some neighbouring Tribe or holding a Jubilee. They wander from place to place, generally forming their Camps in the vicinity of the Settlers' Stations during the Winter, and in the Summer they proceed to their favorite hunting and fishing grounds.

Question 4th. The Social condition of the Natives.

The Natives lead a desultory life, both sexes mixing indiscriminately in the same Camp, which they form of loose bark or boughs. It is usual for the Men to have from one to five or six Wives, called "Gins," which they frequently treat in the most cruel and barbarous manner. Many lives are lost in the engagements which occur between the neighbouring Tribes in endeavouring to carry off the Gins, and it often happens that the Gins are slaughtered by the vanquished rather than allow the victorious party to possess them.

Question 5th. The present state and prospects of the Natives.

The Aborigines continue in their wild and savage State, and it is impossible to improve their prospects, so long as they remain so much averse to a settled Life; and their nature could not bear the restraint and confinement long. As the Country becomes inhabited by Europeans, the Natives gradually disappear, and their numbers are decreasing owing to the frequent cases of infanticide and their intercourse with the Europeans. The Settlers generally treat the Natives with kindness in giving them provisions; they are also always willing to clothe and pay them for their labor. I have generally found the Aborigines more ready to work for Blankets and Tobacco than any other kind of payment.

There has been no collision between the settlers and Aborigines in this District during the last twelve Months.

EDGAR BECKHAM, C. C. Lands, Lachlan District.

[Enclosure No. 4.]

MR. W. H. WRIGHT TO COLONIAL SECRETARY THOMSON.

Commissioner of Crown Lands Office.

Sir, Wellington, 7 January, 1847.

In compliance with the directions contained in your letter of the 2nd July, 1841, I do myself the honor to forward, for the information of His Excellency the Governor, my report of the Aborigines of this District for the year 1846.

During the year, the extent of the District has been but little increased by the formation of a few Stations on the lower parts of the Macquarie and Lachlan Rivers, and the Country there appears but thinly peopled, and I believe, no increase has taken place in the total number of the Aborigines, to be reported upon by me, and which may be estimated at Eight Hundred.

I cannot have the satisfaction of reporting any improvement in their social or moral condition, neither can I suggest in what way such may be effected with the unmixed race.

In the above-mentioned number are included all children of mixed Blood, the offspring of Black Women by Europeans, of which at least half the Children born consist; and I think, if these were removed from the control of the Blacks, much might be done for them.
The obstacles hitherto found to exist in the way of all attempts to civilize the Aborigines would not, I think, have equal force with these, whose fathers would in many instances exert themselves to get them from the Blacks, if there was any place for their reception.

On becoming of sufficient Age, the chances are that many of these Half-castes would find White Men willing to marry them (many of the mixed race possessing considerable personal attractions) and their return to a state of Barbarism, as has been generally the case with the individuals of pure Blood, would be rendered very improbable. The Males of the mixed race shew great quickness and aptitude, and, even in their present neglected state, evince a greater disposition for settled habits than the pure Aborigines.

I am happy to state that but one case of Collision between the Whites and Aborigines has taken place in the District during the Year.

It occurred in August last, when a Party of Mounted Police, being on patrol at the Bogan River for the protection of the Stations, received information that some Aborigines were at that time committing great depredations on the property of the Stock Holders by hunting and slaughtering the Cattle. The Patrol went in pursuit of the depredators, accompanied by some of the Stockmen, and, after tracking the Aborigines from Camp to Camp, in all of which they found portions of the Cattle slaughtered, they came up with the Tribe, which instantly attacked the Police and other Whites.

Several of the Horses were speared and otherwise wounded, and the party in great danger from the impossibility of using their Horses on account of the boggy state of the ground; the Police fired, and, after a sharp contest, the Blacks abandoned their Camp, retreating into the thick Scrub, having lost three killed, none could be captured. I beg to refer you, for particulars of this event, to my letters of 23rd September and 25th October, 1846; and enclosures.

I have, &c.,

W. H. Wright (late) Commr. of C. Lands, Wellington District.

[Enclosure No. 5.]


In my last Report for the year 1845, I stated that I could not forward a favorable account of the Aborigines in the Distant inhabited parts of this District, there being many outrages committed by them; and that, at that time, Mounted Police were kept constantly on patrol in the neighbourhood. Up to the present date (January, 1847), I am happy to say that no informations or complaints have been made to me of any Collision having taken place, since last February, 1846. I must, at the same time, remark that, ever since these outrages were committed on the Lower "Macquarie River," Mounted Police have been constantly stationed there, which has most certainly had the effect of keeping both the White and Black population in subjection, which was much required, there being no Principals living in that neighbourhood, all consisting of Servants, almost I may say without control.
I cannot state with any accuracy as to what numbers the Aborigines may be in this District, so many of them are so seldom seen; in the long occupied Country, they are not so numerous as formerly; the reason may be attributed to the want of a constant supply of their natural food, having been to some extent destroyed as the Country becomes occupied.

I cannot say that there is much change in their general character; they are in many places found most useful to the Squatter, and at most stations you will find them employed; I have stated in my former reports my opinion as to their utility in being attached to the Mounted Police, and am still of the same opinion, how desirable it is to have them constantly with the Police; at the same time it will, I hope, not be considered out of place in this Report, were I to remark and recommend to the Government the urgent necessity of still keeping Mounted Troopers stationed in the Districts beyond the Boundaries of Location, more especially in those large Districts, which have stations formed in them 150 and 200 Miles distant from the Head Quarters of the Commissioner, these being the localities generally, where outrages and Collisions amongst the Natives and the White people take place, which, being checked on their first appearance, seldom or ever (if followed up immediately) are of importance. The only means of putting an immediate stop to such mischief as is likely to occur is that of keeping Mounted Police constantly on the Spot.

The prospects of the Aborigines cannot be stated as favorable, altho' they are in most places brought up to the present time to be of service to the Settler, and there is little doubt that every succeeding year will bring them further in advance towards civilization. In the adjoining District (Wellington), there are a number of the Aboriginal Natives kept and educated in reading, writing, and the truth of Christian Religion by a Missionary, who, I believe, succeeds as well as can be expected in trying to preserve the unfortunate race of New Holland.

GRAHAM D. HUNTER, C.C.L., District Bligh.

[Enclosure No. 6.]

MR. G. J. MACDONALD TO COLONIAL SECRETARY THOMSON.

Crown Commissioners' Office.

Sir,

New England, 1st February, 1847.

In furnishing you with this my annual report on the condition of the Aboriginal Tribes frequenting the District of New England,

I do myself the honor of acquainting you that, altho' it is not in my power to report any great or general improvement in the moral and Social Condition of the Aborigines or indeed to hold out much hope of ultimate improvement in so scattered, disunited and indolent a Race, still I am happy to state that the hostile feeling formerly manifested by the Tribes towards the Europeans, and the frequent outrages and attacks on their life and property have almost entirely ceased; the only instance of the Contrary, during the past Year, being the murder of a Watchman at an outstation of a Mr. Wm. Dangar, committed apparently by Blacks frequenting the Broken and almost inaccessible country near the head of the McLeay River.
Fitz Roy to Grey. 1847.

In number, the Aborigines do not seem to have suffered any natural diminution; their intercourse with the Stockholders is growing daily more general, and their Relations with them more trustful, amicable and serviceable than ever; indeed there are but few of the Establishments of the Licensed Locators of the Crown Lands, without one or more Aboriginal Natives employed as Shepherds, Stockmen and House Servants; and, in some few recent instances, I have known them to be under agreement for a specified time, and to be paid in Wages as other ordinary Servants, the common mode being merely to remunerate them with Rations and Clothing; the native, attached personally to myself, I have found of frequent and more essential service in influencing the more wild and distant Tribes, and neutralizing their natural hostility towards the Europeans.

I beg to state, in conclusion, that it is my earnest endeavour on all occasions to promote and encourage the mutual good feeling that has been gradually growing up between the two Races; and in my ordinary intercourse with the Aboriginal Tribes to carry out, as much as may be in my power, the humane and enlightened Instructions of Her Majesty’s Government.


[Enclosure No. 7.]

Mr. R. Mitchell to Colonial Secretary Thomson.

Crown Lands Office.

Sir, Liverpool Plains, 11th January, 1847.

In reporting upon the state of the Aborigines in this District for the year 1846, I have the honor to inform you that I can perceive no marked change in their habits or social condition. I have observed no increasing tendency to adopt settled habits or to avail themselves of any of the opportunities, offered to them of acquiring trades or becoming useful members of the Society throughout which they are dispersed.

I presume that this in a great measure arises from the necessity which appears to exist of their attending large meetings held amongst themselves, at different places remote from each other, which renders an adherence to any settled pursuits on their parts almost impossible. I am happy in being able to report that during the last year no instances of aggression have been reported to me, nor have any lives been lost from their attacks. I am also enabled to report that improper connexions on the part of the whites with aboriginal females are of more rare occurrence than formerly. When such cases happen, a complaint is made to me by the natives and immediate steps are taken to have the woman restored to her tribe. The Blacks are diminishing in number in the Southern part of this District from Small Pox, diseases peculiar to themselves, and others introduced by Europeans; but there is no perceptible increase or decrease amongst them in the Northern and Western parts of it. On the MacIntyre and other distant rivers, the aborigines are attaining that particular point in the scale of civilization, beyond which they never appear to ascend. They have learnt to value the food of civilized man and to fear his means of defence. The result is the comparative peace at present enjoyed, and a feeling of security in life and property, the more prized by the inhabitants, from the state of nervousness and anxiety, under which they have suffered for so many years.
Report on aborigines in district of Liverpool plains;

In regretting that I can suggest no mode of treatment, likely to lead to the ultimate civilization of the natives, or to ameliorate their condition, I may add that they are sometimes found useful by the Settlers in Stock-keeping and in herding Sheep; but their services can never be relied upon for any fixed time. The Class of people amongst whom they are thus brought into contact are generally of the lowest order; and I am induced to believe that their influence upon them proves vicious in its effects.

I have, &c.,

RODERICK MITCHELL, Comm'rs. C. Lands.

[Enclosure No. 8.]

MR. R. G. MASSIE TO COLONIAL SECRETARY THOMSON.

Commissioner of Crown Lands Office.

Sir, McLeay River, 31st December, 1846.

In compliance with the Regulations, I do myself the honor to forward my Annual Report on the state of the Aboriginal Inhabitants of this District.

I feel sorry to be compelled to admit that, although I had flattered myself my four Years' intercourse with the different tribes in this District had enabled me effectually to secure and retain their confidence by steadily adhering to the principle, which has guided me throughout the intimate connexion I have had with the Black population of this part of the Colony, viz., that of impressing them with the Idea that, as punishment would be inflicted on any White person wantonly injuring or oppressing them, so the retribution would be certain and heavy if they committed the slightest aggression on the Whites. Yet, I must now acknowledge my error, the present year having been marked by repeated Acts of unprovoked aggression on the part of the Natives.

In one instance, unhappily, Two Men, a Woman and a Child, in all four Souls, fell victims to the treachery and cruelty of a Number of Blacks of the Bellinger River Tribe. The Motives that led to the attack seem to me inexplicable; the plunder to be obtained consisted only of a few articles of Female apparel, and a very small quantity of Rations; the Aggressors had no old injury or fancied wrong to revenge; this I ascertained from a strict investigation of all the circumstances connected with the attack; the Murder was brutal and savage in its detail, and apparently committed without a single motive, other than a natural and inherent love of bloodshed and cruelty.

I could do little or nothing in the apprehension of the Offenders; no person had seen the Natives make the attack, or even in the neighbourhood where the murder was committed, although, from the appearance of the place and the circumstance of some portions of a Native Spear being found in one of the bodies, there was not the slightest doubt as to the perpetrators belonging to some of the neighbouring Tribes; the only information I could get was from an Aboriginal, who stated that he himself was present, but was unable to restrain the other natives from the perpetration of the crime.

In addition to the above case, the Tribes resident on the upper part of this River have been pursuing a constant and systematic plan of Cattle Spearing, which I have been unable effectually to suppress from the small number of Troopers at my disposal; as, since the
expiration of the Act of 2d Victoria, No. 27, I have merely had two available Men, having received orders to disband the rest from want of funds to pay them.

As regards the Social or moral improvement of the Aborigines, I have little satisfactory to communicate. There are the same characteristics of all Savages, apathy, insensibility and stupidity. They look with indifference upon any kindness done them, nor can you even expect the bare remembrance of it. Gluttons, even to voracity, when they get anything to satisfy their appetites; lazy and improvident, occupied entirely by the object present and determined by it alone without any solicitude about the future.

The Collisions between the different Tribes are as constant as ever. They are very rarely attended with loss of life, but I do everything in my power to suppress them, as I am not one of those who think they should be permitted the unrestricted exercise of their own Customs, when not immediately in the presence of Europeans. It is a palpable absurdity to suppose that any Race of Men will make a satisfactory advance in civilization when allowed by constituted authorities the unrestricted indulgence of customs and habits having a direct tendency to make them still more barbarous and uncivilized.

For some considerable time past, I have been endeavouring to introduce among those Tribes in this District, who are in the practice of coming into more immediate control with White Men, habits of Industry and providence, and have within the last few Months succeeded in inducing the Members of four Tribes to settle upon small spots of ground, the spot occupied by each Tribe being from Two to three Acres in extent, where they have planted Maize and pumpkins. Some of the Squatters in the District have assisted me in my exertions by supplying Tomahawks to the Natives, and even lending them a Team of Working Bullocks and a Plough.

It is indeed most hopeless and dispiriting to any one, taking a lively interest in the social improvement of the Aborigines, to see the little benefit they have derived from their intercourse with White people; it is true, they have got rid of their native simplicity, but what have they in exchange? Merely an intimate acquaintance with every vice and profligacy that can be instilled into their ears by Stockmen and Shepherds! The little to be commended in Savage character is spoiled and the civilized Man is not formed.

The only way of accounting for this perhaps is that their first knowledge of civilized life is gained from their intercourse with such lawless and unprincipled men as are generally, from the nature of the service, the forerunners of civilization in this Colony; from such people, nothing can be gained but what tends to corrupt and make vicious the unfortunate Savage, who has indeed probably heard of the Whites and their vaunted superiority from the different Members of his own Tribe, whom circumstances have made acquainted with those Settlers whose enterprise or necessity caused them to advance into the interior, but from his acquaintance with them gains only additional and more injurious facilities for the indulgence of old passions; some of the worse propensities of the Savage character are inflamed, and other bad habits formerly unknown are acquired.

I have again most respectfully to urge upon the attention of Her Majesty's Government the state of the halfcastes, or the Children
of the Female Aborigines by White fathers, many of whom are to
be met with in every District of the Colony, living in the same
barbarous way as their Mothers; to reclaim these from the wild
and barbarous mode of life, which in the natural course of events
would be their fate, seems to me a most desirable and humane
end; to effect which no trouble or pains should be spared. There
would be no difficulty in getting the Mothers to give them up, as,
from some unexplained cause, they appear to have an antipathy
towards them, so much so that I have known several instances in
which the Mothers have destroyed them, immediately after birth.
I have had one of these half-castes (a boy) under my charge ever
since May, 1843. He has shown a greater aptitude for learning
than is to be met with in White boys of his age, and has become
an useful and active domestic Servant; and, if I shall only be the
means of effectually civilizing and reclaiming one human creature,
I shall not consider my time or trouble that I have bestowed
misapplied.

ROBT. GEO. MASSIE, C. C. LANDS.

[Enclosure No. 9.]

MR. O. FRY TO COLONIAL SECRETARY THOMSON.
Commissioner of Crown Lands Office,
Clarence River, 8th January, 1847.

In transmitting the annual report on the state of the Abori­
gines in this District during the past year, I am concerned at
having to inform you that, though nothing could exceed the tran­
quility which characterized the conduct of the majority of the
Tribes, both on the Clarence and Richmond rivers throughout the
period to which I refer, still, from the melancholy circumstance
of there having been not fewer than three Murders committed on
the same Station, between the Months of June and August, by one
evil disposed Tribe, the Aggregate of Crime imputable to the Abori­
gines in the District of Clarence River during the year 1846 cannot
be regarded as falling short of that of any preceding year. The
outrages alluded to occurred at the Heifer Station of Mr. Ward
Stephens on the Richmond River, the first taking place on the 6th of
June, upon which occasion the Hutkeeper, Alexander Connell, was
killed by the blow of a Tomahawk, supposed to have been inflicted by
a Native named Jemmy Jemmy who was employed about the Station
during the day and whose only conceivable motive for so doing
was a desire to possess himself of a quantity of Bread and some
other articles that were lying in the hut. The two other Murders,
those of Archibald Cameron and Samuel Roper, occurred on the
28th of August, under the following circumstances:—On the morn­
ing of the above day, a number of natives came to the Station, where
the deceased two Men resided, by part of whom Cameron was on
some pretext induced to accompany them into the Bush, while several
others stayed at the hut with Roper. No sooner was Cameron out
of sight than the Blacks who remained rushed on Roper, and suc­
cceeded in killing him after his having vainly endeavoured to effect
his escape. The fate of Cameron continued unknown, till the 2nd
of September, when his mangled remains were discovered in the
Brush, about four hundred yards from the hut. The foregoing is
detailed, as witnessed by a son of Cameron's, a Child, about seven
FITZ ROY TO GREY.

years old, who, though a Spectator of the event, was allowed to remain unmolested, his helpless condition being insufficient to excite the apprehensions of the Depredators. From the fact of there having been a considerable quantity of flour stored at the Hefter Station for some time previous to the murders (the greater portion of which was carried away by the Blacks), it is abundantly manifest that they were tempted to commit this outrage purely with the view of obtaining uninterrupted possession of it; indeed no other inducement can be imagined, as Cameron was always distinguished for the kindness and humanity with which he treated the Natives.

In addition to the preceding offences, I have also to state that during the Winter I frequently received reports of Cattle killing, principally committed by the same Tribe; these aggressions, however, have latterly been discontinued in consequence of the interference of the Police, occasioned by the Murder of Cameron and Roper.

As already observed, nothing could be more tranquil than the state of the various Tribes on the Clarence and its several Tributaries during the past year, no instance having been reported to me in which they were concerned either in acts of violence or theft. It is also gratifying to me to be able to remark that, though upwards of five years have elapsed since Public Houses were first established in the District, I have never, on any occasion, perceived the slightest traces of intoxication among its Aboriginal Inhabitants. On the contrary, as if conscious of the exterminating influence that has ever attended the introduction of ardent spirits among savage races, they seem religiously to abstain from its use, and to regard the degraded position of the drunken European with a degree of contempt, which would reflect honor upon civilization.

I have, &c,

OLIVER FRY.

MR. C. ROLLESTON TO COLONIAL SECRETARY THOMSON.

Crown Lands Office, Darling Downs, 1st January, 1847.

In forwarding to you my Annual Report upon the condition and prospects of the Native Tribes frequenting this District, I have great pleasure in stating, for the information of His Excellency the Governor, that the friendly disposition which I had the satisfaction of noticing in my last Report as having been manifested by them during the course of the year 1845, has received no material interruption during the past year but has rather been strengthened by their increased intercourse with the Whites.

At many of the stations in the District, the Natives have been and are employed as Shepherds and Stockmen. No less than four of them have been for some time past engaged at a Station of Captain Pike's in the former capacity, and his Superintendent informs me that their services have been of great value to him by consequence of the scarcity of European labor.

The experience of the last two years justifies me in the assertion that the Tribes, frequenting the older settled portions of the District, are gradually losing their taste for a Roving life, and becoming reconciled to the pursuits and comforts of civilization.
This improvement, however, is more particularly confined to the younger Members of the Tribes, and I can't say that I look for any great change for the better in the habits and condition of their older members.

It is not to be expected that they will readily forego the wild life to which long custom has so strongly attached them; by the maintenance of a friendly intercourse with the Whites, some little improvement in their habits may be hoped for in time.

The tribes frequenting the Banks and tributaries of the lower Condamine River, where several new Runs have been lately occupied, are still in a wild state, never making their appearance at the Stations except with hostile intentions, and the dense Scrubs, which occupy and intersect the whole of the North Western confines of the District, offer so many advantages for predatory attacks upon the Stock of the Squatters in their neighbourhood, and provide such secure shelter from pursuit, that I am afraid it will be a long time before any friendly relations can be established with them.

As far as I have been enabled to ascertain, I am happy to say no collisions of a serious nature have as yet occurred; and I beg to assure His Excellency that my most strenuous efforts shall be directed to prevent aggressions on the part of either the Blacks or the Whites, and, although the Police force at present under my command is much too small to enable me to afford that protection which any serious acts of hostility might demand, I yet hope that I shall be able to prevent any fatal collision between the Colors or any unjustifiable attack upon the Natives. I am here bound to observe that I have never seen any disposition on the part of the Squatters or their Servants to hunt the Blacks off their Stations, as has been by ignorant people asserted; but on the contrary an earnest desire has generally been manifested to secure their good will, and treat them with kindness and consideration.

With reference to the prospects of the Aborigines, generally, in relation to any attempts to ameliorate their condition as a Class, my experience leads to the conclusion that any plans for civilized them by Legislative enactment or otherwise must prove a failure individually; much may be done, and it appears to me that it must be left very much to the natural good feeling of the Squatters to reclaim them from their vicious courses and roving habits, and, by finding them with employment on their Stations and providing them with food and Clothing, induce them gradually to acquire the habits and relish the pursuits and comforts of civilized Life.

As an instance of what may be done with them individually, I would take leave to mention the case of my own Black "Bobby." Some Eight years ago this Black (then a Boy) used to visit with his Tribe my farm on the Paterson River. By kindness, I attached him to my service, and kept him employed about the Kitchen and Stable. He turned out a very useful and trustworthy fellow. When I came to this District four years ago, the boy accompanied me by his own request and has remained with me ever since. He has been employed sometimes upon Police duty, but principally attending upon myself, and a more faithful, useful or intelligent servant I should be very much at a loss to find. This instance will shew what may be done with Individual Blacks by kindness and attention, and it is by no means a singular one, but it would be obviously ridiculous to expect the like results from any general system of management.

I have, &c.,

CHRISt. ROLLESTON, Commr.
I have the honor to report for the information of His Excellency that during the past year the Aborigines in this District have been guilty of sundry excesses of a serious character besides spearing Cattle, which I am sorry to say has been carried out to a very great extent in various parts of the District, almost without the possibility of detection; they have in two instances attacked Stations, namely, Mr. Coutts' on Lockyers' Creek, where they were fortunately repulsed without effecting their object, and again at Mr. Gregor's Station on the North Pine, where they murdered the Proprietor and his female Servant; they spared, however, three children; and the husband, being absent at the moment, escaped and gave the alarm to some neighbouring Squatters, who reached the Station in time to prevent the full accomplishment of their plundering intentions. The want of ordinary precaution on the part of Mr. Gregor has no doubt given occasion for this melancholy occurrence; in fact, wherever there is an accumulation of Stores, there is no security from an attack of the Aborigines, but in the presence of a sufficient number of men to overawe them. I had only a short time previously warned Mr. Gregor of his danger upon finding his Station left in charge of a single Hut keeper; indeed it cannot be too strongly insisted upon by Government that all Head Stations shall keep a sufficient number of persons on them for immediate protection; two men at least are absolutely indispensable for this purpose. There is in fact no other way of preventing these atrocities, particularly in a District like this, thickly timbered and intersected in almost every direction by Scrubs, mountains and Rivers; so that it is impossible almost for a horseman to follow these marauders for a hundred yards without dismounting; fortunately the Aborigines in these parts are by no means sanguinary, or the destruction of life would be immense, seeing that Stockmen and Shepherds are everywhere exposed to their isolated attacks. The Aborigines, therefore, rarely commit murder unless for purposes of plunder. In their marauding propensities, the more civilized Blacks in the vicinity of Brisbane and Ipswich are even worse than their wilder brethren in the more remote parts of the District, and the small Settlers in the vicinity of the Townships are constantly suffering from their thievish habits. This of course necessarily induces collisions between the parties, the results of which it is difficult to ascertain.

As regards the improvement of the moral condition of the Aborigines, absolutely nothing has been done, and both the German Missionaries near Brisbane and the Catholic Mission on Stradbroke Island have given up the task as hopeless. This, however, is scarcely to be wondered at, as they have never had sufficient means to feed the Aborigines and induce them to settle on their Stations. The first and most important requisite in every attempt to improve their condition is to be able to supply them with as much food as they please to consume, and at the same time to retain a certain number together, or they soon get disgusted and take to the Bush, the produce of their labour being quite inadequate to the expense of feeding them. They meet with little encouragement from private individuals. I am satisfied, however, from an experiment I have
1847.
17 May.

Report on aborigines in district of Moreton bay.

Statement transmitted by Revd. W. Watson.

Request for assistance for recently made on my own Station with two families of Aborigines consisting of eight persons, who have been abundantly fed and but little worked, that much might be effected to ameliorate their condition both in a physical and moral point of view, if the plan could be persevered in for a sufficient time. The missionaries usually commence their labours where they should end them, namely by fruitless endeavours to improve their moral condition, forgetting that the physical wants of a savage must first be satisfied.

If a different course had been followed, I feel satisfied we should not have heard so much of the impossibility of improving the moral condition of the Aborigines of New Holland.

I have, &c,
S. SIMPSON, C.C.L.

[Enclosure No. 12.]

REVD. W. WATSON TO COLONIAL SECRETARY THOMSON.

Sir, Apsley Aboriginal Mission, 17th October, 1846.

I do myself the honor to transmit herewith a Brief Account of the Origin and present state of the Apsley Aboriginal Mission, for the perusal of His Excellency Sir Charles Fitz Roy. You are well acquainted with most of the circumstances stated in that Report, and know that, through much evil report, I have urged on my weary way among the Aborigines and therefore will be able to afford, to the Governor, any further information on the subject, should it please His Excellency to give the Mission his kind consideration. Without a hut, without provisions and without means of providing any, in 1840 I left Wellington Valley without the least regret. But my heart seems to fall at the thoughts of having to form a new Establishment. The experience I have had of the expense of supporting the mission, as well as forming the Establishment, on Land that is not my own makes me afraid to commence operations on a new location. Perhaps it may be in your recollection that, soon after leaving Wellington, I applied to Sir George Gipps, requesting that I might be allowed to purchase a section of land, and pay for it by yearly instalments. This the Government could not accede to or my Mission might have been fixed on a more permanent basis than it is at present. Notwithstanding the unfavorable opinion of almost the whole colony, respecting missionary efforts among the Aborigines of this Country. I am happy to say that my labours have not been unattended with beneficial results; several who had been well instructed in the truths of Christianity died truly happy. These were dying testimonies to the mercy of God, and the power of Divine grace. We have living Witnesses among the Aborigines of the power of the Gospel, some who, we believe, are seeking to perfect holiness in the fear of the Lord. Of these I am sorry to say, we have not many. But, if a saving change has been produced in some, we may hope that, by patient perseverance, the like will be effected in others, and that a little leaven may ultimately leaven the whole lump.

I was unwilling to state, in the Report, that I was anxious to possess the land as my own, in order that I might locate the married Natives as small settlers on portions of it. I would not plead this as an argument for the Government acceding to my request, lest, if the plan should not succeed, I might in future be charged with having secured the land to myself by the vain promises and
pretences. My only argument is founded on the expences which I have already incurred, and on those which I must again incur solely for the sake of the Aborigines. If Sir Charles can do anything for us, I sincerely hope that he will have pity upon us and help us.

I have, &c.,

WILLIAM WATSON.

A Brief account of the origin and present state of Apsley Aboriginal Mission, Wellington, New South Wales.

Having been appointed by the Church Missionary Society to form a Mission among the Aborigines of New Holland, I and Mrs. Watson left England in October, 1831, and arrived in Sydney on May 1st, 1832. To Wellington Valley, the selected site for the mission, we were accompanied by the Revd. J. C. S. Handt, a German Clergyman, and Mrs. Handt, who had been appointed to assist us in the mission. In April, 1836, Mrs. Handt being ill, Mr. Handt obtained leave to accompany her to Sydney. At the request of the Committee, Sir Richard Bourke, at that time Governor of New South Wales, granted permission for Mr. Handt to transfer the scene of his labour from Wellington to Moreton Bay, then a penal Settlement. At that place he was appointed to act as chaplain to the Establishment, and received a Salary from the Government for his services as such; but continuing in connexion with the society.

In August, 1837, the Reverend James Gunther, a German Clergyman, with Mrs. Gunther, arrived at Wellington to supply the place of Mr. and Mrs. Handt.

The Reverend James Gunther having reported that I refused to co-operate with him in 1840, The Society wrote to me stating that, because such a report had been made to them, they had dissolved their connexion with me, but that they had recommended me to the Lord Bishop of Australia as a chaplain in New South Wales. When the penal Settlement at Moreton Bay was broken up, Mr. Handt returned to Sydney, resigned his connexion with the Society, and endeavoured to procure admission as a Minister into the Church of Scotland, alleging at the same time that, although he had been engaged in the service of the Church of England, he had never compromised his principles.

On Mr. Gunther’s arrival in August, 1837, he stated that it was not his intention to remain in the Missionary field longer than the time in which he should consider himself to have discharged his debt of gratitude to the Society for having defrayed the expenses of his education, outfit, passage, etc. That his intention of abandoning the mission did not arise from the prospect being in his opinion hopeless is evident from the printed Report of the Church Missionary Society for 1838, in which we find the following:

"On the 9th August (1837), The Reverend J. Gunther makes the following entry in his Journal:—

"In catechizing the children to-day. I was much pleased and surprised at the progress which they have made, not only in reading English, but also in Scriptural knowledge: some of them would put many European Children to shame. However degraded they may be, they afford at least a decisive proof that they are quite as capable of cultivation of mind as other nations. Therefore, I feel encouraged in spite of the despairing hope entertained by almost all Europeans in the Colony, as it regards the civilizing
and evangelizing of the poor Aborigines of this Country. To convert them is God’s work. Let us, with faith and patience, sow the heavenly seed; in due time, it will bring forth fruit."

C. M. Society's Report, 1838-1839; p. 93.

From May, 1841, to September, 1843, Mr. Gunther performed the duties of Chaplain for the District of Mudgee, continuing as a missionary at the same time. In September, 1843, the mission at Wellington was broken up; the Aborigines, that were on the establishment with the exception of three, were turned out into the wilderness; and Mr. Gunther took up his abode as chaplain at Mudgee. Thus much respecting my German Brethren, I thought it necessary to state; further I shall not add.

When I received the Society's letter, I had been Eight years labouring among the Aborigines of Wellington District; I had journeyed thousands of miles among them; had become acquainted in some measure with their customs, character and Dialect. I had also seen sufficient evidence of their susceptibility of religious impressions. Several under our care had departed this life; and in dying circumstances proved that they were savingly converted to faith in our Lord Jesus Christ. This afforded us great pleasure, and encouraged us to hope respecting others. Knowing as I did the prospects of the Wellington Mission, I had a fearful apprehension that the time was not very distant when the Aborigines would be abandoned in that quarter. Under these circumstances, we could not bring ourselves to desert the field, rugged and unpromising as it might appear to others. From the Colonial Government, I could not expect assistance, as it was bound to support the mission at Wellington. From the Settlers, I had no reason to believe that I should receive aid, as on many of their Establishments, the Aborigines were more corrupted than at the heathens' Camp. My own means of support was nothing. I had no resource, on which to depend, but the good providence of God. Then for a location for our Mission we were equally at a loss. I applied to the Commissioners of Crown Lands in the neighbourhood, and was told that there was no opening. Our way appeared to be closed up on every side. But W. O. Raymond, Esqr., J.P., offered me a Section of Land on lease for five years. The Land was in its natural wild uncared state. Being hurried from the Mission at Wellington, and refused a day's supply of rations, we vacated the place, and, having no shelter for ourselves, we were necessitated to encamp in the Bush, where our Clothes, Books, Medicines, etc., were much injured by the rain. In this unhoused state we were, when Sir George and Lady Gipps did us the honor of a visit. In May, 1841, The Lord Bishop of Australia was pleased to visit our Establishment, when we were dwelling in a bark Hut. His Lordship expressed great sympathy in our severe privations.

During the time we were in connexion with the Society, I baptized Five aboriginal Natives who are since dead. Before witnesses, in their dying moments, they evidenced the power of Divine grace on their souls.

Since the commencement of the Apsley Aboriginal Mission, Eight have died; several have been removed to hired service; and nineteen have been baptized. During the present year, Thirty two have been under religious instruction; at various times, others have visited us and remained for a short time, during which they were taught and supplied with food.
During the six years from the commencement of this Mission, we have received no pecuniary assistance from the Colonial Government; Sir George Gipps was pleased to grant us Donations of Blankets. We had to be at the sole expense of forming the Mission Establishment, and have had to provide food, clothing, books, etc., for all the Natives with us the whole of the time.

When Sir George Gipps learnt that my lease of this land would soon expire, His Excellency was pleased to allow me a Section of land on the Macquarie River as a site for my Mission, and a run beyond the boundaries of location for my Cattle. My herd, consisting of about Three hundred, will scarcely supply the mission with meat. The consumption of this Establishment, without any Europeans, is weekly, Five Bushells of Wheat, and from Four hundred to Five hundred pounds of meat, besides Tea, Sugar, Tobacco and all other articles. After having for six years, with considerable labour and expense, and without any assistance, supported our mission, it becomes a matter of very serious importance that we have to form an entirely New Establishment, and this too on Land that is not our own, and which is never likely to become our own by purchase. We require a dwelling house, slabb'd huts for the natives, a Church-School House, Barn, Milking Yard and Cultivation Paddock. As there is no timber for building or Fencing within twenty miles of Wellington, the cost of the Premises will not be less than two hundred pounds. The ground has to be cleared. We are permitted to remain on the present location till on thirty upwards a year over the period of the lease, through the kindness of Mr. Raymond the proprietor. A consideration of the expense makes me afraid to commence Building. I would humbly, and most respectfully submit to the consideration of His Excellency the Governor the peculiar difficulties of our Situation. We think that we have been doing as much effectually for the Aborigines during the six years of our Mission, as was done on the Wellington Mission during the same period. We have received no assistance, but to that mission in six years Three thousand pounds was paid out of the Colonial Treasury. I cannot but hope that, if it should seem good to Sir Charles Fitz Roy to draw the attention of the Right Honorable the Secretary of State to my labours amongst the Aborigines for the last six years, and the expense at which I have been in supporting my mission, Her Majesty's Government would be graciously pleased to direct that a remission of the purchase price of the Section, on which my mission will be located, shall be allowed me. I am not soliciting for support for my natives, and a Salary for myself as a missionary; nor am I suing for a pension on retiring from the field. I am only asking for a small acknowledgment of my past services and expenses in behalf of the Aborigines, in order that I may proceed in my labours with encouragement and satisfaction. Two years ago, the Lord Bishop of Australia was pleased to appoint me as Chaplain for Wellington. The remuneration, I have received for the services performed, has enabled me to enlarge the sphere of my missionary labours. My Chaplaincy I consider to be merely for the present, but my Missionary duties to cease only with my life. In directing the Commissioner of Crown Lands to select a Section of Land for my use, Sir George Gipps, who was intimately acquainted with my missionary labours, was pleased to express his opinion of me in the following terms:— "Mr. Watson is a very meritorious person, and worthy of any favour that can be shown him."
HE WILLIAM WATSON.

Apsley Aboriginal Mission, 16th October, 1846.

[Additional enclosures.]

Reports on the aborigines in the districts of Port Phillip, Western port, Portland bay, Murray, and Gipps land, and in the counties of Grant and Bourke, will be found in a volume in series III.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 151, per ship Eleanor Lancaster; acknowledged by Sir Charles Fitz Roy, 11th October, 1847.)

Sir, Downing Street, 18 May, 1847.

I herewith transmit to you the Copy of a Letter, which has been addressed to me by Mr. F. W. Strickland, who requests my interposition in enabling him to recover the amount of a debt, which he alleges was contracted with him by Mr. G. Gregory, the Prothonotary of the Supreme Court of New South Wales, on account of some Wine furnished to that Gentleman while in this Country in 1842.

I have to request that you will call upon Mr. Gregory for an explanation of the statement made in the accompanying Letter, and that you will apprize me of the result of your enquiry, in order that it may be communicated to Mr. Strickland, who has been informed of the course I have adopted on this occasion.

I have, &c,

GREY.

MR. F. W. STRICKLAND TO EARL GREY.

My Lord,

I beg to apologize for the liberty I take to address a Letter to Your Lordship.

It is concerning Mr. G. W. Gregory who holds an appointment in Sydney.

In 1842, Mr. Gregory contracted a Debt with me for Wine sent to his house at Blackheath (with interest since 1843 amounting to £19 5s.).

In 1843, when application was made at his late offices, St. Swithins Lane, I received information that he had left England for Sydney, having been appointed Chief Registrar.

I have repeatedly written to him on the subject without once having been favored by a reply.

My only hope now for the recovery of the amount is that your Lordship may be pleased to intimate to him, through the Governor or any other channel, that such a Debt remains unpaid.

I have, &c,

FREDERICK WM. STRICKLAND.

Wine Merchant, 8 Symonds Inn, Chancery Lane, 28th April, 1847.
FITZ ROY TO GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 108, per ship Honduras; acknowledged by earl Grey, 4th March, 1848.)

My Lord,

Government House, 18th May, 1847.

I have the honor to transmit the copy of a letter addressed to the Colonial Secretary of this Government by Dr. Dawson, Inspector of Hospitals and Principal Medical Officer, covering a Memorial from Colonial Surgeon George Brooks, praying for a Pension for his services during the period of twenty seven years under this Government, extreme ill health having incapacitated him from any longer performing his Medical duties.

The circumstances of Mr. Brooks' case are fully set forth in Dr. Dawson's letter, and under them I have felt warranted in acceding to his recommendation that he should be allowed to include in his pay abstract Mr. Brooks' name for the sum of Eleven shillings and sixpence per diem until Her Majesty's pleasure is known, this being the amount of Pension to which a Regimental Surgeon or Surgeon to the Forces of the Second Class would be entitled, if reduced for the same cause; and I trust that my having taken this step will receive your Lordship's approval.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

DR. DAWSON TO COLONIAL SECRETARY THOMSON.

Sir,

Sydney, 6th April, 1847.

I have the honor to transmit herewith a Memorial from Colonial Surgeon Mr. Brooks, reporting his illness and inability for further duty, and praying for a Pension for services performed as a Medical Officer during Twenty seven years almost without intermission.

I beg to add the following circumstances, and to request you will bring the same to the favorable consideration of His Excellency the Governor in the hope that His Excellency may be pleased to recommend to the Right Honorable the Secretary for the Colonies to grant the prayer of Mr. Brooks.

From personal examination, I am of opinion that the long continued illness of Mr. Brooks has so destroyed his health as to render him now quite unfit for the duties of a Medical Officer, and that there is little hope of his ever being able to resume his duties.

Mr. Brooks is a talented Medical Man, of strictly religious and moral character, and there cannot be a doubt that his illness has been brought on fairly in the regular course of Service, and that it has not been caused or aggravated by improper conduct.

Some years since, the officers of the Convict Medical Department were given to understand that they were to be placed on the same footing as Military Medical Officers as regards their pay and allowances. During their Service, they have been removed from Station to Station as Military Medical Officers; and they have almost always been performing in this Colony the duty of Medical Officer to Military Detachments as well as Convict Hospitals.
They have not been able from the low rate of their pay, viz., Seven Shillings and sixpence an Assistant Surgeon and Thirteen Shillings a Surgeon, to save any provision for their future years; and, from their liability to frequent removal, they have not been able to benefit materially from private practice even in cases where their public duties were so extensive as to prevent their availing themselves of it. Mr. Brooks, I am told, never has been able to practice privately.

If the Officers of the Convict Medical Department in New South Wales have enjoyed the benefit of a healthy climate in a greater degree than Army Surgeons, they have on the other hand been precluded from the possibility of rising to the higher ranks looked forward to by the Army Surgeons.

The Half-pay of a Military Regimental Surgeon or Surgeon of the Second Class, who has served Twenty seven years, the period of the service of Mr. Brooks, would be Thirteen Shillings per diem if placed on Half-pay by reduction or Eleven shillings and sixpence if reduced from any other cause.

Under these circumstances, I beg to recommend that His Excellency the Governor will be pleased to allow me to include in my pay Abstract Mr. Brooks' name for the sum of Eleven Shillings and sixpence per diem from the 1st of May next, until such time as Her Majesty's pleasure concerning his future pay may be made known.

I have, &c.,

W. Dawson, M.D., Principal Medical Officer.

[Enclosure No. 2.]

The Memorial of George Brooks, Senior Surgeon on the Colonial Medical Establishment of New South Wales,

To the Right Honorable Earl Grey, Her Majesty's Principal Secretary of State for the Colonies.

Humbly Sheweth,

That, deprived by bodily affliction of the ability which for Twenty seven years has been devoted to the service of the Government, Your Lordship's Memorialist is constrained to submit to your Lordship statements which he humbly trusts will be regarded as constituting a claim to commiseration.

Your Lordship's Memorialist received from Governor Macquarie, in November, 1819, the appointment of Assistant Surgeon on the Colonial Medical Staff, which appointment was ratified by the proper authority.

In 1823, Your Lordship's Memorialist became Senior Assistant Surgeon; and in virtue of his Seniority enjoyed two Shillings and sixpence per day additional to the ordinary pay of Assistant Surgeon.

The Department having been remodelled in 1828, Memorialist with three other Assistants was promoted, and, on receiving the enlarged Salary as Surgeon, was deprived of the additional pay theretofore bestowed on the Senior Officer.

Encouraged by his position in the Establishment, and by the usage observed in other Departments of the Public Service, Memorialist expected that as a result of long service, he would succeed to the charge of the Colonial Medical Staff as Inspector of Hospitals.
About ten years ago, however, the Civil Medical Establishment was assimilated in duties, discipline and pay to that of the Army, and an Inspector of Army Hospitals superseded the Officer then in charge.

Memorialist submits that he has for nearly Twenty years performed without remuneration the office of Staff Surgeon to the Troops, and to the Mounted Police of this District. That he had not been absent from duty four months altogether during the period of his service, until he became disabled about eight months ago. And that his health was destroyed by unremitting application to duties which were said by a late Inspector to be employment for two Surgeons.

The protracted nature of Memorialist's disorder has obliged him to apply for repeated Leave of Absence (extending to six months) after Medical inspection. Debility renders him unfit for very active employment; but, Should a merciful providence restore health and ability, he begs that he may be allowed to serve again as an efficient Officer.

Memorialist humbly submits that there have been instances of a retiring allowance made to Officers of the Service he belongs to, some of whom had not served so long as Memorialist. And, referring to the arrangements by which his office was identified in all important particulars with that of the Army Surgeons, your Lordship's Memorialist begs that he may be allowed a Pension, such as is bestowed on a Surgeon of the Army after Twenty seven years' Service.

Your Memorialist is 49 years of age, is married, and has four children; and he is dependant on his public Situation for the support of himself and family.

And Your Lordship’s Memorialist as in duty bound shall ever pray.

Geo. Brooks, Senior Colonial Surgeon.

Newcastle, 27th March, 1847.

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SIR CHARLES FITZ ROY TO EARL GREY.

(My Lord, Government House, 19th May, 1847.)

I do myself the honor to inform you that a Requisition has been forwarded to the Colonial Agent General for Type for the Government Printing Establishment at Sydney, and that the estimated expense of the Articles demanded, including the cost of packing, etc., namely, £37, has been issued from the Colonial Treasury to the Deputy Commissary General. I have therefore to beg that your Lordship will have the goodness to cause the necessary Order to be given for an equal sum to be paid to Mr. Barnard from Her Majesty's Treasury to enable him to comply with the Requisition.

A Certificate of the receipt of the money by the Deputy Commissary General has been transmitted to Mr. Barnard.

I have, &c,

CHS. A. FITZ ROY.

1847.

18 May.

Memorial of G. Brooks soliciting pension.

Requisition for type for government printing office.
HISTORICAL RECORDS OF AUSTRALIA.

1847.

20 May.

Sir Charles Fitz Roy to Earl Grey.
(Despatch No. 110, per ship Honduras.)

My Lord, Government House, 20th May, 1847.

I do myself the honor to transmit herewith the Returns requested in the Address to Her Majesty from the House of Commons dated the 26th of August last, which was forwarded in your Lordship's Circular Despatch of the 24th October, 1846, respecting the Revenue and Expenditure, and the form of Government of this Colony, namely,

1. A Return of the gross Revenue of the Colony of New South Wales, under its several heads, for the year ended the 31st December, 1846, shewing the deductions made in its progress to the Public Treasury, as well as the sums subsequently refunded.

2. Return of the Expenditure of the Colony of New South Wales, under its several Heads, for the year ended the 31st December, 1846, shewing the authority under which disbursements were made.

3. Return of the number of Members composing the Executive and Legislative Councils of New South Wales.

I beg to add, with reference to the last paragraph of the Address, that the Resolutions of the House of Commons respecting Colonial Accounts have not been adopted in this Colony.

I have, &c.,

CHS. A. Fitz Roy.

[Enclosures.] [Copies of the financial returns will be found in the “Votes and Proceedings” of the legislative council.]

Sir Charles Fitz Roy to Earl Grey.
(Despatch No. 112, per ship Honduras.)

My Lord, Government House, 22d May, 1847.

I have the honor to transmit to you herewith, in compliance with the instructions conveyed in Your Lordship's Circular Despatch of the 22d August, 1846, the Returns containing the information in regard to Light Houses, requested in an Address presented to Her Majesty by the House of Commons, dated the 3d August, 1846, namely,

1. A Return of all Light Houses in the Colony of New South Wales, showing the date at which each Light House was erected, the original cost of erection and from what fund defrayed, and the annual expense since its first erection and from what fund defrayed, so far as can be ascertained.
2. A Return of the Annual receipts and application of all monies received as Tolls for Light Houses in the Colony of New South Wales, up to the 31st of December, 1846, so far as can be ascertained.

In transmitting these Returns to Your Lordship, it may be proper to mention that, funds having been provided for the purpose by the Legislative Council, the erection of two additional Light Houses has been commenced on the Coast of this Colony between Port Jackson and the entrance of Bass' Straits from the Westward, the one being on Cape Otway, and the other on Gabo Island near Cape Howe, and that both are to be first class Lights.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

A RETURN of all Light Houses in the Colony of New South Wales, showing the Date at which each Light house was erected; the original cost of Erection, and from what fund defrayed; and the annual Expense since its first Erection; and from what Fund defrayed, so far as can be ascertained from the Records in this Office.

<table>
<thead>
<tr>
<th>Description of Light and where situated.</th>
<th>Date and Cost of Erection and Annual Expense of Maintenance.</th>
<th>Remarks.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Year</td>
<td>Cost of Erection</td>
</tr>
<tr>
<td>Light House on the South Head of Port Jackson</td>
<td>1819</td>
<td>£ 53 3 7 ½</td>
</tr>
<tr>
<td></td>
<td>1820</td>
<td>£ 192 6 9 ¼</td>
</tr>
<tr>
<td></td>
<td>1821</td>
<td>£ 231 10 2 ½</td>
</tr>
<tr>
<td></td>
<td>1822</td>
<td>£ 217 8 9 ¼</td>
</tr>
<tr>
<td></td>
<td>1823</td>
<td>£ 348 3 3 ½</td>
</tr>
<tr>
<td></td>
<td>1824</td>
<td>£ 267 6 14</td>
</tr>
<tr>
<td></td>
<td>1825</td>
<td>£ 437 4 9</td>
</tr>
<tr>
<td></td>
<td>1826</td>
<td>£ 497 6 6</td>
</tr>
<tr>
<td></td>
<td>1827</td>
<td>£ 721 10 13 ½</td>
</tr>
<tr>
<td></td>
<td>1828</td>
<td>£ 374 8 9 ½</td>
</tr>
<tr>
<td></td>
<td>1829</td>
<td>£ 431 17 2 ½</td>
</tr>
<tr>
<td></td>
<td>1830</td>
<td>£ 430 6 13 ½</td>
</tr>
<tr>
<td></td>
<td>1831</td>
<td>£ 517 12 8 ½</td>
</tr>
<tr>
<td></td>
<td>1832</td>
<td>£ 674 8 10 ½</td>
</tr>
<tr>
<td></td>
<td>1833</td>
<td>£ 494 17 9</td>
</tr>
<tr>
<td></td>
<td>1834</td>
<td>£ 594 16 8 ¼</td>
</tr>
<tr>
<td></td>
<td>1835</td>
<td>£ 291 1 8</td>
</tr>
<tr>
<td></td>
<td>1836</td>
<td>£ 359 2 9 ¼</td>
</tr>
<tr>
<td></td>
<td>1837</td>
<td>£ 7,405 4 3 ½</td>
</tr>
</tbody>
</table>
## Return of cost, etc., of lighthouses

### Description of Light, and where situated.

<table>
<thead>
<tr>
<th>Description of Light, and where situated.</th>
<th>Date and Cost of Erection and Annual Expense of Maintenance.</th>
<th>Remarks.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Light Vessel at the Entrance of Port Jackson.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Light House, Gillbrand's Point, Port Phillip.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Beacon Light, Newcastle.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Date and Cost of Erection and Annual Expense of Maintenance.

<table>
<thead>
<tr>
<th>Year</th>
<th>£ s. d.</th>
<th>£ s. d.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1836</td>
<td>592 4 2</td>
<td>177 1 13</td>
</tr>
<tr>
<td>1837</td>
<td>417 7 3</td>
<td></td>
</tr>
<tr>
<td>1838</td>
<td>574 12 10</td>
<td></td>
</tr>
<tr>
<td>1839</td>
<td>421 14 1</td>
<td></td>
</tr>
<tr>
<td>1840</td>
<td>455 13 1</td>
<td></td>
</tr>
<tr>
<td>1841</td>
<td>606 6 4</td>
<td></td>
</tr>
<tr>
<td>1842</td>
<td>601 11 6</td>
<td></td>
</tr>
<tr>
<td>1843</td>
<td>556 0 8</td>
<td></td>
</tr>
<tr>
<td>1844</td>
<td>441 7 8</td>
<td></td>
</tr>
<tr>
<td>1845</td>
<td>439 19 11</td>
<td></td>
</tr>
<tr>
<td>1846</td>
<td>680 12 3</td>
<td></td>
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### Annual Expense

<table>
<thead>
<tr>
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<th>£ s. d.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1840</td>
<td>194 10 0</td>
</tr>
<tr>
<td>1841</td>
<td>212 17 0</td>
</tr>
<tr>
<td>1842</td>
<td>247 16 0</td>
</tr>
<tr>
<td>1843</td>
<td>230 6 0</td>
</tr>
<tr>
<td>1844</td>
<td>146 0 6</td>
</tr>
<tr>
<td>1845</td>
<td>118 6 4</td>
</tr>
<tr>
<td>1846</td>
<td>102 12 2</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>£ s. d.</th>
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</thead>
<tbody>
<tr>
<td>1842</td>
<td>2,172 0 0</td>
</tr>
<tr>
<td>1843</td>
<td>266 15 2</td>
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<tr>
<td>1844</td>
<td>242 13 10</td>
</tr>
<tr>
<td>1845</td>
<td>196 1 3</td>
</tr>
<tr>
<td>1846</td>
<td>249 8 1</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>£ s. d.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1842</td>
<td>99 17 11</td>
</tr>
<tr>
<td>1843</td>
<td>92 15 12</td>
</tr>
<tr>
<td>1844</td>
<td>94 4 11</td>
</tr>
<tr>
<td>1845</td>
<td>91 14 3</td>
</tr>
<tr>
<td>1846</td>
<td>47 12 5</td>
</tr>
<tr>
<td>1847</td>
<td>67 18 6</td>
</tr>
<tr>
<td>1848</td>
<td>58 8 0</td>
</tr>
<tr>
<td>1849</td>
<td>70 14 3</td>
</tr>
<tr>
<td>1850</td>
<td>110 3 1</td>
</tr>
<tr>
<td>1851</td>
<td>81 5 9</td>
</tr>
<tr>
<td>1852</td>
<td>110 3 9</td>
</tr>
<tr>
<td>1853</td>
<td>188 8 0</td>
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<tr>
<td>1854</td>
<td>136 1 9</td>
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<td>1855</td>
<td>71 15 3</td>
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<td>1856</td>
<td>34 5 0</td>
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<tr>
<td>1857</td>
<td>61 15 6</td>
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<td>1858</td>
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<td>1859</td>
<td>55 14 3</td>
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<td>1860</td>
<td>29 14 0</td>
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<table>
<thead>
<tr>
<th>Year</th>
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</thead>
<tbody>
<tr>
<td>1850</td>
<td>1,602 4 9</td>
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</table>

### Totals

<table>
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<tr>
<th>£ s. d.</th>
<th>£ s. d.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,983 15 8</td>
<td>16,570 3 12</td>
</tr>
</tbody>
</table>

---

**Remarks:**
- The sum of £59 11s. 6d. was for Lamps, Glass, Timber and Ironmongery. All the other Expenses of the Erection, being blended with those for the General Service of the Department of Public Works, cannot readily be ascertained.
- The Expense of the Maintenance of this Light prior to 1st January 1828, cannot be ascertained from the Records in this office.
- The Government Revenue of the Colony.

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**Audit Office, Sydney, New South Wales, 22d February, 1847.**

_Stephen Cole._

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In the absence of the Auditor General.
[Enclosure No. 2.]

RETURN of the Annual Receipts and Application of all Monies received as Tolls for Light Houses in the Colony of New South Wales, up to 31st December, 1846, as far as can be ascertained from the Records in this Office.

<table>
<thead>
<tr>
<th>Year</th>
<th>Portland Bay</th>
<th>Melbourne</th>
<th>Sydney</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1822</td>
<td>£ 2 6</td>
<td>£ 176 0 11</td>
<td>£ 176 0 11</td>
<td>£ 176 0 11</td>
</tr>
<tr>
<td>1823</td>
<td>£ 173 10 8</td>
<td>£ 165 12 0½</td>
<td>£ 178 5 4</td>
<td>£ 178 5 4</td>
</tr>
<tr>
<td>1824</td>
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In the absence of the Auditor General, Audit Office, Sydney, New South Wales, 23rd February, 1847. STEPHEN COLE.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 152, per ship Eleanor Lancaster.)

Sir,

Downing Street, 24 May, 1847.

I transmit to you herewith, with reference to former Correspondence on the same subject, the enclosed copy of a further Communication from Mr. Sievwright, relative to the circumstances of his removal from the Office of Protector of Aborigines at Port Phillip. I also enclose a copy of the answer, which has been returned to that Letter.

Although I am still persuaded of the impossibility of instituting an investigation, with any satisfactory result, into the charges of immorality brought against Mr. Sievwright, I yet think it due to the local Authorities concerned, as well as to himself, to request a report on the allegations contained in his letter of the 8th Instant.

I have, &c.,

GREY.
1847.

24 May.

Letter acknowledged.

Reasons for dismissal of W. Sievwright.

HISTORICAL RECORDS OF AUSTRALIA.

Enclosure No. 1.

MR. W. SIEVWRIGHT TO EARL GREY.

8 Knight’s Place,

Wandsworth Road, 8th May, 1847.

My Lord,

I have the honor to acknowledge the receipt of a letter addressed to me by the Under Secretary, dated 2nd March, wherein I am referred to an extract from Mr. Secretary Gladstone’s letter of 27th March, 1846, in which it is observed that the primary cause of my removal from Office was stated to be “my general unfitness for the performance of its duties.”

It is true that, on being allowed access by Mr. Secretary Gladstone to the Despatches of the Governor and other correspondence relating to my removal from office, I learned for the first time, on referring to the Colonial Secretary’s letter of 25th February, 1842, “that His Excellency the Governor upon the perusal of a communication from the Chief Protector accompanied by a Report from Mr. Asst. Protector Sievwright from 1st Septr. to 30th November, 1841, had come to the conclusion that Mr. Sievwright’s proceedings were extremely injudicious, whilst he at the same time appears to pay no attention to the instructions of his own immediate superior, or of the Government”; and it is added “To bring together large bodies of the natives from distant parts and to issue to them indiscriminately Rations from the Government is quite at variance with the orders under which Mr. Sievwright is acting”; and

“The repeated Reports of Mr. Sievwright’s inefficiency made to His Excellency officially added to extremely injurious reports affecting his moral character, which have reached the Governor through channels, which, though not official, are such as to leave little doubt of their correctness, force him to request your Honor to report whether the continuance of Mr. Sievwright in the Public Service can be creditable to Government or calculated to advance the cause for which he was sent to Port Phillip.”

In the Extract from Mr. Supt. Latrobe’s letter to the Chief Protector, dated 12th August, 1842, which was appended to my letter to Your Lordship of 19th February last, it is shown that the sole charges, upon which I was suspended from my office, were those alluded to in the concluding paragraph of the Colonial Secretary’s letter; and consequently I have hitherto confined myself to them independently, as they are charges affecting my moral character, and of such a nature as of necessity to be primarily disposed of before any other subject could be approached.

But it now becomes my duty to examine those subjects, mentioned in the Governor’s Despatch to which I am referred, and bring under your Lordship’s notice the extraordinary measures which the Colonial Government found it expedient to adopt in order to rid themselves of a Public Servant, who had the misfortune to incur the displeasure of His Honor the Superintendent of Port Phillip, and also to render himself obnoxious to the Squatter from having diligently and fearlessly performed the onerous duties to which he had been called by the Right Honorable The Colonial Secretary of State, Lord Glenelg.

In carrying out the orders, which I had the honor to receive from Lord Glenelg, “to watch over the rights and interests of the Natives, to protect them from any encroachment on their Property, and from acts of cruelty, oppression or injustice, and faithfully
I unreservedly brought under the notice of the Government the subjects connected with this clause of my general Instructions, and as a magistrate did not hesitate to bring before the proper Tribunals with a strict impartiality those who unfortunately had been brought into collision with the natives, while defending their Property, as also the more aggravated cases of homicide and murder which were perpetrated by the lawless and depraved portion of the White Population.

In fulfilling those duties, I was necessarily exposed on the one hand to the enmity and vituperation of the Squatter and his Agents, whose murderous Acts were then for the first time brought to light, while on the other it appears that I became troublesome to the Government, through the incessant and pressing representations, which I deemed it my duty to make regarding the inert measures taken by the authorities, who, in declining to bring the implicated parties to trial even for their justification, thus naturally excited a feeling of hostility against the Officer, whose duty was primarily to detect and report upon the cases of homicide and murder, that came under his knowledge.

I may instance one case out of many for Your Lordship's information, where, according to the deposition of one of the parties engaged, "between Thirty and Forty men exclusive of women and children were shot dead, only one escaping of the whole Tribe"; and yet no trial or Inquiry of any description upon those outrageous transactions took place, further than the original depositions which I took upon the subject, which upon being forwarded to the Government for Instructions (having ceased to commit upon my own view of the case); and, upon The Crown Prosecutor returning as his decision "that the Blacks appear to have been the aggressors, at all events the conduct of two natives would make the conviction of the parties very uncertain," the case was allowed to stand over and ultimately fell to the ground.

I would here respectfully crave permission to bring under Your Lordship's notice the sensation which was produced in the Colony of New South Wales, and the reception which awaited the arrival in Sydney of the gentlemen who were chosen to fulfill the Duties of Protectors; when it became generally known that such a Department had been instituted.

Its creation was regarded even in the highest quarter as a tacit though unequivocal reproach to Colonial Philanthropy, and as an implied censure upon the vigilence of the Government, while the Squatter, and through him the Press, lost no opportunity of expressing the utmost disapprobation of the measure itself, and of heaping personal abuse upon the men whose qualifications were yet untried, and who henceforth were to protect and improve that race, who had erroneously been described to Lord Stanley as being incapable of improvement, and whose extermination before the advance of the white Population is a necessity which it is impossible to control; and to such an extent was the opposition carried that, in the opening speech of the Governor on the first Assembly of the Legislative Council in 1839, it became necessary for His Excellency to declare "that he had learned that it was the intention of the Council to refuse to Vote the Salaries of the Protectors, and, in the event of Members doing so, His Excellency would be obliged to charge the amount to the Land Fund which was at his Excellency's disposal."
I have referred to those facts to enable Your Lordship to judge of the prejudices that were to be overcome and the impediments with which the Department had originally to contend; which disadvantages were materially increased, when Mr. Robinson assumed the duties of Chief Protector in Port Phillip.

It appears that Mr. Robinson had arrived a few years before the period alluded to in Van Diemen's Land as an Emigrant in the humble sphere of a "Bricklayer," and had recommended himself to the Government by facilitating the removal of the few remaining Tribes of Natives from Van Diemen's Land to an adjacent Island, for which Service he was appointed their Superintendent, and, having thence acquired a knowledge of their habits, had been selected by Sir George Arthur as a fit person to instruct gentlemen sent out from England how to acquire the confidence of the Natives; but, as it will be shown in the sequel, neither cooperation nor assistance of any kind, even in the shape of Instructions to his colleagues, were rendered on his part while the periodical transmission of the Letters and Reports to and from the Government, which passed through his hands, were much retarded by Mr. Robinson, who by his Education was not well qualified for the duties that devolved upon him, even as a correspondent.

The hopeless position into which I and my party were thrown by the supineness and negligence of the Chief Protector, who during the first three years of the existence of the Department could not be prevailed upon even to visit my District, will be at once ascertained by a perusal of the Papers, marked Nos. 17 and 18 in the printed Appendix, which accompanied my letter to Mr. Secretary Gladstone, 17th March, 1846, and the serious evils and losses referred to in Nos. 19, 20 and 22 in the same Appendix, which were entirely occasioned by his remissness, while they were represented to the Colonial Government by that officer, and thence to Lord Stanley, as the result of my imprudence and inability.

It was at this juncture, when the minds of the Settlers were irritated by the severe losses they had sustained from the depredations of the Natives upon their flocks and herds, and from the deplorable state of inaction of the Authorities, and apparent apathy with which the complaints of the Settlers and my representations were received, that the Chief Protector appears to have successfully secured his own justification by falsely reporting to the Government "that I had brought large bodies of Natives from distant parts and issued to them indiscriminately Rations from the Government, while at the same time I paid no attention to the Instructions of my immediate Superior or of the Government."

It is remarkable that the only Instructions, I ever received from the Chief Protector, and for which I had so long and frequently applied, were precisely those upon which I was then acting, namely, "To endeavor to collect at one Central Station as many of the Natives of my District as could be induced to congregate," notwithstanding I had in toto dissented from the practicability of a project, more wild than the elements it had to contend with; a reference to my letter,* dated 27th September, 1839, will be sufficient to show my opinion of the hopeless experiment of collecting Natives from distant parts, which nevertheless was attempted to be carried out, by the orders of the Chief Protector, in the several Districts under the Assistants; and signally failed in all.

* Marginal note.—Printed App'x, No. 8.
GREY TO FITZ ROY.

As to the indiscriminate issue* of rations to the Natives at this time at the encampment, a perusal of my Report referred to will show that I had it not in my power, though my earnest entreaties were to be allowed to do so under certain restrictions.

While the other Districts had been for many years gradually approached, and the difference of opinion between the Settler and the Savage on their first introduction to each other, as to right of occupancy, had been long adjusted; the Public Disclosures of the actual state of affairs in my District, which it may be here remarked was the most extensive and was then being occupied for the first time by the Squatter, and the unceasing assiduity with which I continued to call upon the Government for a demonstration, that might serve to check the appalling loss of life which had been so repeatedly brought under their notice, together with the remembrance of the unmeasured, but still respectful terms in which, as an old Soldier and a gentleman, I indignantly replied to His Honor the Superintendent, when I awaited upon him to demand an explanation of his discourteous official reception of me, I discovered that he had presumed on the statement of some secret enemy of mine to prejudge and condemn the conduct and character of a Stranger unheard, who was then and is now incapable of countenancing or participating in any behaviour unbecoming a Gentleman and to the fact of having been obliged in the discharge of my duty to call the attention of His Excellency the Governor to most arbitrary and unjust measures of the Superintendent towards the Aborigines.

I have no doubt led to the foundation of the Scheme to remove me from my office.

And how has this been accomplished? This measure could not be accomplished upon any ground connected with my Public Duties, notwithstanding, I was left to carry out my duties in my own way, and "my proceedings not intermeddled with," while my representations and reports were treated with silence and neglect, preparatory to the misrepresentations ascribing to my measures what by my statement to the Superintendent at the time were shown to be the result of the Chief Protector's neglect of duty, a series of the most foul and malignant calumnies were adopted and made use of, as grounds for the dismissal of a Public Servant, who, in obeying the only orders for his guidance, which he ever received (namely those of the Secretary of State already referred to, and which were loudly declared to be incompatible with the interests of the Colony) had in doing so not only incurred the displeasure of the Executive, but had sacrificed, for himself and family, every comfort of civilized life; while, at the same time, education, and frequently the commonest necessities of life, were from his exiled position, in the interior, totally unattainable for his children.

It was not my interest therefore, it could not be my wish at any time to embarrass the Colonial Government, either by the inordinate display of a distempered zeal in the cause of those committed to my charge, or from a desire to become per fas et nefas the pulling champion of a barbarous though suffering people; but I had been pledged to lend my energies to the National experiment that was being made for the amelioration and for the protection of the Aborigines, and my mind and capabilities were accordingly given to the task.

* Marginal note.—Printed App'x, Nos. 20 and 22.
I would not now most respectfully beg Your Lordship's attention to the manner in which my removal was accomplished, and to the consequences that have ensued to my family from a treatment which can only be characterized as being in the highest degree arbitrary and unjust in its measures, unconstitutional in its character, and in its effect to myself and family overwhelming and ruinous.

Soon after the assumption of the duties of Superintendent by Mr. La Trobe, at a private interview with that officer at his own residence which I sought for the purpose already stated in my letter of 19th August, 1842 (said to be “my defence”), I learned from his Honor that “Rumors had been busy with my character”; and, although I could neither obtain from his Honor the nature of the rumors he alluded to, nor the names of the parties from whom he had gathered this defamation, I then and there intreated that His Honor would bring the matter to an issue by the strictest investigation on every point, that had been brought under his notice; to which appeal His Honor replied, “That he did not see how he could then interfere with the matter, as it ought to have been the duty of the Chief Protector to have done so at the time the accusations against me were first made.”

Your Lordship will undoubtedly be astonished to learn that, nearly three years after this conversation, I received a notification, intimating, “That His Excellency The Governor had been pleased to order me to be suspended from my office, more on account of the charges that have existed, and which still exist with reference to my moral character, than from any want of capacity or perverseness I may have evinced since my connection with the Department.”

It would thus distinctly appear that Mr. La Trobe after my interview with His Honor could not have given credit to the reports which, upon his arrival, he vaguely intimated had been attached to my name, and yet when it subsequently became expedient to remove that officer whose sense of duty led him at all risks fearlessly to detect and “perversely” to proclaim the dark deeds, which from their continuance so blotted His Honor's administration, it became necessary to fall back upon and revive those extinct and forgotten calumnies in order to have an apparent legitimate reason for his removal, as also to insure the Services of a more discreet Successor.

In full confidence of the Supreme ascendency of truth, I earnestly and I may say joyously demanded the investigation of the strictest Tribunal in order that I and my family might at once and for ever be delivered from such degrading and truly indecent fabrications: but such were not the views nor the intentions of His Honor the Superintendent, who on finding that by the production of Documents I was prepared to falsify the evidence which had been prematurely remitted to Sydney, as that “in which entire confidence was to be placed, and that consequently there might be some difficulty in determining the precise points to be investigated” or, in other words, that he dare not approach a scrutiny which might terminate in the confusion of my calumniators, it appears that His Honor availed himself of all that sophistry and the most jesuistical application of distorted facts could effect, to give complexion and character to those orbate and anonymous defamations.

As to the repeated Reports made to the Governor officially of my inefficiency, it seems to me surprising that no intimation was at any time given to me even of the slightest disapproval of my
official conduct, nor any act or omissions pointed out in the Governor’s dispatches indicating “unfitness”; or in Mr. La Trobe’s reply, enclosing that of the Chief Protector, is any specific cause mentioned. Mr. La Trobe states, in his letter of the 7th May to the Colonial Secretary, “That he had referred to the Chief Protector the Colonial Secretary’s Letter on the propriety of Mr. Sievwright being continued in the Public Service, and that he had received the following brief reply, that, under all the circumstances and judging from all proceedings, that it would be desirable that the services of Mr. Sievwright should be dispensed with” ; here nothing is referred to, nor any charge made; Mr. La Trobe in the same letter also avoids any accusation by stating that the conviction has been impressed upon his mind that Mr. Sievwright’s connection with the Department was a most unfortunate one, and the sooner it was dissolved the better, adding, “that it is not to be asserted that any Member of this Department has fully acted up to their duties; but, however failing in this or that particular, each with the exception of Mr. Sievwright has conciliated at least that degree of respect, which will be awarded to a fair moral name, and an evident desire to effect good, however limited the success”; concluding with this general clause, “Mr. Sievwright unfortunately for himself has not been in a position to claim even these advantages, neither can he claim the approbation of the Government, as to the general tenor of his proceedings”; and Mr. La Trobe agrees with the Chief Protector “that his further Services should be dispensed with”; here Mr. La Trobe falls back upon the only reason he ever gave, as far as I know, either to the Governor or myself, namely “the calumnies attached to my character”; even while in search of charges to fill up the catalogue he was preparing against me, no specific act or dereliction of duty could be found upon which he could fix in order to condemn my official conduct to the Governor, although in his anxiety to do so he even appointed a Commission of Inquiry to investigate at a considerable expense to the Government, if the simple Report, which I as a Magistrate had made to the Government of some barbarous murders upon some Aboriginal women, were a correct and unexaggerated statement of the circumstances as they occurred. Nay, in his confidential Report to the Governor, dated 2nd August, 1842, having fixed upon the nature of the charges about to be brought against me, and in his endeavor to give as high a coloring to the subject as it would admit of, the Superintendent inadvertently allows what he before (in his letter above quoted) insinuates did not exist, forgetting that he had not even included me in the faint praise he awarded to my colleagues, when describing “their evident desire to effect good”; he subsequently contradicts himself, when endeavoring to uphold the argument he was then engaged in supporting, while he says, “The existence of these Reports have thrown serious obstacles in Mr. Sievwright’s way, their existence having cast an air of ridicule over the personal efforts of Mr. Sievwright in the discharge of his Duty as an Assistant Protector and a Magistrate.”

And, with this indirect admission of my personal efforts to discharge my duty, I am in possession of favorable testimonials from the first Colonial Law Officers of The Crown as to my conduct as a Magistrate.

This new, vague untangible charge of “General unfitness” is a term easily applied to any official; and, if held to justify removal,
no person would be safe in office for a day, nor would any one take employment in our Colonies, going out at a large expence and breaking up connexions and establishments in this Country. Sir George Gipps specifies no acts showing "unfitness," and refutation is thus precluded. He was as it now appears very unfit for his Office himself; and his death and that of others imposes great difficulties on me for which in justice allowance should be made.

In order to show that I do not seek to establish my own exoneration from the charges alleged against my official "unfitness" for the performance of the duties assigned to me upon my own solitary representation, I take the liberty to append a Colonial Newspaper, received while writing, by which I am enabled, and I trust without any impropriety at this moment, to place before Your Lordship the opinion entertained by the Public of Port Phillip of my official proceedings and also of the estimation in which the private character I left behind me is held; while my present allegation, affecting the Chief Protector, appears but a faint echo of the general Public outcry as to his inefficiency.

In conclusion, I would respectfully submit to Your Lordship that, having shown that this new and unjust charge of "General unfitness" is contradicted by public opinion, as well as by the fact that not the slightest intimation was ever conveyed to me by the Colonial Government of disapproval and much less of censure of my official proceedings, that its unfair adoption now, when the moral charges are virtually abandoned, places me in a position in which it is absolutely impossible for me now to obtain redress in any way for visible wrong done.

In the first hour of my impeachment, I with scorn repelled those truly Colonial Accusations, and demanded there and then of the Colonial Government "that a Commission of Inquiry should be immediately instituted as the only means by which the truth or falsity of the charge brought against me could be fully and clearly ascertained. I begged for the severest scrutiny into my past and present conduct, my moral and domestic character, and the discharge of my official duties, and stated that every facility would be given by myself and family towards arriving at the truth on these subjects."

Your Lordship is aware how these my reiterated demands were for months evaded, and ultimately refused upon the plea "that my case was then in the hands of the Secretary of State." The time and opportunity for these inquiries being then denied has now passed away. The scrutiny I involved, when my Calumniators and their Agents might have been convened, would now be as useless to me as it would then have been fatal to their views.

They are not only dispersed throughout the two hemispheres; but, by the death of Sir George Gipps, the Revd. Mr. Dredge, and of the Lady who on the Instant became a victim of their machinations, I am deprived of reference and testimony of vital importance to me.

Still I am sustained by the hope that my claim for simple Justice will yet be responded to by Your Lordship, upon that broad principle of Equity, which is at once the shield of the oppressed and the glory or dishonor, by whomsoever it is granted or withheld.

I have, &c.,

W. SIEVWRIGHT,
last Asst. Protector of Aborigines, New South Wales.
[Enclosure No. 2.]

UNDER SECRETARY HAWES TO MR. W. SIEVWRIGHT.

Sir,
Downing Street, 22d May, 1847.

I am directed by Earl Grey to acknowledge the receipt of your Letter of the 8th Instant, on the subject of your removal from the Office of Assistant Protector of Aborigines in New South Wales.

The effect of Your representation Lord Grey understands to be, 1st. That the chief ground of your removal from your Office was that of your alleged immorality, although as you maintain that fact had never been fully investigated; and 2nd. That the charge of incompetency for the duties of your Office was unfounded and had its origin in the vindictive feelings which (as you allege) your too great zeal in the discharge of your Office had excited against you.

It has already been pointed out to you that any further enquiry, which could be instituted into the charges affecting your Private character, must be futile and destitute of any satisfactory result so long as you shall continue to absent yourself from the Colony. Lord Grey will however call for a report from the Local Authorities on the statements which you have now made.

I have, &c,

B. HAWES.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 153, per ship Eleanor Lancaster; acknowledged by Sir Charles Fitz Roy, 9th October, 1847.)

Sir,
Downing Street, 24 May, 1847.

I have communicated to the Lords Commissioners of the Treasury a Copy of your Despatch, No. 43 of the 28th October last, together with the Address which accompanied it from the Legislative Council of New South Wales, the object of which was to obtain a reversal of the decision of their Lordships, in respect of a deduction which they ordered to be made from the pension granted by the Home Government in 1815 to Mr. A. Macleay, late Speaker of the Council, upon the abolition of the Transport Board in this Country, at which that Gentleman then held the Office of Secretary.

The Answer of the Lords Commissioners is unfavorable to this application, their Lordships having informed me that they see no ground for directing any larger portion of the compensation allowance granted to Mr. Macleay to be paid to him, than that which is authorized by the Act of 3d and 4 Wm. 4, Cap. 24, namely, so much as, together with the Salary of any other Office he may hold, will make his yearly income equal to the salary attached to the office on account of which the compensation was granted.

I have to request that you will apprise the Legislative Council of the contents of this Despatch. I have, &c,

GREY.
EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 154, per ship Eleanor Lancaster; acknowledged by Sir Charles Fitz Roy, 31st October, 1847.)

Sir,
Downing Street, 25 May, 1847.

With reference to my Despatch of the 10th of July, 1846, No. 2, I have now to inform you that, in compliance with an application which he has addressed to their Lordships for that purpose, the Lords of the Treasury have reported to me that they have given directions for an advance to the Colonial Agent of the sum of £5,500, on account of The Government of New South Wales, to enable him to pay for the Lanterns, Apparatus, Stores, etc., for the Lighthouses proposed to be erected in Bass' Straits, and which have been provided by Mr. Barnard at the cost of £5,537 4s. 8d.

It is stated, in your Predecessor's Despatch of 21st Decr., 1845, No. 194, that a sufficient sum would be reserved by the Local Government, out of the £9,000 appropriated to this service, to cover any advances which might be made to the Agent on that account. You will, therefore, make the necessary arrangements for the repayment of the said £5,500 into the Commissariat Chest of the Colony.

I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 115, per ship Honduras; acknowledged by Earl Grey, 19th November, 1847.)

My Lord,
Government House, 25th May, 1847.

I have the honor to enclose herewith a copy of the Speech with which, on the 4th instant, I opened the Session of the Legislative Council of this Colony.

I also transmit a copy of the Address presented to me by the Council and my rejoinder.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosures.]

[Copies of these papers will be found in the "Votes and Proceedings" of the legislative council.]

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 155, per ship Eleanor Lancaster; acknowledged by Sir Charles Fitz Roy, 20th November, 1847.)

Sir,
Downing Street, 26 May, 1847.

With reference to my Despatch of the 28th Ultimo, No. 140, I have now to acquaint you that, in answer to a recent application on the subject from Mr. Moger, I have caused that
FITZ ROY TO GREY.

Gentleman to be informed that the Yearly deduction to be made, for his benefit, from Mr. Slade's salary is to commence from the 28th of last month.

You will, therefore, take the necessary measures for carrying this arrangement into effect. I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(My Lord,

Government House, 26th May, 1847.

I have the honor to transmit (with a view to their being Papers submitted for the consideration of the Lords Commissioners of Her Majesty's Treasury) the copy of Minutes of the proceedings of the Executive Council of this Government, relative to the recent suspension of Mr. Peter Stewart, Second Clerk in the Customs Department at Sydney, together with copies of the correspondence and documents referred to therein.

It will be perceived that, upon receiving a Report from the Collector of Mr. Stewart's, on being ordered to undertake certain additional duties (on the 4th Feby. last), absented himself from the Custom House, without leaving his address or accounting in any way for his non-attendance. A similar occurrence having taken place at precisely the same time last year when he was ordered to undertake the same additional duties, I deemed it necessary to bring the case before the Council, who advised that Mr. Stewart should be suspended from Office until he could afford a satisfactory explanation of his conduct.

It will be further perceived that the Council, after having at various meetings fully investigated the charges against Mr. Stewart and also heard what that gentleman had to offer in his defence, advised that his suspension should be no longer continued, but that I should transmit the Papers, which had been laid before them, to Your Lordship with a request that the Lords Commissioners of Her Majesty's Treasury might be moved to approve and confirm Mr. Stewart's suspension and deprivation of Salary for the period he remained suspended from Office, and to consider whether it would not be expedient for the benefit of the public Service that Mr. Stewart should be employed elsewhere than in New South Wales.

I have only to add that, from what came out in evidence before the Council, it will appear that Mr. Stewart, at no time a very efficient Officer, had latterly given himself up to such
dissipated habits as would render his employment anywhere unadvisable; but, as Mr. Stewart has served for many years in the Customs Department, I would venture to suggest that it might be more beneficial to the public service if he were to be permitted to retire from it upon such allowance as he would be entitled to if he had retired under other circumstances.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[A copy of these minutes will be found in a volume in series II.]

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 156, per ship Eleanor Lancaster.)

Sir,
Downing Street, 27 May, 1847.

I have received your Despatch, No. 1* of the 1st of February last, reporting the further measures which you had adopted for the establishment of the Settlement of North Australia.

On this subject, I have to refer you to my previous Despatches which notified to you the abandonment by H.M.'s Government of the intention of forming that Settlement.

I must, however, express my great regret that you had not acted on the advice of Lt. Colonel Barney, and delayed incurring so heavy an expense as that which you now report in preparing for the reception of the expected Exiles in a situation to which was attached so great a disadvantage as that of an inadequate Supply of Water. Had a position been found well adapted for Settlement, the expense incurred would not have been rendered useless even by the Abandonment of the original plan of sending Exiles thither. The Land might then have been opened for free Settlement; whereas, I am afraid that, as the position has now been selected, the large outlay which will have been incurred will not be attended with any advantage.

I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 117, per ship Honduras.)

My Lord,
Government House, 27th May, 1847.

I have the honor to transmit herewith the Blue Book of this Colony for the year ended the 31st December, 1846; and, in compliance with the instructions contained in the Secretary of

* Note 46.
State's Despatch, No. 101 of the 5th May, 1842, I proceed to offer such observations upon the condition of the Colony as may be interesting to Your Lordship.

Taxes, Duties, etc., Pages 1 to 15.

The total Revenue derived from the duties on Spirits imported as well as made in the Colony was in

- 1845: £107,056 17 4
- 1846: £86,037 9 3

This decrease has arisen from the reduction in the duties on Spirits under the Act, 9 Victoria, No. 20.

The ad valorem duties remain as last reported, but their amount is progressively improving with the recovering prospects of the Colony. They produced in

- 1845: £19,471 0 2
- 1846: £27,779 15 4

The Duties on Tobacco produced in

- 1845: £48,990 3 2
- 1846: £53,400 12 1

The Wharfage and Harbour dues amounted in

- 1846: £6,592 7 10

but, by the local Act, 10th Victoria, No. 4, all Wharfage dues payable direct to the Government are abolished from the 1st January, 1847, the Governor being authorised to let by Public Auction the Wharfage and Tonnage rates receivable at the Public Wharves, such rates not to exceed those mentioned in the 8th Victoria, No. 16; and the rates of Wharfage at Private Wharves are not to exceed those charged at Public Wharves.

Post Office, Pages ——.

The Revenue produced by the Post Office, although considerable, has not hitherto added much to the General Revenue of the Colony, owing to the causes specified by my Predecessor in his Report on the Blue Book for 1845, namely, the great extent of the Colony and the dispersed state of the population.

<table>
<thead>
<tr>
<th>The Revenue</th>
<th>The Expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1845: £18,001 11 6</td>
<td>£16,335 13 4</td>
</tr>
<tr>
<td>1846: 17,924 13 3</td>
<td>16,165 15 7</td>
</tr>
</tbody>
</table>

The Act of the Imperial Parliament (7 and 8 Victoria, C. 49) placing the Post Office under the direction of the Post Master General in England is not yet in operation.

The Local Act (2d Vict., No. 27), under which the assessment on Stock depastured on Crown Lands was levied, expired on the 30th June, 1846. The amount received for the first six months of that year was £17,918 15s. 7d.; and nothing in the shape of assessment on Stock has since then been received.
The Fees on Licenses to occupy Crown Lands and to Cut Timber, which are part of the Crown Revenue, produced in 1845 £31,790 2 6
" 1846 39,724 18 1

Fees of Office, Pages 15 to 41.
The Revenue derived from Fees of Office was in
1845 £9,479 11 0
1846 10,931 18 10

The Fees taken in the Insolvent Court and in the Court of Request, which in 1845 and 1846 were applied to defray the expenses of those Courts, will in 1847 be again carried to the General Revenue, the Legislative Council having, in their second Session of 1846, voted (as a Supplement to Schedule A of the Constitutional Act, 5 and 6 Vict., C. 76) the funds necessary for the maintenance of these Courts; These fees amounted in 1844 to

<table>
<thead>
<tr>
<th>Court</th>
<th>1844</th>
<th>1845</th>
<th>1846</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insolvent Court</td>
<td>£2,088 19 0</td>
<td>£9,479 11 0</td>
<td></td>
</tr>
<tr>
<td>Courts of Request</td>
<td></td>
<td>10,931 18 10</td>
<td>4,413 4 10</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>£6,502 3 10</td>
<td></td>
</tr>
</tbody>
</table>

(see Sir Geo. Gipps' Despatch of 3d Feby., 1845, No. 26.)
The fees taken in all the Courts of Justice have greatly decreased. In the Supreme Court in Sydney, they were in
1842 £14,460 15 7
1845 5,045 9 8
1846 4,530 0 6

Revenue and Expenditure, Pages 41 to 105.
The Accounts of the Colony are made up in accordance with the principles laid down in the Constitutional Act, 5 and 6 Vict., C. 76.
The Ordinary Revenue, that is to say, the Revenue derived from Taxes, Duties, Rates and Imposts, was in
the year 1845 £283,945 16 2
" 1846 270,550 9 9
Therefore the Revenue of 1845 exceeded that of 1846 by £13,385 6 5

The Expenditure chargeable on the Ordinary Revenue was in
1845 £351,087 10 11
1846 254,177 4 1
Therefore the Expenditure of 1845 was less than that of 1846 by £3,089 18 2
And the Ordinary Revenue of 1846 being £270,550 9 9 and the Expenditure £254,177 4 1.

The Revenue of 1846 exceeded the Expenditure by £16,373 5 8.

Crown Revenue.

The following is a Statement of the Crown Revenue for 1846:

Territorial—
- Land Sold £27,060 15 7
- Quit Rents 7,966 1 7
- Depasturing Licenses 38,943 18 1
- Timber Do 781 0 0
- Rents, Leases, etc., within the Boundaries 4,566 4 10

Total £78,648 0 1

Casual Revenue 3,060 2 1

Total £82,708 2 2

The charges on the same Revenue for 1846 were,
- Survey and management £13,381 1 4
- Aborigines 2,062 10 11
- Immigration 1,782 19 8
- Interest on Debentures 7,383 15 0
- Miscellaneous 1,682 19 11
- Debentures paid off 9,500 0 0

Total £35,783 6 10

There is a balance therefore in the Crown Revenue of £46,914 15s. 4d. applicable towards the paying off of the remaining outstanding Debentures.

Convict Expenditure, Pages 105 to 117.

The Expenditure under this head continues to decrease; it was £31,582 10 0 in 1845 and £27,713 4 9 in 1846.

The number of Convicts in the Colony, according to the Blue Book for 1846, is 11,271; being a decrease on the previous year of 5,572.

Local Revenues, Pages 117 to 125.

The local Revenues of the City of Sydney amounted in 1846 to £9,022 18s. 4d.; those of the Town of Melbourne to £5,140 14s. 11d.
The District Councils are in the same state of abeyance and inaction, and require no report.

Military Expenditure, Pages 125 to —.

No expense has been incurred on account of Military Defences in the Colony; and the only Colonial Military Expenditure is that of the Mounted Police, amounting in 1846 to £5,880 10s. 4d.

The amount paid for gratuities to Officers and Soldiers out of Colonial funds for guarding Convicts employed on Public Works for the Colony was, in 1846, £1,027 6s. 11d.

Legislation, Pages 147 to 157.

The Reports on the Acts passed by the Legislative Council in 1846 are contained in Sir George Gipps' Despatch, No. 130 of the 26 June, 1846, and my own Despatch, No. 10 of the 9th January, 1847.

Councils and Assemblies, Pages 157 to 163.

No observance on this Head seems Necessary.

Civil Establishment, Pages 163 to 359.

This Head appears to require no report.

Security for Discharge of Duties, Pages 359 to 369.

This Head appears to require no report.

Pensions, Pages 369 to 374.

The Pension List shows an increase in 1846.

The Pensions payable in the Colony were

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1845</td>
<td>£619 17 10</td>
</tr>
<tr>
<td>1846</td>
<td>664 2 6</td>
</tr>
</tbody>
</table>

Recapitulation of the Establishment, Pages 374 to 377.

No observation seems necessary.

Foreign Consuls, Pages 377 to 379.

There are only two Consuls in the Colony, French and American.

Population, Pages 379 to 437.

A Census of the Colony was taken on the 2d March, 1846, of which a general summary will be found at page 382. The Population was shown at that date to be 189,609 souls (exclusive of Port Essington), being an increase during the preceding five years of 58,753 souls.
Ecclesiastical Return, Pages 437 to 459.

The number of Clergymen receiving Salaries from the Government in the year 1846 was 141, being an increase of 27 on the previous year.

The amount, secured for Public Worship under Schedule C of the 5th and 6th Vict., C. 76, is distributed under the arrangement sanctioned by the Secretary of State's Despatch, No. 19 of the 17th January, 1846.

Education, Pages 459 to 475.

No alteration has been made in the method of providing for Education in the Colony. The number of Schools is stated, at page 473, to be 394, being 27 more than there were in 1845. The number of Scholars is also increased by 2,517.

Exchanges, Monies, etc., Pages 475 to 495.

The Coin in the Colony was in 1845 £875,166 0 0

1846 847,316 0 0

The Paper Money in circulation was in 1845 £196,310 0 0

1846 210,219 0 0

Exchange has been for the most part at Par.

Imports and Exports, Pages 495 to 533.

The Imports (Port Phillip included) were

In 1845 . . . . £1,233,854 0 0

1846 1,630,522 0 0

The Exports (Port Phillip included) were

In 1845 . . . . £1,555,986 0 0

1846 1,487,258 0 0

The Export of Wool from the whole Colony was

in 1845 . . 17,364,734 Lbs. . . £1,009,242 0 0 Value.

1846 . . 16,479,520 . . 1,019,985 0 0

The value of Tallow exported was in

1845 . . . . . . £102,746 0 0

1846 . . . . . . 28,107 0 0

The great decrease in the value of Tallow exported appears to have arisen from the great deficiency of the natural grasses in the greater part of the year 1846, and the consequent impossi­bility of obtaining fat Stock, which of course is the only stock fit for boiling down and converting into Tallow.

The return of favorable seasons, the low price of Wool in the European Markets, and the high price of labour prevailing in the Colony will probably restore this item to its former large amount.

Agriculture, Pages 533 to 539.

The returns of Produce and Live Stock will be found at page 534; but it is doubtful whether the Agricultural Tables can be depended upon for accuracy.
Manufactures, Mines, and Fisheries, Pages 539 to 545.

The manufacture of Tweed Cloth in the Colony is progressively improving; and the working of a Copper Mine at Molong in the Western District of the Colony has been lately commenced with some prospect of success.

Grants of Land, Pages 545 to 553.

No observation seems necessary in respect to Grants; an improvement is shown in the amount received for the sale of land;

In 1845, it was £18,451 0 0
1846 28,255 0 0

Gaols and Prisoners, Pages 553 to 575.

The following Returns of the comparative state of Crime in the Colony will be found interesting:

Convictions in the Supreme Court.

<table>
<thead>
<tr>
<th>Year</th>
<th>Murder</th>
<th>Other Felonies</th>
<th>Misdemeanours</th>
</tr>
</thead>
<tbody>
<tr>
<td>1845</td>
<td>8</td>
<td>190</td>
<td>42</td>
</tr>
<tr>
<td>1846</td>
<td>7</td>
<td>173</td>
<td>44</td>
</tr>
</tbody>
</table>

Convictions in Courts of Quarter Sessions.

<table>
<thead>
<tr>
<th>Year</th>
<th>Felonies</th>
<th>Misdemeanours</th>
<th>Criminals Executed</th>
<th>Civil Cases tried in the Supreme Court</th>
<th>Of which the number of undefended or short cases was</th>
</tr>
</thead>
<tbody>
<tr>
<td>1845</td>
<td>303</td>
<td>51</td>
<td>3</td>
<td>178</td>
<td>26</td>
</tr>
<tr>
<td>1846</td>
<td>350</td>
<td>77</td>
<td>1</td>
<td>197</td>
<td>26</td>
</tr>
</tbody>
</table>

Miscellaneous Returns, Pages 575 to 594.

A variety of Returns is given at the End of the Blue Book, as printed for the Legislative Council of the Colony. A Table of the Contents of them will be found at page 576; and they disclose a great body of useful statistical information.

In conclusion, I have the gratification of feeling justified in stating my belief that the Colony is in a thriving condition; and, provided it is blessed with favorable seasons and the increase of the labouring population which is now so much required, there appears to me to be every reason to hope for the continuance of its prosperity.

I have, &c.,

Chs. A. Fitz Roy.
FITZ ROY TO GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 157, per ship Eleanor Lancaster.)

Sir,
Downing Street, 28 May, 1847.

I have received your Despatches, Nos. 3 and 13 of the 3d and 9th of January last, the former reporting the progress of the Expedition under Sir Thomas Mitchell towards Port Essington, the latter reporting the return of that Officer and the result of his Expedition.

I have to express my satisfaction at the success which has so far attended the Expedition in the discovery of a valuable Country, and in opening out so fair a prospect of an overland route to Port Essington.

I have, &c.

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 118, per ship Honduras; acknowledged by Earl Grey, 16th May, 1848.)

My Lord,
Government House, 28th May, 1847.

I have received a Memorial from Mr. George W. Evans, soliciting that the sum of £336, together with the Costs of certain proceedings instituted against him in the Supreme Court of this Colony at the suit of the Crown, may be returned to him.

It appears that, in the year 1811, Mr. Evans obtained from the Report on Local Government the loan of four Cows and two Oxen of the value of £163, and that he gave a Bond in the penal sum of £336 to repay the amount, or, in lieu thereof, to return to the Government four good Cows and two good sound Oxen within the term of three years.

In September, 1839, the Attorney General, under instructions from the Lords of the Treasury communicated through the Deputy Commissary General, took proceedings against Mr. Evans in the Supreme Court on the Bond alluded to, and obtained a Judgment for the sum of £163, with interest thereon at the rate of 5 per cent. from the 11th June, 1814, but not exceeding the amount of the Penalty.

It is now represented by Mr. Evans in his Memorial, of which I enclose a copy, that certain Documents have since been found to prove that, in the terms of the Bond, the Cattle were duly returned to the Superintendent of Government Stock in satisfaction of his debt to the Government; and he solicits therefore that the whole of the Expenses, which he has been put to in this matter, may be returned to him.

I have considered it proper to call on the Crown Solicitor for Civil Business to furnish a statement of the case, and also to enquire into the facts of it as represented by Mr. Evans; and I
now do myself the honor to transmit, for Your Lordship's information, a copy of the Report which I have received from that Officer, from which it appears that Mr. Evans' statement is substantially correct. I beg, therefore, to recommend, for your Lordship's favorable consideration, that this case should be placed on the same footing as those respecting which, it is stated by the Civil Solicitor, the Lords of the Treasury have directed that the Bonds should not be enforced.

This would of course involve the necessity of refunding to Mr. Evans from the Military Chest the amount of the Decree of the Court, viz., £336, and the Costs which he has incurred, amounting to the further sum of about £400.

I have, &c,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

THE Memorial of George William Evans,

To His Excellency Sir Charles Augustus Fitz Roy, Knight, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, etc., etc., etc.,

Respectfully Sheweth,

That, in the month of February, 1842, a Decree was issued against your Memorialist by the Supreme Court in Sydney, by which your Memorialist was compelled to pay to the Crown the sum of £336 upon an irregular Bond executed by him in 1811, upwards of thirty years before, to return to the Crown Four cows and two oxen, that it was contended had been lent to Memorialist as was then usual.

That, in the argument of the case, no Returns or Vouchers, Books or Accounts of the Superintendent in charge of the Crown Herds were produced to shew that the cattle named in the Bond had ever been issued to Memorialist, or had not been returned; those Books and all the documents connected with the Crown Herds having been supposed to be lost or destroyed, and the Officer in charge long since deceased, which, had the case been between Individual and Individual, would have rendered it, independent of the lapse of years, utterly unsupportable.

That, on perusing the proceedings of the circumstance, it will be seen that it was admitted by their Honors the Judges that, if any proof had been adduced that those Cattle had been returned to the Government, the Bond would have been void, and the case have fallen to the ground.

That your Memorialist shortly since received intimation from George Cox, Esqr., J.P., of Mulgoa, that he had discovered Books and Returns kept by the late Reverend Roland Hassall, who was the Superintendent of the Government Herds in 1811, and which Books and Returns were in the hands of W. C. Wentworth, Esq., M.C., but are now in the possession of the Crown Solicitor; your Memorialist begs permission to refer Your Excellency to them. Had those Documents been preserved as carefully as were the Bonds, the Action which has helped to the ruin of your Memorialist could not have been brought, because they will prove to Your Excellency that the Four Cows and two oxen for which Memorialist has been compelled to pay Three Hundred and Thirty six pounds, besides an
immense sum in Law charges, including Thirty years' Interest, were duly and actually returned to the Superintendent of the Crown Herds by the person to whom they were issued, William Cox, Esq., in the name of your Memorialist.

That it is well known in the whole Colony that your Memorialist never was a holder of Stock in New South Wales; with this conviction upon your Memorialist's mind, when the legal proceedings of the Crown were commenced against him, he had really forgotten the circumstance of his ever signing a Bond. From the information of George Cox, Esq., it will now be seen, upon reference to the documents in the Crown Solicitor’s hands, that the Cattle was issued to and returned by his Father, the late William Cox, Esq., such transfers having been usual and allowed by His Excellency Governor Macquarie, as an indulgence to public officers, who was perfectly aware that your Memorialist at no time cultivated the breeding of Stock, but attended solely to his official duties.

That your Memorialist believes, since the Books and documents of the Reverend Roland Hassall, the late Superintendent of the Crown Herds in 1811, have been discovered, certain claims upon similar Bonds for cattle, in the hands of the Commissariat, have been given up, and the proceedings withdrawn.

That your Memorialist came to New South Wales in the year 1802, and from that period to the year 1825 had been a faithful servant to the Government; that, during the early stages of these Colonies, Memorialist had performed under every privation the most arduous and fatiguing duties in the Survey Department, and discovered that extensive country West of the Blue Mountains, the principal Township therein, named Bathurst, was laid out by your Memorialist; your Memorialist also performed, at intervals, the chief duties of the Survey Department, in Van Diemen’s Land, from its first Settlement in 1803, and was, in 1812, appointed by the Right Honble. Lord Bathurst to remain permanent on the Island with the designation of Deputy Surveyor General; and until the year 1821 had not any or the least assistance. That, in November, 1825, your Memorialist being much afflicted with chronic Rheumatism was permitted by the then Right Honorable the Secretary of State for the Colonies to retire on a pension of £200 per annum. That your Memorialist, by the failure of a Bank in London in 1827, lost the whole of his hard earned property, and in the year 1830 was compelled to apply to the Government to receive a commutation in lieu of the pension bestowed upon him. That, in the year 1832, your Memorialist returned from England to Sydney and embarked in Trade, and was for some years fortunate in his undertaking, until a jealousy in the occupation created him secret enemies, that at length, by cruel persecutions, insolvencies, and bad debts, is now at his advanced age with a large family labouring under much pecuniary distress.

Your Memorialist, therefore, most humbly prays that Your Excellency will be graciously pleased to cause the Officer in charge of the Commissariat, from whence the prosecution of Memorialist emanated, or such other officer or person in whom Your Excellency may place confidence, to examine the Books and Returns of the late Roland Hassall, the then Superintendent of the Crown Herds in 1811, now in the hands of the Crown Solicitor; and if from those documents it shall appear that the cattle, which Memorialist has so overwhelmingly paid for, were fairly returned to Government,
1847.  
28 May. 

that Your Excellency will cause the £336 to be refunded with the same rate of Interest, and the expenses so oppressively wrung from your Memorialist after a period of Thirty years.

And as in duty bound will ever pray,  
G. W. EVANS.

New Town Bay, near Hobart Town, Van Diemen's Land, October, 1846.

[Enclosure No. 2.] 

REPORT ON CASE OF MR. G. W. EVANS.

The Attorney General v. Evans.

This was an information filed on the nineteenth January, one thousand, eight hundred and thirty nine by the Attorney General on behalf of Her Majesty, on a Bond executed by Defendant in the year 1811 in favor of the Acting Commissary General of the Colony in the penal sum of £336, with a condition that the Bond should become void on payment by the Defendant to the Acting Commissary General or his successors of £168, or in lieu thereof 4 good cows and 2 good sound oxen, not to be under the age of 2 years, nor exceed the age of 3 years, within the term of 3 years from the date of the Bond, the same being in consideration of 4 cows and 2 oxen received by him from the Herds belonging to Government. The information sought an account of the cattle and increase and proceeds and payment of the principal money stipulated to be paid within three years, with Colonial interest, payable at the date of the Bond, to the extent of the penalty.

The defendant in his answer denied the receipt of the Cattle.

The Bond in question remained in the possession of the Commissariat Officers until about 17 years since, when it was sent with a parcel of other similar Bonds by those Officers to England. It came back to the Colony in April, 1836, for the purpose of being put in suit at the instance of the Crown by the direction of the Lords of the Treasury.

In February, 1842, a Decree was made (which was affirmed on appeal) in favor of the Crown, by which it was referred to the Master in Equity to compute the interest on the Bond up to the amount of the penalty, and the Defendant was ordered to pay the principal and interest to that amount. This sum £336 was afterwards paid by the Defendant.

It now appears from documents in the possession of the representatives of the late Mr. Rowland Hassall, who in March, 1814, was appointed by the then Governor of the Colony to be Superintendant of Government Stock in the room of George Thomas Palmer, Esquire, and part of whose duty appears to have been the receipt of Cattle on account of the Government from persons to whom they had been issued, that, on March 4th, 1815, the Defendant George Evans returned to the Government Herds in charge of Mr. Hassall “6 Bulls or Oxen” valued at £168 on account of a Government debt contracted in the time of Commissary Broughton.

The accompanying statement of facts has been handed to the Civil Crown Solicitor by Mr. John Gurner, Solicitor, Sydney, who is in possession of the documents referred to on behalf of the representatives of Mr. Hassall.
The Law expenses incurred by the Lords of the Treasury in this prosecution amount to about £300, and Mr. Evans' costs to about £400.

Mr. Commissary Ramsay has reported to the Civil Crown Solicitor that the Lords of the Treasury have directed that no other similar Bonds should be enforced.

17th May, 1847.

G. Cooper Turner, Crown Solr.

The Attorney General v. Evans.

Statement of facts by Mr. Gurner.

By a Government and General Order dated the 26th March, 1814, His Excellency Governor Macquarie appointed the late Mr. Rowland Hassall to be Superintendent of Government Stock in the room of George Thomas Palmer, Esquire, resigned; Mr. Hassall's appointment taking place from and after the 31st Instant, from which period Mr. Palmer's appointment ceased.

That it appears from a letter addressed to the late Mr. Hassall, now in the possession of his representatives, dated Deputy Commissary General's Office, Sydney, 3rd January, 1815, and signed by W. Broughton, the then Deputy Commissary General at Sydney aforesaid, that the said Mr. Hassall was with such letter furnished with a list of persons indebted to the Crown for Cattle, etc., received from the Public Herds on a limited credit, and which had in most instances long since expired. And that most of the said persons had been apprised that they would be called upon for the payment of their said debts on or before the then 31st instant; and that, if they failed in payment thereof, prosecutions would be commenced against them at the opening of the Civil Court. That the said Mr. Broughton was commanded by His Excellency the Governor to desire the said Mr. Hassall to call on them and acquaint such, as had paid no part of their debts, they would be allowed to pay them in kind, that is a cow for a cow, a Bullock for a Bullock, and a Sheep for a Sheep. It was thereby observed that in some instances it would be found that several people had paid part of their debts, and that the balance due from them would not amount to the value of a cow, and that in such cases the Governor had no objection to young Stock being taken in proportion to the value of their debts. This letter has the following memorandum at the foot of it in Governor Macquarie's own handwriting:—

"Appd. L. Macquarie."

There is also in the possession of the representatives of the said Mr. Hassall a List or document, which is supposed to be the one alluded to in the above letter, which list or document is headed as follows:—"A List of persons indebted to the Crown on account of cattle received from the Public Herds between the 1st April, 1810, and the 25th July, 1813, with amount of payments made, and balance due on their respective amounts." This List is signed "W. Broughton, Deputy C. Genl." which signature is in the proper handwriting of the said Mr. Broughton. The List consists of Seven columns, the first of which contains the names of the parties; The second the place of their residence; The third the cattle delivered and their description; The fourth the amount; The fifth the amount paid in part; The sixth the balance due to the Crown; The seventh, remarks.

In the first column of this List appears the name "Evans, George." In the third, Cows and Oxen 6. In the fourth, £168. In the fifth, ———. In the Sixth, £168, and the Seventh is blank.
It also appears from another document, which appears to be a Return, made by the persons in charge of the Government Herds to the said Mr. Hassall, of Stock received by Government from several persons on account of their debts, also in the possession of the representatives of the said Mr. Hassall, that the said Mr. Evans returned to Government, 2 oxen and 4 cows, which entry is as follows, viz., "1815, March 3rd, Evans, Mr., Oxen 2, Cows 4, £168."

And in a book, marked on one side of its cover "1814, Cattle issued from the Government Herds," and on the other side of the said cover "1814, Cattle received into the Government Herd," also in the possession of the representatives of the said Mr. Hassall, the following entry appears in that side of the said book marked "Cattle received into the Government Herds." "1815, March 4th, Evans, George, Bulls or Oxen, 6. Government debt in whose time contracted, C. J. Broughton, valued at £168."

The several documents above mentioned have been laid before George Cooper Turner, Esquire, the Crown Solicitor, and there can be no doubt from the facts appearing therein, that Mr. George Evans in the Month of —, 1813, received from the Government, on a limited credit, six Cows or Oxen, and that they were valued at £168; and that the said George Evans did on the third or fourth day of March, 1815, return to the Government, Six Bulls or Oxen in payment of his said debt, which Bulls or Oxen were also valued at £168.

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EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 158, per ship Eleanor Lancaster.)

Sir,

Downing Street, 29 May, 1847.

I have to acknowledge the receipt of Your Despatch and its enclosures of the 1st of February last, No. 29, containing various remarks in respect of my Predecessor's Circular Instruction of the 15th of June, 1846, relative to the enactment of a law in each of Her Majesty's Colonies for the arrest and delivery of persons charged with the Commission of Offences in other of the Colonies or in the United Kingdom.

On this subject, it will be sufficient for me to refer you to my Circular Despatch of the 30th of September last.

I have, &c.,

Grey.

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EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 159, per ship Eleanor Lancaster; acknowledged by Sir Charles Fitz Roy, 28th September, 1847.)

Sir,

Downing Street, 29 May, 1847.

I have received your Despatch dated the 9th January, 1847 (No. 11), enclosing the Copy of a printed Bill to declare void so much of all local Ordinances of New South Wales now in existence, as assumes to vest the appropriation of the Ordinary Revenue elsewhere than in the Legislative Council.
In the report of the Attorney and Solicitor General of your Government of the 29th of October, 1846, they express the "strongest doubts of the possession by the local Legislature of authority to remove doubts concerning, and thus to put their own construction upon a Clause in an Imperial Act, especially one upon which their own powers in a most important particular depend."

After receiving this report, you (as appears from your present Despatch) caused the Colonial Secretary to explain to the Council "that the reasons which had induced you to withhold your assent did not arise from any objection to the principle of the measure"; "but, from having been advised by The Crown Law Officers that there were certain technical points in the Instruction, by which you are guided in asenting to Bills, which preclude you from giving your assent to this Bill."

I am quite unable to reconcile the language of the report of your Legal Advisers with the communication which you caused to be made to the Legislative Council; your legal advisers, it is true, remarked that The Royal Instructions required that in a repealing Act the Title of every Act to be repealed should be set forth. But their Report referred not to a repealing Act, but to a declaratory Act, and it pointed out an objection to that declaratory Act, not of mere technical detail, but of principle, and of principle of the highest importance. If your Legal Advisers were right, as it seems to me they evidently were, the Bill sent up for your assent was an attempted usurpation of a function belonging exclusively to Parliament, an attempt on the part of the local Legislature to define and determine the limits of the Constitutional Authority with which Parliament has entrusted them, a precedent for diverting from the Legal Tribunals to the Legislative Council the right of interpreting the Act of Parliament. A more serious objection in principle can hardly be supposed; and yet you report yourself to have informed the Legislative Council that you had not been induced to withhold your assent from any objection to the principle of the measure.

Fully and cordially as I adopt the opinion that the Legislature of New South Wales should, in all matters of mere local concern, be entrusted with the free and full exercise of the high franchise they enjoy, I am yet bound to remember and to impress on you the remembrance, that, for the common benefit of all Her Majesty's subjects, it is indispensable that the Constitutional limits of that franchise should be respected and observed. It is doubtless right and wise always to address the Legislative
Council in terms of studied respect and courtesy. But I am convinced you will perceive how serious may be the danger of urging that courtesy to such an extent as to sacrifice to it the powers with which, for the general good, the Sovereign or Parliament or the Judges are invested. If any other attempt should be made to pass a Law declaratory of the true construction of any Act of Parliament, and especially of the Constitutional Act, it will be your duty to refuse your assent, and to ground that refusal on the broad and important principle on which your legal advisers so properly insisted on the present occasion.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 160, per ship Eleanor Lancaster.)

Sir, Downing Street, 29 May, 1847.

I have received your Despatch, No. 23 of the 30th of January last on the subject of the Representation made by Dr. Polding, relative to the form of Oath administered to Solicitors and others on their admission to practice in the Supreme Court of the Colony under Your Government.

If I rightly infer from the language of the Chief Justice of New South Wales he considers his own conduct to have been censured on this occasion; you will assure him that I do not understand or suppose any such meaning to have been entertained in any quarter.

With regard to the more general question, it appears that the form of Oath, of which complaint is made, is administered not only on the admission of Legal Practitioners in the Supreme Court, but on various other occasions. It would in my opinion be very desirable to dispense with that form of Oath which carries with it no practical advantage, and which is, as I understand, generally admitted to be calculated to give unnecessary pain to a large portion of the Community. I should, therefore, wish you to consider the propriety of proposing to the Legislative Council the enactment of a Law which would exempt all persons on their admission as legal practitioners in the Supreme Court, or on entering on any other Office or place of trust or Emolument, from the obligation to take any Oath, except the Oath of Allegiance and an Oath for the faithful discharge of the duties of any such Office, place, or trust.

No such Enactment could apply to the case of the Governor himself.
Fitz Roy to Grey.

Her Majesty will be prepared to alter so much of the Royal Instructions as imposes any other Oath than these, on being apprized that the Local Legislature have concurred in the propriety of the contemplated change in the Law. I have, &c., Grey.

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 119, per ship Honduras; acknowledged by Earl Grey, 30th November, 1847.)

My Lord,

Government House, 29th May, 1847.

With reference to Your Lordship's Despatch, No. 46 of the 18th October, 1846, confirming the Judicial arrangements recommended by my Predecessor on the removal of Mr. Justice Willis from Office as one of Her Majesty's Judges in this Colony, I have the honor to transmit the Copy of a letter addressed to me by Mr. Justice Therry, claiming precedence next after Mr. Justice Dickinson and before Mr. Justice a'Beckett.

This position, it would appear, Mr. Justice Therry conceives he has a right to claim on the ground that it was the one which it was contemplated by Sir George Gipps that he should occupy; but he wishes the point to be decided by Your Lordship, in consequence of Mr. Justice a'Beckett's name having been inserted (as Mr. Therry supposes by accident) before his own in the London Gazette, which announced their appointments.

As Mr. Therry's right to the precedence he claims seems to me borne out by the paragraph quoted by him from Lord Stanley's Despatch of the 30th April, 1846, and as his service under the Government is of much older date than that of Mr. Justice a'Beckett, I can have no hesitation in strongly recommending his request, that the point may be settled according to his desire, to your Lordship's favorable consideration.

I have, &c.,

Chs. A. Fitz Roy.

[Enclosure.]

Mr. Justice Therry to Colonial Secretary Thomson.

Sir,

Supreme Court, Sydney, 22nd May, 1847.

In reference to your letter of the 20th March apprising me that the Queen had been pleased to appoint me to the office of a Puisne Judge of the Supreme Court of New South Wales in pursuance of the advice of the late Governor, I need hardly assure you that I considered this communication as intimating distinctly to me that my appointment by Sir George Gipps was confirmed with " the right of precedence next after Mr. Justice Dickinson," which was expressed in your official letter to me of the 3rd of February, 1846.

I have, &c.,

Chs. A. Fitz Roy.
1847.
29 May.

Claim by R. Therry to precedence before W. a'Beckett.

My attention has been recently attracted to this subject by the mode in which the appointment of Mr. A'Beckett and myself to seats on the Bench of New South Wales had been announced in the London Gazette. 'Tho' I cannot suppose that, by the accidental position of Mr. A'Beckett's name before mine in that announcement, it was intended to disturb the arrangement by which my right of precedence had been previously settled, yet, to prevent any future misapprehension on the point, I deem it right to refer briefly to the grounds which I submit show satisfactorily that I had good reason for supposing that my claim of precedence over Mr. a'Beckett had been established.

The first and, I own, the strongest ground on which I rest this claim is contained in the following passage of Lord Stanley's Despatch to Sir Geo. Gipps of the 30th of April, 1845, in which His Lordship is pleased to state:

"I have felt bound to regard the long services of Mr. Therry and the high testimony borne in his favor on repeated occasions as giving him a preferable claim to Mr. a'Beckett to advancement in the judicial Establishment of your Government."

In the same Despatch His Lordship states, "in the event of Mr. Plunkett declining the appointment of third Puisne Judge, you are to offer it to Mr. Therry," and further "in the event of his declining" (which event has since happened) His Lordship adds "Mr. a'Beckett will then have the option of succeeding to the permanent office of the Court of Requests or to the Provisional Judgeship, the final confirmation of which would of course depend on the issue of Mr. Willis' appeal."

My right to the position of third Puisne Judge being thus determined by Lord Stanley, an official communication was made to me by your letter of the 28th of November, 1845. In that letter, informing me of Mr. Plunkett's declining a seat on the Bench, the position, which it was proposed to me I should occupy on the Bench, is thus clearly indicated. "Your commission will declare your Honor to be the second Puisne Judge of the Colony, next to Mr. Dickinson who is the senior Puisne Judge; or it will declare that you are to occupy the seat which was vacated by Mr. Stephen on his advancement to the office of Chief Justice." The latter course (which was the more appropriate course) was the one adopted, as at that time, pending Mr. Willis' appeal, who still was considered as holding his position on the Bench, it could not be determined whether the position of Mr. Stephen's Successor was that of Second or Third Puisne Judge. Accordingly I received another letter from your office, dated the 3rd of February, 1846, intimating that "His Excellency (Sir George Gipps) yesterday signed a Commission appointing me one of the Judges of the Supreme Court of this Colony with rank and precedence as such next after Mr. Justice Dickinson," who (Mr. Willis' case being then undecided) was second Puisne Judge, but who, on its being decided unfavorably to Mr. Willis, of course became Senior Puisne Judge.

I pass over the circumstances of Mr. a'Beckett having held the office of Solicitor General during the period of two years and a half, that I held the appointment of Attorney General in the Colony, as that circumstance I apprehend was considered by Lord Stanley among the grounds on which His Lordship determined "my preferable claim to Mr. a'Beckett to advancement in the Judicial establishment of this Government."
I have thus, I trust, stated sufficient to show that, unless it were designed to deprive me (which I cannot for a moment suppose) of that rank and precedence which Lord Stanley sanctioned in his despatch of the 30th of April, 1845, and which, pursuant to His Lordship's instructions, was assured to me by your letter of the 3rd February, 1846, and the commission therein referred to. I am the holder in my opinion beyond dispute of the office of Second Puisne Judge of the Court.

To prevent any doubt however that may hereafter arise or be suggested in any quarter upon the point, from the mode of announcement in the London Gazette to which I have adverted, I beg that His Excellency the Governor will refer this letter for the consideration of the Secretary of State; and I trust I do not make an unreasonable request in soliciting that His Excellency may accompany it with expression of an opinion and request on his part, that the question should be decided in my favor, or rather that the decision, already pronounced by Lord Stanley and acted upon by Sir George Gipps in the matter, may not be departed from or disturbed.

I have, &c.,

R. THERBY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 161, per ship Eleanor Lancaster; acknowledged by Sir Charles Fitz Roy, 27th September, 1847.)

Sir,

Downing Street, 31 May, 1847.

I have received your Despatch, No. 5 of the 5th of January last, enclosing a Memorial from Mrs. Percy Simpson, on behalf of her husband, who was absent from the Colony, renewing an alleged claim, arising out of the Appointment which he formerly held of Commandant at Wellington Valley.

You observe that, as the question has already been decided against Mr. Simpson by three of my Predecessors, the only practicable way, which you can point out of setting it finally at rest, will be to allow Mr. Simpson to bring an Action against the Government; and that that is the course which you informed Mr. Simpson you should recommend.

The circumstance, which you yourself have stated, that the case has already been so repeatedly considered, prevents my entering again into the merits of it; and I cannot adopt the advice which you have given. If Mr. Simpson has any effective Legal remedies, he requires no authority from the Government to enable him to avail himself of them. If he has no such remedies, he has no right to expect that the Law should be bent to suit his particular case.

It is not without surprise that I learn that you have not only tendered such advice upon such slight grounds; but that you have communicated your intention of doing so to the Applicant.
Without suggesting the slightest doubt as to the integrity with which the verdict of a Colonial Jury would be returned in any case, I cannot conceal from myself the high probability that any such Jury would be influenced by strong but unconscious prepossessions on the trial of such a question between a Colonist on the one hand, and the Lords Commissioners of the Treasury on the other, I regret that your offer of referring the claim to such a Tribunal should have rendered the duty, which devolves on myself of retracting that offer, both difficult and ungracious. It is however a duty from which I cannot shrink.

I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 121, per ship Honduras.)

My Lord, Government House, 31st May, 1847.

I have the honor to acknowledge the receipt, on the 26th instant, of Your Lordship's Despatches numbered as per margin.*

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 162, per ship Trafalgar; acknowledged by Sir Charles Fitz Roy. 31st December, 1847.)

Sir, Downing Street, 3 June, 1847.

I have to acknowledge the receipt of your Predecessor's Dispatch, No. 144 of the 7th of July, 1846, containing the explanation he had been called upon to give in respect of the expense and other circumstances relating to the question of the maintenance of the Offices of Astronomer at Paramatta, and of the Meteorological Recorders at Port Macquarie, Melbourne and South Head.

I have also received your Despatch of the 30th of October last, No. 45, having exclusive reference to the three last mentioned appointments; and especially as regards the sources from which the charge for the Salaries of the Recorders is to be defrayed, when the Convicts, who now perform that duty, shall become free.

I referred Copies of both these Dispatches to the Boards of Treasury and of the Admiralty, and the result of the correspondence, which has since taken place on the subject, has been to show that the advantages in a scientific point of view, arising from the Observatory at Paramatta, are not such as to justify its being continued at the cost of the British Treasury.

* Marginal note.—Nos. 69 to 80, "Military" 4, Circular 7 and 8 Octr., 46.
GREY TO FITZ ROY.

It will, therefore, be your duty to acquaint Mr. Dunlop that his Services as Superintendent will not be required after the 31st of March, 1848, up to which period only provision will be made for his Salary in the Estimate for expenditure connected with the Convict Establishments in New South Wales.

With respect to the three Offices of Meteorological Recorders already noticed, Her Majesty's Government consent to the present rates of allowance being paid to them, only so long as the parties employed in the Service are Convicts, and who must otherwise be maintained at the expense of the Home Government.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 164, per ship Trafalgar; acknowledged by Sir Charles Fitz Roy, 24th December, 1847.)

Sir,

Downing Street, 4 June, 1847.

I have received your Despatches, Nos. 14 and 15 of the 9th of January last.

In the former Dispatch, you report that, in consequence of an Address which was voted to you by the Legislative Council, praying that you would place on the Estimates for 1847 the sum of £400 for the establishment of a Police Court in the Northern part of the City of Sydney for the purposes of General and Water Police, you had caused an Estimate to be prepared and laid before the Council in conformity to the prayer of that Address. In the latter Despatch, you report the Appointment of Mr. Browne to be Water Police Magistrate for the City and Port of Sydney, and submit further arrangements which you had made in other Departments in consequence of that Appointment.

I see no reason to disapprove of the creation of the Court or of the arrangements which followed that measure; but I must here again refer you to the remarks contained in my Despatch, No. 126 of the 13th of April last, in regard to the mode of dealing with Addresses from the Council, containing applications to you to originate Estimates for particular charges.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 165, per ship Trafalgar.)

Sir,

Downing Street, 5 June, 1847.

I have received your Despatches, Nos. 9 and 31 of the 9th of January and 1st of February last, enclosing various Petitions against the renewal of transportation to New South Wales.

1847.

GREY TO FITZ ROY.

3 June.

Office of astronomer to be abolished.

1 Instructions re meteorological recorders.

Despatches acknowledged.

I have, &c.,

GREY.

Despatches acknowledged.

Despatches acknowledged.
The Petitions addressed to the Queen from the Inhabitants of Maitland, from the Inhabitants of Paterson, and from the Operatives and other Inhabitants of Sydney, have been laid before The Queen; and you will acquaint the Petitioners that Her Majesty was pleased to receive them very graciously. The petition to the House of Lords from the District of Maitland, I have presented to that House; and that from the same District addressed to the House of Commons, and entrusted to Mr. Ewart, has been forwarded to that Gentleman for presentation.

I have, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 166, per ship Trafalgar.)

Sir,
Downing Street, 9 June, 1847.

I have received your Despatch, No. 47 of the 1st of November last, enclosing a copy of an Address from the Legislative Council of New South Wales with a printed copy of a Report of a Committee of the Council, appointed to consider the best means of establishing Steam Communication between England and Port Jackson.

I perceive that the route, pointed out by Captain King, R.N., to whose opinion great weight appears to be attached by the Council, as the least expensive and the most convenient and advantageous, is that which joins the Indian and China Line, and that the Committee of the Council recommend that the Sum of £500 a Month or £6,000 a year should be contributed from the Funds of the Colony for a period of three years towards the amount beyond the Postage receipts, which would be required for carrying the plan into effect.

My attention had already been drawn by various parties in this Country to the question of establishing Steam communication with Australia.

I enclose copies of a Correspondence shewing the plans of two Chartered Companies which have been formed for that purpose. The one, styled the "India and Australia Royal Mail Steam Packet Company," contemplates a junction with that Line already established in the East, and to which on the information before them the Council of New South Wales appear to have shewn a preference. The other proposes the establishment of a Line of Steam Packets furnished with the Propelling Screw, to make the voyage direct to Australia, touching at the Cape and with a branch packet to Mauritius. You will perceive that the latter Company propose at once to make arrangements
for despatching an experimental Ship on that enterprize, on the condition of receiving the amount of Postage chargeable on the Letters and Newspapers which she may carry, and of taking Government Emigrants equal to her capacity.

From the enclosed Report from the Board of Admiralty, dated the 6th Ultimo, you will perceive that, although the Lords Commissioners do not consider that the projected Line by the Cape can equal that by Alexandria and Singapore in speed or regularity, yet that it would be so advantageous to National interests as to deserve encouragement from the Government.

Under these circumstances, Her Majesty's Government have been induced to abstain from deciding at present in favor of the plan recommended by the Council.

I should wish you again to bring the subject before that Body, when the issue of this experimental voyage is known, and transmit to me the result of their further deliberations on the subject.

For your assistance in reconsidering this question, I enclose copies of a Letter from the Secretary to the Board of Admiralty and of Reports from the Hydrographer to that Board and the Comptroller of Steam Machinery, pointing out what is conceived to be the most eligible route in connection with the Indian Line, and shewing the estimated expense of carrying into effect such an undertaking. I also enclose a copy of a Letter from the Secretary to the Treasury with a Statement of the Revenue derived from the Postage on Letters and Newspapers conveyed between the United Kingdom and the Australian Colonies for the year ending 5th Oct., 1846.

I have, &c.,
Grey.

[Enclosure No. 1.]
MR. R. M. MARTIN TO UNDER SECRETARY HAWES.

Sir, 29 Bloomsbury Square, 10th March, 1847.

I have the honor to request that you will lay before Earl Grey the accompanying Copy of a Petition from Sir George Larpent and other Merchants, Bankers, etc., in the City of London, praying the Grant of a Charter for the "India and Australia Mail Packet Compy." to accomplish the important object of connecting Australia with India and England by Steam Communication, according to the route prescribed in the enclosed Copy of a Letter from the Lords of the Admiralty. This Petition has been referred by The Queen in Council to the Board of Trade, and I am requested to express an earnest hope that its prayer may be honored with the approval of Earl Grey.

I have, &c., R. M. MARTIN.

[Sub-enclosure No. 1.]

THE HUMBLE PETITION OF THE UNDERSIGNED

To the Queen's Most Excellent Majesty in Council,

Sheweth,
That your Majesty's Petitioners and several other Persons are desirous of establishing a Society in Partnership, by the Name and Style of the "India and Australia mail steam packet company.

* Note 47.
616 HISTORICAL RECORDS OF AUSTRALIA.

9 June, 1847.

Petition requesting charter for India and Australia mail steam packet company.

Australia Mail Steam Packet Company, via Egypt and Singapore, for carrying on Steam communication between England, India and Australasia, and the intermediate Ports and their extensions.

Your Majesty's Petitioners therefore humbly beseech your Majesty to grant to your Petitioners, or such other Persons as shall subscribe to or be elected and accepted Proprietors, Your Majesty's Royal Charter of Incorporation for the proposal aforesaid, and that Your Petitioners or such other Persons as aforesaid and their Successors may be henceforth one Body Politic and Corporate by the Name of the India and Australia Mail Steam Packet Co., with such rights, powers, privileges, franchises and immunities as are expressed in the Schedule hereunto annexed.

And your Majesty's Petitioners as in Duty bound shall ever pray.

Signed by—

SIR GEORGE LPFENT, Bart. (Firm:—Cockerell and Co.).
HONBLE. FRANCIS SCOTT, M.P. (Agent for the Colonies).
JAMES PAI'THON, M.P., Bank Director.
JOHN MASTERMAN, M.P., E.I. Director.
W. HUTT, M.P.
M. FORSTER, M.P. (Firm:—Forster and Smith).
JOSEPH SOMER, D. MACKILLOP (Firm:—Palmer, Mackillop and Co.).
JOSEPH UNDERWOOD (Firm:—M. and E. Boyd), Australasia.
THOMAS WAGHORN, R.N.
THOMAS BROWNE, J. INGIL Travers (Firm:—Travers and Sons).
T. S. RAWSON (Firm:—Rawson, Norton and Co.).
D. B. CHAPMAN and RAY PELLY (Firm:—Overend, Gurney and Co.).
G. S. WALTERS (Firm of A. A. Gower and Co.).
H. J. EUTHOVEN (Firm:—Euthoven and Co., Calcutta).
MARK BOYD (Firm:—M. and E. Boyd), Australasia.
D. C. AYLWIN (Firm:—Aylwin and Co.), India.
ROBERT BROOKS, Australasia.
JOHN GORE and Co., Australasia.
ADAM DUFF, Oriental Bank.
DAVID PUGH, Madras Merchant.
THOMAS WILSON (Firm:—Barrow, Wilson and Co.).
J. JOHNSON.
J. W. COLE.
P. STEWART (Firm:—Smith, Elder and Co.).
T. J. RICHARDS (Firm:—T. J. Richards and Co.).
HENRY H. WILLS and Co.
JAMES HAMILTON (Firm:—Hamilton and Henderson).
SWANN, WEBBS, and Co.
JACOB MONTFIORE.
ROBERT FORD.
PHILLIPS and GRAVES.
P. W. FLOWER.
ADAMSON and Co.
CHAMBERS and LIMBY.
MARCH and EDINBUROUGH.
HENRY T. EBSWORTH.
SAMUEL BROWNING, Australasia.
GEOEGE T. BEAINE, late Dent and Co., China.
DANIEL W. WIRE.
JOSEPH CAUSTON.
JAMES ALEXANDER.
FRANCIS SYRE.
HENRY J. EBSWORTH.
JOHN CARTER.
CHARLES MALLARD.
JULIUS H. THOMPSON.
GEORGE THOMPSON.
HENRY PRARSE HOGGET.
EDWARD COlMAN.
THOMAS FRANCES.
R. S. MACKENZIE.
WILLIAM BEARD.
W. R. GLADWIN.
THOMAS BAHRKE.
FREDK. COLIER.
DANIEL MUNAN and Co.
F. W. GREEN.
SAMUEL ROGERS.
HENRY M. KEMPHEAD (Firm:—Grant and Kemphead).
WILSON, WILSON and Co.
EDWARD MOXHAY.
R. THURNBURN (Firm:—Thurnburn, Brieger and Co.).
R. MONTGOMERY MARTIN.
JOHN YATES.

[Sub-enclosure No. 2.]

CAPTAIN HAMILTON to INDIA AND AUSTRALIA MAIL STEAM PACKET COMPANY.

Gentlemen,

Route selected for steam communication with Australia.

Having laid before my Lords Commissioners of the Admiralty your Letter of the 13th Instant, relative to effecting Steam Communication between England and Australia, I am commanded by their Lordships to acquaint you that they are of opinion that the route proposed by Ceylon and Singapore through the Malay Archipelago to Port Essington and Sydney is the best line for Steam Communication with Australia.

I am, &c.,

W. A. B. HAMILTON.
GREY TO FITZ ROY.

[Sub-enclosure No. 3.]

UNDER SECRETARY HAWES TO MR. R. M. MARTIN.

Sir,
Downing Street, 17th March, 1847.

I am directed by Earl Grey to acknowledge the receipt of your letter of the Letter 10th Instant, accompanied by the copy of a Petition to the Queen from various Mer- chant's and Bankers in the City of London, praying for Grant of a Charter for the "India and Australia Mail Packet Company," and in behalf of which you solicit his Lordship's approval.

I have, &c.,
B. HAWES.

[Sub-enclosure No. 4.]

[This was a copy of the printed prospectus of the "India and Australia Mail Steam Packet Company."]

[Enclosure No. 2.]

MR. C. D. HAYS TO UNDER SECRETARY HAWES.

Sir,
Meriton's Wharf, Bermondsey, 13 March, 1847.

At a Meeting yesterday of the Gentlemen of London and from Liverpool, the supporters and Advocates of my plan for carrying out the Australian communication via the Cape of Good Hope, etc., I was requested to again address the Right Honorable Earl Grey, Her Majesty's Principal Secretary of State for the Colonies, and solicit the honor of an interview for those Gentle­ men with his Lordship, at any time that may be most convenient after Monday the 22d instant, when they will be prepared to lay before His Lordship the terms on which the Service can be per­ formed. I have the honor to enclose herewith a Letter addressed to his Lordship on that subject.

By advices this Morning from Liverpool, I am informed of the voyage of the Screw Auxiliary Steam Ship "Sarah Sands" from Liverpool after a passage of 21 days, and having experienced considerable heavy and contrary weather during the passage.

The distance from Liverpool to New York being in a direct line about 4,000 Nautical Miles gives the performance of this Ship at an average of 190 Miles pr. day or 8 Knots pr. hour, and, as She has strictly an Auxiliary power, the nominal horse power of the Engines being only about as 1 to 8 of the measurement Tonnage, and the Voyage from England to America being considered one of the most difficult and tedious on account of the prevalence of strong Westerly Winds in the Atlantic, the performance of this Ship is another proof of what may be expected from the application of the Screw Propeller to a perfect Sailing Ship, and will still further bear me out in the calculations for speed I have made for the Vessels to Australia, which are estimated for a much larger comparative Steam power and to be built expressly with a view to speed; whereas the "Sarah Sands" is constructed also to carry a large Cargo, having left Liverpool with more than 1,000 Tons of Goods and over 50 passengers, besides Machinery and Fuel for the Voyage.

The measurement Tonnage of the Ship is about 1,200 and the nominal Horse power about 150.

I have, &c.,
C. D. HAYS.

[Sub-enclosure.]

[This was a rough Mercator map of the world, showing the proposed route via the Cape of Good Hope to Australia.]
Advantages of steam communication with Australia via Cape of Good Hope.

Plan proposed.

Proposed experimental voyage.

Request for shipment of immigrants; and for payment for carriage of mails.

1847.
9 June.

MR. C. D. HAYS TO EARL GREY.

My Lord, Meriton's Wharf, Bermondsey, 15th April, 1847.

I avail myself of your Lordship's permission to submit, somewhat more in detail than I have hitherto done, the advantages I venture to believe will attach to the plan I have propounded for the establishment of Steam communication with the Australian Colonies via the Cape of Good Hope, with branches to the Mauritius and New Zealand, and which I conceive to be far greater both in a Commercial and political point of view than can possibly attend the extension to New South Wales of the existing Overland route whether from Sincapore or any other point.

In this view I am supported, as your Lordship is already aware, by many Gentlemen of experience and influence interested in the Trade with the Colonies referred to, and I cannot but believe that the Colonists themselves will unanimously prefer a plan affording advantages of so much more comprehensive a character, than the mere postal communication with one Colony, to which all other plans that have been hitherto proposed must be practically confined.

The plan, which I have in view in conjunction with the Gentlemen who recently had the honor of an interview with your Lordship on this subject, is the establishment by means of a public Company of a Line of Screw Steam Packets, sufficiently numerous and of adequate power to insure a regular Monthly communication with the Colonies referred to as fully detailed in the Pamphlet which accompanies this Letter, and to which I respectfully take leave to call your Lordship's attention.

Inasmuch however as an undertaking of this magnitude cannot be carried out without that assistance from Her Majesty's Government, which your Lordship does not consider could be at present afforded,

It has occurred to the Gentlemen, who are favorable to and have entire confidence in my plan, with the view of removing the doubts attempted to be instilled into your Lordship's mind as to the practicability of the plan, That it is desirable one such Vessel as is proposed to be employed in the service contemplated should at once be built and equipped, provided Her Majesty's Government are prepared to wait the issue of such experimental Voyage, before entering into arrangements with any other parties for the conveyance of Mails to the same quarter. But, by way of meeting the heavy expences which must necessarily attend this experiment, it is hoped your Lordship will feel justified in so far affording the assistance of Her Majesty's Government as to promise that, in the event of the Vessel's equipment and dispatch during the Autumn of the present Year, a number of Emigrants equal to the Ship's capacity shall be embarked on board her at the average rate of passage money, which may have been paid by the Emigration Commissioners in other Vessels to the Australian Colonies during the preceding Six Months.

In addition to which, it is hoped that the Post Master General will consent either to pay a liberal remuneration for the conveyance of a Mail or to give up altogether the amount of postages upon such Letters as the public might elect to forward by the Vessel in question.
GREY TO FITZ ROY.

I may also add that I am allowed by Captain Ellice, Superintendent of the Steam Department of the Admiralty, to refer your Lordship to him for a professional opinion upon the merits of my plan.

I have, &c.,

C. D. HAYS.

[Sub-enclosure.]

[This was an octavo pamphlet of eight pages, with a map and table of distances between ports, etc., entitled, "Remarks upon the Proposed Establishment of Steam Communication with the Australian Colonies and the British Possessions at the Cape of Good Hope, New Zealand, Mauritius, etc.," by C. D. Hays.]

[Enclosure No. 4.]

UNDER SECRETARY HAWES TO MR. C. D. HAYS.

Sir,

Downing Street, 4th June, 1847.

The necessity for communicating with the Lords Commissioners of the Treasury and the Board of Admiralty on the proposals contained in your letter of the 15th April has prevented Lord Grey from returning an early answer to that letter.

I am now directed to acquaint you that Her Majesty's Government accede to your proposal that, in consideration of the Company whom you represent despatching during the Autumn of the present year one Vessel fitted with the Screw Propeller in order to test the practicability of the project of establishing a line of communication by vessels of that description with Mauritius and Australia, via the Cape, the Government should agree to wait the issue of such experimental voyage before entering into any agreement with other Associations for the conveyance of Mails to the same quarter, and should send by the vessel in question a number of Emigrants equal to her capacity at the average Passage Money, which may have been paid by the Emigration Commissioners for the conveyance of Emigrants in Vessels proceeding to Australia during the preceding six months. The Lords of the Treasury have also stated their readiness to furnish the Post Master General with the requisite authority for the payment in aid of the expense of the undertaking of the amount received on the Letters and Newspapers, which may be forwarded by the Vessel.

In making this communication to you, Lord Grey desires that it may be clearly understood that, even if the experiment should prove successful, Her Majesty's Government must not be considered as in any degree pledged to give the preference to that route, as it is a material consideration in favor of the other Line proposed that it affords to Australia a good means of communication with India and China, with which Countries the Australian Colonies are likely to have much Commercial intercourse.

I am, &c.,

B. HAWES.

[Enclosure No. 5.]

MR. J. YATES TO EARL GREY.

India and Australia Royal Mail Steam Packet Company,

My Lord,

34 Cornhill, London, 25th May, 1847.

I am requested to lay before your Lordship for consideration the accompanying prospectus of a Company, for which a "Royal Charter" of Incorporation has been conceded by Her Majesty's Government.

PROSPECTUS

[Enclosure No. 5.]
The object is to give to the most distant but vast and increasingly valuable dominions of the Crown in Australia, Van Diemen's Land and New Zealand, the advantages of a regular Steam communication, so as to bring Sydney, the Metropolitan of the whole of the Australian Colonies, within 60 or 64 days distance of London.

The Committee of management impressed with the National and important interests involved in this measure, and being desirous of evincing to the British Colonists in the remotest part of the Empire how deeply all Classes of Her Majesty's Subjects, including those of the highest and most exalted Station, sympathize with them, and desire to strengthen and perpetuate the Bonds of Union with the parent State, are desirous of being honored with the name of Your Lordship as one of the patrons of the undertaking, and in doing so beg to assure your Lordship that, if you should be pleased to accede to their request, no responsibility will be incurred.

I should be happy to wait upon your Lordship to offer any further required information and have the honor to be, My Lord, etc.,

JNO. YATES, Secy.

[Sub-enclosure.]

[This was a printed prospectus of the "India and Australia Royal Mail Steam Packet Company," incorporated by royal charter.]

[Enclosure No. 6.]

UNDER SECRETARY HAWES TO MR. JOHN YATES.

Sir, Downing Street, 4th June, 1847.

Refusal by earl Grey of office of patron.

I am directed by Earl Grey to acknowledge the receipt of your letter of the 25th Ultimo, enclosing for His Lordship's consideration a Prospectus of a Company designated the Indian and Australia Steam Packet Company, to which a charter has recently been granted, and requesting that he will become one of the Patrons of the undertaking; and I am directed to acquaint you that Lord Grey cannot consent to accede to that application, as by so doing His Lordship might be considered to imply a preference of this project to any of the rival Plans for the establishment of Steam Communication to Australia; and Lord Grey conceives it to be necessary that Her Majesty's Government should reserve to themselves a perfectly unfettered discretion to enter into any arrangement hereafter, which they may with more complete information think the best for effecting the important object in view.

Lord Grey further directs me to transmit to you for the information of the Company on whose behalf you write a copy of a letter which has been addressed by His Lordship's direction to the Association interested in the project of Establishing Steam Communication with Australia via the Cape, as His Lordship thinks it right that you should be aware of the terms of that communication.

I have, &c.,

B. HAWES.

[Enclosure No. 7.]

MR. H. G. WARD TO UNDER SECRETARY STEPHEN.

Sir, Admiralty, 6th May, 1847.

Letter transmitted.

With reference to your Letters of the 9th, 14th and 27th Ultos. on the subject of the establishment of Mail Packet Communication between this Country and the Australian Colonies, I am commanded by the Lords Commissioners of the Admiralty to
request that you will inform Earl Grey that, though my Lords do not consider that Mr. Hays' projected Line to Australia can equal that by Alexandria and Singapore in speed and regularity, yet that it would be so advantageous to the National Interests, as to deserve encouragement and countenance from H.M.'s Government; it will afford the Communication so much wanted with the West Coast of Africa at Ascension, as well as with the Cape of Good Hope and the Mauritius, and it may become of the utmost importance by furnishing a direct Line of Communication between England and the Indian Ocean by Sea, without the necessity of passing through the Territories of any Foreign Nation.

If the Vessels to be employed should be built under the control of this Department, and fitted to carry a proper armament, they might prove an useful addition to the National Forces.

The experience derived from the Packets plying between London and Hamburgh, from the "Sarah Sands" and from certain of H.M.'s Vessels, shews that the proposed Voyage is quite practicable for auxiliary Screw Steam Vessels, and that a considerable portion of it might be ordinarily performed, at a sufficient speed, without the assistance of their Steam Power.

The shortest Sea distance from England to Sydney, touching all the projecting points, and moving in great circles, is measured at 12,630 Geographical miles; and an addition of 600 Miles being made for the necessary deviations of an auxiliary Screw Vessel would give a course of 13,200 Miles, and this distance might probably be traversed in 65 days each way.

Herewith is returned the printed copy of the report from the Select Committee on Steam Communication, which accompanied your letter of the 14th Ultimo. My Lords believe the Report of Captain King and the decision of the Legislative Council of New South Wales to be fully borne out by the facts of the case, and consider the advantages of the route, recommended by Captain King, such as to warrant the expectation that Steam Boats must be employed along it at no distant period; but My Lords are desirous for the reasons before mentioned of seeing some assistance and encouragement given to the project of Mr. Hays.

I have, &c.,
H. G. WARD.

[Enclosure No. 8.]

MR. H. G. WARD TO UNDER SECRETARY HAWES.

Sir,
Admiralty, 20th October, 1846.

Having laid before my Lords Commissioners of the Admiralty your Letter of the 22d August last, conveying the opinion of Earl Grey as to the extreme importance of securing to the Australian Colonies the great advantage of more rapid communication with this Country, and stating that his Lordship proposes to direct the Governors of the various Australian Colonies to ascertain to what extent their respective Legislatures would be able and willing to contribute towards the cost of establishing a line of Steam communication in that part of the World, I am commanded to transmit to you, for the consideration of his Lordship, copies of Reports from the Hydrographer to the Admiralty and from the Comptroller of Steam Machinery on this subject.

I am, &c.,
H. G. WARD.
24 September, 1846.

REPORT BY CAPTAIN BEAUFORT.

IT is now acknowledged by every one that a direct intercourse by Steam between England and that group of Colonies, of which Sydney is the centre, would in a short time double her Capital, her Population, and her Produce, and the only questions are, which will be the best line to carry it, and how can it be most economically maintained.

Three fourths of the whole distance are already performed by the Hong Kong Mail to Singapore; and, if the Sydney Mails were to branch off from that Port and take the Eastern line by Batavia and Torres Straits, they would traverse smooth Water Seas, where a passage is certain at all Seasons; they would at once supersede the Steamer, which the Dutch now run from Java to meet our Packets, and they would likewise produce direct communication between Australia and China, as well as the three Presidencies of India, which would be as beneficial to all those places as lucrative to the carriers.

From Sydney, the Mails would be forwarded to the neighbouring Settlements without delay, as there is a regular overland Post to Melbourne and another from thence to Adelaide. Steamers now ply regularly between Sydney and Port Phillip and Launceston, and easy contracts might be made for the furtherance of the Mails to Swan River and New Zealand.

Whereas, by the scheme proposed in Mr. Sharpe's and other letters, the Steam Vessels from the day they quitted Point de Galle would avoid all collateral aid in feeding their line; they would have to run direct for those miserable Coral Reefs, called the Keelings or Cocos, which can scarcely be said to be inhabited, and which are so low and small that there would be a constant difficulty in finding them, and where the continued surf would much impede the business of Coaling. Thence to Australia, they would cross an open Ocean where the heavy western swell is notorious and peculiarly unsuited to Steam Navigation and throughout which they would during the winter season to be sure of tempestuous weather. And finally by this process, Sydney, the Seat of Government, would be the last place to receive Her Majesty's Mails.

If therefore Government is inclined to make any sacrifice in favor of those thriving and important Settlements, by facilitating their rapid communications with the Mother Country, I would strenuously urge their Lordships to recommend that it should be effected by a sufficient number of Steam Vessels of competent power, and by the Singapore and Batavian route.

F. BEAUFORT.

[Sub-enclosure No. 2.]

REPORT.

10th October, 1846.

With reference to the Letter from the Colonial Office, 22d August, and Sir Charles Adams' Minute of the 30th September thereupon.

Assuming the route proposed by Captain Beaufort, namely between Singapore and Sydney, touching at Batavia and Port Essington, to be the adopted route, the expense will be as follows—

4 Vessels of 500 Tons and 200 horse power monthly each way.

First Cost of Hulls, Spar, Stores, etc. £50,000

Engines 40,000

Total First cost £90,000

Annual Expence.

Wear and Tear of Hull and Spars £4,800

Machinery 6,400

Wages and Victuals 23,428

Coals 13,670

Total Annual Expence £48,498

The Average price of £1 5s. per Ton is taken for Coals. W.E.P.

[Enclosure No. 9.]

MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.

Sir,

Treasury Chambers, 5th January, 1847.

I transmit herewith, by command of the Lords Commissioners of Her Majesty's Treasury, for the information of Earl Grey with reference to Mr. Rogers's letter of 6th November last, a copy of a Report, etc., from the Postmaster General, dated 29th December, 1846, on the subject of Steam communication with the Australian Colonies.

I am, &c.,

C. E. TREVELYAN.
EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 167, per ship Trafalgar; acknowledged by Sir Charles Fitz Roy, 19th November, 1847.)

Sir,

With reference to my Predecessor's Despatch and its enclosure of the 30th of May, 1846, I now transmit to you the copy of a further letter from Mr. John Hughes, renewing his enquiry respecting the fate of his two Sons who emigrated to New South Wales in the Year 1841; and I have to request that I may be furnished with the information asked for by the Applicant with the least possible delay.

I have, &c.,

GREY.

[Enclosure.]

MR. JOHN HUGHES TO SECRETARY OF STATE.

No. 26, late 23 South Earl Street.

Right Honble. Sir,

Dublin, 31st May, 1847.

I humbly and most respectfully beg leave to state that my two Sons, namely Henry and William Hughes, emigrated to New South Wales in 1841, and I humbly observe that your honor has been graciously pleased to state on the 30th May, 1846, that your
HISTORICAL RECORDS OF AUSTRALIA.

1847. 12 June.
Request for report re H. and W. Hughes.

624 honor gave the necessary Instructions to the Government at Sydney to make the necessary inquiry after them in order to ascertain whether they be living or dead, and that your honor would have the goodness and kindness to inform me accordingly. Honored Sir, I have not received as yet any information upon the subject of my enquiry, and therefore I most humbly entreat that your honor may be so kind as to inform me upon the subject of my said enquiry relative to my said sons above mentioned, and for which I will be sincerely thankful, and as in duty bound will ever pray most respectfully submitted.

I have, &c.,

JOHN HUGHES.

Care of Mr. John Walsh, 23 Earl Street South.

15 June.
Letter transmitted.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 168, per ship Trafalgar.)

Sir, Downing Street, 15 June, 1847.

I transmit to you herewith a Copy of a Letter from the person described in the margin,* containing an application for information relative to Rosana Spence, who is stated to have Emigrated to the Colony under your Government, and I have to request that you will transmit to me such information as you may be able to obtain on the subject of the enquiry.

I have, &c.,

GREY.

[Enclosure.]

THOMAS SPENCE.

It appears that my said Daughter, Rosana Spence, resided with a person named Mr. Spratt, Shoe Maker, in the Town of Sydney in the year 1841 or 1842.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 122, per ship Union; acknowledged by earl Grey, 17th January, 1848.)

My Lord, Government House, 16th June, 1847.

I have the honor to transmit a Memorial addressed to Your Lordship by Miss Mary B. Reddall, the daughter of a

* Marginal note.—Thomas Spence. 31 May, '47.
FITZ ROY TO GREY.

deceased Clergyman of the Church of England who was employed as a Colonial Chaplain under this Government.

The Memorialist prays to be relieved from the Quit Rent on a Grant of Land which she obtained under Regulations established by Sir Ralph Darling in the year 1830, and previously sanctioned by the then Secretary of State for the Colonies (Earl Bathurst) in a Despatch dated the 25th May, 1829, No. 113.

These Regulations were framed with the view of improving the condition of the Chaplains and their families, by giving the various members of them Grants of Land, the proportion allotted to the daughters being 1,280 acres.

I have carefully perused Lord Bathurst's Despatch, and I cannot find that any instructions were given in it whether these Grants were to be liable to or free from Quit Rent; and it would appear that nothing was said on the subject when the Regulations were issued.

Subsequently, however, when the Grants under these Regulations were being made out, Sir Ralph Darling decided that these lands were to be liable to the same charge as ordinary Grants, namely, 2d. per acre per annum after seven years.

Miss Reddall obtained her Grant in the year 1831, chargeable of course with the Quit Rent against which she now appeals to Your Lordship on the ground that the land selected for her was and is of little value, and would sell for little more than the amount of the Quit Rent, so as that, as she alleges, if she does not sell the land immediately to pay off the debt already incurred, or get the Quit Rent remitted, the debt will soon become greater than the worth of the land.

There are other distressing family circumstances detailed by the Memorialist, which render her an object of compassion; and, as I am not aware that a compliance with her request would entail upon the Government other applications of a similar nature, I beg to recommend it to Your Lordship's favorable consideration.

I have, &c.,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.

My Lord,

Government House, 17th June, 1847.

With reference to Mr. Secretary Gladstone's Despatch, No. 22 of the 29th January, 1846, transmitting to my Predecessor copies of a correspondence which had passed between the

CHS. A. FITZ ROY.
then Under Secretary of the Colonial Department, Lord Lyttelton, and Mr. Joseph Hume, relative to Mr. Hinton's claims on this Colony for Bounties on account of Immigrants landed in it from the "Ward Chapman" in 1841, and to the direction contained therein that the opinion of the Crown Law Officers of this Government should be obtained as to "how far what was received by the local Government on payment of the sum of £2,260 10s. did or did not constitute a legal receipt."

I have now the honor to transmit a copy of the Opinion which has been furnished by the Crown Law Officers, wherefrom it will appear they consider that the Government may and ought to resist the claim of Mr. Hinton, on the ground "that it cannot be responsible to an undisclosed principal for the defaults (if such there were) of an Agent whom that principal had clothed with full ostensible or actual authority to bind him." Mr. Hinton, however, has not as yet given notice of any intention to bring an Action in the Colony for the recovery of this money.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[SIR CHARLES FITZ ROY TO EARL GREY.]

(Despatch No. 124, per ship Union; acknowledged by Earl Grey, 1st May, 1848.)

My Lord,

Government House, 18th June, 1847.

I have the honor to enclose copies of two Despatches from the Superintendent of Port Phillip, reporting the arrival on the 4th ultimo of the ship "Thomas Arbuthnot," which your Lordship apprised me, in your Despatch, No. 64 of the 25th November last, had been chartered for the conveyance of 290 Exiles.

I also transmit the copy of a further communication from Mr. La Trobe, covering a nominal List of the Exiles who arrived in that Vessel; and giving such information with regard to the manner in which they were disposed of and the engagements they have accepted as he has been able to procure.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosures.]

[Copies of these despatches, dated 6th and 11th May and 5th June, 1847, will be found in a volume in series III.]
FITZ ROY TO GREY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 125, per ship Union; acknowledged by earl Grey, 20th December, 1847.)

My Lord, Government House, 19th June, 1847.

At the request of Mr. Robert Lowe, a Member of the Legislative Council of this Colony, I have the honor to transmit a letter addressed by him to Your Lordship, forwarding a Pamphlet,* which he has recently published, entitled the "Impending Crisis; an Address to the Colonists of New South Wales on the proposed Land Orders."

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

MR. R. LOWE TO EARL GREY.

My Lord, Sydney, 11 June, 1847.

I respectfully request your Lordship's perusal of the annexed very short Pamphlet.

Except as a well wisher to the Colony, I have no interest whatever in this question. I occupy no country land either within or beyond the boundaries of location. The only property, I possess in the Colony, is a few houses in Sydney and my own residence in its neighbourhood. I have resided in N. S. Wales since 1842, the year in which the minimum price of land was raised to one pound an acre, and had an opportunity of watching the system from its commencement. As a proof of the entire failure of that system in raising a Land Fund, I may be allowed to call your Lordship's attention to the fact that, in the year 1836 when the whole population of the Colony consisted only of 77,086 men, women and children, the amount of the land fund was £126,458, whereas, from the year 1842, when the population was 150,859, to the year 1846, when the population was 181,556, both inclusive, the gross amount of land sales, not for each of these years, but for all of them put together, is not quite £80,000.

I have, &c.,

ROBERT LOWE.

[Sub-enclosure.]

(This was an octavo pamphlet of eight pages, entitled, "The Impending Crisis, An Address to the Colonists of New South Wales on the proposed Land Orders.")

Sir CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 126, per ship Union.)

My Lord, Government House, 20th June, 1847.

I have had the honor to receive Your Lordship's Despatch, No. 80 of the 24th December last, transmitting copy of a letter from the Assistant Secretary to the Lords Commissioners of Her Majesty's Treasury, respecting the increased expenditure rendered necessary for the remuneration of persons employed in

* Note 45.
1847.
20 June.
Adjustment re customs officers.

I have the honor to report that I have given the necessary directions for carrying into effect your Lordship's instructions which were therein conveyed.

I have, &c.,

CHS. A. FITZ ROY.

21 June.

Inability to report re D. Lang.

My Lord,

Government House, 21st June, 1847.

I do myself the honor to acknowledge the receipt of Your Lordship's Despatch of the 31st July last, marked "Separate," requesting information respecting David Lang, stated to have emigrated to this Colony; and in reply I beg to inform your Lordship that I have failed in procuring any information respecting this person.

The Commissioner of Police reports that he has caused every enquiry to be made concerning David Lang without effect; and, under a notice which I caused to be published in the Government Gazette, no information about him has reached me.

Conceiving it possible, as Lang is stated in the enclosure to your Lordship's Despatch to have commuted his Pension in England, that the Deputy Adjt. General might be in possession of some information respecting him, I caused a letter to be addressed to him on the subject; but that Officer states that no person of the name in question appears in the Books either as a commuted or Chelsea Pensioner.

I have, &c.,

CHS. A. FITZ ROY.

23 June.

Resignation of J. S. Burke.

Sir,

Downing Street, 23 June, 1847.

I have to inform you that Mr. John S. Burke, Assistant Surveyor of the Colony under your Government, and now in this Country, has recently resigned that appointment. I have accordingly accepted the resignation thus tendered by him.

I have, &c.,

GREY.

24 June.

Payment of pension to widow of Sir J. Dowling.

In answer to your Dispatch of the 28th of February last, No. 52, I have to inform you that the necessary Instructions have been given to the Colonial Agent General to pay to Lady...
Dowling, during her residence in this Country, the Pension which has been granted to her by the Legislative Council of New South Wales, subject to the conditions pointed out by you.

I have, &c.,

Fitz Roy to Grey.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 130, per ship Union; acknowledged by earl Grey, 9th January, 1848.)

My Lord, Government House, 24th June, 1847.

I do myself the honor to transmit to Your Lordship a copy of a letter addressed by His Honor Mr. Justice a'Beckett, the Resident Judge at Port Phillip, to the Colonial Secretary of this Government, stating the circumstances under which he considers that he should not be required to repay to the Colonial Treasury a sum of one hundred pounds advanced to him in the year 1846, to defray the expenses of his removal from Sydney to Port Phillip.

It appears that this advance was made to Mr. a'Beckett on the understanding that it should be refunded, if confirmed in the Office of a Judge, in conformity with the principle explained in a Despatch from Sir George Gipps to Lord Stanley of the 14th July, 1842, but with liberty to make any representation he might think proper in order to show that he ought not to be called on to repay this money. He accordingly urges in his present communication that, as he had no choice but to proceed to Port Phillip, he should not now be required to refund the advance made to him; and, as it appears to me that Mr. a'Beckett has shown sufficient reasons why the Government should not press this claim on him, I beg to submit for your Lordship's favorable consideration that he may be relieved from it.

I beg to add that the letter to Lord Stanley of the 27th February, 1846, to which Mr. a'Beckett refers, was forwarded in Sir George Gipps' Despatch, No. 62 of 1846.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

MR. JUSTICE a'BECKETT TO COLONIAL SECRETARY THOMSON.

Sir, Melbourne, 7th May, 1847.

I beg to acknowledge the receipt of your letter of the 24th Ultimo, referring to yours of the 30th January, 1846, and requesting that I will repay to the Government the sum of £100 advanced to pay my expenses of removal to Port Phillip, in accordance with the terms of upon which you state that advance to have been made; I have now your letter of 30th January, 1846, before me, and also that of 23rd January, 1846, and you will perceive, by a reference to them as well as to mine of the 27th January, 1846, to which the former of yours is an answer, that I accepted the advance in
question upon the understanding that my doing so was not to preclude me from submitting at any future time that I ought not to be called upon to repay it.

This understanding you acknowledge in your letter of the 30th January, 1846, in the following passage:—

"In making this communication to your Honor, I am directed by the Governor to state that you will, of course, be at liberty to make any representation you may think necessary in order to shew to the Secretary of State that you ought not, in the event of your being confirmed in the Office of a Judge in New South Wales, to be called on to refund the amount."

I now beg leave to respectfully submit to His Excellency why I ought not to be called on to repay the sum in question.

In the first place I never have held, and do not now hold, any such appointment per se as Resident Judge of Port Phillip. On the 15th July and 21st October, 1844, I was appointed by Sir George Gipps, under respective Commissions of those dates, a Judge of the Supreme Court of New South Wales and have been confirmed by Her Majesty in that appointment and no other. It was, in consequence of my holding that appointment, that Sir George Gipps, under the power given him by the 4th Sec. of the 4th Vic., No. 22, directed me to proceed to Port Phillip, and not because any vacancy had occurred there, or because I had applied to go there. I could not have refused had I been confirmed, and I submit, therefore, that my subsequent confirmation as a Judge of the New South Wales Court is no more a reason why I should pay the expenses of my previous removal to Port Phillip, than my confirmation prior to that time would have been a reason for my refusal then to have gone there.

It was not my act or wish; on the contrary, I remonstrated against it, and indeed, could I have foreseen that I should have been sent away from Sydney, nothing would have induced me to accept a seat on the New South Wales Bench. It is impossible, however, that His Excellency can fully understand or appreciate my position in regard to my location here, and the demand now made upon me, without a perusal of my letter to Lord Stanley of the 27th February, 1846, which I beg through you respectfully to request that His Excellency will do me the favor of perusing.

My position on coming here was very different from that of either Mr. Willis, Mr. Jeffcott, or Mr. Therry. I had been on the Bench fifteen months, and it was very clearly pointed out to Sir George Gipps, both by the Chief Justice and myself, that the terms of Lord Stanley's Despatch of the 30th April, 1845, did not at all alter my position as a Judge of the Supreme Court, but merely left my final confirmation dependent on the issue of Mr. Justice Willis' appeal. But Mr. Therry, who was then at Port Phillip, wished to go up to Sydney, and Sir George Gipps, acting upon the construction which he put upon Lord Stanley's Despatch, allowed Mr. Therry to do so. I was in short in the position that Mr. Therry would be now, if His Excellency were to accede to a request from me to go up to Sydney, and send Mr. Therry down here; in which case Mr. Therry could surely not be called on to pay his own expenses, whatever under the circumstances might be expected from me. The expenses of Mr. Willis, though amounting to £250, were paid. Mr. Jeffcott's were paid; and so were Mr. Therry's: though like my own conditionally. But Mr. Therry and Mr. Jeffcott took
the office of Resident Judge at once, and subject to the condition
then imposed. To have escaped from going to Port Phillip, I must
have resigned the situation I then held, and had for fifteen months
previously. Mr. Jeffcott and Mr. Therry had nothing to resign,
but took the Judgeship with the knowledge that they must go, and
for the express purpose of going to Port Phillip. Moreover, I was
in fact put indirectly to double the expense actually advanced,
although I never asked for more than £100. If I had not sacrificed
my furniture by a sale, my actual voyage would have cost £200
instead of £115, as it actually did. But without going into all the
details of my pecuniary losses in consequence of my removal to
Port Phillip, there were other and more serious inconveniences,
not to say sufferings connected with my removal to Port Phillip,
which no money could repay. These, however, are so fully set out
in my letter to Lord Stanley, that I need not here more particu-
larly allude to them, and I only do so now to point out the very
different circumstances, under which I came to this place, from all
other Judges.

If I felt my personal honor pledged to the repayment of the sum
in question, I should not make a moment's hesitation in the matter;
but I trust His Excellency will see my objections in the light in
which I have placed them. or, if he should not do so, that he will
forward the letter in which they are stated to the Secretary of
State, and allow the claim to abide the event of his decision.

I have, &c.,

WILLIAM A'BECKETT.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 174, per ship Trafalgar.)

Sir, Downing Street, 25 June, 1847.

I have received your Dispatch of the 6th of November last
No. 57, accompanied by a Petition which has been presented
to you by Mr. C. McLaughlin, praying that his Pension, as con-
stable in the Irish Constabulary, might in future together with
the arrears due to him be paid to him in New South Wales.

I have communicated on this subject with the Board of Treas-
ury and the Home office, and you will perceive from the accom-
panying copy of a letter from Mr. Trevelyan to this department
that Instructions for the regular payment of the Memorialist's
pension, as it might become due, had been given by the Lords
Commissioners of the Treasury, and acknowledged by the Com-
missariat Officer in Charge in New South Wales so far back as
the 9th of August, 1845, and that their Lordships have now called
for the necessary explanation in the matter. I have, &c.,

GREY.

[Enclosure.]

MR. C. E. TREVESLYAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 10th June, 1847.

I am commanded by the Lords Commissioners of Her Ma-
jesty's Treasury to acquaint you for Earl Grey's information, in
reply to your letter of the 3d Instant, that the Commissariat Officer
in charge in New South Wales acknowledged, on the 9th Augt., 1845, the receipt of the Instructions to pay to Chas. McLaughlin, late of the Irish Constabulary, his Pension of £9 4s. per Annum from time to time as it might fall due, and the arrears thereof from 1st July, 1838, and an explanation has now been called for of the reason of those Instructions not having been carried into effect.

I am, &c.,
C. E. Trevelyan.

Earl Grey to Sir Charles Fitz Roy.
(Despatch No. 175, per ship Trafalgar.)

Sir, Downing Street, 25 June, 1847.

I have received your Dispatch, No. 47 of the 24th of February last, transmitting three Memorials addressed to The Queen and the two Houses of Parliament by certain Inhabitants of Dungog in New South Wales, praying that the transportation of Criminals to that Colony might not be resumed. The Memorial addressed to The Queen I have laid before Her Majesty, who was pleased to receive it very graciously. That addressed to the House of Lords I shall take an opportunity of presenting, and that addressed to the House of Commons I have forwarded with the accompanying letter to Mr. Ewart in accordance with the intention of the Petitioners.

I have, &c.

Grey.

Earl Grey to Sir Charles Fitz Roy.
(Despatch No. 176, per ship Trafalgar; acknowledged by Sir Charles Fitz Roy, 12th November, 1849.)

Sir, Downing Street, 25 June, 1847.

I have received your Despatch, No. 40 of the 25th October, 1846, in which you transmit a report from the Superintendent at Port Phillip, pointing out the defective state of the Law as it affects the Aborigines of Australia, and the insufficient security which it affords, both as regards the protection of the Natives and their punishment for Acts of Aggression committed by them on the Settlers.

Two Circumstances are chiefly pointed out in this case: 1st, The inapplicability to the Natives of the Law of evidence, as it at present stands; and 2nd, The impediment to the administration of Justice arising from the variety of the forms and technical rules of procedure under which the Law is administered. Hence it is represented that murders and other Crimes are inflicted with impunity by the Natives not only upon each other but upon the Settlers.

As you transmit that statement without comment, I am led to infer that you acquiesce in it. If so, you have probably overlooked the Act of the Imperial Parliament which was passed in
the 6th Year of Her Majesty's Reign, Cap. 22, and which was
framed with a view to remove the evils complained of, in so far
as it was within the power of Parliament to provide a remedy.
It is intituled, "An Act to authorize the Legislatures of certain
of Her Majesty's Colonies to pass Laws for the admission in cer-
tain cases of unsworn testimony in Civil and Criminal pro-
ceedings." That Act was transmitted to your predecessor with
Lord Stanley's Despatch, No. 101 of the 6th July, 1843. Of that
Despatch, and of the accompanying Act, I transmit a copy for
the purpose of more ready reference, The Statute in question
imparts to the local Legislature all requisite powers for removing
the difficulties founded on the supposed inadmissibility of the
evidence of the Aborigines. But I must acknowledge that it is
to the care and vigilance of the Executive Authorities alone, that
we can trust for such an application of the Law as may effectually
ensure the Administration of justice and the prevention of those
crimes of which the Natives are either the perpetrators or the
victims. To exempt the administration of the Law from cumber-
some formalities and superfluous rules is, as you are well aware,
an attempt of almost hopeless difficulty, in whatever Country and
in reference to whatever class of Society that attempt may be
made.

I have, &c,

[Enclosure.]

[Earl Grey to Sir Charles Fitzroy.]

(Despatch No. 177, per ship Trafalgar; acknowledged by
Sir Charles Fitzroy, 29th March, 1848.)

Sir,

In answer to your Despatch of the 18th of February last,
No. 40, forwarding some new Rules of Court promulgated by the
Resident Judge of the District of Port Phillip, I have to inform
you that, pending the consideration which you have stated was
in the course of being given by a Committee of the Legislative
Council on that subject, I shall postpone submitting the said
Rules for the confirmation of Her Majesty. I have, &c,

GREY.

[Earl Grey to Sir Charles Fitzroy.]

(Despatch No. 131, per ship Union; acknowledged by earl Grey,
20th December, 1847.)

My Lord,

Mr. Callaghan having published a second supplement to his "Acts and Ordinances of the Governor and Council of New
Supplement by T. Callaghan to Acts and Ordinances.

South Wales, and Acts of Parliament enacted for, and applied to the Colony, with Notes and Index." I do myself the honor to inform Your Lordship that six copies of this Supplement are forwarded by the present Post Office Packet, the "Union," for the use of the Colonial Office in a Box consigned to the Colonial Agent General.

CHS. A. FITZ ROY.

Petition received re mails for Port Phillip.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 178, per ship Trafalgar.)

Sir, Downing Street, 26 June, 1847.

I have received and laid before the Queen the Petition addressed to Her Majesty by certain Merchants and Colonists of the District of Port Phillip (enclosed in your Despatch of the 29th of December last, No. 67), who pray that, in consideration of the delay, inconvenience, and expense, which result to the Inhabitants from the present practice of sending the Mails from the United Kingdom to Port Phillip by the Sydney Sailing Packets, those Mails may in future be forwarded in separate Bags, and sent direct when practicable, and that on other occasions they may be sent by way of Hobart Town.

Her Majesty was pleased to receive this Petition very graciously.

I have further to acquaint you, that I have been in communication on the subject with the Post Master General, who has stated that it was thought advisable to send Letters to Port Phillip by way of Sydney, in consequence of the regular despatch of Packets to the latter Port, and from there being known to exist a post Communication, once a Week, between the two places. His Lordship, however, in deference to the wishes expressed by the Memorialists, will at once give the necessary Instructions to the Officers, belonging to his Department, to forward by private Vessels sailing direct to Port Phillip all Correspondence for that District, unless it be specially directed to be sent by the Sydney Contract Packets.

I have, &c.,

GREY.

Sir CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 132, per ship Union: acknowledged by earl Grey, 27th December, 1847.)

My Lord, Government House, 26th June, 1847.

It having been brought under my notice that certain Accounts, which had been furnished to the Lieutenant Colonels of the Regiments stationed in this Colony, containing charges for the insertion in the New South Wales Government Gazette

Non-payment for advertisements in Gazette of military deserters.

Future transmission of mails to Port Phillip.
of Reports of Soldiers who had deserted from their Regiments, had not been liquidated, I considered it proper to cause an intimation to be made to the Deputy Commissary General that, such Notices being strictly for Military services, the expense of their publication should be defrayed from the Military Chest.

The Deputy Commissary General has in consequence forwarded to me the copy of a letter from the Assistant Military Secretary, stating that the Lieutenant General Commanding does not feel himself authorised to sanction the claim, until it has been referred for the decision of the Secretary at War; and that, until his decision is received, the insertion of these Notices will be suspended.

I have, however, suggested that it would probably be the better course to continue the insertions on the same terms as heretofore, pending the decision of the Secretary at War, as Deserters may escape from the absence of any public notification of their having deserted; and I beg to explain for your Lordship's information, in the event of any communication being made to you on the subject by the Secretary at War, the circumstances under which the charge for these Notices has been made. The New South Wales Government Gazette is published at the expense of the Colony; and all Notices inserted in it by the Commissariat Department, or matters published not immediately connected with the Departments of the Colonial Government forming a charge on the Colonial Treasury, are paid for either from the Military Chest or by the Departments from which the Notices issue; and no reason appeared, therefore, why the Military advertisements alluded to should be exempted from this rule.

I have, &c.,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 133, per ship Union; acknowledged by Earl Grey, 1st February, 1848.)

My Lord,

Government House, 27th June, 1847.

The Convict Establishment at Carters' Barracks, the expense of which was defrayed from the Military Chest, having for some time past been broken up, I gave directions for the Treadmill, which had been erected there for the punishment of Convicts, to be removed to the Darlinghurst Gaol, as being no longer required for the Convict Service.

The Commanding Royal Engineer having, however, requested that the Mill might be valued as it stood, and the amount of the valuation paid into the Military Chest from the Colonial Treasury, I caused it to be intimated to him that I saw no objection to

1847.
26 June.
1847.
27 June.
Objections to payment.

the Mill being valued as proposed; but that the payment should be deferred until a reference had been made to Her Majesty's Government, as I was informed that it was usual, when the expense of an Establishment originally for Convict purposes has been transferred from the Military Chest to the Colonial Treasury, to hand over the buildings belonging to it to the local Government free of expense, a course which has received the approval of Her Majesty's Government; and that, as the Establishment for working the Treadmill would in future be borne by the Colony, I thought that by analogy of principle it ought to be handed over to the local Government without any payment.

The Mill and Machinery have, under the orders which I gave, been transferred to the Gaol at Darlinghurst, having been previously valued at the sum of £130 by two Officers, one from the Engineer Department and the other from the Establishment of the Colonial Architect; and I have to request that your Lordship will have the goodness, should the principle which I have adverted to meet with Your Lordship's concurrence, to direct that no charge be made on the Colonial Government on this account.

I have, &c.

CHS. A. FITZ ROY.

28 June.

Request for minister for Presbyterian church at Parramatta.

SIR CHARLES FITZ ROY TO EARL GREY.

(My Lord, Government House, 28th June, 1847.

I have the honor to enclose herewith, at the request of the Moderator of the Synod of Australia, a Petition from the Trustees, Elders and Congregation of St. Andrew's Scots Church, Parramatta, addressed to the Moderator of the General Assembly of the Church of Scotland, praying that a Minister may be selected and ordained for that Church; and to request that Your Lordship will be so good as to cause the same to be forwarded to its destination.

Accompanying this Petition will be found copies of certain correspondence explanatory of the circumstances which have given rise to the application which it contains. In the letter to the Colonial Secretary of this Government from the Moderator of the Synod of Australia, of which I also enclose a Copy, he requests that the Stipend of £150 allowed to the former Incumbent may be assigned to the Minister, who may be nominated by the General Assembly to the Church in question; and that he should also receive the usual allowance for outfit and passage to the Colony.

(Despatch No. 134, per ship Union; acknowledged by earl Grey, 7th February, 1848.)

SIR CHARLES FITZ ROY TO EARL GREY.

(My Lord, Government House, 28th June, 1847.

I have the honor to enclose herewith, at the request of the Moderator of the Synod of Australia, a Petition from the Trustees, Elders and Congregation of St. Andrew's Scots Church, Parramatta, addressed to the Moderator of the General Assembly of the Church of Scotland, praying that a Minister may be selected and ordained for that Church; and to request that Your Lordship will be so good as to cause the same to be forwarded to its destination.

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SIR CHARLES FITZ ROY TO EARL GREY.

(My Lord, Government House, 28th June, 1847.

I have the honor to enclose herewith, at the request of the Moderator of the Synod of Australia, a Petition from the Trustees, Elders and Congregation of St. Andrew's Scots Church, Parramatta, addressed to the Moderator of the General Assembly of the Church of Scotland, praying that a Minister may be selected and ordained for that Church; and to request that Your Lordship will be so good as to cause the same to be forwarded to its destination.

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SIR CHARLES FITZ ROY TO EARL GREY.

(My Lord, Government House, 28th June, 1847.

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Accompanying this Petition will be found copies of certain correspondence explanatory of the circumstances which have given rise to the application which it contains. In the letter to the Colonial Secretary of this Government from the Moderator of the Synod of Australia, of which I also enclose a Copy, he requests that the Stipend of £150 allowed to the former Incumbent may be assigned to the Minister, who may be nominated by the General Assembly to the Church in question; and that he should also receive the usual allowance for outfit and passage to the Colony.
In recommending the present application to Your Lordship's favorable consideration, I have the honor to observe that the local Government will be in possession of the necessary funds to meet this expenditure from the sum set apart by the Royal Instructions for the Presbyterian Church in this Colony, should Your Lordship be pleased to sanction the arrangement.

In explanation of the delay that has taken place in transmitting the application in question, I beg to inform your Lordship that, before doing so, it became necessary to ascertain the funds applicable to the purpose, which could only be done by a correspondence with the Moderator of the Synod and a reference to the Executive Council, with the details of which it would be needless to trouble Your Lordship. I have, &c.,

CHS. A. FITZ ROY.

[Enclosures.]

[Copies of these papers are not available.]

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 179, per ship Trafalgar.)

Sir, Downing Street, 29 June, 1847.

I have received from the Chief Justice of New South Wales a Report of a Judgment delivered by him in the Supreme Court of New South Wales on the 10th of February last, in the case of the Attorney General against Brown for intruding into a Coal Mine; and I have to request that you will convey to the Chief Justice my thanks for that communication.

I have, &c.,
GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 135, per ship Union.)

My Lord, Government House, 29th June, 1847.

In my Despatch of the 22d February last, No. 44, I had the honor to report to Your Lordship that, with the advice of the Executive Council, leave of absence for eighteen months had been granted to Mr. Byron, Coast-waiter in the Department of Customs at Geelong in the District of Port Phillip; and I now beg to state to Your Lordship that, Mr. Byron having reported that he does not desire to avail himself of the Leave of absence granted, I have, with the advice of the Council, authorised his return to his duties.

I have, &c.,
CHS. A. FITZ ROY.
HISTORICAL RECORDS OF AUSTRALIA.

1847.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 180, per ship Trafalgar.)

Sir, Downing Street, 30th June, 1847.

I have to acknowledge the receipt of your Despatch and its enclosures, No. 55 of the 6th of November last, informing me that the Accounts of the Collector at Sydney, which for some time past had been in course of investigation by Mr. Barnes, the Collector of Customs in Van Diemen's Land, had been surcharged to the amount of £75,269 10s. 4d., but that Mr. Barnes did not appear to consider it necessary that, pending the decision of the Lords Commissioners of the Treasury in the matter, the Collector at Sydney should be relieved from the charge of the Department.

Correspondence thought it right to forward a Copy of your Despatch and of the papers which accompanied it for the consideration of their Lordships, and I now transmit for your information and guidance Copies of the Correspondence which has passed on the subject, together with a Report from the Commissioners of Customs relating to the Surcharge above referred to. I have, &c.,

GREY.

[Enclosure No. 1.]

UNDER SECRETARY STEPHEN TO MR. C. E. TREVELYAN.

Sir, Downing Street, 23d April, 1847.

By the direction of Earl Grey, I transmit to you the accompanying copy of a Despatch, which his Lordship has received from the Governor of New South Wales, from which it appears that Mr. Barnes, the Collector of Customs in Van Diemen's Land, has investigated the Accounts of the Collector at Sydney and has surcharged that account to the amount of £75,269 10s. 4d., but did not appear to consider it necessary that the Collector at Sydney should be relieved from the charge of the Department pending the decision of the Lords Commissioners of the Treasury. It also appears, from the Despatch and the annexures to it, that Mr. Barnes has made no communication to the local Government from which they or the Legislature of New South Wales could derive any conclusion as to the propriety of these Surcharges being enforced or abandoned.

Considering that the whole of the Revenue, the receipt and collection of which have been thus investigated, is placed by Parliament at the disposal of the Legislative Council of New South Wales, it does not appear to Lord Grey convenient that a question affecting that Revenue to so great an extent should be finally disposed of by any authority in this Country, until that Legislature shall have had an opportunity of informing themselves, and of submitting to the Queen their opinion as to the course which it would be right and judicious to pursue. Lord Grey, therefore, directs me to request that you would move the Lords Commissioners to cause him to be furnished with a copy of the report of Mr. Barnes and with a copy of any Report which the Commissioners of Customs have made, or may hereafter make to the Lords Commissioners on that subject. Lord Grey further directs me to request that you would intimate to the Lords Commissioners his opinion.
that no final decision ought to be taken on the report of Mr. Barnes until it shall have been communicated to the Governor of the Colony and shall by him have been communicated to the Legislative Council, nor until they shall have had sufficient opportunity for making any representations on the subject, which it may appear to them fitting to bring under the notice of Her Majesty's Government.

I have, &c.

Jas. Stephen.

[Enclosure No. 2.]

Mr. J. Parker to Under Secretary Stephen.

Sir,

Treasury Chambers, 12th June, 1847.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit herewith, for the information of Earl Grey, with reference to your letter of the 23d April last, copy of a Report from the Commissrs. of Customs dated 18th Ultimo, relative to the Surcharges made in the accounts of the Collector of Customs at Sydney by Mr. Barnes, the Collector of Customs at Van Diemen's Land, and I am to state to you that the Commissioners of Customs have been desired to forward for the approval of this Board such final directions as they (the Commissioners) may conceive to be called for with regard to Mr. Barnes' investigation into the Accounts of the Collector of Customs at Sydney, before they are forwarded to the Colony.

My Lords have further desired the Commissioners of Customs to forward instructions to the Collector at Sydney to furnish to the Governor of New South Wales copies of the queries raised by Mr. Barnes and of the explanations he (the Collector) may see occasion to submit to the Board of Customs. I am, &c.

J. Parker.

[Sub-enclosure.]

Report by Commissioners of Customs.

May it please Your Lordships,

Your Lordships having referred to Us the annexed Letter from Mr. Stephen, transmitting by desire of Earl Grey a copy of a Despatch which his Lordship had received from the Governor of New South Wales, from which it appears that Mr. Barnes, Collector of Customs at Van Diemen's Land, has investigated the accounts of the Collector at Sydney and has surcharged that Account to the Amount of £75,269 10s. 4d., but that he did not appear to consider it necessary that the Collector at Sydney should be relieved from charge of the Department, pending the decision of Your Lordships, and that it also appeared that Mr. Barnes had made no communication to the Local Govt., from which they or the Legislature of New South Wales could derive any conclusion as to the propriety of these Surcharges being enforced or abandoned, and that a question affecting that Revenue, to so great an extent, should not be finally disposed of by any authority in this Country, until the Legislature of New South Wales should have had an opportunity of informing themselves and of submitting to the Queen their opinion as to the course which it would be right and judicious to pursue. It was Lord Grey's desire to be furnished with a copy of any Report, which we had made or might hereafter make on that subject to Your Lordship, and Mr. Stephen having further signified it to be Lord Grey's opinion that no final decision ought to be taken on the opinion of Mr. Barnes, until it shall have been communicated to the Governor of the Colony, and shall by him have been communicated to the Legislative Council, nor until they shall have had sufficient opportunity for making any representations on the subject which it may appear to them to be fitting to bring under the consideration of Her Majesty's Govt.

We Report,

That, as there would appear to be some misconception as to the precise grounds which led to Mr. Barnes' mission to Sydney, it may be proper in the first place to state that, in the month of April, 1845, Mr. Woodhouse, the late Inspector and Examiner of Plantation Accounts, brought under our notice the very unsatisfactory state of the Accounts which had been rendered to his Office by the Collector at Sydney and expressed his inability, without further scrutiny and more accurate information, of discharging the responsible duty, which devolved upon him of auditing and certifying as to the correctness of that Officer's Accounts, and
in Our Report to Your Lordships of the 23d October, 1846, upon certain Papers which Your Lordships had been pleased to refer to Us from the Colonial Office, We stated that, in consequence of the defective state of the Customs Dept. at Sydney, New South Wales, as well as the irregular manner in which the accounts had been rendered by the Principal Officer at Sydney, We had deemed it expedient, in May, 1845, to direct Mr. Barnes, the Collector of this Revenue at Hobart Town, Van Diemen's Land, to proceed to Sydney for the purpose of instituting a minute enquiry into the state of the Customs Department at Sydney, as well as into the character and qualifications of the several Officers employed thereat, and that he had empowered him to select and take with him one or more experienced Officers from the Van Diemen's Land Establishment, in order that he might if necessary avail himself of their Services in conducting the enquiry which we had confided to him.

And, under the authority of this Order, Mr. Barnes accordingly proceeded to Sydney in Nov., 1845; a Copy of our order, dated 2d May, 1845, directing him to proceed to Sydney, and conveying to him the necessary Instructions for his Government, as well as a copy of our communication to the Governor of New South Wales, apprising his Excellency of Mr. Barnes' mission to Sydney, We beg to annex for Your Lordships' Information. It may be proper also to observe that, in a previous report to Your Lordships, dated 11 July, 1845, We adverted to the unsatisfactory manner in which the business of the Customs Department at Sydney had been conducted, and recommended that the office of Comptroller should be revived and an intelligent Officer selected to fill that situation; but upon which recommendation it does not appear that any final decision has been come to by Your Lordships.

That, upon the 7th May, 1847, seven days subsequent to the date of Your Lordships' annexed order of reference, We received a very voluminous Report from Mr. Barnes, dated the 29th Octr., 1846, detailing the result of his investigation of the Accounts of the Department as well as the general state of the Indoor and Waterside Department at Sydney, and which We regret to observe indicated anything but a state of correctness and efficiency. It is true that he has raised, upon the Collector's Accounts for further consideration, numerous queries, which taken separately and in detail involve but small sums, but amount in the aggregate to the sum of £75,269; but we beg distinctly to state that no surcharges have as yet been struck against the Collector, and that the queries, which have been raised by Mr. Barnes upon the occasion, have been raised for our consideration, and to enable our Inspector and Examiner of Plantation Accounts, with the assistance of such detailed information as those queries contain, to complete the audit and examination of the Collector's Accounts and thereby discharge the very responsible duty, which devolves upon him of ascertaining how far the Collector has rendered a correct and faithful account of the large amount of Revenue, which had been confided for its due collection to the Officer by Your Lordships.

We beg further to state that it would appear from Mr. Barnes' Report, as well as a representation which We have received from Mr. Gibbs, Collector at Sydney, that he has been furnished by Mr. Barnes with copies of the charges, which had been raised against him by Mr. Barnes to enable him to offer such explanation as he may deem proper for our consideration; and it is our intention upon the receipt of those explanations to cause the necessary steps to be taken for the adjustment of his accounts.

Should it however be Your Lordships' desire, with reference to the opinion expressed by Earl Grey that a decision should not be taken on Mr. Barnes' report, until it shall have been communicated to the Governor of the Colony, We will take care that no final Instructions shall be transmitted to New South Wales, without the approval of Your Lordships; and in order, as far as possible to avoid any unnecessary delay, we would, upon being favored with Your Lordships' directions, instruct the Collector at Sydney to furnish at once to his Excellency with copies of the explanations, which the Collector may deem proper to transmit to Us in reply to the queries of Mr. Barnes.

Customs House, 18th May, 1847.

Tho. F. Fremantle
Edward Satern.
Culling C. Smith.

Earl Grey to Sir Charles Fitz Roy.

(Despatch No. 181. per ship Trafalgar; acknowledged by Sir Charles Fitz Roy, 4th January, 1848.)

Sir,

I have received and have had before The Queen Your Despatch, No. 1 of the 1st of January last, in which you report the measures which you had adopted, with reference to the Instructions addressed to you by Mr. Secretary Gladstone of the
7th March, 1846, on the question of the Settlement of the Quit Rents due to the Crown on Lands granted under the former regulations of Government in New South Wales, and transmitting the Regulations which with the advice of Your Executive Council you had framed and promulgated for that purpose.

At the period when the question was brought under the consideration of Her Majesty’s Government by Your Predecessor, the whole amount of those Rents appears to have been from £10,000 to £12,000, and Sir George Gipps stated that they were not collected, or only partially collected until the year 1840, leaving a large amount of Arrears, which in some cases was estimated to have accumulated for 25 Years. In other cases, the Arrears were said to have amounted to more than the value of the Lands. In the year 1840, Sir George Gipps proceeded with energy and with some success to the collection of that Revenue, and for some years succeeded in collecting on an average about £10,000 a year on account of the Current Revenue and Arrears together.

A steady increase, however, took place in the amount of the Arrears, and at the period of the latest Returns it is stated at nearly £75,000.

When the difficulties of the case were brought fully under the consideration of Mr. Secretary Gladstone, he judged it necessary to make some concession on the part of the Crown, and you were accordingly authorized to remit a portion of the arrears, but in special cases:

1st. Those, wherein the claim for payment had been practically suspended for so long a time as to lead to a reasonable belief that the Government did not intend it should be enforced; and
2nd. Those cases in which the sum due amounted almost to the value of the Land itself. To these cases alone was the remission to be extended.

Mr. Gladstone further declared himself prepared to assent on behalf of the Crown to a commutation of Quit Rents at Ten Years’ purchase, at the same time expressly directing that no persons should be admitted to the benefit of such commutation unless they had paid up their required proportion of arrears.

The Regulations, which you promulgated on the 9th Oct., 1846, and now transmit, are to the following effect:—

1. That all persons having paid 20 years’ Quit Rents shall be discharged from all further payment, and those who have paid more than 20 years’ Quit Rent shall have the excess refunded to them.

2. That those, who have not yet paid 20 years’ Quit Rent, shall be free from further charge when they shall have done so.
3. That this Rent may be redeemed at any time within twelve months from the date of the Government notice at a rate varying according to the number of Quarterly payments still due from the Land Owner, and never exceed nine years and nine months' purchase.

I exceedingly regret to perceive that the concessions, which you have made go so far beyond those sanctioned by my Predecessor on behalf of The Crown.

Mr. Gladstone directed that persons, who had paid up their arrears, and those only, should be admitted to commute their Quit Rents at 10 years' purchase, and not less. You have offered the same terms to persons who have never paid a single year's Rent to The Crown, and from whom by reference to date at least 10, and in some cases 25 years' Rent must be due. To those who have paid their Rents regularly for 20 years or more, you have offered not a commutation but a free remission of all Rent for the future, and in some cases even an actual repayment of money.

The grounds, on which these offers are justified by you, appear to be that the "laches of Government" in many cases has "practically operated as an injustice to the present Possessors of the Land," and "that no less favorable terms would have been considered equitable by the Public or would have tended to allay the discontent generally felt in respect of these claims." Admitting that the laches of Government were such as in many cases to justify a considerable remission of arrears, and for such cases Mr. Gladstone had already provided, it could not possibly apply to the cases in which the Quit Rent had been regularly paid, and in which the future Quit Rents are accordingly remitted. The prevalent discontent was known to Her Majesty's Government and fully considered by Mr. Gladstone when he wrote the Instructions under which you have acted; and you have stated no grounds for supposing that the discontent had shewn any new character. On the other hand, you have not adverted to the fact that the discontent which may be felt by those who even if they had fully paid the Quit Rents, to which they were liable, would still have obtained their Land on far easier terms than subsequent settlers, who under the existing regulations have been compelled to pay for it not less than £1 an acre, affords no just reason for relieving these persons from an obligation they have deliberately and voluntarily incurred to the detriment of the rest of the community and more especially of the subsequent purchasers of Land. The remission of what is due by the Grantees of Land subject to Quit Rent is obviously a benefit conferred upon these Individuals at the Public Expence by allowing them...
to retain money, which, if paid as it ought to have been, might have been applied to various objects of Public utility and particularly to the promotion of Immigration in which the whole body of Land Owners is so deeply interested. I regret, therefore, that I can find no circumstance to justify so total a disregard of your Instructions.

With regard to the future, I am still unable to perceive that, in thus reducing the claims of the Crown, any security has been taken for their more easy or certain recovery in their reduced shape. The Government notice had been published for nearly three months at the date of Your Despatch, and I am not informed that you had devised any means for enforcing the payment of the Rents in future or that the Colonists were generally availing themselves of the offered terms of commutation. In the absence of any positive information to that effect, I cannot but apprehend that those persons, who have hitherto resisted the payment of the Quit Rent, will be encouraged by success to raise the same vexatious opposition with increased hopes of attaining their end, and after a gratuitous surrender of the just rights of The Crown as Trustee for the Public.

Under these circumstances, however painful the task, it becomes my duty to express to you Her Majesty's displeasure at the unauthorized measure which you have thus adopted, and to intimate that the repetition of a similar disobedience of express instructions will render it necessary for me to advise Her Majesty immediately to recall you from Your Government.

I should have considered it imperative upon me to cancel the Regulations, which you promulgated, had I not been restrained from so doing by an apprehension of the confusion and embarrassment, which would inevitably have resulted from a reversal after so long a period of this act of your Government; a difficulty which was further increased by the delay which you suffered to elapse in reporting the measure. I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 136, per ship Union.)

My Lord,

Government House, 30th June, 1847.

I have the honor to acknowledge the receipt, on the 18th instant, of Your Lordship's Despatches numbered as per margin.*

I have, &c.,

CHS. A. FITZ ROY.

* Marginal note.—Nos. 81 to 92; Circr., 11 January; Separate, 2d February.
1847.
1 July.

Instructions re expenditure on settlement in North Australia.

Earl Grey to Sir Charles Fitz Roy.
(Despatch No. 182, per ship Louisa.)

Sir,
Downing Street, 1st July, 1847.

With reference to your Despatch, No. 2 of the 7th of November, 1846, and to your further Despatch of the 1st of February last, as well as to mine of the 27th ultimo, on the subject of the measures you had adopted, and the consequent expense incurred, in the establishment of the Settlement of North Australia, I have now to inform you that Her Majesty's Government have decided that the Expenditure, which may attend the proceedings connected with that Settlement, must be defrayed from the Parliamentary Grants for the Convict Establishments and charges in New South Wales and Van Diemen's Land.

I have, &c.,
Grey.

2 July.

Instructions for report re D. Wright.

Earl Grey to Sir Charles Fitz Roy.
(Despatch No. 183, per ship Louisa.)

Sir,
Downing Street, 2d July, 1847.

At the instance of the Secretary of State for the Home Department, I have to request you would ascertain and report to me, for his information, the particulars of the character, conduct, and condition of Daniel Wright, now residing at Melbourne, in the District of Port Phillip, whither he was sent as an Exile in the Ship "Maitland."

I have, &c.,
Grey.

5 July.

Despatch acknowledged re administration of crown lands.

Sir Charles Fitz Roy to Earl Grey.
(Despatch No. 137, per ship Centaur; acknowledged by earl Grey, 27th February, 1848.)

My Lord,
Government House, 5th July, 1847.

I have the honor to acknowledge the receipt of Your Lordship's Despatch, No. 68 of the 29th November last, expressive of the general views of Her Majesty's Government in regard to the administration of the waste Lands of the Crown in this Colony, and enclosing a Copy of the proposed Rules to be established by Her Majesty in Council for the occupation of the same in pursuance of the Act of Parliament, 9 and 10 Victoria, Cap. 104.

I took an early opportunity of laying the Despatch and its enclosures before my Executive Council, with a view to obtain their advice as to the measures which it might be desirable to adopt, in order to bring the Regulations into operation with as little delay as possible after it shall be notified to this Government that they have received Her Majesty's final sanction. I
have the honor to enclose, for your Lordship's information, a Copy of the proceedings of the Executive Council which have accordingly taken place on the subject.

In the course of those proceedings, a doubt was suggested whether Her Majesty in Council could, consistently with the 10th Section of the Act of Parliament, 9 and 10 Victoria, Cap. 104, delegate to the Governor the powers contemplated by the first chapter of the proposed Rules, and the opinion of the Law Officers of my Government was taken on the subject. From that opinion, of which a copy is appended to the Proceedings of the Council, your Lordship will perceive that, although the Law Officers do not themselves entertain the doubt which has been raised, yet, considering the importance of the question to the Titles of those who may acquire Leases under the expected Order in Council, they recommend that the subject should be brought under your Lordship's consideration, in order that measures may be taken for remedying the defect in the Act of Parliament and the Rules, should any such appear to your Lordship to exist.

Acting under the Law Officers' opinion that it will be my duty to carry into effect the provisions of the Rule in question, should it become part of the contemplated Order in Council, and thus acquire the “force and effect of Law in the Colony,” I shall proceed unhesitatingly to discharge the functions imposed upon me by it; but I think it advisable without delay to direct your Lordship's attention to the doubt which has been raised, in order that, if it be not groundlessly entertained, the remedies suggested by the Law Officers may be at once applied.

I have, &c.,
CHS. A. FITZ ROY.

[Enclosure.]

PROCEEDINGS of the Executive Council on the 8th and 15th June, 1847, relative to the Proposed Rules on the occupation of Crown Lands transmitted with Earl Grey's Despatch of the 29th November, 1846, No. 68.

EXTRACT from Minute No. 47/10, dated 8th June, 1847.

Members present:—His Excellency the Governor; His Excellency the Commander of the Forces; The Honorable the Colonial Secretary; The Honorable the Attorney General; The Honorable the Colonial Treasurer.

His Excellency the Governor laid before the Council a Despatch* from the Secretary of State, transmitting a Draft of the Regulations proposed to be established by order of the Queen in Council under the provisions of the Statute, 9 and 10 Vict., cap. 104.

* Marginal note.—29 November, 1846, No. 68.
These documents having been circulated amongst the members, they were aware that the proposed Regulations had not been finally determined upon, but that they had been forwarded for the purpose of enabling His Excellency, as stated in the concluding paragraph of Lord Grey's Despatch, "to consider at once in what manner it would be best to proceed in performing the duty, which it was in contemplation to impose upon him, of classifying the lands of the Colony, and defining the Boundaries of the different Districts which will require to be determined," and thus "to obviate all unnecessary delay in bringing the Regulations into operation in case they should be sanctioned by Her Majesty." In order to obtain the advice of the Council on the matters thus submitted to his consideration, His Excellency laid the Papers before them.

The Council accordingly proceeded to deliberate on the preliminary measures, which it would be advisable for the Government to take.

A doubt having been suggested whether Her Majesty in Council could legally delegate to the Governor the power of dividing the Colony into Districts as proposed in the First Chapter of the contemplated Rules, the Council advised that the following case should be submitted to the Crown Law Officers for their opinion:

The Sixth Section of the Statute, 9 and 10 Vict., cap. 104, empowers Her Majesty by order in Council to make Rules and Regulations respecting, amongst other matters, "The division of the Colony into Districts within which alone any Demises or Leases," granted under the said Statute, "may be made to take effect." By the Tenth Section of the same Statute, it is enacted, "That it shall and may be lawful for Her Majesty by any such order in council as aforesaid to delegate to the Governor (on such conditions as Her Majesty shall see fit to impose) all or any of the powers hereby vested in Her Majesty, save only as far as respects the powers so to be exercised by Her Majesty as aforesaid by and with the advice of Her Privy Council."

A copy of the Draft of the Regulations, which it is proposed to establish by order in Council under the provisions of the above mentioned Statute, has been forwarded by the Secretary of State to the Governor. Of these proposed Regulations the following is the first Clause:

"The lands in the Colony of New South Wales shall, for the purposes of the present order, be dealt with in three classes accordingly as they may be situated in districts to be denominated respectively as the unsettled, intermediate and settled Districts, and the Governor is hereby authorized and required to establish in the Colony, or in the different parts of the Colony, so many districts of each kind as he may judge necessary for the purpose of duly distinguishing Lands, which ought to come respectively under one or other of the classes aforesaid; and he is further authorized and required to determine, according to the best of his judgment, and to declare by Proclamation the boundaries of such districts, designating them respectively as being, for the purposes of the present order, unsettled, intermediate or settled districts as the case may be."

The opinion of the Attorney and Solicitor General is desired on the following questions:

1. "The division of the Colony into Districts" being expressly mentioned in the Act, 9 and 10 Vict., No. 104, S. 6, as one of the
matters respecting which Her Majesty is empowered to make rules and regulations by orders in Council, can Her Majesty in Council, consistently with the reservation made in the 10th Section of the same Act, delegate to the Governor the powers proposed in the section of the Draft Regulations above recited.

2. Assuming that the division of the Colony into Districts, for the purposes mentioned in the Act, 9 and 10 Vict., No. 104, cannot be legally effected otherwise than by order of the Queen in Council, could it be maintained that, in directing generally that the Lands of the Colony should be divided into three classes, Her Majesty in Council had done enough to satisfy the requirements of the said Act, and that the power to determine what portions of land should be comprised within those three classes respectively could be delegated to the Governor.

The Council then advised that the evidence of the Deputy Surveyor General should be taken by them respecting the extent of information possessed by his department relative to the lands beyond the Boundaries, and on other matters connected with the division and survey of the Lands for the purposes of the Regulations about to be established. His Excellency, therefore, directed the Clerk to request the attendance of the Deputy Surveyor General on Tuesday, the 15th June Instant, at Twelve o'clock.

The Council further advised that, so soon as they should be in possession of the Law officers' opinion and of the information which the evidence of the Deputy Surveyor General would afford, a letter should be addressed to the superintendent of Port Phillip requesting his opinion as to the arrangements which would be most desirable in respect to the lands of that District; and that a circular should be sent to the several Commissioners of Crown Lands beyond the Boundaries, directing their attention to the provisions of the proposed Rules, and desiring them to collect such information and to take such preliminary steps as may tend to expedite the general classification of the lands and the determination of the boundaries of individual runs with a view to the issue of leases.

Extract from Minute No. 47/11, dated 15th June, 1847.

Members present as above.

His Excellency the Governor laid before the Council the opinion of the Attorney and Solicitor General on the case proposed at their Meeting on the 8th June Instant.

The Attorney and Solicitor General advised that the question, which had been referred to them, should be brought under the notice of the Secretary of State with a view to the removal of all doubt on a matter so materially concerning the Titles of Leaseholders under the system about to be adopted. Their own opinion, however, was that the Queen in Council, having passed Rules and Regulations respecting the division of the Colony into Districts, could impose upon the Governor the duty of classifying the lands in the manner proposed by the first clause of the Draft Rules; and they distinctly stated that, in the event of that clause becoming part of the contemplated order, and thus obtaining "The force and effect of law in the Colony," the Governor would have no alternative but to discharge the functions imposed upon him by it.
The Deputy Surveyor General, being in attendance pursuant to the summons issued under the order given by the Governor and Council on the 8th Instant, was then called in and examined.

FRANCIS L. S. MEREWETHER, Clerk of the Council.

PROCEEDINGS on the 8th and 15th June, 1847, relative to the proposed Rules on the occupation of Crown Lands.

Appendix No. 1.

Opinion of the Attorney and Solicitor General on the case stated in the Minute of 8th June.

1. We are of opinion that Her Majesty in Council can, consistently with the reservation made in the 10th Section of the Act of Parliament, delegate to the Governor the power proposed in the first Section of the draft regulations of the Privy Council. The only part of the sixth section, which it is necessary to consider with reference to this point, is that which provides that Her Majesty in Council shall make "rules and regulations for the division of the Colony into districts," and the question is whether in the draft regulations it is proposed to delegate to the Governor the power to make such "rules and regulations."

We think that the sixth clause is not to be read as if it had been required that the Queen in Council should herself make the division of the Colony into Districts; and that the first clause of the draft referred to does in fact make and establish a rule and regulation respecting the division of the Colony into districts, and must be taken rather as imposing upon the Governor the duty of making an actual division in obedience to it, than as a delegation of a power vested only in Her Majesty in Council.

2. We cannot see that it belongs to the Governor of the Colony to enquire whether, by directing the division of the lands of the Colony into three classes, enough has been done by Her Majesty in Council to satisfy the requirements of the Act. It is presumable that the framers of the Act, namely, Her Majesty's Ministers, who also prepared the draft regulations, did not intend that more should be done in the Privy Council; but possibly the Legislature may be taken, from the language used, to have contemplated something more.

This question, however, we think it unnecessary to discuss, because it is clear to us that the first clause in the draft does amount to a proposed "rule and regulation respecting the division of the Colony into districts," which if passed will have "the force and effect of law in the Colony," and that the Governor will have no alternative but to discharge the functions imposed upon him by it, but will be bound by it to precisely the same extent as if the Act of Parliament itself had contained an Enactment in the same words.

As, however, it may be considered that the Imperial Legislature intended that Her Majesty in Council should, in the rules and regulations respecting the division of the waste lands of the Colony, at least establish some principle for the guidance of the Governor, which should be more definitely laid down than is done by the mere use of the names of "settled," "intermediate" and "unsettled" districts, and not leave the creation of districts to the undirected discretion of the Governor, or to the Instructions of Her Majesty's Ministers; and as the questions which have arisen may hereafter prove of great importance to the titles of the intended Lease holders, We beg leave to recommend that the subject be brought
under the notice of The Secretary of State for the Colonies, by whom measures may be taken for remedying the defect in the Act of Parliament and Rules and Regulations, if any such should appear to His Lordship to exist.

We anticipate that so much time will be occupied in the requisite Surveys and other preliminary matters before the establishment of Districts, as to make it far from improbable that a reference of the questions to the Home Government, as we suggest, will occasion no delay in bringing the expected system of Leases and Licenses into operation. JOHN H. PLUNKETT, Attorney General.

15 June, 1847.

W. M. MANNING, Sol. Genl.

PROCEEDINGS of the Executive Council on the 8th and 15th June, 1847, relative to the proposed Rules on the occupation of Crown Lands.

Appendix No. 2.

Evidence of the Deputy Surveyor General with Explanatory notes added by him.

Samuel Augustus Perry, Esq., Deputy Surveyor General, called in and examined.

1. You hold the office of Deputy Surveyor General in this Colony?—I do.

2. You have now the charge of the Department in the absence of the Surveyor General?—I have.

3. A copy of Earl Grey's Despatch of the 29th November, 1846, with the Draft, therein enclosed, of the Proposed Rules on the occupation of Crown Lands in New South Wales has been furnished to you?—Yes.

4. Do you consider that the information contained in the records of your office is sufficient to enable the Government to carry out those proposed rules?—It is sufficient, I think, for the general purposes of the Rules, but not to enable the Government to define the Boundaries of Runs.

5. You think that it is sufficient to enable the Government to classify the lands in the manner contemplated by the proposed Rules?—Yes.

6. And to define the boundaries of the several classes with accuracy?—Not with accuracy, because the lands are not all surveyed. Certain points have been taken throughout the Country, and have been arranged with a view to the definition of boundaries, but there has not been a complete survey.

7. Of what portion of the Colony do you possess an accurate survey?—Of the whole of the Twenty Counties proclaimed previously to the year 1839, and of five new Counties, viz., Stanley and Auckland in the Sydney District, and Bourke, Grant and Normanby, in the Port Phillip District, which have been surveyed with sufficient precision to enable them to be proclaimed.

8. Have these Counties been considered within the Boundaries?—The whole of them.

9. Then they would naturally come within the class of settled lands?—Yes, the whole of the twenty five counties would.

10. Are there any portions of the Country taken up by Squatters of which you possess a survey?—Yes, we have a complete survey of nearly the whole of the Country about the Clarence River, that is, the Country between the Macquarie and Moreton Bay.
11. To what distance from the Coast does the survey extend?—Not less at any point than about 40 miles in a straight line.

12. Are there any other portions of the Colony which have been accurately surveyed?—A great deal of the Country which is occupied by Squatting Stations is under survey. The intermediate Country between the Clarence River and Moreton Bay, and between the Clarence River and Port Macquarie, that is the whole line of sea coast, with the exception of the County of Stanley, is beyond the Boundaries of location.

13. Is the Survey sufficiently in detail to enable you to lay down the principal lines of thoroughfare and sites of towns?—Yes, and to proclaim the Counties provisionally, but the Boundaries are not surveyed in detail.

14. Have you any survey of the country lying to the Westward of the 20 Counties in the Middle District?—We have sketches made by Commissioners and Amateurs, but no survey by the Officers of the Department.

15. Have points been laid down trigonometrically?—Sufficient points to enable the whole of the Regulations to be carried out with the exception of unsettled lands in which only a few great lines have been traced by Exploring Expeditions, such as the course of the Darling, the Murray and some other principal features.

16. Have you any survey of the lands to the southward of the Twenty Counties?—We have a Survey in progress which is being carried on by a very able Officer, Mr. Townshend, but it is not yet complete. Mr. Townshend is now upon the Snowy Mountains.

17. How far does that survey extend from the coast?—About 120 Miles.

18. Is that country also occupied by Squatters?—Yes, the whole of it.

19. And has been for some years?—Yes, I believe so.

20. Proceeding further to the Southward, what Survey do you possess of the Country to the South of Auckland?—We have points fixed all the way from thence to the Meridian of 141° of East Longitude, and three Counties, which are now practically occupied by Squat ters, viz., Grant, Bourke and Normanby, are ready for Proclamation.

21. And of Gipps Land, what Survey have you?—Gipps Land is partially surveyed, and it is all occupied.

22. Is there not an accurate survey of Gipps Land by Mr. Tyers, who is a very competent surveyor?—The Survey is only a partial one. It is not complete.

23. Does it contain the leading features?—It contains one or two rivers and a range and a few other points fixed trigonometrically.

24. Is that survey connected with the general trigonometrical survey of the Colony?—Yes, it is connected with the Port Phillip Survey.

25. There is a large portion of the Country now occupied by Squatters of which you know nothing?—We possess information which is called a survey, but we have no accurate survey. We have rough sketches by Commissioners and amateurs, which although containing much very useful information cannot be relied on as accurate surveys.
26. They would be found defective in the marking of the boundaries?—Yes. They can only be taken as guides in respect to the general features; so far they have been compared with our Surveys for the purposes of general information.

27. Do you consider that it will be impossible to classify the lands without an accurate survey?—I think it very possible to classify them by previously proclaiming Counties along the Coast, for which we have sufficient information.

28. To what extent do you possess that information?—Have you any regular survey?—The survey as I said before is but partial, but I believe that a general description of each County with a view to provisional proclamation was furnished to the Government by Sir Thos. Mitchell, prior to his proceeding on his last expedition, and that of such descriptions there are copies in the office.

29. These Counties would only embrace about a fourth part of the country occupied by Squatters?—Thereabouts.

30. Of three-fourths of the whole of the Country at present occupied by Licensed Squatters you possess no survey, with the exception of such parts as have been casually laid down in the course of exploring Expeditions?—No other.

31. Have the Commissioners and amateurs to whom you have alluded sufficient knowledge to be trusted?—Some of them have.

32. Are they Surveyors by profession?—Mr. Tyers is a Surveyor and so is Mr. Wright and Mr. Commissioner Mitchell.

33. If it were proposed that the Boundaries of intermediate Districts should be fixed at any given distance from Counties or reputed Counties, is there any possibility of fixing those boundaries without an actual survey of them on the spot?—Certainly not.

34. What time and what force would be required for such a survey?—If the whole of the present strength of the Department were employed upon it, it would take at least Twelve months. I am speaking with reference merely to the fixing on a line as a boundary for an intermediate district at a given distance from what are now called the settled district.

35. No portion of the establishment could then be left to mark the Boundaries of Runs?—To do that would require a Department of five times the strength.

36. Within what period could the present runs be surveyed in such a way as to admit of a technical description of their boundaries being given in the leases?—I do not think that with any strength they could be so surveyed in a less time than three years.

37. Do you consider that there are sufficient number of qualified Surveyors in the Colony to admit of the strength of your Department being increased five fold?—Yes I do, but I doubt whether a sufficiency of labourers could be obtained. Very strong parties would be required. In giving this reply, I am by no means diverging from the question because it is absolutely necessary that each Surveyor should have a party sufficient to clear away obstructions to his vision of distant objects.

38. What is the present expense of your Department?—It is within £12000 per annum.

39. What would be the additional expense if the Department were increased to the extent which you have just mentioned?—The
Evidence of S. A. Perry re division and classification of lands into districts.

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expense would not be less than three times its present amount if the Department were to be increased for the purpose of defining the boundaries of individual runs.

40. Would the survey requisite for the marking of the boundaries of individual runs be in addition to the general trigonometrical survey?—No, the two must go on simultaneously.

41. You were understood to say that you were sufficiently informed to lay down general lines of thoroughfare and sites of Towns in all the Country at present occupied by licensed Squatters?—Yes, I am sufficiently informed so to do.

42. Have you the maps which were some time since transmitted to the Government by the Surveyor General, with a proposal that a considerable portion of the lands now occupied by Squatters should be divided into and proclaimed as Counties as therein shewn?—Yes, I have them here (Witness produced the Maps to the Council and also a rough sketch shewing the proposed new counties on a smaller scale).

42. Supposing that the proposed Counties shewn in these Maps were made intermediate lands under the Regulations, do you consider that there would be any difficulty in proclaiming the boundaries of them?—There would be no difficulty in proclaiming them as Counties provisionally.

43. What is the number of these proposed new Counties?—I think there are Fifty shewn on the Plan.

44. What is the average area of these proposed Counties?—About 40 miles square.

45. In stating the number of counties to be 50, you mean that there are 50 in addition to the 25 already proclaimed?—Yes.

46. On a rough estimate, what number of acres do you think would be included in those 50 Counties?—About Forty five Millions of Acres in round numbers.

47. Do you consider that this quantity of land would be sufficient to satisfy the demands for purchase during the next fourteen years?—That will depend much on the amount of Immigration, but I consider that it would be much more than sufficient.

48. Do you consider that the lands which are situated more inland than these Counties would be likely to be required for purchase within the next fourteen years?—No, I do not.

49. But if the Country which formed the Colony of North Australia were reunited to this portion of New South Wales, there would be lands there likely to be required for purchase?—No doubt of it. A great quantity of land could be sold there. I have reason to believe that a seaport would be opened immediately.

50. There are lands there in that portion of the Country which should be included among the settled Districts in the event of their reannexation to this Territory?—Yes, such arrangement would be desirable.

51. Are you prepared to recommend any particular system of surveying the runs with a view to expedition?—The object can only be effected by a regular trigonometrical and chain Survey. I know of no shorter Method.

52. Is there any work which could at once be undertaken which would facilitate the early survey of the land?—I know no other mode than that of tracing the general features.
53. A preliminary survey would be necessary to ascertain the general features?—Yes, but it might be carried on simultaneously with the detailed survey. Points must first be fixed and by some of those points boundaries of runs as well as of Districts would be defined.

54. Do you not consider that the survey of runs would be hastened by taking the feature Surveys first?—I do not think so, because the survey of runs would fall into that of the features.

55. Would it be necessary to fix points trigonometrically in addition to those which you now have?—It would be necessary to fix points trigonometrically and to trace rivers and ranges, because the survey is incomplete.

56. Would it not be a saving of time to do this at once?—You would still have to go over the survey of the runs. I do not think that any time would be saved, although such a course might be otherwise convenient.

57. Would it be attended with increased expense?—No.

58. Were private parties to employ private Surveyors to define the boundaries of their runs, would the business be expedited?—Unquestionably. In such case our Department would furnish the private Surveyors with principal points and they would supply the details. They must, however, be under the supervision of the Government Department.

59. Would the Government Department be able to exercise sufficient supervision?—Yes, sufficient to ensure reasonable accuracy.

FRANCIS L. S. MEREWETHER, Clerk of the Council.

EXPLANATORY notes appended to my evidence of 15th June, 1847, before the Executive Council respecting the Proposed Rules on the occupation of Crown Lands in New South Wales, which were enclosed in the Secretary of State’s Despatch of the 29th November, 1846, No. 68.

17. My answer to question No. 17 is that the Survey of the lands to the Southward of the Twenty Proclaimed Counties extends 120 miles from the Coast. In saying this, I did not mean that there was a continuous and connected survey from the Coast 120 miles inland at the point referred to, but that the field of Mr. Townsend’s operations was that distance, some portions of the intervening features having also been surveyed. The same remark may apply to all except the proclaimed Counties.

32. My reply to question No. 32 is that there is not any possibility of fixing the boundaries of intermediate Districts at any given distance from Counties or reputed Counties without an actual survey of them on the spot. The surprize that my reply appeared to excite in the Council induces me to offer an explanation. The boundaries of Counties or reputed Counties are not meridians nor parallels of Latitude; but they are irregular lines either along the crests of mountain ranges, or are determined by the courses of rivers, in both cases extremely tortuous, and therefore neither latitudinal differences nor distances from the meridian would settle the point. In such case the required distances must be determined by actual geodesical operations, whether conducted by the aid of a common chain, by triangulation or by whatever process. As to any imaginary short cut by celestial observations, I am supported by the best authorities in denying its efficacy.
Evidence of S. A. Perry re division and classification of lands into districts.

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"On a proposé diverses méthodes pour tracer le parallèle de Paris, en choisissant des points, qui auraient la même latitude, et mesurant la distance de ces points, on de ces lignes, que l'on pourroit regarder comme les côtes infiniment petits de la courte, qui forme la projection du parallèle: telle etoit l'idée de la méthode proposée par M. Godin, dont l'exécution ctoit presque impossible et sujette aux plus grandes erreurs. En effet, on ne pouvoit s'assurer que deux lieux étoient situés sur la même latitude, que par les observations astronomiques, qui supposent de grands instrumens l'ors qu'il s'agit d'une précision de quelques secondes; ce ne pouvoit être qu'en tâtonnant et multipliant les observations que l'on parviendroit au point cherché, on s'exposant à une erreur de 15° dans le ciel, qui répondent à plus de deux cent toises sur la terre; la détermination d'un seul point aurait été l'ouvrage d'un mois, temps nécessaire pour multiplier les observations, pour la construction des observatoires, pour loger l'Observateur obligé de passer des mits pour attendre le moment des observations."

Another author says (a century subsequently to the above):

"Les erreurs du calcul étoient pour l'ordinaire fort inférieures à celle de l'observation, et l'on a en raison de ne pas affecter une exactitude qui n'eut été qu'ilusoire."

Even Mr. Tyers, whose name is mentioned in the course of the examination, refers to the chain survey of Mr. Townsend in determining an approximate meridian, see his pamphlet; but it is unnecessary to multiply authorities upon this point, seeing that there is but one route to follow.

My answers to questions from 33 to 36 all refer to the time and the means requisite to complete a survey sufficiently detailed to mark the Boundaries of runs. and, as I felt some doubt whether I was justified in appearing to the Council to oppose an obstacle in the way of carrying into effect a most important measure of Government, I consulted my authorities even on this point. The result may almost be comprised in the words of an address to Louis XV upon a similar subject:

"Sire,

"L'ouvrage, que j'ai l'honneur de presenter a Votre Majesté, est d'autant plus digne de paroitre sans ser auspices, qu'il est le fruit de votre protection et de celle de vos Ancetres.

"Je ne devois pas esperer de voir la fin d'une entreprise dont l'exécution devoit durer un demi-siecle," etc.; again

"La plus loigle vie d'un Calculateur exerce ne suffiroit pas pour calculer plus de quarante mille triangles, sans y comprendre tous les objets designés sur les Cartes, je parle seulement de Parvisses." etc.

As the Council seemed to be startled at my reply to question 38 as to the expense that would be incurred in the surveys required. I must beg leave to trouble them with one more extract on this point.

"Elle (La Majesté) m'ordonna d'en former le projet de le presenter à M. de Machault, et me chargea de l'exectuer.

"Je trouvai dans ce Ministre les dispositions les plus favorables: mon projet etoit le meme que celui dont j'ai deja parlé. M. de Machault bien loin d'être effrayé de la depense annuelle de quarante mille livres, me proposa de l'augmenter, pour abréger le temps de l'exécution qu'il prevoyoit trop long dans la place qu'il occupoit"; and I may here mention that Lt. Mitchell, now Sir Thos.
GREY TO FITZ ROY.

Mitchell, one of the most rapid and persevering military surveyors of the British Army, was occupied, I think, six years in making surveys of Massena’s retreat and of the lines of Torres Vedras.

I stated in reply to questions 51 and 52 that I knew of no other method of surveying the runs with a view to expedition than that of regular Trigonometrical and chain survey; but the system I would beg leave to recommend to effect this object is to allot to each of the experienced field Surveyors of this Department, say of not less than ten years’ service, a District and attach to each a certain number of Assistants and aspirants, and which would have the effect of keeping the expense within reasonable bounds. Each Head of a District should be a full Surveyor with one Assistant, to be selected as far as possible from the junior members of the Department, and three aspirants or Cadets, youths of good abilities and docility of disposition, who should receive little more than nominal pay until they were sufficiently qualified to act independently of instruction. I shall have the honor to submit the proposal in detail; but I may merely observe that by such an arrangement the expenses, even including a slight augmentation at Head Quarters, will be within three times the amount of the present expenditure of this Department.

18th June, 1847.

S. A. PERRY, Dy. S. Gt.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 185, per ship Louisa.)

Sir,

Downing Street, 7th July, 1847.

In answer to your Despatch, No. 18 of the 30th of January last, having reference to the Land and Emigration Returns for the Year 1845, I have to acquaint you that the explanations which it affords on the various points noticed in the enclosure to my Despatch of the 12th of August last are satisfactory.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch marked “Military, No. 5,” per ship Louisa.)

Sir,

Downing Street, 7th of July, 1847.

I have to acknowledge the receipt of your despatch, No. 37 of the 15th of February last and of its enclosure, and to acquaint you that, having communicated with the Board of Treasury, the Lords Commissioners have apprised me that they have directed the Officer in charge of the Commissariat in New South Wales to repay to the Colonial Treasury the sum of £100, advanced in the month of February last by your order, for the hire of a Steam Vessel dispatched to assist the “Sir Robert Peel,” wrecked on the Coast.

I have, &c.,

GREY.
EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch per ship Louisa.)

Sir, Downing Street, 8th July, 1847.

With reference to Lord John Russell's despatch of the 4th Sept., 1840, and to Lord Stanley's despatches of the 12th June, 1843, and 28th November, 1844, I transmit to you herewith five Copies of the 4th Volume of the published Reports of the Cases heard before the Judicial Committee of the Privy Council, in continuation of the series of Reports which accompanied the despatches above mentioned.

I have to desire that you will deliver this Volume to the same Officers in the Colony under your government as received the previous Volumes, and that you will obtain from the Colonial Revenue, and remit to P. Smith, Esq., the Chief Clerk of this Office, the Sum of £7 17s. 6d., being the price of this Work.

I have, &c.,
GREY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 138, per ship Lima.)

My Lord, Government House, 8th July, 1847.

With reference to my Despatch, No. 107 of the 17th May last, transmitting the Annual Reports of the Officers employed under this Government in the protection of the Aborigines, I am induced to transmit herewith the Report of Assistant Protector Thomas for the period commencing on the 1st March and terminating on the 31st May last, as I conceive that this document may be more than usually interesting to Your Lordship from its containing a relation of Mr. Thomas' attendance upon two Aborigines, who were recently executed for the murder of a Settler in the District of Port Phillip.

I may add that it was deemed advisable to let the sentence of the law be carried into effect in the case of these two unfortunate people from the fact that the murder was of an atrocious character, and unprovoked by any act of aggression on the part of the sufferer; and also from the conviction that, had not this example been made, the Settlers in remote places would be led to seek revenge by reprisals upon the Aborigines under the impression that the laws for their protection were not duly enforced.

I have, &c.,
CHS. A. FITZ ROY.

[Enclosure.]

[A copy of this report will be found in a volume in series III.]
FITZ ROY TO GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 188, per ship Louisa.)

Sir,
Downing Street, 10th July, 1847.

With reference to your Despatch, No. 50 of the 27th of February last, I have now to inform you that I have appointed Mr. Charles Moore to be Superintendent of the Botanic Garden at Sydney, on the Salary which you inform me was voted for that purpose by the Legislative Council, namely, £200 a Year.

Mr. Moore has been recommended to me in the strongest manner by Dr. Lindley, and I annex a Copy of the Testimonials he has received from various Quarters, as a proof of his qualifications for the Office for which I have selected him.

Mr. Moore may be expected to depart for his destination within two Months from the present time.

I am, &c.,
GREY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 141, per ship Lima; acknowledged by earl Grey, 14th April, 1848.)

My Lord,
Government House, 11th July, 1847.

With reference to Your Lordship's Despatch, No. 38 of the 3d October last, on the subject of the Observatory at Parramatta, and to the Instructions therein contained, I have now the honor to inform your Lordship that I lost no time in calling upon Mr. Dunlop, the Superintendent of the Establishment, to furnish me as soon as possible with the report required by Your Lordship for the current year. This Report has not yet been forwarded to me, but it shall be transmitted to Your Lordship by the earliest opportunity after I receive it.

In further obedience to Your Lordship's instructions, I appointed a Commission consisting of Captain King, R.N., Lieut. Colonel Gordon, Commanding Engineer, and the Ordnance Storekeeper; and I have now the honor to forward the Inventory made under their inspection of the Instruments and Books belonging to the Observatory.

Your Lordship will perceive that the Commission report that the Instruments and Books generally are in good condition, but that the Buildings, from want of timely repairs, are in a very dilapidated state; and on this point (as the Observatory is within one hundred yards of the Government House at Parramatta and immediately under my own eye), I can state that I am clearly
of opinion that no repairs, which could now be executed, short of entirely rebuilding the premises, would put them in a habitable or efficient state.

Your Lordship will further observe that Mr. Dunlop is anxious to resign his Appointment on account of the state of his health, which renders him incapable of attending to his duties. And as, since receiving the Report of the Commission, I have been informed by Lieut. Colonel Gordon that the Building cannot be even temporarily repaired without considerable expense, I have, in order to preserve the Instruments, etc., from further injury, directed that they should be packed up in Boxes and placed in charge of the Ordnance Storekeeper until Your Lordship's further wishes are made known to me.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

BOARD reporting on state of Observatory Establishment at Parramatta.

Sir, Sydney, 26th June, 1847.

Referring to your letter of the 14th April, the receipt of which we have the honour to acknowledge, appointing us Members of a Commission for the purpose of examining the Inventory of all the Instruments, Books, etc., belonging to the Observatory in this Colony.

2. We have the honour to report to you for the information of His Excellency the Governor that, on the 21st of the month, we repaired to the Observatory, Parramatta, and there examined the Instruments and Books in the charge of Mr. James Dunlop, the Astronomer; a report of which we have the honour to enclose.

3. We regret to state that the building is in a very dilapidated state of repair, and the Instruments are likely, unless they are immediately protected from the weather, to be very much injured.

4. The floor and partitions of the building seem to be entirely destroyed by the white ant, and the building itself is so dilapidated as to require to be rebuilt.

5. Under these circumstances, we would beg to recommend that the building be covered in such a way as may be considered best to secure the Instruments from further injury, where they may remain until another Observatory be built, the site of which should, we respectfully suggest, be better left for selection by the Astronomer who may be appointed to succeed Mr. Dunlop, who is desirous of being relieved, inasmuch as his health entirely incapacitates him from the fatigue of observing.

The clock and smaller instruments might for greater security be packed up and enclosed in cases, but the instruments which are fixed had better be secured in their present positions, whereby there would be less risk of their receiving injury.

We have, &c.,

PHILLIP P. KING, Captain, R.N.
J. A. GORDON.
RICH. ROGERS, Ordnance Storekeeper.

The Hon. the Colonial Secretary.
FITZ ROY TO GREY.

[Enclosure No. 2.] 1847.

REPORT of a Commission appointed by the order of His Excellency the Governor, dated 14th April, 1847, for the purpose of examining the Inventory of Instruments and Books, etc., belonging to the Observatory at Parramatta.

Instruments.

An Astronomical Clock, by Brequet, with two square pendulums: reported to be in good order but not kept going.

An Astronomical Clock, by Hardy, in good order, going at Sidereal Time.

An Astronomical Clock, by Barraud, in good order, but not going.

An Astronomical Clock, by Gremalde, recently cleaned and in good order, stated by Mr. Dunlop to be in the Hall of Government House, where it has been seen by Captain King.

A Mural Circle, by Troughton, with four eye pieces. The Instrument is stated to be in good order but requires cleaning. The pillar to which it is fixed has given way.

A five and a half feet Transit, by Troughton, complete with Ys and hanging level. This Instrument was taken from its place to make room for the Meridian Circle; it is in good order and ready for use.

A sixteen inch Repeating Circle, by Reichenbach; the Verniers have been removed from the Instrument, but are ready to be fitted. The pillar has given way.

An Equatorial Stand, and forty-six inch Achromatic Telescope, by Banks. Both require cleaning but otherwise are ready for use. There is also a Micrometer Eye-piece in a separate case.

A Parallactic Instrument, by Cambrier and Le Noir. Much damaged and unfit for use.

A Magnetic Transit, by Dolland, apparently fit for use.

A Dipping Needle, by Gambey, apparently fit for use.

Borda’s Apparatus for measuring the length of a Pendulum—damaged.

A Platina Sphere, with knife-edges.

A Diurnal Variation Instrument.

A Mountain Barometer, by Troughton, in good order.

A Mountain Barometer, now at the South Head of Port Jackson.

A Barometer, by Banks, in order, but not in use.

A Kuter’s Azimuth Compass, in good order.

A pair of eighteen inch Globes, dated 1791, much injured.

An Elrometer, by Jones, in order.

An Hygrometer, by Saussiere, damaged.

A Zenith Sector, in two cases, apparently having never been used, and considered to be in good order.

A Night Glass—useless.

Several Thermometers, broken and useless.

A Telescope, by Berge, one of the glasses in the Eye-piece broken.

A Sextant, by Jones, in order.

An Artificial Horizon, by Jones.

A Microscope, by Banks.

A Meridian Circle, forty-two inches diameter, by Jones. The Telescope having an aperture of three and three-quarter inches. This Instrument is set up where the five and a half feet Transit was fixed. The level is broken, and the Index Circle very badly
graduated; the setting vernier is fixed very inconveniently for directing the Telescope to the object, and is not graduated, not even with a Zero Line. Mr. Dunlop complains generally of the Instrument, as being so very unsatisfactory in its fittings and the graduation of the Circle itself as to be quite useless.

Connected with the Meridian Circle is a thirty inch Transit, the \( \theta \)s being fixed on stone pillars to serve as a Collimator.

A Pocket Chronometer, by Dallas, requiring slight repairs.

A Box Chronometer, by Dent, No. 220, in good order.

A Levelling Telescope, Rod and Chain, Staves, etc., complete, in good order and ready for use.

The Instruments above enumerated have been individually seen by us; but the Mural Circle and the Sidereal Clock only are in use. Generally the Instruments require to be cleaned, and the stone pillars which have been erected on a bad foundation have sunk so much as to be out of the perpendicular.

The Building is in a very dilapidated state, the partition walls having settled; the floor and partitions perfectly rotten from the effect of the white ant; and the roof admitting rain in most parts; the canvas coverings of the domes are quite rotten and torn, and affords no protection to the Instruments: in fact, they are all but entirely exposed to the weather, and will soon be destroyed unless steps are taken to protect them, until another building be erected.

Books.

Fitz Roy to Grey.

1847.


Works received recently by Mr. Dunlop.


PHILLIP P. KING, Captain, R.N.
J. A. GORDON.
RICH. ROGERS, Ordnance Storekeeper.

Parramatta, 21st June, 1847.
HISTORICAL RECORDS OF AUSTRALIA.

[Enclosure No. 3.]

1847.

13th August, 1847.

Since the Report of the Board was sent in, I have seen Colonel Gordon, who said that Captain King concurred with him in thinking that, instead of incurring the expense of covering in any portion of the Observatory for the preservation of the Instruments, it would be better to have them put up in boxes and placed in Ordnance Stores.

4th August.

A.J.F.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 190, per ship Louisa.)

Sir, Downing Street, 12th July, 1847.

I transmit to you herewith a Copy of a Letter from the person described in the margin,* containing an application for information relative to Patrick Martin who is stated to have Emigrated to the Colony under your Government; and I have to request that you will transmit to me such information as you may be able to obtain on the subject of the enquiry.

I have, &c.,

EARL GREY.

[Enclosure.]

MRS. MARTIN TO SECRETARY OF STATE.

Honble. Sir,

Pardon the Liberty I take in sending this. I had a Son of the name of Pat. Martin, who went as an Emigrant to Australia in the year 1842, of the free Emigration Class. I have not heard from him since he went. Hoping, Sir, that you wiR be so kind as to let me know whether he be living or dead, or in what part of the Country he resides at present.

I am, &c.,

MARGARET MARTIN (Widow).


SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 143, per ship Lima; acknowledged by earl Grey, 20th January, 1848.)

My Lord, Government House, 13th July, 1847.

I do myself the honor of forwarding, for the consideration of your Lordship, the accompanying Memorial from Mr. David Maziere, who arrived as a Settler in this Colony in the year 1822, praying compensation for the loss of certain land under the following circumstances.

In the year 1824, one Michael O'Brien obtained from Sir Thomas Brisbane, then Governor of this Colony, a promise of a Grant of 500 acres of land at a place situated about fifteen miles from Sydney.

* Marginal note.—Margt. Martin (no date).
In the year 1831, the Government, being about to issue a Deed for this land in favor of O'Brien, duly notified in the Official Newspaper of the time, according to the usual practice, its intention of doing so, provided no counter claim was made within one month from the date of the advertisement, which was the 14th September, 1831, although not published until the 17th of the same month. No such claim being received at the Office of the Colonial Secretary, the Deed was accordingly prepared and executed in favor of O'Brien, of date 19th October, 1831.

It subsequently appears that, previously to the execution of the Deed, the land in question had been advertised for sale by the sheriff, and that all the "right, title and interest" therein of O'Brien was accordingly so put up on the 13th October, 1831, and sold to Mr. Maziere, which circumstance, however, was unknown to the Government until communicated on the 26th October following by Mr. Maziere, whose conveyance of the land from the sheriff is dated 29th October, 1831, in pursuance of which he was placed in possession on the 31st of the same month, and in the year 1835 the Deed of Grant in the name of O'Brien, was delivered to him by the Colonial Treasurer.

There were several dealings with the property by Mr. Maziere by Mortgage and otherwise, which it does not seem necessary to enter into; and he continued in the actual possession thereof, making very considerable improvements in Buildings, Vineyard, Garden, etc., until the year 1843, when O'Brien by action of Ejectment ousted Mr. Maziere from the land which has since passed into other hands for valuable consideration.

On behalf of Mr. Maziere, the matter was brought forward in the Supreme Court, when the former judgment as to the action of ejectment was upheld by the Judges, who considered that, when Maziere purchased the land from the Sheriff on the 13th October, 1831, the legal estate was in O'Brien, the sheriff only selling the "right, title and interest" of that individual, who did not possess the legal interest until the execution of the Deed of Grant in his favor on 19th October, 1831, although the sheriff's conveyance to Maziere bears an after date.

The case, upon being represented to the Government, appeared to be such a peculiar one that the opinion of the Law Officers of the Crown was taken, with a view of seeing if any legal assistance could be afforded to Mr. Maziere; but by the opinion of these Officers, of which I do myself the honor of enclosing a copy, it was not thought proper for the Government to take any measures in the matter.
The case was subsequently brought under the notice of the Legislative Council upon the motion of Mr. Wentworth, when a copy of the opinion above referred to was laid before it, but nothing further was done or proposed.

Another circumstance was afterwards brought forward by Mr. Maziere, which was the fact of O'Brien being a Convict attaint and actually undergoing sentence at Norfolk Island at the time the Deed of Grant was executed in his favor on the 19th October, 1831; and, as this was thought to affect the case favorably towards Maziere, the opinion of the Law Officers was taken on that point, of which a copy is herewith transmitted, and from which Your Lordship will observe that the circumstance in question was not considered in Law to benefit Mr. Maziere; and it may, perhaps, be unnecessary for me to remark to Your Lordship, that it was entirely unknown to the authorities that O'Brien was a Convict under sentence when the Deed to him was executed.

Finding that he had no legal or equitable remedy, Mr. Maziere applied to the Executive Council for compensation for having been deprived of the land in consequence, as he alleged, of the act of the Government in issuing a Deed of Grant to a Convict under Sentence; but, as I did not consider that the circumstance alluded to was the cause of Mr. Maziere's loss of the property, and consequently that it was not a case wherein he had a right to demand compensation from the Government, I caused him to be so informed, although I admitted it to be one of considerable hardship.

Mr. Maziere, in his present Memorial to your Lordship, solicits that you will authorise the Governor of the Colony to award him such compensation as, upon due enquiry, may be found reasonable and just; and perhaps under the peculiarity of the case your Lordship will give me permission to do so with the advice of my Executive Council.

At the request of Mr. Maziere, who is a very poor man, I venture to enclose with this Despatch two sealed letters which bear upon his case, and which he has addressed to Lieut. General Sir Ralph Darling and Sir William Vernon, Baronet.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

The humble Memorial of David Maziere, of Parramatta, in the Colony of New South Wales, an Immigrant Settler.

To Her Majesty's Principal Secretary of State for the Colonial Department,

Sheweth,

That, on the 13th October, 1831, under a writ of Execution from the Honorable the Supreme Court of said Colony, the Sheriff
Fitz Roy to Grey.

1847.
13 July.

Memorial of
D. Maziere
soliciting compensation for loss of land.

sold to your Memorialist, by public Auction, all the right, title, and interest of one Michael O'Brien in and to five hundred Acres of Land situate in the neighbourhood of Parramatta aforesaid.

That your Memorialist at once entered into possession of the said land, and proceeded to invest large sums of money in buildings, and other permanent improvements thereon, eventually expending not less than Fifteen hundred Pounds Sterling.

That, on the 19th October, 1831, by an inadvertency of Office, a Deed of Grant of the same land was sealed and delivered by Governor Sir Ralph Darling, in the name of the said Michael O'Brien; but, upon your Memorialist's satisfying the proper Department (that of Internal Revenue) that the land had become his property in due course of law, the said Deed was issued to him.

That the said land was conveyed to your Memorialist by the usual instrument in writing, dated the 29th of October, 1831, under the hand and official Seal of the Sheriff.

That your Memorialist remained in peaceable and undisturbed possession of the said land until the middle of the year 1843, when an Action of ejectment was commenced against him in the Supreme Court by the said O'Brien, and, in the month of April, 1845, judgment was delivered in the Plaintiff's favor, the Court holding that the Sheriff's Sale, as aforesaid, to your Memorialist was null and void, the legal estate having vested in O'Brien by Governor Darling's Deed of Grant aforesaid.

That your Memorialist, with his wife and children, was consequently turned out of his house and land vi et armes, and reduced to beggary and want.

That, on the 17th June, 1831 (four months before the date of the said Deed of Grant), the said O'Brien was convicted of felony, and sentenced by the Supreme Court to fourteen years' transportation to Norfolk Island.

That, by a Government Notice, dated 27th May, 1831, it was declared that no Deed of Grant should be issued to a prisoner of the Crown or Convict attaint.

That your Memorialist will not presume to offer an opinion whether or not the fact of the Grantee's being a Convict attaint actually under sentence of transportation at the date of the Grant had the effect of rendering the instrument void in law; but he would most respectfully draw your Lordship's attention to the purport of the above mentioned Government Notice, as affording special proof that the execution of the Deed in O'Brien's favor was purely an act of inadvertency on the part of Government.

That your Memorialist would further implore your Lordship's consideration of the fact, that the calamity thus brought upon himself and his family can in no degree be attributed to misconduct or error on his own part, the land having been honestly bought and paid for, and even the full amount of Quit Rent accruing thereon to the Crown having been paid by him up to the year 1843.

That your Memorialist humbly trusts that it will thus be manifest to your Lordship that this disastrous issue (to the fortunes of Memorialist and family absolutely ruinous) is attributable entirely to an error on the part of the local Government.

That your Memorialist humbly trusts, further, that your Lordship will not hesitate to admit that the honor and dignity of the Crown require that such errors should be atoned for by adequate reparation.
Page 666

HISTORICAL RECORDS OF AUSTRALIA.

1847.
13 July.

Memorial of D. Maziere soliciting compensation for loss of land.

Wherefore your Memorialist humbly prays that your Lordship
will be pleased to take the premises into your most favorable con-
sideration, and instruct His Excellency the Governor of New South
Wales to make to your Memorialist such compensation as upon due
enquiry shall be found to be reasonable and just.

And your Memorialist will ever pray, etc., etc., etc.
Parramatta, 8th June, 1847.

DAVID MAZIERE.

Opinion of Sir A. Stephen.

I am well acquainted with the particulars of this case, the circum-
stances having been fully before me on the occasion of the trial
and the arguments which ensued on the motion for a New Trial;
and I am clearly of opinion that the Petitioner's case is one of
extreme hardship, and well deserving the favorable consideration
of Her Majesty's Government.

Sydney, 14th July, 1847.

ALFRED STEPHEN, Chf. Justice.

[Enclosure No. 2.]

[These were legal opinions on the "Sheriff's Titles to Landed
Property," printed by order, dated 11th November, 1845, in the
"Votes and Proceedings" of the legislative council.]

[Enclosure No. 3.]

MESSRS. PLUNKETT AND MANNING TO COLONIAL SECRETARY
THOMSON.

Sir,

We have the honor to acknowledge the receipt of your letter
of the 4th instant in reply to one from the Attorney General of the
2nd Ultimo, referring to a further communication from Mr. Maziere
on the subject of 500 Acres of Land at Dural, of which he has
been recently deprived under process of law by one Michael
O'Brien the original promisee, whereas he brings forward a new
feature in the case, namely, that O'Brien was actually undergoing
his sentence of Transportation for felony on the date of the Deed
of Grant executed in his favor by Sir Ralph Darling, and stating
that His Excellency the Governor has directed you to request our
opinion as to how the case is affected by this circumstance, and
adding the following remarks for our consideration.

That there is no doubt but that the Deed of Grant to O'Brien
was executed without the Governor being aware of that Indi-
vidual's condition, for that, by a public Notice, dated only the 27th
May previously, the Governor intimated that no deed of Grant
would be prepared in favor of any prisoner of the Crown whatso-
ever, not even to persons holding Conditional Pardons or Tickets
of Leave.

That O'Brien's conviction of felony took place on the 17th June,
1831, and he was sentenced to fourteen years' transportation on the
28th; but his land seems to have been subject to pecuniary
claims previously contracted, and in consequence one Taylor
obtained a Judgment in the Supreme Court against O'Brien,
whereby the Sheriff, on the 13th October, 1831, sold all that Indi-
vidual's right, title, interest and Estate in and to the property in
question to Maziere, but the conveyance by the Sheriff to Maziere
does not appear to have been executed until the 29th of the same month, the Deed of Grant having been immediately executed on the 19th October, 1831, to O'Brien, although not recorded by the Colonial Secretary until the 31st of December of that year.

That, if Maziere had intimated to the Government his purchase of the Land previously to the execution of the Grant to O'Brien, it would certainly not have been signed; but, according to the practice at the time, the intended preparation of the Deed in favor of Maziere would have been announced for one Month, and, in default of any opposition, issued in his name at the end of that period.

In reply, we have the honor to report that in our opinion the case of Mr. Maziere is in no way, that can be in law beneficial to him, affected by the circumstance that O'Brien was actually undergoing his sentence of Transportation for felony on the date of the Deed of Grant, and, in support of this view, we beg leave to refer to the annexed Extracts from our Report* of the October last, from which it will appear so plainly as to require no comment from us, that, however unjust the claim of O'Brien may have been (according to the statement of the Petitioner and to the facts as far as they are known to us), Mr. Maziere has no title, legal or equitable, to the property in question; that the only persons who could have raised any claim before the 9th June last were Mrs. Walker and Mr. R. Hunt, whose interest has since been defeated by the Conveyance from Mr. Kay (irrespectively even of Mrs. Walker's execution of it and of Mr. Hunt's alleged agreement) to O'Brien and the delivery to him of all the title deeds and papers, and that O'Brien has conveyed the property, to which his legal title has been established, to other parties for valuable consideration.

We have, &c.

J. H. PLUNKETT, Attorney General.
W. M. MANNING, Sol. Genl.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 145, per ship Lima.)

My Lord, Government House, 15th July, 1847.

I do myself the honor to inform you that I have given directions for the respective sums of £1,841 4s. from the General Revenue, and £656 10s. 7d. from the Crown Revenue of the Colony, to be issued to the Deputy Commissary General; and I have to request that Your Lordship will have the goodness to cause the necessary order to be given for an equal sum to be issued to the Colonial Agent General from Her Majesty's Treasury to enable him to make payments for Services on account of New South Wales, as shown in the accompanying Statement.

I have, &c.,

CHS. A. FITZ ROY.

* Marginal note.—Embodyed in the printed Copy, laid before the Legislative Council, on motion of Mr. Wentworth.
1847.
15 July.

Payments for remittance to agent-general for special services.

Statement of the Amount to be remitted from the Colonial Treasury of New South Wales to the Colonial Agent General in England to enable him to make Payments for the undermentioned Services on Account of the Colony to the 31st December, 1847.

From the General Revenue.

<table>
<thead>
<tr>
<th>For what Service</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>To Pay the Salary of the Colonial Agent General, chargeable on the General Revenue, for the period from 1st January to 31st December, 1847</td>
<td>£150 0 0</td>
</tr>
<tr>
<td>To Pay Pensions, for the same period, Lady Dowling's included</td>
<td>450 0 0</td>
</tr>
<tr>
<td>To Pay the Half Salary (£200 per ann.) of Wm. H. Kerr, Esq., Chief Commissioner of Insolvent Estates, while on Leave of Absence, from 1st January to 31 December, 1847</td>
<td>200 0 0</td>
</tr>
<tr>
<td>To meet the Extra Cost of Lamps and Machinery for Light Houses in Bass' Straits, in addition to the sum of £4,000 remitted on 3rd February, 1846</td>
<td>150 0 0</td>
</tr>
<tr>
<td>To meet the Expense of the Outfit and Passage of the Revd. Wm. McGinty and of the Revd. Michl. Corish, Roman Catholic Clergymen, at £150 each</td>
<td>300 0 0</td>
</tr>
<tr>
<td>To meet the charges for Parliamentary and other Public Documents, and Incidental Expenses from 1st January to 31st December, 1847</td>
<td>100 0 0</td>
</tr>
</tbody>
</table>

From the Crown Revenue.

| The Salary and Allowances of the Colonial Agent General for the period from 1st January to 31st December, 1847 | 112 10 0 |
| The Half Salary of Sir Thos. L. Mitchell, Surveyor General, while on Leave of Absence, from 29th March to 31st December, 1847 | 379 0 7 |
| The Half Salary of Asst. Surveyor John Burke, while on Leave of Absence from 1st December, 1845, to 31st May, 1847 | 165 0 0 |

**£2,497 14 7**
Fitz Roy to Grey.

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 146, per ship Lima; acknowledged by Earl Grey, 18th December, 1847.)

My Lord,

Government House, 16th July, 1847.

I have the honor to acknowledge the receipt of your Lordship's Despatch, No. 69 of the 4th December last, transmitting copies of a correspondence with the Most Revd. Dr. Polding, relative to an application which he had made to Your Lordship for a Grant of Land, to be appropriated to the use of the Roman Catholic Church in New South Wales, in aid of the education of Ministers for that Church and of the conversion of the Aborigines of the Colony.

In compliance with Your Lordship's instructions, I lost no time in placing these communications before my Executive Council; and I have now the honor to enclose a copy of the Minute of their proceedings on this subject, wherefrom your Lordship will perceive that the Board of Council and myself fully concur in the views expressed in Mr. Under Secretary Hawes' reply to Dr. Polding; and that, for other reasons which are stated in the Minute, they do not consider that it would be either lawful or expedient to grant to the Roman Catholic Church more land than may be required for a site for the buildings of the proposed Institution.

I have, &c.,

Chs. A. Fitz Roy.

[Enclosure.]

Proceedings of the Executive Council relative to Dr. Polding's application for a grant of land as an endowment for a college.

Extract from Minute No. 47/12, dated 28th June, 1847, and confirmed by the Council on the 8th July, 1847.

Members present:—His Excellency the Governor; His Excellency the Commander of the Forces; The Honorable the Colonial Secretary; The Honorable the Attorney General; The Honorable the Colonial Treasurer.

His Excellency the Governor, laid before the Council a Despatch* from the Right Honorable the Secretary of State, transmitting copies of a correspondence with the Most Reverend Dr. Polding relative to an application from him for a grant of land, and requesting a Report on the subject from the Governor and Executive Council.

The Council after mature consideration of the matter thus referred to them concurred in the adoption of the following Report:—

In order to provide within the Colony a supply of duly qualified clergymen, Dr. Polding proposes to establish a College for ecclesiastical students. Considering that without assistance from the Government this undertaking could not be accomplished, he asks for a grant of land, from the sale or other beneficial use of which (as the Council understand) he may obtain indirectly that pecuniary aid, which in the present circumstances of the Colony he could not expect to receive directly. In support of this application, he

* Marginal note.—4 December, 1846, No. 69.
cites as precedents the grant of land worth several thousands of pounds to the Australian Library, the grants of Parsonages and Glebes made to the Church of England previously to the passing of the Colonial Act, 7 Will. 4, No. 3, the grant of land for the Church of England Missionary Establishment at Wellington, the building at the Public expense of the King's school at Parramatta, and the loan of £3,000, which from its never having been repaid may be more properly termed a grant, towards the erection of the Australian College for the education of members of the Church of Scotland. Referring to these cases, Dr. Polding further argues, in support of a compliance with his request, that the grant asked for by him could not be construed into a precedent for further grants of a like nature to other denominations, as the concession in this instance would only be deemed an act by which those in favor of whom it was made were at length placed on a level with their fellow-Colonists, who at a former period received similar or greater advantages.

The obstacles in the way of a compliance with this request, and the inapplicability under present circumstances of the precedents cited in favor of it, are so fully explained in Mr. Hawes' reply to Dr. Polding that the Council might sufficiently discharge the duty imposed upon them by simply reporting their entire concurrence in the views expressed in that reply. As, however, Lord Grey specially desires to receive from the Governor and Council an estimate of the demands from other Christian Societies, which would be likely to result from a concession in this case, the Council think it right to declare their conviction that such concession would not be viewed by other denominations, as supposed by Dr. Polding, as one due to the Roman Catholic Body, in order to place them on a level with others who had received such grants before; but that it would be regarded as a new precedent, and claims would be advanced under it to an extent which it is impossible to foresee.

The Council moreover apprehended that such a grant, as is sought by Dr. Polding, could not be made consistently with existing law. The Act of Parliament, 5 and 6 Vict., cap. 36, makes it unlawful for Her Majesty or any person acting under Her Majesty's authority to convey or alienate the waste lands of the Crown in this Colony by any other way than that of sale, with the exception of lands required for certain public purposes specified or described in the Third Clause; and it does not appear to the Council that the purpose, for which Dr. Polding wants the land asked by him, can be considered as one of those which the clause in question contemplate. Did he merely desire a site for the buildings of the proposed Institution, his request would be legally admissible and would meet with the ready support of the Council, more especially as they understand that a grant of land as a site for a college for Members of the Church of England has been recently promised to the Lord Bishop of Australia.

FRANCIS L. S. MEREWETHER, Clerk of the Council.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 191, per ship Louisa.)

Sir,

Downing Street, 21st July, 1847.

I herewith transmit, for your information and guidance, the copy of a letter from the Board of Treasury, together with
the copy of a Report addressed to the Lords Commissioners of that Board by the Commissioners of Customs, from which it appears that, in contravention of his late Majesty's Order in Council, dated 28th April, 1828, the Collector of Customs at Melbourne had objected to admit to Entry the Cargo of the Spanish Vessel "Preciosa," recently arrived there from Manila, but that, with your sanction, he had subsequently allowed the Cargo to be landed upon the parties entering into Bond in the sum of £500 to abide the decision of Her Majesty's Government.

You will see that, on the grounds stated in the accompanying enclosures, instructions are about to be given by the Lords of the Treasury for the cancelment of that Bond; and I would especially directs your attention to the remarks which the Commissioners of Customs have offered on the subject, with a view to proper care being taken to guard against any future interruption of the trade legally permitted to Spanish Vessels with Her Majesty's Colonial Possessions.

I have, &c.,

[Enclosure.]

MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.

Sir,

Treasury Chambers, 12 July, 1847.

I have it in command from the Lords Commissioners of Her Majesty's Treasury to transmit to you a copy of a Report of the Commissioners of Customs upon the subject of the admission of the Cargo of Spanish Vessel "Preciosa," and I am to request that, in submitting the same to Earl Grey, you will state to his Lordship that My Lords having communicated with the Lords of the Committee of Privy Council for Trade on the subject referred to, it has appeared to this Board and to the Lords of the Committee that it will be proper that the communication suggested by the Commissioners of Customs should be made to the Governor of New South Wales.

I am further to request you will move Lord Grey to cause the requisite steps to be taken in this respect; and at the same time apprise his Lordship that My Lords will direct the Commissioners of Customs to convey corresponding instructions to their Officers in the Colony and to cause the Bond taken in respect of the Cargo of the "Preciosa" to be cancelled.

I am, &c.,

C. E. TREVELYAN.

[Sub-enclosure.]

REPORT of Commissioners of Customs To the Lords Commissioners of Her Majesty's Treasury.

We beg to represent to Your Lordships that, under his late Majesty's Order in Council, dated 28th April, 1828, it is declared to be lawful for Spanish Ships to authorising import into any of the British Possessions abroad, from the Colonies and Possessions of His Most Catholic Majesty, Goods the produce of those Colonies and possessions Spanish vessels, and to export Goods from such British Possessions to be carried to any Foreign Country whatever, and by the 3rd Section of the Act of 8 and 9 Vict., Cap. 84, this Order in Council as well as various other orders have been continued in force.

That we have recently received a communication from the Collector of this Refusal to the Revenue at Melbourne, N. S. Wales, stating that, the Spanish Vessel Preciosa, having admit cargo of recently arrived at Melbourne from the Spanish Colony of Manila with a Cargo of Spanish vessel Sugar, he had objected to admit the Cargo to entry upon the ground that he had at Melbourne, been unable to discover any Order in Council permitting Spanish Ships to trade with
1847.
21 July.

Necessity for publication of law in colony re trading of Spanish vessels.

the British Possessions abroad, but that, with the sanction of the Governor, he had allowed the Cargo to be landed upon the Parties entering into Bond in the sum of £500 to abide the decision of H.M.’s Government.

We beg leave also to transmit a copy of a Representation, which we have received from the Collector at Sydney, together with copies of the correspondence which had taken place between himself and the Colonial Government upon the same subject; and, as it would appear therefrom that not only our Officers in New South Wales but the Colonial Law Authorities are entirely ignorant of the existence of the Order in Council of 28th April, 1828, and as serious inconvenience may arise in the event of the Trade, which Spanish Vessels are by Law permitted to carry on between the Colonies of Spain and the British Possessions abroad, being interrupted from a want of a proper understanding of the Law, We would submit how far Your Lordships may not deem it expedient to bring the circumstances under the consideration of H.M. Principal Secretary of State for the Colonies with a view to the Governor of New South Wales being apprized of the state of the Law as applicable to the subject; and we would, upon being favored with your Lordships’ directions, issue instructions to Our Collectors at Sydney and Melbourne with directions to the Latter Officer to cancel the Bond, which had been entered into for the Cargo of Sugar brought by the "Preciosa" from Manila to Melbourne.

With respect to the Order in Council of the 8th August, 1847, referred to in the accompanying papers, copy of which is annexed, We beg to state that we are advised that it does not in any manner interfere with the privilege granted to Spanish Ships under the Order in Council of the 28th April, 1828, hereinbefore referred to.

W. Lushington. J. P. Dickenson.

SIR CHARLES FITZROY TO EARL GREY.

(Despatch No. 151, per ship Lima.)

My Lord,
Government House, 21st July, 1847.

I have had the honor to receive your Lordship’s Despatch, No. 88 of the 22d January last, forwarding, at the request of Sir W. M. Somerville, the Member for Drogheda, a Paper which had been sent to him by Mr. C. Magrane, complaining of the conduct of the Police Magistrate of Dungog, which led to the relinquishment by his relative Mr. Phillip H. Magrane of the appointments of Clerk of Petty Sessions and Post Master of that District; and, in compliance with Your Lordship’s directions, I have now the honor to report the circumstances connected with Mr. P. H. Magrane’s case, which I have ascertained on reference to the records in theOffice of the Colonial Secretary of this Government.

It appears that Mr. Magrane was appointed Clerk of Petty Sessions and Deputy Post Master at Dungog on the 15th February, 1839, and that he continued to hold the former appointment until he was dismissed from it on the 6th August, 1840.

On the 27th March, 1840, it was communicated to the late Governor Sir George Gipps by a Mr. J. Hook that a Notice had been published by Mr. Cook, the Police Magistrate at Dungog, in which it was announced that none but Protestants need apply for vacant situations in the Constabulary of that District. Mr. Cook was, in consequence, called upon for an explanation, and at the same time informed that the Governor could not approve of the introduction of any religious test whatever as a qualification for Office in this Colony. The Very Reverend Dr. Polding also brought the matter under notice.
The Police Magistrate stated in reply that he had directed the publication of the Notice in question, in consequence of the unwarrantable interference of the Roman Catholic Clergyman with the Constabulary of his own persuasion having rendered the adoption of such a measure absolutely necessary to enable him to maintain a proper command over that Force; and also that the Constables, who had been suspended for refusing, under the influence of the Clergyman referred to, to attend muster and prayer meeting on Sunday mornings according to custom, were reinstated upon their expressing contrition for their conduct.

Mr. Cook further stated that Mr. Magrane was mixed up in these matters, and requested therefore, as he could not continue to place confidence in him as Clerk of the Bench, that he might be removed.

In June, 1840, it was represented to the Post Master General by Mr. Cook that several complaints had been made against Mr. Magrane as Deputy Post Master; and amongst them that of his having absented himself without leave, and of the Mail Bags being opened and the letters distributed during his absence by a man of indifferent character. Other similar cases were stated to have occurred; and the Governor in consequence directed the Police Magistrate to animadvert severely on the conduct of Mr. Magrane and to reprimand him in his Excellency's name, and also, in conjunction with the Post Master General, to appoint some other person to perform the duty of Deputy Post Master, which was accordingly done.

On the 20th June, the Police Magistrate brought under notice a letter, which had been published in the "Sydney Morning Herald" bearing Magrane's signature, giving an unqualified contradiction to an assertion alleged to have been made in a former publication by the Police Magistrate that Magrane had tampered with the Constables or encouraged them to a dereliction of duty; and with reference to which Mr. Cook at the same time submitted depositions from the Chief and another Constable of the District, in the first of which it was stated that, before Mr. Magrane arrived in the District, the Constables attended the Sunday Muster cheerfully and everything went on peaceably; but that Magrane was accustomed to speak of the Police Magistrate in disrespectful terms, and had abused one of the Constables who had been reinstated for returning to his duty, and that he was also in the habit of getting drunk. The other Constable stated himself to be a Roman Catholic, and that he attended the Sunday Muster but not by compulsion; that the Roman Catholic Clergyman, when he attended the District, expressed his wish that he would leave the Police, and that Magrane also urged him to do so; that on another occasion Magrane had promised to get
1847.
21 July.
Report on case of P. H. Magrane.

him a situation in Sydney, if he would leave the Police; and that, except once, he had never seen Magrane drunk.

On the 6th July, the Governor directed it to be communicated to Mr. Cook that, having read the documents alluded to, and also bearing in mind the misconduct of Mr. Magrane in the capacity of Post Master, he could not think it would be for the advantage of the public service that he should any longer hold the situation of Clerk of the Bench at Dungog, and authorised his discharge at the expiration of one month.

On the 15th July, a letter was received from Mr. Magrane conveying the resignation of his situation, when he was referred to the communication which before that time would have been made to him by the Police Magistrate. The letter authorising his discharge, however, never reached the Police Magistrate; and it was presumed that it had been withheld from him by the Clerk of the Bench; but, a duplicate of it having been forwarded, Mr. Magrane was removed on the 6th August following.

Mr. Cook was not dismissed from his appointment, but was discontinued in common with the Police Magistrates of other Districts on the 31st December, 1842, under the necessity which then existed for reducing the Expenses of the Police.

I have, &c.,

CHS. A. FITZ ROY.

22 July.

Despatch acknowledged re land grant to trustees of P. and A. Dwyer.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 152, per ship Lima.)

My Lord,

Government House, 22d July, 1847.

I have the honor to acknowledge the receipt of your Lordship's Despatch No. 90 of the 28th January last, enquiring what has been done under the arrangement reported in Sir Geo. Gipps' Despatch, No. 218 of the 30th Decr., 1845, under which a Deed of Grant from the Crown was issued in favor of Mr. W. M. Manning, the Solicitor General of this Colony, as Trustee for Patrick and Anthony Dwyer for 60 acres of land, the proceeds of which, when sold, were after certain deductions, to be remitted to those persons.

Having referred to Mr. Manning on the subject, I now transmit for your Lordship's information a copy of a letter from that Officer dated the 2d instant, stating that nothing has yet been realized by the sale of the land granted to him in trust for the Dwyers, but that he has some expectation, altho' difficulties to the completion of the purchase have been interposed by the purchaser, of being able to make a remittance shortly.

I have, &c.,

CHS. A. FITZ ROY.
MR. W. M. MANNING TO COLONIAL SECRETARY THOMSON.

Sir, Sydney, 2nd July, 1847.

In reply to your letter of the 30th Ultimo, transmitting to me a Copy of a Despatch received from the Secretary of State respecting the sixty (60) Acres of land, granted to me as Trustee for Patrick and Anthony Dwyer, and requesting that I would state what has been done in this matter; I have the honor to inform you that the land was contracted to be sold for £150 to a Dr. Colman, who, after paying £27 to release the original deeds from the lien of Mr. Pilcher (a solicitor), resorted to a variety of vexatious objections to the title, and ultimately threw up the purchase and demanded the £27 (which I refused), when on the point of leaving the Colony suddenly for England.

A Sale has since been made to a Mr. Arnold at £120 through Mr. Chambers, the Clerk of the Peace at Maitland, but again great delays are interposed by the Purchaser or his Solicitor; and, although I have repeatedly pressed by letter (twice within the last month) for a completion of the Contract, the business yet remains unsettled.

Hitherto I have not received as much as the fees which were paid by me on the issue of the Grant, and I have disbursed not only those fees (£2 2s.) but also £30, paid on 20th June, 1846, in satisfaction of a debt of £33, and interest for five years, due to the Insolvent Estate of the late Registrar, for over payments by him as Collector and Manager of the Intestate Estate of the deceased, A. Dwyer.

I regret very greatly that nothing should have been yet realized; but, as a Gratuitous Agent for irresponsible Principals, I cannot undertake to involve myself in legal proceedings for the enforcement of any Contract of Sale, and therefore am much in the power of any Purchaser. I am therefore unable to promise an early remittance, but, from Mr. Chambers' reply to my last letter, I have some expectation of being able to remit before long.

I have, &c,

W. M. MANNING.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 193, per ship Louisa; acknowledged by Sir Charles Fitz Roy, 23rd December, 1847.)

Sir, Downing Street, 23d July, 1847.

I have to call your attention to the Instruction, which my Predecessor addressed to you on the 28th of March, 1846, directing you to remit to Mr. Smith, the Chief Clerk of this Office, the sum of £43 12s. 2d., being the proportion of charges payable on your Commission as Governor of New South Wales, which it was not in the power of the Government to remit.

Although it does not appear that the receipt of that Instruction has been acknowledged by you, I observe that despatches from me dated in September last have reached your hands; and I cannot therefore avoid desiring that the sum in question be remitted by you as soon as may be practicable. I have, &c,,

GREY.
SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 153, per ship Lima; acknowledged by earl Grey, 1st January, 1848.)

My Lord,

Government House, 23d July, 1847.

At the instance of the Chief Justice of this Colony, I have the honor to bring under your Lordship's notice the case of the man, named in the margin,* who was convicted of Murder at the late Criminal Session of the Supreme Court at Sydney, and upon whom sentence of death was accordingly passed, but which has been commuted to transportation for Life in consequence of a technical objection raised in his behalf.

Sir Alfred Stephen, on the part of himself and his brother Judges, is anxious to obtain the opinion of the Judges in England on the point of Law arising out of this case, the nature of which is fully explained in the printed report of the Trial and Copies of the letters from the Chief Justice herewith enclosed.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

[This was a printed report of the trial, the Queen v. Francis Morley.]

[Enclosure No. 2.]

SIR ALFRED STEPHEN TO COLONIAL SECRETARY THOMSON.

Sir,

Supreme Court. 14th July, 1847.

The Government has already been apprised that the Prisoner Francis Morley, convicted of murder at the late Criminal Session, has been recommended for a pardon on condition of Transportation for Life, in consequence of doubts entertained on the Bench respecting the propriety of Mr. Justice Therry's charge in that case to the Jury. I have now the honor to submit to the Governor through you the request of myself and Brother Judges that His Excellency will be pleased to forward the enclosed report of the case, and our opinion thereon, to the Right Honorable the Secretary of State. We conceive that the question involved in this case, and on which a difference of opinion exists between the majority of the Court and one of its Members, is of by far too much importance (independently of that which belongs to the question in respect of the particular fate of the present Convict), to be allowed to remain in any degree of doubt, if the removal of that doubt can be effected by a reference to higher authority in England. And it occurred to us that, considering the circumstances, and especially the ground on which Mr. Justice Dickinson's difficulty in the case rests, that reference might not inappropriately be (if His Lordship saw no objection) to the Judges, the question being apparently one, on which those very learned persons, according to the Authorities mentioned in Our Judgment, are themselves divided in opinion. But should the Secretary of State determine that such a reference is impracticable or inexpedient, then we respectfully beg the favor of His Lordship's obtaining for our guidance the opinions of Her Majesty's Attorney and Solicitor General.

* Marginal note.—Francis Morley.
We need scarcely observe to His Excellency the Governor that, however important the question raised may be in England, it is much more so in this Colony, where, in cases of murder (especially those committed in secret in the Wilds of the Interior), it is frequently impossible to assign the Death specifically to one cause alone, or with certainty to two combined causes, altho' it generally is possible to shew that it was the result either of both or one of the causes assigned in some Count of the Indictment. Cases occur in which it is impossible to say by which of two causes the death was produced, even where they are most dissimilar in character; or to say whether the death was not occasioned by their conjoint operation. But if the distinct conclusion must be drawn, in cases like that of Morley where the same injury and appearances might have been produced by both or either of the means alleged, the ends of Justice will, I am certain, be frequently defeated, free Scope will be afforded to brutality and revenge, and murderers will find escape easy.

I have, &c.,

ALFRED STEPHEN, C.J.

I send 4 printed copies of the Judgment for transmission to England and one for reference, should it be required.

[Enclosure No. 3.]

SIR ALFRED STEPHEN TO COLONIAL SECRETARY THOMSON.

Sir, Supreme Court, 14th July, 1847.

In reply to your inquiry by letter of 9th Instant, as to the disposition of the Convict, Francis Morley, I have the honor to inform you that, as a Majority of the Judges have decided that the point taken in the Man's favor was untenable, and the Commutation was only advised because of the doubts entertained in a similar case in England, we are all of opinion that that commutation should be carried into effect in the Ordinary manner. The Murder was a very atrocious one, committed under circumstances of great barbarity. If the conviction, nevertheless, be not legal, Morley should be pardoned; but, until it be decided (if it ever shall be so decided) that such conviction is illegal, the punishment should, we apprehend, take effect by virtue of the Judgement already given.

I am, &c.,

ALFRED STEPHEN.

P.S.—I would suggest whether it might not be expedient to forward a Copy of that letter to the Comptroller General of Convicts (or other proper officer of the Government) at V. D. Land.

A.S.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 194, per ship Louisa.)

Sir, Downing Street, 24th July, 1847.

I have received your Dispatch, No. 46 of the 31st of October last, on the question of adopting some mode of investing with safety and with sufficient profit the Funds placed in the Savings Bank at Sydney.
This question had been brought under consideration from the circumstance of the accumulations in the hands of the Trustees of the Bank, in consequence of there being no legal mode of investing these Funds with interest.

In your Dispatch, two projects are referred to, the one for investing the Funds of the Bank in Loans to corporate Bodies raised for the purpose of carrying on Public Works; the other for investing those Funds in Government securities appropriating the amount to the construction of Public Works.

I have attentively considered this question, and I have obtained the opinion on the subject of Mr. Tidd Pratt, the Barrister appointed to certify the Rules of Savings Banks in this Country.

It appears to me that, in order to invest with safety and adequate profit the Funds in question, it will be advisable to adopt the plan suggested by the Trustees, and recommended by you, viz., that they should from time to time be advanced to the Government at a fixed rate of interest, with a view to their being applied to permanent works of general utility. I concur with you in thinking that the Application of any part of these Funds by way of Loan to Corporate Bodies would be highly objectionable.

It also appears to me to be desirable to propose to the Legislative Council to amend the present Law of the Colony relating to Savings Banks, 9 Vic., No. 25, by repealing those parts of it which authorize the deposit of the Estates of Intestates, and of Monies paid by order of the Judges, and by introducing some provision, in order to prevent any pressure on the Government for Money, with regard to the length of notice, which the Depositors as well as the Trustees should give before the Money is withdrawn either from the Bank or the Government.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(A circular despatch, per ship Louisa.)

Sir,

Downing Street, 24th July, 1847.

I transmit, for your information and guidance, Copy of a Treaty of Commerce and Navigation between Her Majesty and the Grand Duke of Tuscany, the ratifications of which were exchanged at Florence on the 12th ulto.

I have, &c.,

GREY.

[Enclosure.]

[A copy of this treaty was published in the issue of the "Government Gazette," dated 31st December, 1847.]
My Lord, Government House, 24th July, 1847.

In referring your Lordship to a Despatch, addressed by Lord Stanley to my predecessor in the Government of this Colony, No. 78 of 17th May, 1844, upon the subject of Mr. Robert Crawford's claim to a Grant of Six thousand acres of land, alleged to have been promised to him by Sir Thomas Brisbane, I beg to inform your Lordship that peculiar circumstances, namely the sequestration of Mr. Crawford's Estate and the delay in getting it ultimately released, have prevented the claim in question being disposed of conformably with that Despatch; and further that, at the pressing request of Mr. Crawford, I have considered it my duty to forward the accompanying appeal of that gentleman addressed to your Lordship in support of his original claim to a grant of land, although I do not perceive any fresh reasons added for altering the decision already given upon it by Your Lordship's predecessor.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

MR. R. CRAWFORD TO EARL GREY.

My Lord, New South Wales, Hillend, 25th June, 1847.

I beg leave most respectfully to state that I have been resident in this Colony, as an Emigrant Settler, for the long period of twenty Six Years. A question having been raised, under the late Government of Sir George Gipps, as to my title to a Deed of Grant without purchase of an Estate of Six thousand Acres of Land at "Elalang," in the County of Northumberland, of which I have now held peaceable possession upwards of twentyone years, my claim was eventually submitted to one of your Lordship's Predecessors, Lord Stanley, by a Memorial from myself dated 15 September, 1843, forwarded by Sir George Gipps along with his Report on the case. Lord Stanley's decision, communicated to the late Governor by a Despatch bearing date 17 May, 1844, No. 78, was unfavorable to my claim to a Grant without purchase, but authorised a completion of my title upon my paying the original minimum price of five Shillings an acre, with a reasonable indulgence as to time.

The ground of His Lordship's decision would appear to be comprised in the following paragraph of his Despatch:—

"I cannot recognise Mr. Crawford's claim to the confirmation of the Grant; and whatever error may have been committed on the part of the Surveyor General, I consider the internal evidence conclusive of the fact that Sir Thomas Brisbane had not the intention, as he certainly had not the power, than do more than grant to Mr. Crawford and his Brother permission to purchase the land in question."
1847.
24 July.

My Lord, I feel so strongly dissatisfied with Lord Stanley’s decision, firmly believing it to be contrary to the Evidence adduced in my Memorial, that under any circumstances I should have sought the indulgence of being permitted to lay my case before his successor in the Colonial Department; but a new fact having come to my knowledge, since that Memorial was sent home, I have a twofold reason for asking that indulgence. Having accordingly obtained the requisite permission from His Excellency Sir Charles A. Fitz Roy, I have earnestly to entreat that your Lordship will do me the favor to peruse the aforesaid Memorial, and to give a candid consideration to its several averments and proofs.

The new fact to which I have just adverted is this:

In paragraph 13, Sections 1 and 2 of my Memorial to Lord Stanley, I appeal, in support of my claim, to the distinctive terms of the Certificate of possession which I had received from the Surveyor General, and which differed in the essential particulars, therein pointed out, from the terms of Certificates issued to purchasers of Crown Lands; and, in a letter to the Honorable the Colonial Secretary, dated 29 May, 1843, I called the attention of Sir George Gipps to the usage with regard to such Certificate in the following passage:—

"The printed Certificates to Grantees without purchase were usually surrendered at the Colonial Secretary’s Office, upon the holders receiving an order for Six Months’ Rations from the Commissariat Store; whereupon they entered into a Bond, which compelled them to take an Assigned Convict Servant, and at the same time entitled them to receive a Cow from the Government Herds for every 100 acres granted. These certificates and Bonds are still in existence, and are to be found in the Record Room in your Office."

I have recently ascertained, My Lord, that the important documents above appealed to, upon being called for by Sir George Gipps prior to his reporting to Lord Stanley, were not to be found; and I naturally infer that this circumstance, being a serious flaw in the proofs of my case, must have operated greatly to my prejudice upon the mind of the late Governor, and upon the Spirit of his report to the Noble and Right Honorable Secretary.

On being made acquainted with this circumstance, Still feeling confident in the accuracy of my representation, I procured leave to assist in a further search amongst the papers in the Colonial Secretary’s Office; and the result was completely successful, the missing documents* being then brought to light.

I have therefore humbly to pray that, of this new confirmation of my original Statement, your Lordship will be pleased to give me the full benefit.

Respecting Lord Stanley’s remark that Sir Thomas Brisbane had neither the “intention” nor the “power” to grant the land in question without purchase, I would respectfully submit to your Lordship,

First, That Sir Thomas’s intention must be gathered from his Acts, as shown in the proofs I have adduced, and has moreover been placed beyond all doubt by his own assurance in a letter to myself.

* Marginal note.—Vide attested Copies hereto appended.
FITZ ROY TO GREY.

Secondly. That whatever might be the nature of Sir Thomas's unpublished instructions, of which the Public could of course know nothing, the Colonists were bound to believe that his Official Acts were not performed without due Authority; and I presume that, under the circumstances, the Crown like any other principal was bound in its relation to third parties by the Acts of its Agent.

Committing my case into your Lordship's hands, with a firm reliance that Your Lordship's decision will be such as to Your Lordship shall seem to be required by equity and good conscience,

I have, &c.,

[Sub-enclosure No. 1.] ROB. CRAWFORD.

EXTRACT from Sir Thomas Brisbane's Letter addressed to Mr. Crawford.

"I received your first letter the beginning of the month and immediately wrote to Lord Stanley in as strong language as I could use to represent the hardship of your case, and that your Grant given by me should not be disturbed but confirmed; from the want of some registry that had been neglected in consequence of the long illness of Mr. Oxley, That I considered your Grant as good and as valid as any Grant given by me."

[Sub-enclosure No. 2.]

FORM OF CERTIFICATE.

This is to certify, that is in the actual Occupation and Possession, of Acres of Land, situated in the District of and County of the same being Located to under Authority of a Warrant from His Excellency, Surveyor General's Office. J. OXLEY, Surveyor Genl.

I CERTIFY that the above is the form of Certificate given during the Administration of Sir Thomas Brisbane to Grantees of Land without purchase, as appears by the records of this office. E. DEAS THOMSON, Colonial Secretary.

Colonial Secretary's Office, Sydney, 16th April, 1847.

[Sub-enclosure No. 3.]

COLONIAL SECRETARY GOULBURN TO DEP. COMMISSARY-GENL. WEMYSS.

Sir, Colonial Secretary's Office, 182—.

I have the honor to request that Mr. and the Convict Servants named on the Margin may be victualled from His Majesty's store at the rate of Six months from this date. I have, &c.,

William Goulburn, Esqr., Deputy Commissary General.

[Sub-enclosure No. 4.]

[This was the form of bond entered into by grantees during the administration of Sir Thomas Brisbane.]

[Sub-enclosure No. 5.]

MR. W. CARTER TO COLONIAL SECRETARY THOMSON.

Sir, Registrar General's Office, Sydney, 9th June, 1845.

I had the honor to receive your letter dated 6th inst., requesting that I Search for would cause the necessary search to be made for the purpose of ascertaining the mortgages on names of the Mortgagors of the Land referred to in your letter; and have now the land, honor to state, that I have caused the search to be made, and enclose a list of the several Mortgages affecting the Land in question; at the same time you will allow me to remark that such Searches form no part of the regular business of this office. Such Search should I presume have been made by the Civil Crown Solicitor. I have few Clerks to perform the regular business of this Office.

I have, &c.,

WILLIAM CARTER, Registrar General.
1847.
24 July.


Sub-enclosure No. 6.

ABSTRACT of Search Since 1825 for Incumbrances in the names of Robert and Thomas Crawford on Lands at OEllalong, County of Northumberland.

No. 561, Book D.—Mortgage, dated 28 July, 1831, Robert Crawford to Jas. Brindley Bettington to secure £218 4s. 7d., of all that piece or parcel of Land Contg. 3,000 Acres situate and being in the County of Northumberland bounded on the W. by John Martin's farm of 400 acres, on the E. by vacant Land and Government reserve, and on the S. by Thomas Crawford's farm of 3,000 acres.

No. 712, Book M.—Surrender of Mortg. dated 23 Augt., 1833, Jas. B. Bettington to Robt. Crawford (same land as above described) consideration £384 10s. 11d. being surrender of Mortg. from R. Crawford to J. B. Bettington, dated 28th July, 1831, registered No. 561, Book D.

No. 564, Book F.—Mortgage, dated 18th Septr., 1833, Robt. Crawford to Jas. Mitchell to secure £200 of same premises as first above described called by the name of Ellalong and Granted by the Crown to Robt. Crawford.

No. 187, Book H.—Surrender of Mortgage, dated 8 April, 1835, Jas. Mitchell to Robert Crawford, same Land as described in Mortgage to Jas. Mitchell cons'on £201 4s.


No. 809, Book N.—Mortgage,* dated 23 October, 1838, Robert Crawford to Robert Scott to secure £700 inter alia same land as described in Mortgage to Jas. B. Bettington first above described.

No. 225, Book S.—Conveyance, dated 2nd Novr., 1843, Thos. Crawford to Robert Crawford in consideration of £1,000 of All those 3,000 Acres called Ellalong, situate in the parish of Ellalong in the District of Wollombi and County of Northumberland, bounded on the E. by Govt. Land, on the W. by Haydon's Grant, on the S. by Thos. Crawford's primary Grant of 2,000 a. called "Brown Muir," and on the N. by the Ellalong Estate.

No. 320, Book E.—Mortgage,* dated 14 Novr., 1843, Robert Crawford to Robt. Campbell, Senr., Robt. Campbell, Junr., Jas. Mitchell and Willm. C. Wentworth to secure £4,000 inter alia same Land as described in Mortgage to Jas. B. Bettington first above described and same land as described in conveyance from Thomas Crawford to Robt. Crawford lastly above described.

Sub-enclosure No. 7.

MR. J. NORTON TO MR. R. CRAWFORD.

Sir, Sydney, 9th April, 1847.

For a considerable period after the establishment of the Colony, Grants of land were made to parties on a personal application to the Governor, and were by him notified to the Surveyor General, and no entry of the order was made, except in the Office of the Surveyor General, where the situation and measurement of the land were recorded.

As the Colony increased, an unavoidable delay occurred in the measurement of lands which were selected at a remote distance from the Seat of Government; and, as these lands frequently became the subject of testamentary or other disposition before the actual issue of the deed of Grant, so much inconvenience was felt from this irregular course that it became the practice of the Governor to issue a written order or Warrant for the Grant, which was at once filed or recorded in the Surveyor General's Office, and the intended Grantee, on notifying to the Surveyor General the selection he had made, was allowed to occupy the land and received a certificate in the following form:—

"This is to Certify that is in the actual occupation and possession of acres of land situated in the Parish of and County of , the same being located to him under Authority of a warrant from His Excellency Sir Thomas Brisbane, K.C.B., dated Surveyor General's Office, 18—." J. OXLEY. Surveyor General.

At a subsequent period, a more formal Instrument was delivered to the Grantee, which, in addition to the recognition of his possession of the land, contained a copy of the regulations then in force respecting Grants of land within the Colony. This document was called a primary Grant.

As these selections were frequently made in remote parts of the Colony, a long period (often of many years duration) elapsed before the actual measurement of the land and issue of the Grant; but, as the faith of the Government was understood

Memo by J. Norton on practice re land grants.

Marginal note.—No Surrender Registered.
FITZ ROY TO GREY.

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1847.

24 July.

Memo. by J. Norton on practice re land grants.

To be pledged for the issue of a Grant of the fee simple of the land to the party who received the promise and to his heirs and assigns. Mortgages and Sales were universally made of such lands without waiting for the completion of the Grant.

In the course of time, such transfers became so numerous and the Government found so much difficulty in determining the rights of the Claimants, that a Commission, denominated the Land Court, was established to ascertain the real owners of such lands, and to enable the Crown to issue the Grant in the name of the proper party. This Court is still in operation.

During the administration of Sir Thomas Brisbane, it was proposed by the Government, in order to meet the increasing wants of the Graziers, to sell Crown Lands at 5s. an acre, the purchasers of which were to pay £10 per Cent. on the selection of the land and the remainder at certain periods named by the Government. Under the regulations made to carry out this scheme, very extensive purchases were made.

The purchasers of these lands, instead of the Certificate above copied, obtained from the Surveyor General a receipt in the following form:—

"Received from the sum of sterling being the amount of deposit of £10 per Cent. on £ for the purchase of acres of land in the Township of and County of Pursuant to a Warrant from His Excellency the Governor dated. "J. OXLEY, Surveyor General."

I was aware of your purchase under the last mentioned regulations of 6,000 acres of land at a place known by the native name of Elalong, and also that from some cause the Governor was pleased to remit the purchase money and convert the land purchase money into a free Grant, I presumed in consideration of your Services in the Office of the Colonial Secretary.

I believe there are several cases in which such remission was made; one of them came immediately under my notice, it was that of the late Surveyor General, Mr. Oxley, who has purchased 5,000 acres of land and had paid the deposit money of £10 per Cent.; this purchase was by order of the Home Government after the death of Mr. Oxley converted into a free Grant to his widow and family, and the deposit money repaid out of the Colonial Treasury to me as the Executor of his Will.

I am, &c.,

J. NORTON.

[Sub-enclosure No. 8.]

CERTIFICATE BY MR. T. RYAN.

Principal Superintendent of Convicts' Office.

Sydney, 29th March, 1847.

To Certify that, in the Year 1817, I entered the Office of the Colonial Secretary and continued therein until transferred to this Office in the Year 1828. That a considerable portion of my time in the Secretarial department was devoted to the preparation of Deeds of Grant and leases of Town Allotments, and from my long experience I am perfectly conversant with the mode and practice of Alienating Crown lands during the Administration of the various Governors. About the year 1822, when the granting of Lands in large portions became more frequent, a printed form of Certificate was adopted; that form is precisely the same as the one issued to Mr. Crawford. On the production of this Certificate at the Office of the Colonial Secretary, the holder received an Order for Six Months' rations from the Commissariat Store for himself and family and a proportionate number of Convicts according to the extent of his Grant; he also entered into a Bond to take an Assigned Servant for every One hundred Acres his Grant contained, and received as an indulgence a Cow from the Government Herds for every hundred Acres so granted.

I also certify that Mr. Philip Cavenagh conducted the correspondence of the Surveyor General's Office, and had the general management and control of the Department during the long illness of Mr. Oxley, the Surveyor General.

And lastly I Certify that the printed Certificate of possession was invariably considered equivalent to a Deed of Grant, as many conveyances and Mortgages were made on the validity of that document.

THOMAS RYAN, Chief Clerk.

[Sub-enclosure No. 9.]

RECEIPT.

Surveyor General's Office, 16 December, 1826.

Received from James Norton, Esq., the Sum of One hundred pounds Sterling, being Receipt for the Amount of the deposit of £10 per Cent. on £1,000 for the Purchase of Fourousand Acres of Land, in the Township of and County of Pursuant to a Warrant from His Excellency the Governor. Dated 16th May, 1825.

J. OXLEY, Surveyor Genl.

The above written paper contains a true Copy of an original receipt held by me.

Syd., 28 April, 1847.

J. Norton.
Despatch acknowledged.

Report by crown law officers transmitted.

1847.
26 July.

Despatch acknowledged.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 156, per ship Lima.)

My Lord, Government House, 26th July, 1847.

Referring to Mr. W. E. Gladstone's Despatch, No. 13 of 8th January, 1846, transmitting to my predecessor a paper which he had received from Mr. C. A. Tulk, containing a series of observations by Mr. Gordon as practising Barrister in Sydney, respecting the mode of carrying out in this Colony the provisions of the Act of Parliament (1 Wm. IV, Cap. 22) to enable Courts of Law to order the examination of witnesses.

I have the honor to enclose the Report of the Crown Law Officers of this Government, and the original documents, which were forwarded with Mr. Gladstone's Despatch, to which they have annexed in the form of marginal notes their observations on Mr. Gordon's propositions.

CHS. A. FITZ ROY.

[Enclosures.]

Copies of these papers are not available.

EARL GREY TO SIR CHARLES FITZ ROY.

(A private despatch, per ship Louisa.)

Sir, Colonial Office, 27 July, '47.

I think it right to inform you that I shall return no official answer to your despatch, No. 39 of the 17th of February last, not because I disapprove of the course which you took under the circumstances there described, but because I think it would establish an inconvenient precedent, were I officially to recognize the propriety of even a temporary suppression by the Governor of a Colony of an Order made by Her Majesty in Council under any circumstances whatever. It being obvious, however, that a mistake in point of form had been committed in this office, and that, by the measure you adopted, you in reality carried into effect the object of the instructions conveyed to you, which by a more literal obedience to them wd. have been defeated, I have no hesitation in thus privately informing you that you have acted judiciously.

I have, &c., GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 157, per ship Lima.)

My Lord, Government House, 27th July, 1847.

With reference to my Despatch, No. 126 of the 20th ultimo, reporting that I had given the necessary directions for
carrying into effect your Lordship's instructions respecting the payment of the Salaries of Mr. Barnes and the other Offices of Her Majesty's Customs while employed at Sydney on special service, I have the honor to inform your Lordship that I have since received a communication from the Lieutenant Governor of Van Diemen's Land, stating that Mr. Barnes had proceeded to England, and suggesting that the arrangement, under which the payments are to be made under the instructions contained in Your Lordship's Despatch, No. 80 of the 24th December last, will be difficult to be carried out, as the Officers alluded to have received their full Salaries in Van Diemen's Land. I, therefore, do myself the honor to state that, under the proposal of Sir William Denison, I have deemed it my duty to accede to a slight alteration in the mode of payment directed by Your Lordship, by ordering the sum claimed, viz., £525 5s., to be remitted direct to the Government of Van Diemen's Land, instead of paying the amount to Mr. Barnes and the Officers who accompanied him to New South Wales.

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 195, per ship Louisa.)

Sir,

Downing Street, 28th July, 1847.

I have referred to the Secretary of State for the Home Department your Despatch No. 41 of the 19th of February last, with its enclosures, relative to an application which had been addressed to the Principal Superintendent of Convicts by George Jenkins, one of the Pentonville Exiles, who prays that the benefit of the Regulation, recently promulgated in the Colony respecting the extension of the terms of Conditional Pardons then in existence, may be conceded to himself and others similarly situated.

Sir George Grey has now transmitted to me the accompanying Pardon, which Her Majesty has been graciously pleased to extend to the Individuals in question, upon condition of their not returning to the United Kingdom during the residue of their respective terms of Transportation; and I have to desire that you will take the necessary measures for securing to them the benefit thereof.

I have, &c.,

GREY.

[Enclosure.]  
[A copy of this pardon is not available.]
HISTORICAL RECORDS OF AUSTRALIA.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 158, per ship Lima.)

My Lord, Government House, 28th July, 1847.

In compliance with the instructions conveyed in Your Lordship's Circular Despatch of the 24th August, 1846, I do myself the honor to transmit herewith the Return required by an Address of the House of Commons, dated the 12th of the same month, of the receipt and appropriation of Fees in the Public Offices of New South Wales during the years 1844 and 1845.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[This paper was printed in the papers of the house of commons.]

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 196, per ship Louisa.)

Sir, Downing Street, 29th July, 1847.

It has been intimated to me by Mrs. Chisholm, of whose benevolent exertions you are no doubt well aware, that there are many of the Settlers in New South Wales, who, having prospered in the Colony, are exceedingly desirous of applying a part of their Savings in assisting their friends and relations, whom they have left in this country, to join them in the Colony, and share in the advantages which they themselves enjoy; but who are prevented from so doing by the difficulty of securing the safe remittance of the necessary Funds, and their application to the intended purpose.

I consider it of the greatest possible importance to adopt means for obviating that difficulty, and for affording the utmost practicable facility to those who, having already emigrated, wish to devote a portion of their earnings to so commendable a purpose. From Emigrants who have gone to the British Colonies in North America and to the United States, remittances are now received to a very large amount for a similar object; and it is supposed that, in the last year, no less a sum than £200,000 has been sent by them to this Country for the purpose of assisting their friends to emigrate. By means of the Canada Company and various banking Establishments, such remittances are made from that Quarter with ease and safety; and, though the practice has only begun within a comparatively short period, it has already become general, and the remittances have reached the very large amount which I have mentioned, the result being to give a most powerful encouragement to an emigration of the most healthy
GREY TO FITZ ROY.

1847.
29 July.

PRACTICAL
ADVANTAGE OF
REMITTANCES.

I am anxious that Australia should enjoy the same advantages in this respect as North America; and I have, therefore, to desire that measures may be adopted for enabling all persons in Australia, who may wish to remit money to friends in the United Kingdom for this purpose, to pay to some Officers of the Government, appointed for that object, any sums which they are desirous of so applying, giving at the same time the names and addresses of the persons at home, for whose benefit the money is to be expended. It will be requisite to consider very carefully who are to be the persons appointed to receive money so paid, and under what regulations, remembering that the facility of making payments, by having persons authorized to receive them in the greatest possible number of places, is an important consideration, as well as the establishment of efficient securities against abuse. You will, therefore, consult your Executive Council upon this subject, and report to me the arrangement which you may eventually decide to adopt. The sums of money, received by the persons appointed for that purpose in the different districts of the Colony, will be forwarded by them to Sydney, together with a list of the names and addresses of the parties in the Colony by whom the payments have been made, and of those in this Country for whose benefit the money is to be applied; and you will then direct the whole amount of such receipts to be paid into the Military Chest, and will forward to me Certificates of the payments so made, together with copies of the lists. When these documents shall have been received in this Country, the Lords Commissioners of the Treasury will place to the Credit of the Land and Emigration Commissioners a sum equal to that paid into the Military Chest, and they will be directed to apply that money in providing passages to the Colony for the parties described in the lists. Any balance, which may remain after defraying the cost of the passages, will either be paid to the intended Emigrants, or returned to those who have made the remittances, according to the directions which may be given by the latter; but, in order to prevent this arrangement being used for the purpose of making remittances unconnected with
Emigration, the Commissioners cannot undertake to make payments of money in this Country to any persons but those for whom they may have provided passages to Australia. It is not necessary in making remittances that the amount sent should in all cases be sufficient to pay the whole cost of the passage of parties proposing to emigrate, since they will probably, in many instances, be enabled themselves to raise in this Country from their own resources, or by the assistance of their friends, a portion of the money required. At the same time, it must be distinctly understood that the Land and Emigration Commissioners will only undertake to apply to the best advantage for the benefit of the parties such sums as may be furnished to them, either by remittances or by contributions in this Country, and not to provide passages in cases where the money placed in their hands is insufficient for that purpose. If the state of the funds in the Colony applicable to emigration should be sufficient to admit of it, I think it would be highly desirable to encourage settlers to make such remittances by allowing some addition from those funds to the money so contributed. I would suggest that a sum, having some definite proportion to the money raised by the parties, might be granted from the public funds applicable to Emigration for this purpose. What that addition should be must depend upon the means which may be from time to time available for that object, either from the produce of the land Revenue, or from any grants which the Legislature may think proper to make from the general Revenue for the encouragement of emigration. Under no circumstances, however, ought the grants made from any public money to exceed half the actual cost of the Emigration of parties qualified to be received as free Emigrants by the existing rules, or one quarter of that of persons not so qualified. You will from time to time give public notice in the Colony whether any such grants can be made in aid of private contributions for emigration, and, if so, to what extent; and you will then cause the regulated addition to be made, from the public funds applicable to the purpose, to the contributions received, and the joint amount to be paid into the Military Chest, and signified to the Land and Emigration Commissioners, in the manner I have already described. You will, of course, keep a watchful eye upon the progress of the demands made upon the money set apart for this purpose; and, if there should appear the slightest reason to apprehend that these demands are likely to exceed the means of meeting them, you will at once issue a notice of the discontinuance or reduction of the assistance previously granted, as the case may require. You will also take care that both the sums raised by private contributions, and those added

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Arrangements for acceptance of remittances from Australia for assistance of immigrants.

Proposed subsidy from public funds.
to them from the land or general revenue of the Colony, are actually paid into the Military Chest before the Land and Emigration Commissioners are instructed to incur the expenditure which is to be thus provided for.

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 197, per ship Louisa.)

Sir,
Downing Street, 29th July, 1847.

It has been suggested to me that great advantage would probably arise from the adoption in New South Wales of some measure, which would enable the Depositors of money in the Savings Banks in that Colony to apply the amount of such deposits in purchases of Crown Lands. So far as I can judge, the suggestion is well founded, and the scheme exempt from any legal or technical difficulty.

For example it might, I apprehend, be enacted by the Local Legislature that any Depositor in the Savings Banks might, by a declaration to be made by him for the purpose, render his Deposits returnable in the form of Credits to be allowed to him in the future purchase of Crown Lands, and in that form only. Of all deposits made on such terms, accounts might be kept at the Savings Banks as at present. But any money so deposited might immediately be transferred to the Land Fund, and, until the Depositor was able to effect a purchase of the requisite amount, the Land Fund might, by the authority of the Executive Government, be charged with interest on the Sums so transferred to that Fund. To induce Depositors to prefer this mode of investing their Savings to any other, the rate of Interest so to be charged on the Land fund might be higher by perhaps one per Cent. than the rate allowed by Law on other Deposits. Nor would this be an unreasonable or a gratuitous boon. For, as the money would be applicable without delay to the introduction of Immigrants from this Kingdom, the Public at large would derive from the operation an immediate benefit sufficient to compensate for the cost of thus inducing depositors to devote their money to this object.

If any large number of Depositors should adopt such terms, the accumulated fund would probably become ere long very considerable. The effect would be both to enable many of the most diligent and thrifty of the inhabitants to become gradually landholders in their own right, and to make a great and early addition to the number of the competitors for the wages of manual labour.

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To such Depositors might of course be also held out the same inducement to devote their Savings to the purchase of Crown Lands, which is held out to the Capitalists in general, that is the right of nominating (subject to the sanction of the Colonial Land and Emigration Commissioners) the Emigrants, to the expense of whose voyage to the Colony their Savings should be applied. In the exercise of that right, the Depositors would of course in general nominate their own nearest kindred in this Country; a choice on every account desirable, if such kindred should be of the required ages, and possess the requisite qualifications.

In another despatch of this date, I have given you instructions for adopting an arrangement, by which great facilities will be given to Settlers in New South Wales, who may wish to remit money to assist friends left in this Country to emigrate. The operation of the measure, which I have now suggested, will be greatly assisted by that arrangement.

You will consult the Executive Council of New South Wales on this subject, and you will adopt whatever may appear to them and to yourself the most efficient steps for giving practical effect to these suggestions, bearing of course steadily in mind that, subject to the conditions prescribed by the Constitutional Act for the Government of New South Wales, Her Majesty's Government are bound to retain in their own hands those powers of appropriating the proceeds of the Land Revenues, for the due exercise of which Parliament has rendered them responsible.

I have, &c.

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch marked "Separate," per ship Lima; acknowledged by earl Grey, 24th December, 1847.)

My Lord,

Government House, 29th July, 1847.

The accompanying Address of condolence with Lady Gipps on the death of the late Sir George Gipps* from the District Council of Parramatta has been transmitted to me by the Warden of that District, at whose desire I take the liberty of requesting that Your Lordship will cause it to be forwarded to its destination.

I have, &c.

CHS. A. FITZ ROY.

ADDRESS TO LADY GIPPS.

May it please Your Ladyship,

We, the Warden and Members of the District Council of Parramatta, have felt, in common we believe with the whole body of our Constituents, much grief at the melancholy intelligence of the decease of our late excellent Governor, Sir George Gipps.

* Note 40.
GREY TO FITZ ROY.

We should not presume to intrude upon Your Ladyship’s privacy with this expression of our Sympathy upon the mournful occasion, but that we felt ourselves called upon from a grateful sense of his unwearied zeal, while Governor of this Colony, in promoting its interests, not to suffer the opportunity to pass without placing on record some tribute to the memory of such departed worth.

We beg to assure Your Ladyship of our unfeigned sympathy and condolence with you in your present affliction, and hope that, whilst called upon to endure so painful a dispensation of Providence, it may afford you some consolation to know that the rare and excellent qualities of our late lamented Governor, both in public and private life, have left a deep and lasting impression on the minds of the members of this community.

With every sentiment of respect,

We have, &c,

PATRICK HILL, Warden.
GEORGE OAKES.
NATHANIEL PEYTON.
JAMES BYRNE.
J. EDROP.

District Council Chambers, Parramatta, 28th July, 1847.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 198, per ship Louisa.)

1847.
Sir, Downing Street, 30th July, 1847.

Herewith transmit to you the copy of a Letter, addressed to me by Lady Dowling; the Widow of the late Chief Justice of New South Wales, in which she requests that her Pension may take effect from the date of her Husband’s death, instead of from the date at which it was granted to her by the Legislative Council.

I likewise enclose a copy of the answer, which I directed to be returned to that application; and I have to desire that you will lose no time in bringing Lady Dowling’s application under the notice of the Council, conveying my recommendation that, under all the circumstances, it may be taken into their favorable consideration.

I have, &c,

[Dame Harriett Dowling to Earl Grey.
No. 12, Park village East.

My Lord, Regent’s Park, 15 July, 1847.

In requesting Your Lordship’s attention to the Appeal which necessity forces me to submit to Your Lordship, as Chief Secretary of the Colonial Department, I am persuaded it will meet with Your Lordship’s prompt and kind consideration. Aware of the value of your Lordship’s time, I shall be as brief as possible in the detail of facts on which my application is founded.

I am the widow of the late Sir James Dowling, who held the Offices of Second Judge and Chief Justice of New South Wales for a period of 17 years. For the manner in which he discharged the
duties of those Offices, I need only refer to the records of your Lordship's Department and to the high distinctions which were conferred upon him by Her Most Gracious Majesty.

Were it necessary, I could add to these the testimony not only of the Governors under whom Sir James Dowling acted in New South Wales, of the Legislative Assembly, and of every Official of the Government, but I might say of every human being of whatever rank or class with whom, publicly or privately, he came in contact throughout his long and alas too laborious career.

To recapitulate to you the evidence on which these assertions are made, however gratifying to my heart, would be to Your Lordship tiresome, and yet they form the justification for humbly requiring at your hands the Act of justice I now claim.

In the year 1842, after fifteen years of incessant labour, the health of my unfortunate husband gave way, and, under the best medical advice, he sought permission of the Governor, Sir George Gipps, to return to England for a short time to obtain the advantage of his native air. For reasons into which it is not my present purpose to enquire, this indulgence was refused, although Judge Buskin, Sir Francis Forbes, and the Attorney General had received this favor. The exigency of the Public Service required that Sir James should not desert his Post; and he cheerfully submitted, contenting himself with an expensive trip to Van Diemen's Land in the hope of arresting the progress of disease. On his return from thence, for two years more, with increased duties and responsibilities, he painfully struggled on, till at last, on the 27th June, 1844, he was carried from the Judicial Bench in a state of bodily exhaustion. His Medical Attendants at once pronounced his return to duty beyond his physical powers, and prescribed a temporary visit to Europe as the only chance of saving his valuable life. The joint certificate of all the faculty of Sydney to this effect at length obtained for him the desired boon. His passage was taken for England, his Cabin furnished, and his afflicted family and myself yet hoped he might be restored to Convalescence. If the sympathies of all classes could have afforded him consolation in his suffering, they were indeed unlimited; and not the least gratifying was a resolution adopted by the Legislative Council recommending, in consideration of his acknowledged merit and overwhelming labour, that he should have his full salary (£2,000 pr. annum) during his 2 years' absence, with an advance of £1,000 towards defraying his expenses to England.

I will not obtrude on Your Lordship details of the numerous testimonies of kindly feeling which followed. I must hasten to the fatal blight to the prospective happiness of myself and his children. On the 27th of September on the very eve of embarkation, my unhappy husband breathed his last, universally admitted the victim of over-exertion in the conscientious discharge of his public duties.

I might enlarge on this melancholy topic but all I could say, I have no doubt will anticipated by Your Lordship. The limited Salary of my husband, the incessant and promptly met calls on his benevolence, his large family, the unavoidable expense of educating his children (one Son in England, since called to the Bar) is a sufficient reason for his dying in poverty.

In fact his effects were barely sufficient to pay his debts; and his afflicted widow was left penniless. I sought a pension and memorialized the Right Honble. Lord Stanley, your Lordship's
predecessor, and was honored with his approval of the justice of my claim. The question was however referred to the Legislative Assembly in New South Wales with his Lordship's sanction; but it was not till 15 months after my bereavement that a grant of £200 a year was made, and then only from the day on which the resolution was adopted. From the hour of my husband's death till that day, a period during which I had to incur debts and obligations for my very existence, my distresses were left unconsidered; and although £4,000 had been saved to the Colony, as I have already stated (voted by the Legislative Assembly for my husband's use during his two years' leave of absence), this did not plead in my favor, and his salary was calculated and only paid to the hour of his death.

I have already trespassed too long on your Lordship's time; and I now come with confidence to the humble prayer of this letter, which is that your Lordship will be pleased to give directions that I may receive the amount of my pension from the day of my husband's death to that on which it was granted by the Legislative Assembly. The amount is trifling, £250; but to me it is of serious import, reduced as I am in circumstances, and one half at least of my last year's pension having been expended in my passage to this Country, whither I have come in search, among my friends and my husband's relatives, of the only consolation left to the bereaved Widow of a man, whose life I humbly but truthfully repeat has been devoted for a period of seventeen years to, and at last sacrificed in the public service. I have, &c,

HARRIOTT MARY DOWLING.

[Enclosure No. 2.]

UNDER SECRETARY HAWES TO DAME HARRIOTT DOWLING.

Madam, Downing Street, 30th July, 1847.

I am directed by Earl Grey to acknowledge the receipt of your letter of the 15th Instant, requesting that your pension may be allowed to take effect from the period of your husband's death instead of from the date, at which the Resolution of the Legislative Council of New South Wales granting it to you was adopted.

Lord Grey desires me to acquaint you that it is wholly out of his power to give any directions for the accomplishment of the object you have in view. Lord Grey will be happy, however, to transmit a copy of your present application to the Governor of the Colony with instructions him to bring the subject under the notice of the Council, together with His Lordship's recommendation that it should be favorably considered by that Body.

I am to add the expression of his Lordship's regret that he can render you no further assistance in the matter.

I have, &c,

B. HAWES.

SIR CHARLES FITZ ROY TO EARL GREY.

(My Lord, Government House, 30th July, 1847.)

In pursuance of the instructions contained in Your Lordship's Despatch of the 30th Novr. last, marked "Separate," I do myself the honor to inform you that I have given directions for
the sum of £45 2s. to be paid to the Deputy Commissary General from the Colonial Treasury, in order that that amount may be paid to Mr. Smith, the Chief Clerk of Your Lordship's Office, being the amount of Fees and Stamp duties on four Warrants under the Royal sign Manual, authorising Letters Patent to be passed under the Public Seal of the Colony, appointing Mr. Roger Therry and Mr. W. a'Beckett to be Puisne Judges, Mr. Alfred Cheeke to be Commissioner of the Court of Requests, and Mr. Thomas Callaghan to be Crown Prosecutor in the Courts of Quarter Sessions. These gentlemen have paid into the Colonial Treasury each the sum of £11 5s. 6d.; and I have to beg of your Lordship to cause the whole sum of £45 2s. to be issued to Mr. Barnard from the British Treasury to enable him to pay the amount to Mr. Smith.

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY to SIR CHARLES FITZ ROY.

(Despatch No. 200, per ship Louisa; acknowledged by Sir Charles Fitz Roy, 8th January, 1848.)

Sir,

Downing Street, 31st July, 1847.

I have laid before The Queen the Acts passed by the Legislature of New South Wales during the second session of the year 1846, the transcripts of which accompanied Your Despatch to me, No. 10 of the 9th of January last.

I subjoin a Schedule of the Titles, Dates and numbers of those Acts.

The Act No. 2 amends the Act for regulating the Sale and delivery of Coal in Sydney (9 Vic., No. 8) imposing certain penalties to be recovered as provided by that Act. In my Despatch, No. 11 of the 6th of August last, I have objected to the terms of that Act, on the ground that it reserved these penalties to the Colonial Treasury and not to The Queen, and you were directed to suggest to the Legislative Council the propriety of amending it.

Until, therefore, I shall have been apprised of the result of that recommendation, Her Majesty's decision on the Act (No. 2) will be suspended. I would at the same time remind you that, as it will not be in my power to advise Her Majesty to allow the Act (No. 8 of the 9th Victoria) unless it shall be amended, it will be necessary, under the 32nd clause of the Constitutional Act, that an Order in Council should be passed for that purpose before the 7th of May next. It will, therefore, be your duty to report to me, with the least practicable delay, the steps which may have been taken by the Legislature in consequence of my Despatch of the 6th of August.
The Acts, Nos. 4 and 5, which suspend the operation of the Acts incorporating Melbourne and Sydney, so far as they relate to levying Police Rates in those Towns, Her Majesty has been pleased to leave to their operation.

The Act No. 13, which regulates the warehousing and exportation of Spirits free of Duty, together with the private Act for enabling Mr. and Mrs. H. Bobart to lease some Mineral Lands, are still under the consideration of Her Majesty's Government.

The Acts Nos. 15 and 16 will also form the subject of a future communication.

Subject to the exceptions already mentioned, Her Majesty is pleased to confirm and allow all the Acts enumerated in the annexed Schedule No. 2.

Enclosure.

[This was a list of the titles of the acts, numbered 1 to 11 in the year 1846, and the following private acts:—]

An Act to amend an act to enable "The Commercial Banking Company of Sydney" to sue and be sued in the name of the Managing Director for the time being of the said Company, and for other purposes therein mentioned.

Assented to 30th October, 1846.

An Act to enable the Reverend Henry Hodgkinson Bobart, of Parramatta, in the County of Cumberland, Clerk, and Elizabeth Mary, his Wife (late Elizabeth Mary Marsden, Spinster) and the survivor of them, and their Trustees, to grant Leases of Land situate on the Molong River, in the County of Wellington.

Assented to 30th October, 1846.

Earl Grey to Sir Charles Fitz Roy.

(Despatch No. 201, per ship Louisa.)

Sir,

Downing Street, 31 July, 1847.

In fulfilment of the design intimated to you in my Despatch of this day's date, No. 200, I now proceed to signify to you Her Majesty's Pleasure respecting an Act, and two reserved Bills, of the 2nd Session of the Legislature of New South Wales for the year 1846.

The Act No. 12 of that Session is the annual appropriation Act. In my Despatch of the 30th of April last, No. 145, I intimated to you the probable disallowance of that Act, if it should be found to contain any appropriation by the authority of the Local Legislature of any part of the Civil List Funds. I am happy to find that this is not the case, and that in that respect the Act is unobjectionable.

But I find, among the Grants in this Act, a sum of £1,000 "to cover an allowance to the Honorable Francis Scott at the rate of
£500 per annum for the years 1845 and 1846." This is a very embarrassing provision. If the Queen should be advised to sanction the Act which contains it, Her Majesty would be unequivocally, though indirectly, concurring in a measure to which, in his Despatch of the 1st September, 1845, Lord Stanley objected, as involving a serious infringement of the constitution of the Colony. If an Act retrospectively authorizing such an encroachment should be confirmed by The Queen, an insuperable obstacle would be raised to any effectual resistance in future to proceedings of the same kind.

The assumed right of the Legislative Council to appoint a Committee, the powers of which would survive a prorogation and even a dissolution, would be distinctly recognized; and no doubt can be entertained that many other such Committees would then be appointed to exercise the same unconstitutional privilege. It is a claim which must be resisted decisively and from the commencement.

As however this part of the Act will be obsolete before the time at which the disallowance of it could reach the Colony, it seems superfluous to adopt that measure; and of course it is a measure to be deprecated and avoided if possible.

The Queen will, therefore, make no order whatever on the subject of this Act. But I have to desire that you abstain in future from applying to the Legislative Council for any vote of money for this or for any other service, or from accepting any such Vote, when the money may be either asked or granted on such terms as to involve an infringement, whether express or implied, of the terms of the Act of Parliament, from which the Authority of that Body is derived.

You judged rightly that you were not at liberty to assent to the Bill No. 15 for the appointment of Mr. Scott as Agent. That Bill contains in the preamble an express reference to the "Committee of Correspondence" as a Body of which the composition and the powers are already ascertained. For the reasons assigned by Lord Stanley, in his Despatch of the 1st September, 1845, and to which I have already referred, The Queen in Council cannot be advised to assent to this reserved Bill. Her Majesty will be ready to give Her assent to any Bill for the appointment of Mr. Scott, or of any other proper person as an Agent, if the Bill shall provide for the introduction into the Committee of correspondence of a reasonable proportion of the non-elected members of the Legislature; and if the powers of that Committee shall be expressly limited to the duration of the Session.

You also judged rightly in reserving for the signification of Her Majesty's Pleasure the Bill No. 16 to render certain persons
incapable of being elected as Members of the Legislative Council. I think it needless to enquire how far the local Legislature possesses the right to make such a Law; since, even if the right were admitted, I should dissent from the wisdom or propriety of such an exercise of it. The result of the Bill is to render the Colonial Secretary, the Attorney General, the Solicitor General, the Treasurer and the Auditor General ineligible as representatives of the People. It is therefore in direct conflict with the maxim and habit of the British Constitution, which permit the same persons to serve the Crown in the higher Offices of the Executive Government, and to represent the People in the Legislature, and must therefore tend to obstruct the reconcilement and harmony between the Royal and the popular powers, in which the strength and security of both is so deeply involved.

It is indeed maintained in defence of this Enactment that in no other Legislature but that of New South Wales are the nominees of The Crown and the representatives of the people united together as Members of the same House or chamber. The statement is not quite accurate, for Guiana and Newfoundland are examples of such an union. But, waving those precedents, it may be answered that if the elected and the nominated Members constituted different Houses in New South Wales as elsewhere, the right of The Crown to nominate all the Members of one branch of the Legislature, and the eligibility of the Chief Officers of The Crown as Members of the other branch of the Legislature must co-exist. The analogy therefore requires that this power of nomination by The Crown, and this eligibility of the Crown Officers should also be maintained when the two Houses are combined into one. If any constituent Body in New South Wales shall be of opinion that they will be better represented in the Local Legislature by some of the high Officers I have mentioned than by any other candidates, I am aware of no good reason why that freedom of choice should be restrained, or why the elective franchise should be thus narrowed.

For these reasons, Her Majesty in Council will not be advised Disallowance to consent to this Bill. I have, &c.

Grey.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 202, per ship Louisa.)
Downing Street, 31 July, 1847.

Sir, I transmit to you, herewith, a series of reports relating to the project of constructing a Railway from Halifax to Quebec. At page 59 of the enclosed reports, you will perceive one addressed to The Governor of New Brunswick by Mr. J. Wilkinson, a Member of the Surveyor General's Department in that
Construction of wooden railways.

1847.
31 July.

Colony, on the results of experience in the United States of America with regard to wooden Railways.

I wish to call your attention to that Report, and to point out to you the great importance of establishing such means of communication at the earliest possible period within the Colony under your Government. I have, &c.,

GREY.

[Enclosure.]

This was an octavo pamphlet of one hundred and twenty-seven pages, entitled, "Reports relating to the Project of Constructing a Railway and a line of Electro-Magnetic Telegraph through the Province of New Brunswick from Halifax to Quebec."

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 203, per ship Louisa.)

Sir,

Downing Street, 31st July, 1847.

The long delay which has occurred in communicating to you the decision of Her Majesty's Government on the question of the erection of the Port Phillip District of New South Wales into a separate Colony, under a distinct Government, has been occasioned by the magnitude of the interests at stake, and by the necessity of proceeding with the utmost deliberation in a case in which any material error might involve consequences of such grave inconvenience. An additional motive for delay has arisen from the nature of the business, alike urgent and momentous, which has chiefly occupied the attention of Parliament during their recent Session. Under pressure of such exigencies as the failure of a large part of the usual produce of the soil in the United Kingdom had produced, Her Majesty's Government could scarcely hope that the attention of the Legislature could be devoted to the reconstruction of the political institutions of Australia with the care requisite for the safe accomplishment of such a measure; nor can I altogether regard this as undesirable on other grounds. It has afforded, and will yet afford, to Her Majesty's Government the opportunity and the means of framing the Bill to be submitted to Parliament with more circumspection, and (as I trust) with greater accuracy than might otherwise have been attainable.

In the year 1846, six Despatches were addressed to this Office by Sir George Gipps and by yourself on this subject. They were dated on the 23rd January, the 29th April, the 21st and the 24th of June, and the 29th of September in that year. Of these, the first was marked "confidential," the others were numbered
respectively 90, 91, 122, 125, and 23. Of these, however, the Despatch No. 91 relates principally to a question of boundaries; and the Despatch No. 23 has chiefly in view the commercial relations between the Australian Colonies. Each of them, however, has an incidental and an important bearing on the subject of the erection of Port Phillip into a separate Government. It is therefore most convenient that I should acknowledge and answer the whole of the series together.

The Despatch, dated the 29th April, 1846, No. 90, and the voluminous annexures attached to it, may be considered as having exhausted the arguments for and against the separation of the Port Phillip District from the rest of the Colony of New South Wales, so far as those arguments are drawn from facts or consideration of a local nature. It would be vain to expect from any other body of persons, to whom the enquiry could be referred, a review of those arguments, more complete, more dispassionate, or conducted with greater ability than is the discussion comprised in the various minutes of the Executive Council of New South Wales, of the 1st and 23rd April, 1846, and in the appendices subjoined to those minutes. As it would be impossible for me to exhibit a more clear or comprehensive summary of the whole controversy than is to be found in those minutes and appendices, it will be sufficient for me to state that, adopting in general the reasonings of Sir George Gipps, and of the majority of the Executive Council, Her Majesty's Government have submitted to the Queen their opinion, that Parliament should be recommended to impart to Her Majesty the authority necessary for carrying into effect the practical conclusion of that majority.

I am far from being insensible to the weight of the opposing considerations, or of the authority they derive from the suffrages of the Colonial Treasurer and of the Bishop of Australia in their favor. That Right Reverend Prelate has perceived and pointed out the indissoluble connexion between the secular and ecclesiastical bearings of this question, and has justly felt that the duties of his sacred office imposed on him the obligation of considering it in each of those lights. You will convey to him my thanks for the important aid he has rendered on this occasion to Her Majesty's Government—an aid which I do not value the less, because the objections of the Bishop to the contemplated change do not appear to me to countervail the considerations urged in support of it by the majority of his colleagues in the Executive Council.

Without entering at large into the arrangement, I must yet so far vindicate my own conclusion as to remark, that it rests mainly on the great principle of Colonial Government, which all
theory and all experience seem to me to concur in establishing. That principle is, that all affairs of merely local concern should be left to the regulation of the local authorities. To that principle I know of no general exceptions, unless in cases where local interests may clash with the interests of the empire at large, or in cases where some one predominant class of a Colonial society might be disposed to exert such powers so as unjustly to depress some feeble and defenceless class. It was on this general principle that the existing constitution of New South Wales was founded. It is on the same general principle that the proposed qualification of it may be most successfully vindicated.

Local self government, if necessary for the good of the whole Colony, is not less necessary for the good of the several Districts for which it is composed. For this reason it was that Parliament provided for the erection throughout New South Wales of Municipal Corporations, which should, in various respects, balance and keep in check the powers of the Legislative Council. By this method it was supposed that the more remote districts would be able to exercise their fair share of power, and to enjoy their proper influence, in the general policy of the whole Province; but the result has disappointed this expectation. The Municipalities have only a nominal existence. The Legislative Council has absorbed all the other powers of the Colonial State. The principle of self government in the Districts the most remote from Sydney is therefore acted upon almost as imperfectly, as if the conduct of local affairs had remained under the same management and institutions as those which the existing system superseded. Members, it is true, are chosen to represent those Districts in the Legislature; but it is shewn that such of the Inhabitants of Port Phillip as are really qualified for this trust, are unable to undertake it at the expense of abandoning their residences and their pursuits in the Southern Division of the Colony. Thus the Port Phillip representation has become an unreal and illusory, not a substantial enjoyment of Representative Government.

The principle of local self government (like every other political principle) must, when reduced to practice, be qualified by many other principles which must operate simultaneously with it. To regulate such affairs with reference to any one isolated rule or maxim would, of course, be an idle and an ineffectual attempt. For example, it is necessary that while providing for the local management of local interests, we should not omit to provide for a central management of all such interests as are not local. Thus questions co-extensive in their bearing with the limits of the Empire at large are the appropriate
province of Parliament. But there are questions which, though
local as it respects the British possessions in Australia collec-
tively, are not merely local as it respects any one of those pos-
sessions. Considered as members of the same Empire, those
Colonies have many common interests, the regulation of which in
some uniform manner, and by some single authority, may be
essential to the welfare of them all. Yet in many cases such
interests may be more promptly, effectually, and satisfactorily
decided by some authority within Australia itself, than by the
more remote, the less accessible, and, in truth, the less competent
authority of Parliament.

Her Majesty’s Government therefore hope, in the next Session
of Parliament, to introduce a Bill for the division of New South
Wales into two Colonies, the Northern of which would retain its
present name, while the Southern Colony would, by Her Majesty’s
gracious permission, receive the name of the Province of Victoria.

The effect of this alteration would be, to render inevitable some
changes in the existing constitution of the Northern Government.
When detached from the Southern Districts, the existing system
would cease, in many respects, to be appropriate and applicable
to its new condition; and there appear, also, to be some par-
ticulars, in which the practical operation of the present con-
stitution proves that it might, with advantage, be revised.

One of the most material of these contemplated changes is that
which involves a return to the old form of Colonial Constitu-
tion. You are aware that in the older British Colonies, the
Legislature, as in New South Wales, is generally composed partly
of nominees of the Crown, and partly of the representatives of
the people, but there is this important difference between the two
systems: that in the one case the Legislature is divided into
two separate Houses or Chambers; in the other, the representa-
tives of the people and the nominees of the Crown form a single
body, under the title of the Legislative Council. It does not
appear to me that the practical working of this last system
would, by any means, justify the conclusion that it is an im-
provement upon that which it was formerly the practice to adopt;
on the contrary, I see many reasons for believing that the more
ancient system, by which every new law was submitted to the
separate consideration of two distinct Houses, and required their
joint consent for its enactment, was the best calculated to ensure
judicious and prudent legislation.

Another very important question will arise as to the means
which should be taken in order more effectually to provide for the
Municipal Government of the various Towns, Counties, or other
1847.
31 July.

Problem of provision for municipal government.

Necessity for uniform legislation on common interests.

Plan for creation of central authority.

Boundaries to be determined.

smaller divisions. I have already observed that it was the intention of Parliament, in establishing the existing constitution of New South Wales, to create local authorities of this description, and although that intention has hitherto been defeated, it is not the opinion of Her Majesty's Government that it ought to be abandoned. The experience of our own country, that of the British Provinces in North America, and also that of the former British Colonies which now constitute the great Republic of the United States, may be said to have conclusively established not merely the great advantages of devolving the management of local affairs upon the inhabitants of districts of moderate size, acting by their representatives, but likewise the converse of this, and that evils of a very serious kind result from committing the exclusive management of the affairs, both general and local, of a whole Province to a central Legislature, unaided and unbalanced by any description of local organization. It follows that, in revising the constitution of New South Wales, it will be necessary to consider what changes ought to be made in the existing law for the creation of municipalities in order to secure to those bodies their just weight and consideration, and especially whether, with that view, they may not be made to bear to the House of Assembly the relation of constituents and representatives.

Some method will also be devised for enabling the various Legislatures of the several Australian Colonies to co-operate with each other in the enactment of such laws as may be necessary for regulating the interests common to those possessions collectively—such for example are the imposition of duties of import and export, the conveyance of letters, and the formation of roads, railways, or other internal communications traversing any two or more of such Colonies.

I will not attempt at the present moment to do more than to indicate the general principles on which it is proposed to legislate. The details will be the subject of further and of very attentive consideration.

That part of the plan, which respects the creation of a central authority,* implies the establishment of the system of Representative Legislation throughout the whole of the Australian Colonies, including Van Diemen's Land, and South and Western Australia; though, in the latter, it will probably be thought right to postpone the operation of the change, until the Colonists shall be prepared to defray the expense of their own Civil Government, without the assistance of an annual Parliamentary Grant.

In giving effect to these intentions, it will be my duty to take the necessary means for adjusting the question respecting the

* Note 49.
boundaries of New South Wales, South Australia, and Western Australia, to which Sir George Gipps refers, in his Despatch of the 29th April, 1846, No. 91.

I shall take the same opportunity of proposing to Parliament to adjust the questions of Territorial Revenue between the two Provinces of New South Wales and Victoria, to which Sir George Gipps refers, in his Despatches of the 21st June, 1846, No. 122, and of the 24th June, 1846, No. 125.

The subject of your own Despatch of the 29th December, 1846, viz. the imposition of discriminating duties in any Australian Colony on goods, the growth, produce, or manufacture of any other Australian Colony, will also be adverted to, and provided for in that part of the contemplated Act of Parliament which will relate to the creation of a central Legislative authority for the whole of the Australian Colonies.

With these general remarks I must for the present dismiss a subject, the importance of which would merit, and may hereafter receive a much more copious examination and discussion. What I have written will, however, I trust, be sufficient to relieve the anxiety of the public mind in New South Wales, respecting arrangements pregnant with results so momentous to that part of Her Majesty's Dominions, and therefore so deeply interesting to every other Member of the widely extended Empire over which Her Majesty reigns. It will be no slight relief to the responsibility of proposing such a change to find myself in possession of the most complete local intelligence, and supported by the opinion of the most eminent local authorities. I need scarcely add, that it will be a source of the highest gratification to me if, under the authority of Parliament, the Colonial Government of Australia can be settled on a basis, on which the Colonists may, under the blessing of Divine Providence, themselves erect Institutions worthy of the Empire to which they belong, and of the people from whom they are descended. I have, &c.

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 160, per ship Lima.)


My Lord, I have the honor to acknowledge the receipt, on the 10th and 28th instant, by the ships "Beulah" and "John Fleming", of your Lordship's Despatches, the numbers of which are specified in the margin.*

I have, &c.

CHS. A. FITZ ROY.

* Marginal note.—By the "Beulah": Nos. 93 to 101; Circular, 8th and 9th Febry. By the "John Fleming": Nos. 102 to 121; Circular, 20th March.
HISTORICAL RECORDS OF AUSTRALIA.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 204, per ship Kelso.)

Sir, Downing Street, 2 August, 1847.

With reference to my Despatch, No. 188 of the 10th Ultimo, intimating the appointment of Mr. Moore to the Office of Superintendent of the Botanical Gardens at Sydney, I transmit to you herewith Copies of a Correspondence with Mr. Moore relative to his Appointment.

I have also to acquaint you, that, in consideration of the Circumstance that Mr. Moore has resigned an appointment in this Country, and that he will derive no emolument from his new Office until his arrival in the Colony, and, advert-ing to the moderate rate of his Salary, I have authorized the Colonial Agent to furnish him with a passage to Sydney. You will propose a Vote to the Legislative Council, in order to make good that Charge; but, if you should experience any difficulty in passing that Vote, which, however, I do not anticipate, you will draw the amount from the reserved moiety of the Land Fund.

I have, &c.,

GREY.

MR. C. MOORE TO UNDER SECRETARY HAWES.

34 Munster Square.

Sir, Regents Park, 12th July, 1847.

I take the liberty of furnishing you with a List of Queries which it would be very satisfactory for me to have answered, if it be in the power of the Government to do so.

CHAS. MOORE.

QUERIES.

1. When does my Salary begin?
2. What amount for Outfit, or Advance of money will be given previous to starting?
3. On What conditions will I be sent out?
4. Shall I have a free furnished, or unfurnished House?
5. Under whose Orders am I to act in arriving at my destination?
6. What length of time will be permitted me to prepare outfit and visit relations, previous to starting?

UNDER SECRETARY HAWES TO MR. C. MOORE.

Sir, Downing Street, 21st July, 1847.

I have laid before Earl Grey your letter of the 12th Inst., and I am directed to make to you the following communication in reply to the enquiries, which that Letter contains.

1st and 2nd. It is not the practice of this Department to grant outfit, or to allow passages to Colonial Officers, except with very few exceptions; and, in those cases in which an Officer relieves in the Colony, to which he has been appointed, his immediate Predecessor, who draws as in the present case full Salary, there are no means of allowing him any Salary until the period of his entering on his duties.
Fitz Roy to Grey.

In the present instance, Lord Grey will communicate with the Lords Commissioners of the Treasury, in order to ascertain whether it may not be practicable to afford you a Passage to Sydney in consideration of the circumstances of the case.

3. Lord Grey does not clearly understand the purport of your third enquiry.

4. Lord Grey has no certain information of the fact whether there is any residence provided for the Superintendent of the Botanic Garden. If there should be, his Lordship will suggest to the Governor that you should be allowed the free use of it; but he cannot pledge himself that that Officer will be able to make that arrangement. The House would under any circumstances not be furnished at the Public expense.

5. You will place yourself under the directions of the Governor on arriving at Sydney; but the practical arrangements connected with the Botanical Garden are under a Committee of Management.

6. It is generally found that a period of six Weeks or two months is necessary in order to enable persons to make their preparations for embarking for Australia.

I have, &c.,

B. Hawes.

Earl Grey to Sir Charles Fitz Roy.

(Despatch No. 206, per ship Kelso.)

Sir,

Downing Street, 14 August, 1847.

I have to request you would inform Mr. A. Flood of Newcastle, New South Wales, that his letter of the 11th of March last, addressed to Mr. Hope, the late Under Secretary of State for the Colonies, has been received; and that you will convey to him the expression of my thanks for the trouble he has taken in forwarding the Box of Geological Specimens which he refers to as having been shipped in the Colony, but which have not yet reached this Department.

I have, &c.,

Grey.

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 161, per ship Sunflower.)

My Lord,

Government House, 15th August, 1847.

I do myself the honor to inform Your Lordship that a Requisition has been forwarded to the Colonial Agent General for six sets of Standard Weights and Measures for the service of this Colony, and that I have given the necessary authority for the estimated expense of the articles, and which has been voted for the purpose by the Legislative Council, to be issued to the Deputy Commissary General from the Colonial Treasury, namely £204. I have, therefore, to beg that your Lordship will have the goodness to cause the necessary order to be given for an equal sum to be issued to Mr. Barnard from Her Majesty's Treasury to enable him to comply with the Requisition.

I have, &c.,

Chs. A. Fitz Roy.
Transmission of letter from treasury.

EARL GREY TO SIR CHARLES FITZ ROY.

Sir, Downing Street, 16 August, 1847.

I herewith transmit for your information and guidance the enclosed copy of a letter from the Board of Treasury, having reference to the directions which the Lords Commissioners have considered it requisite to give to the Officer in charge of the Commissariat in New South Wales, in accordance with the arrangements which, in my Despatches of the 29th Ultimo, Nos. 196 and 197, you were instructed to adopt for facilitating the Emigration to New South Wales of the Friends and relatives of Emigrants, who are already settled there, and for enabling the Depositors of money in the Savings Banks in that Colony to apply the amount of such Deposits in the purchase of Crown Lands.

I have, &c,

[Enclosure.]

MR. J. PARKER TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 11th August, 1847.

With reference to Mr. Hawes’ Letter of the 28th Ult., I am commanded by the Lords Commissioners of Her Majesty’s Treasury to acquaint you, for the information of Earl Grey, that my Lords have caused a communication to be made to the Officer in charge of the Commissariat in Van Diemen’s Land, New South Wales and South Australia, apprising them respectively that Her Majesty’s Secretary of State, being desirous to make arrangements for facilitating the application in this Country of such sums, as parties in the Colony may wish to contribute for assisting their relatives or friends in emigrating to the Colony, and also for facilitating the early application, in furtherance of the conveyance of Emigrants to the Colony from the United Kingdom, of Sums which may be deposited in the Colonial Savings Banks with a view to future investment in the purchase of Land, My Lords are pleased to authorize them to receive into the several Chests under their charge all such sums as may be tendered by the respective Colonial Governments for either of these objects, and to grant Certificates for the same, in order that the amounts may be placed without delay at the disposal of the Colonial Land and Emigration Commissioners in this Country.

I am, &c,

J. PARKER.

SIR CHARLES FITZ ROY TO EARL GREY.

My Lord, Government House, 17th August, 1847.

I do myself the honor to inform Your Lordship that a Requisition has been forwarded to the Colonial Agent General for a New Royal Standard for the use of this Government, and that I have authorised its estimated expense of £50, which has been voted for the purpose by the Legislative Council, to be issued to the Deputy Commissary General from the Colonial
FITZ ROY TO GREY.

Treasury; I have therefore to beg that Your Lordship will have the goodness to cause the necessary order to be given for an equal sum to be issued to Mr. Barnard from Her Majesty's Treasury, to enable him to comply with the Requisition.

I have, &c.,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.

(My Lord,

Governement House, 19th August, 1847.

Referring to my Despatches, No. 76 and "Separate" of the 2d April last, and to that portion of Your Lordship's Despatch of the 28th August, No. 28, which advert to the relative position which the Bishop of Australia will hold in this Colony after vacating his seat at the Board of Executive Council; I have now the honor to transmit the Copy of a letter addressed by the Chief Justice to the Colonial Secretary, explaining the reasons which induce his Honor to decline to accede to any alteration in the Table of Precedence of the Public Officers of the Colony, which would place him in an inferior position to that which he now occupies.

As Sir Alfred Stephen, in stating his objections, has entered at considerable length into matter extraneous to the question that was referred to him, it is right that I should explain that the Colonial Secretary merely forwarded for his consideration an Extract of so much of Your Lordship's Despatch of the 28th August as relates to the future precedence of the Bishop, with a request that his Honor would favor me with his wishes at his earliest convenience.

The view, which Sir Alfred Stephen has taken of the subject, while it of course prohibits my bringing the matter under the consideration of the Legislative Council, does not appear to require that I should enter into any discussion with him regarding its merits; but Your Lordship must be aware that he is entirely in error in his estimate of the characters and qualifications of the Chief Justices of the North American and (of the principal at least) of the West India Colonies.

With respect to the other Colonies enumerated by Sir Alfred Stephen, wherein the Chief Justices take precedence next the Governors, I may remind Your Lordship that, at the Cape of Good Hope and at the Mauritius, at the time the respective Charters of Justice for those Colonies were framed, the Offices of Governor and Commander of the Troops had been for many years united. There was no Bishop in either of those Colonies;
and this Colony was precisely similarly situated; Ceylon was equally without a resident Bishop; but precedence is given in that Colony to the Commander of the Forces over the Chief Justice.

In conclusion, I would observe that, as I am aware of no circumstance "in the existing state of things in this Colony" to induce me to believe that an alteration in the right of precedence, such as that submitted for the consideration of the Chief Justice, would be in the slightest degree prejudicial, either to the interests of the Colony or of the Church, I would strongly recommend that, whenever a vacancy may occur in the Office of Chief Justice, the opportunity should be taken of placing the person who may succeed to that appointment in the same relative social rank and position, with respect to the other public Officers of the Colony, as are established by the Book of Regulations; and that the Puisne Judges should continue to hold the same rank and precedence as they do at present, being according to that to which they are entitled under those Regulations.

I have, &c,

CHS. A. FITZ ROY.

[Enclosure.]  

SIR ALFRED STEPHEN TO COLONIAL SECRETARY THOMSON.

Sir,

Supreme Court, 20th July, 1847.

I have the honor to acknowledge the receipt of your Letter, enclosing Extract of a Despatch from the Right Honorable The Secretary of State on the subject of the precedence of the Right Reverend the Lord Bishop. Lord Grey observes that the Bishop would acquire precedence over the Chief Justice of this Colony, were so much of the Charter of Justice repealed as is opposed to that arrangement, and His Lordship states that he would assent to the enactment of a Local Law for that purpose, should no objection be raised to it by the Chief Justice. His Excellency the Governor is pleased to desire me accordingly to communicate to him my wishes on the suggested measure.

2. It does not appear to me that I can do this, in justice to myself, without entering somewhat fully into the subject. From the first institution of the Supreme Court, the place assigned to the Chief Justice by the Royal Charter has been immediately after His Excellency the Governor. That of the Commander of the Forces and the Lord Bishop respectively have been the next in order; and both those Officers until recently held seats also in the Executive Council, whose members have rank as such next in succession. The late retirement of the Bishop therefore from that Station simply left his precedence where it was. It is proposed, however, that the established order shall now be altered: so that the Bishop shall take precedence of the Chief Justice, whereby he would acquire precedence over the Commander of the Forces also.

3. Those, who know my feelings towards the Venerable Prelate, will readily believe me when I say that, if the question were one between individuals merely, or of which the decision ought to be influenced by personal considerations. I should not hesitate to yield
my own Official precedence to one every way so eminent. Nor, if the decision affected myself alone, should I be the less disposed to make the concession, could I bring myself to believe that the measure, considering the existing state of things in this Colony, would be beneficial to the Church over which His Lordship presides. It appears to me however that this matter is by no means a personal or a private one. It involves the interests of my Colleagues, as well as my own, and the rights of my Successors. And being strongly of opinion that the social rank and position of the Judges in this Colony cannot be lowered without injury to the Queen's Service, the cause of good government, and therefore the welfare of the community, while I am equally satisfied that the degradation of that rank now contemplated will be equally opposed to the true interests of the Church in particular, I feel bound to express my earnest hope that no such arrangement will be permitted.

4. I would take the liberty of reminding His Excellency that, although the precedence assigned to the Chief Justice of New South Wales is higher than that established for the West Indian and some other Colonies, as stated in the Regulations of 1843, yet the higher rank is conferred in the East Indies, Newfoundland and at the Cape, and in every Colony I believe to the Eastward of the Cape. In each of the three Presidencies (by the Royal Warrants of 31 May, 1814, and 28th June, 1841) the second rank is assigned to the Chief Justice. The Puisne Judges take rank below the Bishop and the Members of Council, but before the Commander in Chief unless a Member of the Council. In India, however, I need hardly observe, the Members of Council form a portion of the Government. They are not office bearers; but the various Secretaries and other high functionaries are distinctly subordinate to them.

5. In Ceylon by the Charter (Clark 548), the Puisne Judges have precedence after the Commander in Chief, but before the Members of Council. The reason is, I apprehend, because in that Colony the Council is composed of Office Holders, whose rank as such is below that of the Judges. By the Cape Charter also (Clark 477) and that of Newfoundland (Ibid 424), the Puisne Judges take rank before both Councils. That is to say in those three Colonies the Puisne Judges have precedence next to the Chief Justice, and the latter (with one exception where the Commander in Chief has that rank) is, as here, next to the Governor. Had the Charter for this Colony contemplated the existence of Puisne Judges (who were created by Warrant without further provision) they would doubtless have been secured a similar precedence.

6. The difference may be accounted for by the fact that, in these several instances, the Judges are educated men, barristers, usually of considerable experience, many of them of talent and learning, the cases and questions discussed in their Courts are frequently of great amount and intricacy; and it is felt to be of great importance politically and morally to assign to such men a social standing and rank commensurate with the high estimation in which they generally are (as all Judges doubtless ought to be) held by the public. Nor need I dwell on the advantages obtained by a Government wise enough to maintain that system. They are obvious, but especially in Colonies such as these.

7. In the West Indies and some of the North American Colonies, the relative rank of the Judges is different in exact proportion to the difference between the two cases. The Chief Justice is, I do
not say without exception, but frequently, incompetent to the Office, generally a half educated Colonial Lawyer with a petty salary that scarcely places him above want. The Puisne Judges are almost without exception private Gentlemen or Merchants. The causes which they decide are not numerous, and they are of the most simple and generally petty character. Cases in Equity are disposed of, or were so until lately, by the Governor, either alone or assisted by the Council. That body, on the other hand, usually consists of men of the oldest families and greatest influence or fortune in the Country. To give such men precedence over the Judges is only in the natural order of things. To do otherwise would be only to render rank contemptible.

8. It is my duty humbly to claim for my Colleagues a place among the elevated Class first described. I boldly assert that there is no Colonial Dependency of the Crown, in which a Bench can be found, by which a larger amount of Judicial duty in every branch of Law is discharged, in which cases of more difficulty and complexity or of greater importance, whether in a pecuniary or more general view, are annually decided, to which more extensive and responsible duties are confided, or by which in the discharge of those duties more laborious research or painstaking exposition of the Law is exhibited.

9. With these claims to consideration, I do most respectfully submit, through His Excellency to Her Majesty's Government, that the Puisne Judges of New South Wales have not at present their proper place assigned to them. To the Commander of the Forces and the Bishop, precedence is usually given before the Puisne Judges. To the precedence, also, of the present Colonial Secretary and Treasurer as Executive Councillors, my Colleagues would scarcely be entitled to object, as they have always enjoyed it, and the Judges took office under the system and rule by which it was conferred. I submit, however, that there is no other reason for continuing that system (forming as it does an exception from the general rule applicable to them) against the Puisne Judges of this Colony. I have shown that Executive Councillors are not usually placed before the Puisne Judges in cases parallel with the present. On behalf therefore of my colleagues and in concert with them, I venture to express the hope that Her Majesty may be advised to give the Puisne Judges precedence in this Colony over all appointees to the Council (the Commander of the Forces excepted) in future.

10. But whether that shall hereafter be the rule of precedence or not, without reference to the particular composition of the Council, we submit, with great respect and deference that its present constitution renders some alteration unavoidable. We submit that to give the Attorney General, a Barrister of our own Court, rank and social position above the Puisne Judges is calculated to lower the Judges in public estimation by practically proclaiming, as it seems to do to the Community, the opinion entertained by Her Majesty's Government of the relative importance and value of an Attorney General and a Judge, a comparison when apparently so sanctioned by no means favorable to the Supreme Court of Justice of this Colony, or calculated to uphold and promote its dignity or efficiency.

11. I request that His Excellency will be pleased to cause a Copy of this Letter to be transmitted to the Right Honorable the Secretary of State.

I have, &c.,

ALFRED STEPHEN, C.J.
SIR CHARLES FITZ ROY TO EARL GREY.

Government House, 20th August, 1847.

I have, on several occasions since my arrival in this Colony, been urged by many persons of influence and respectability, and particularly by gentlemen connected with the Commercial interests of Sydney, to bring under your Lordship's notice the defenceless state of the Harbour of Port Jackson, in the hope that Her Majesty's Government might be induced to undertake the expense of erecting such Fortifications as are required for its protection from foreign invasion.

As I was aware, however, from the records of the correspondence that had passed between Sir George Gipps and Your Lordship's Predecessors at the head of the Colonial Department, that Her Majesty's Government were unwilling to incur this expense, I considered that I should be exceeding the limits of my duty if I again brought this question forward; and I should still have refrained from doing so, had not the recent removal of the 58th Regiment to New Zealand given occasion for renewed applications on the ground that Your Lordship in Your Despatch, No. 2 of the 24th November last (directing the increase from hence of the Military Force in New Zealand) intimated that Her Majesty's Government will take care that efficient Naval and Military protection from the attack of any foreign enemy shall be afforded to the Colony.

It has been asserted that Her Majesty's Government have expended, and are now expending, large sums for the erection of Fortifications in the North American and other Colonies, especially for the defence of Quebec and Kingston in Canada, and Halifax in Nova Scotia; and therefore it is argued that the small sum of about £12,000 required for the defence of Port Jackson ought not to be denied.

It has further been argued that, as the Colonies have no voice in the Wars of the Mother Country which are generally injurious to their interests, it is hard that Her Majesty's Government should refuse to bear the expense of such Works as may be necessary to secure the Principal Port and City of this Colony from sudden attack from foreign enemies, to which it is at present so completely exposed that an enemy's Frigate, or even Privateer, would find no difficulty in anchoring off, and laying contributions on the City of Sydney.

I have, of course, refrained from expressing any opinion as to the validity of arguments upon a point which it is not within...
1847.
20 Aug.

Reasons for delay in announcing refusal to make grant for defences.

1847.
23 Aug.

Legal opinion re effect of revocation of commission as governor of North Australia.

my province to decide, or upon the inference that has been drawn from the expressions used in Your Lordship's Despatch; but I feel it my duty to submit them for your Lordship's consideration, and in the meantime, as I am convinced, from the violent discontent which was very loudly expressed by a large majority of the Legislative Council when the determination of Her Majesty's Government to decrease the Military Force in this Colony was announced to them, that any application for a vote of money to defray the expense of the works, which have been proposed for the purpose of protecting the entrance to Port Jackson, would be entirely fruitless, at least during the present Session, and would only add to the general excitement and discontent, I have taken upon myself the responsibility of withholding the notification of the decision of Her Majesty's Government as communicated to me by Your Lordship's Despatches "Military," Nos. 1 and 4 the 6th November and 30th December last, until I am honored with Your Lordship's further commands.

I take the liberty of annexing for Your Lordship's information a copy of a Report addressed by the Commanding Royal Engineer to the Secretary of this Government on the 9th March last on the subject of the Defences of Port Jackson.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 169, per ship Sunflower; acknowledged by earl Grey, 12th April, 1848.)


I have the honor to bring under your Lordship's consideration the copy of a confidential communication which I have received from the Crown Law Officers of this Government, pointing out the evil consequences that might follow any public announcement of the revocation of my Commission as Governor of the late Colony of North Australia, as my Commission as Governor of New South Wales gives me jurisdiction only to the Southward of the 26th parallel of South Latitude.

As it is within my knowledge that numerous parties of unauthorised Squatters have, with their flocks and herds, proceeded far beyond this boundary in search of Stations, and that many others have, without the sanction of Government, already established Stations beyond it, while I am informed that many
FITZ ROY TO GREY.

persons have left Sydney with the view of establishing themselves at and in the vicinity of Port Curtis, I venture to recommend that immediate steps may be taken for placing my authority on the same footing as that of my Predecessors in this Government, before it was in contemplation to form a Colony to the Northward of the 26th Parallel of South Latitude.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

CROWN LAW OFFICERS TO SIR CHARLES FITZ ROY.

Sir,

In reply to the Official letter of the Honble. The Colonial Secretary of the 16th instant, No. 47/565, stating that your Excellency having it in contemplation to issue a Proclamation notifying the revocation by Her Majesty of the Charter erecting North Australia into a separate Colony, and also of the Commission appointing your Excellency the first Governor of that Colony, and requesting us to prepare a draft of the proper Instrument for that purpose, to which letter we deem it right to address an answer confidentially to Your Excellency.

We have the honor to report that in our opinion it is not desirable to issue any such Proclamation; but, on the contrary, we beg leave to suggest for your Excellency’s consideration whether it be not right, under the circumstances, that the utmost caution should be observed to prevent the issue of such Letters Patent from becoming known to the public, in so far as relates to Your Excellency’s Commission as Governor of North Australia.

We do not suppose that, by withholding the Letters Patent from publication in this Colony, the revocation will be prevented from taking effect; but we may hope that the very great public evils, which might follow from a knowledge on the part of the public that the late Colony of North Australia is without a Governor, may by this means be escaped, until Her Majesty’s Ministers shall have procured the issue of a new Commission, and taken the requisite steps to legalize all acts done in the mean time by Your Excellency and all subordinate Officers.

We beg leave also at the same time to bring under Your Excellency’s notice the fact that the Letters Patent purport to be an immediate and absolute revocation of the Charter of the late separate Colony as well as of your Excellency’s Commission of it: and we take the liberty of remarking that this circumstance might give rise to very serious doubts as to the validity of acts done in execution of the Charter and Commission, whilst the Letters Patent were in course of transmission to this Colony.

We have, &c.,

J. H. PLUNKETT, Attorney General.

W. M. MANNING, Sol. Genl.
SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 170, per ship Sunflower; acknowledged by earl Grey, 15th February, 1848.)

My Lord,

Government House, 24th August, 1847.

At the request of the Chief Justice of this Colony, I have the honor to enclose the Copy of a letter which he has addressed to the Colonial Secretary, enquiring whether any Despatch has been received on the subject of Appeals from the Supreme Court to Her Majesty in Council.

It appears that two years ago the Chief Justice presented to Lord Stanley a work published by him relating to the Constitution, Rules, and Practice of the Supreme Court; and pointing out measures for facilitating Appeals to the Privy Council from this Colony, which was forwarded in Sir George Gipps' Despatch, No. 155 of the 17th September, 1845, and was referred to in his subsequent Despatch, No. 170 of the 10th Octr. following; and, as no reply has yet been received, I have thought it right to comply with Sir Alfred Stephen's request contained in the last paragraph of the enclosed letter.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

SIR ALFRED STEPHEN TO COLONIAL SECRETARY THOMSON.

Sir,

Supreme Court, 28th July, 1847.

I take the liberty of drawing the attention of the Government to the subject of Appeals from the Supreme Court to Her Majesty in Council, and I shall be obliged if His Excellency the Governor will be pleased to inform me, whether any communication has been received from the Right Honorable the Secretary of State respecting the introduction of some provision for establishing and regulating such Appeals.

I thought it my duty, about two years ago, to bring the subject under the notice of Lord Stanley and of His Excellency Sir George Gipps, by Letters of the 15th September and 31st October, 1845, of which I have now the honor to enclose Copies. Subsequent experience has not affected the impressions, then entertained by me; but I have never heard whether any attention was paid to my communications.

In the course of the last five years, there have been decided in the Supreme Court very many questions of extreme difficulty, as well as of the greatest public importance. Among these there are several, involving sums to the amount of (in the whole) three or four hundred thousand Pounds. In some of the cases, the Judges have differed in opinion; and in four or five appeals have been instituted, at great expense, by Special order; while, in as many more instances I am persuaded, Appeals would have been interposed, had the direct right and power of appealing existed. In every fit and proper case for appeal, I respectfully submit that that power ought to be conferred. I would by no means have it implied, from the expression of this opinion, that I think the
Judgments in the instances alluded to erroneous. But, considering the nature of some of the questions and the pecuniary magnitude of others, it is not for the interest of the public, as I conceive, or the reputation and honor of the Court, that no means should exist on the spot for initiating an Appeal from its decisions.

It is to be observed that, should any Judgment pronounced by us be mistaken, the losing Suitor has at present no immediate remedy in any case. The preliminary step of a Petition to the Queen, with its expense and grievous delay, is inevitable, and in Cases where money is recovered (there being no security for its return) he is practically denied justice. On the other hand, where the Judges of a Colonial Court are not incompetent but bring to the consideration of cases a reasonable amount of industry and legal knowledge, the existence of an immediate appealing power in the Suitor is a great advantage to them. The correctness of their opinions, in every really doubtful case, can then be tested, and the value of their labors, even should one of their Judgments be occasionally reversed, will be the better understood and appreciated.

Should nothing have been hitherto done touching the institution of the Appellate power, I would beg the favor of His Excellency the Governor to cause a Copy of this Letter to be forwarded to the Right Honorable the Earl Grey.

I have, &c.,

ALFRED STEPHEN, C.J.

[Sub-enclosure No. 1.]

EXTRACT from a Letter to the Right Honorable Lord Stanley, of which a Copy was sent to His Excellency Sir George Gipps, under date, Sydney, 15th September, 1845.

I hope to receive Your Lordship's forgiveness for drawing attention to one of the subjects introduced in this Book; that of Appeals from the Court to Her Majesty in Council. Your Lordship will perceive it to be stated, in Pages 25 and 26, and in the Appendix Page 42, that no provision has yet been made in this Colony for such Appeals. This deficiency, which probably has never before been distinctly brought under Your Lordship's notice, I humbly submit should be removed. The extent to which the right of Appeal shall be conceded and the conditions to be imposed on parties appealing will best be determined by Your Lordship. I have, however, it will be perceived, made some observations on these points in one of the Pages referred to.

ALFRED STEPHEN.

[Sub-enclosure No. 2.]

MR. JUSTICE STEPHEN TO COLONIAL SECRETARY THOMSON.

Sir, Supreme Court, 31st October, 1845.

In reference to your Letter of the 11th August last, transmitting Copy of an Order made by the Judicial Committee, I have the honor to solicit His Excellency's attention to the fact that there is no provision by Law for Appeals in this Colony, an omission which I humbly conceive should be supplied.

Having had the honor to transmit to His Excellency a Copy of a work published by me on the Constitution and Rules of the Supreme Court, I hope to be pardoned for begging a perusal of the statement and suggestions in that work on the subject of Appeals to the Privy Council.

I have, &c.,

ALFRED STEPHEN.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 171, per ship Sunflower.)

My Lord, Government House, 25th August, 1847.

I do myself the honor to acknowledge the receipt of Your Lordship's Despatch of 13th November, 1846, No. 57, requesting
information respecting Redmond Sheering, stated to have emigrated to this Colony; and in reply I beg to inform your Lordship that Sheering arrived at Sydney in the "Albatros" in 1841, and engaged from the ship to Mr. Peter Stuckey of Long Acre in the County of Argyle. It appears from Mr. Stuckey's statement that Sheering was subsequently employed at the Murrumbidgee; but I regret to inform Your Lordship that I have failed in obtaining any further information relative to this person, either through the Bench of Magistrates of the District in which he was supposed to be employed, or by a Notice which I caused to be published in the Government Gazette.

The Magistrates are making further enquiry; and, in the event of their procuring any particulars of the individual in question, I shall duly communicate the same to your Lordship.

I have, &c.,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 172, per ship Sunflower.)

My Lord, Government House, 26th August, 1847.

I do myself the honor to acknowledge the receipt of Your Lordship's Despatch of the 24th November, 1846, marked "Separate," requesting information respecting one Mr. James Gaffney, stated to have emigrated to this Colony; and in reply I beg to inform your Lordship that, altho' every enquiry has been made after this person by the Commissioner of Police, the Emigration Agent, and by a Notice published in the Government Gazette, I have failed in obtaining any information respecting him.

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 209, per ship Kelso.)

Sir, Downing Street, 27 August, 1847.

I transmit to you the Copy of a letter, which has been addressed to me by Sarah Ingham, renewing her enquiry respecting some property stated to have been left by her father in New South Wales. The Writer's first application accompanied my Dispatch of the 8th of August, 1846, No. 13, and I have to request that you will lose no time in sending home whatever information you may be able to procure on the subject.

I have, &c.,

GREY.
GREY TO FITZ ROY.

[Enclosure.]

The Humble Petition of Sarah Ingham,
To the Right Honorable Earl Grey, Secretary of State for the
Colonial Department, etc., etc., etc.,

Sheweth,

That, in a reply from your Office of 8th August last, being
an answer to mine of 27th July, Your Lordship has promised to
refer to the Acts of the Officers of Government at Parramatta, who
took possession of the entire property of the late David Aiken in
about 1839, and sold the same publicly upon the plains of Goulburn
about 128 miles from Sydney.

Robert Wainwright assisted to convey the cattle from Manera to
Goulburn Plains and had with me several others, who were hired
as I was at 5s. pr. diem.

I knew David Aiken long before his fatal accident of being killed
by a fall from his horse.

his

I request that, if your Office has had a reply upon this subject,
that the same may be signified to me at your Official Convenience
with such other directions as may be in that case necessary. If
the authorities in Sydney had communicated with your Depart-
ment in England in 1840, this act at Sydney would look much more
honest, but my trust now is to the never failing integrity of His
Lordship at the Head of the Colonial Department.

I request an answer.

I am, &c.,

Sarah X Ingham.

No. 7 Every Street, Great Ancoats, Manchester, 3rd May, 1847.

Earl Grey to Sir Charles Fitz Roy.

(Despatch No. 210, per ship Kelso; acknowledged by
Sir Charles Fitz Roy, 28th March, 1845.)

Sir,

I have the honor to transmit to you herewith a copy of
the Letters Patent, which The Queen has been pleased to issue
under the Great Seal of the United Kingdom, re-constituting
the Bishoprick of Australia by reducing the same to a See to be
styled the Bishoprick of Sydney, and naming and appointing
the Right Reverend William Grant Broughton, heretofore Bishop
of Australia, to be Bishop of the See of Sydney, and also erecting
three distinct Bishop’s Sees, styled the Bishopricks of Newcastle,
Adelaide and Melbourne.

I also transmit copies of the Letters Patent erecting the
Bishopricks of Newcastle and Melbourne, and naming and ap-
pointing the Reverend William Tyrrell, Doctor in Divinity, and
the Reverend Charles Perry, Doctor in Divinity, to be ordained
and consecrated Bishops of those Sees respectively.

I have, &c.,

Grey.
1847.
27 Aug.

Letters patent for erection of bishopric of Sydney.

718 HISTORICAL RECORDS OF AUSTRALIA.

[Enclosure No. 1.]

LETTERS PATENT FOR ERECTION OF BISHOPRIC OF SYDNEY.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to all to whom these Presents shall come, Greeting:—Whereas His late Majesty, Our Royal Uncle King William the Fourth, did, by Letters Patent under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing date the 18th day of January, 1836, in the sixth year of His Reign, found, ordain, constitute and erect all the Territories and Islands comprised within or dependent upon Our Colonies of New South Wales, Van Diemen’s Land and Western Australia, into a Bishop’s See or Diocese, and did declare and ordain that the same should be styled the Bishopric of Australia, and that the first and other Bishops thereof should be subject to the Archbishop of Canterbury, for the time being, as their Metropolitans, and did in and by the said Letters Patent name and appoint William Grant Broughton, Clerk, theretofore Archdeacon of New South Wales, to be Bishop and Ordinary Pastor of the said See of Australia, and the said William Grant Broughton was thereupon ordained and consecrated to be the Bishop and Ordinary Pastor of the said See.

And Whereas, in and by the said Letters Patent, Our said Royal Uncle did declare that, if He, His Heirs or Successors should think fit to recall or revoke the appointment of the said Bishop of Australia or his Successors and should declare such His pleasure by Letters Patent under the Great Seal of Our said United Kingdom, then every such Bishop should from and after the notification thereof in such manner as in the said Letters Patent should be directed to Him to all intents and purposes cease to be Bishop of Australia. And Whereas, by virtue of the powers of revocation mentioned in the said Letters Patent, We did, with the concurrence of the said Bishop of Australia, by Letters Patent, bearing date the 15th day of August in the Year of Our Lord 1842, wholly separate, divide and exempt the City of Hobart Town, and all that our Island of Van Diemen’s Land, and all Islands and Territories lying to the Southward of Wilson’s Promontory in 39 degrees 12 minutes South Latitude, and to the Northward of the 45th Degree of South Latitude and between the 140th and 150th Degrees of Longitude East from Greenwich, and also Macquaries Island, lying to the South Eastward of the said Island of Van Diemen’s Land, and all other the Dependencies of Our said Colony of Van Diemen’s Land, and did declare that the said City and Colony should thenceforth be wholly separated and exempted from the Jurisdiction, authority and Diocese of the said Bishop of Australia and his Successors, and did ordain, make, constitute and declare the same to be the Diocese of the Bishop of Tasmania, as by reference to the said Letters Patent will more fully appear. And Whereas it has been represented to Us by the Most Reverend Father in God, William, by Divine Providence Lord Archbishop of Canterbury, Primate of all England and Metropolitan, that, considering the present great extent of the said Diocese of Australia, notwithstanding the severance therefrom of the said Diocese of Tasmania, as hereinafore mentioned, and also the inconvenience and detriment arising therefrom, as well as to the Bishop of the said See as to the Members of the United Church of England and Ireland resident within the same, He is desirous, with the concurrence of the said Bishop of
Australia, that the extent of the said Diocese should be still further reduced, and that the same should be divided into four several and distinct Dioceses to be styled The Bishoprick of Sydney, The Bishoprick of Newcastle, The Bishoprick of Adelaide, and the Bishoprick of Melbourne; the Bishops of the said several Sees of Newcastle, Adelaide and Melbourne, and their Successors, and also the Bishop of Tasmania and his Successors, and the Bishop of New Zealand and his Successors, to be subject and subordinate to the See of Sydney and to the Bishop thereof, and his Successors, in the same manner as any Bishop of any See within the Province of Canterbury is under the authority of the Archepiscopal See of that Province and the Archbishop of the same.

And Whereas we, having taken the premises into Our Royal consideration, and, having been certified of the concurrence therein of the said Bishop of Australia, are persuaded that, by complying with such the request of the said Archbishop, we shall under the Blessing of Almighty God greatly advance the well being of the said United Church of England and Ireland within the said Colonies and Settlements, We have resolved to grant the same accordingly.

Now know ye that, in pursuance of such Our Royal Intention, it is Our Will and Pleasure, And We do by these Presents revoke and determine the said Letters Patent, made and passed in the 6th year of the Reign of His said late Majesty King William the Fourth to all intents and purposes, save and except as to all acts, matters or things which may have been done under the authority of the same, which we will and ordain shall be and remain of the same Force and Effect as if the said Letters Patent were not revoked and determined. And we do further by these Presents erect, found, ordain and constitute all those parts or portions of our said Colony, known or called by the name of the Counties of Wellington, Roxburgh, Cook, Cumberland, Camden, Westmoreland, Georgiana, Bathurst, King, Murray, Argy and Auckland, with the Territory to the West bounded by the Parallel of Latitude 32° 30', And the 141st degree of East Longitude, together with all those parts of the Continent of Australia, not comprized within the limits of any other See or Diocese, to be a Bishop’s See and Diocese, and to be called from henceforth the Bishoprick of Sydney. Saving nevertheless unto Us our Heirs and Successors the powers of altering from time to time, with the consent of the Archbishop of Canterbury, for the time being, if the said See be vacant or otherwise or the said Archbishop, and of the Bishop of the said See for the time being, the limits of the said Diocese or of the Jurisdiction of the Bishops thereof. And to the end that this Our Intention may be carried into due effect, We, having great confidence in the learning, morals, probity and precedence of the said Right Reverend Father in God, William Grant Broughton, heretofore Bishop of Australia, do by these Our Letters Patent name and appoint him to be Bishop of the said See of Sydney. And We do hereby signify to the Most Reverend Father in God, William by Divine Providence Lord Archbishop of Canterbury, Primate of all England and Metropolitan, the erection and constitution of the said See and Diocese, and our nomination and appointment thereto of the said Right Reverend Father in God William Grant Broughton. And We do ordain and declare that the said Right Reverend Father in God William Grant Broughton, so by us nominated and appointed, may enter into and possess the said Bishop’s See as Bishop thereof, without let or
impediment from Us, Our Heirs or Successors, for and during the term of his natural Life, subject nevertheless to the right of Resignation hereinafter more particularly expressed.

And we do further will and ordain that the said Right Reverend Father in God William Grant Broughton, Bishop of the said See of Sydney, and his Successors, Bishops thereof for the time being, shall be and be deemed and taken to be Metropolitan Bishop in Australasia, subject nevertheless to the general superintendence and revision of the Archbishop of Canterbury for the time being, and subordinate to the Archiepiscopat See of the Province of Canterbury. And we will and ordain that the said Bishops of Newcastle, Adelaide and Melbourne, and also the Bishop of Tasmania respectively, shall be suffragan Bishops to the said Bishop of Sydney and his Successors; and we further will and ordain that the said Bishop of New Zealand and his Successors shall also become Suffragan Bishops to the said Bishop of Sydney and his Successors in such manner and at such time, as We or our Successors shall hereafter, with the consent of the said Bishop of New Zealand or upon a Vacancy of the said See, be pleased, by Letters Patent under the Great Seal of Our said United Kingdom, to order and direct; and we will and grant to the said Bishop of Sydney and his Successors full power and authority, as Metropolitan of Australasia, to perform all functions peculiar and appropriate to the Office of Metropolitan within the limits of the said Sees of Newcastle, Adelaide, Melbourne and Tasmania, and also within the Limits of the said See of New Zealand, Whenever we shall as aforesaid be pleased to order and ordain and to exercise Metropolitan Jurisdiction over the Bishops of the said Sees and their Successors, and over all Archdeacons, Dignitaries and all other Chaplains, Ministers, Priests, and Deacons in Holy Orders of the United Church of England and Ireland within the limits of the said Dioceses. And we do by these Presents give and grant unto the said Bishop of Sydney and his Successors full power and authority to visit, once in five years or oftener, if occasion shall require, as well the said several Bishops and their successors, as all Archdeacons and Dignitaries and all other Chaplains, Ministers, Priests and Deacons in Holy Orders of the United Church of England and Ireland, resident in the said diocese, for correcting and supplying the defects of the said Bishops and their Successors, with all and all manner of Visitorial Jurisdiction, power and coercion. And We do hereby authorize and empower the said Bishop of Sydney and his Successors to inhibit, during any such visitation of the said diocese, the exercise of all or of such part or parts of the Ordinary Jurisdiction of the said Bishops or their Successors as to him the said Bishop of Sydney or his Successors shall seem expedient, and during the time of such visitation to exercise by himself or themselves, or his or their Commissaries, such powers, functions and jurisdictions, in and over the said Dioceses, as the Bishop thereof might have exercised if they had not been inhibited from exercising the same. And we do further ordain and declare that, if any person against whom a Judgment or Decree shall be pronounced by the said Bishops or their Successors, or their Commissary or Commissaries, shall conceive himself to be aggrieved by such Sentence, it shall be lawful for such person to appeal to the said Bishop of Sydney or his Successors, provided such Appeal be entered within fifteen days after such sentence shall have been pronounced. And
we do give and grant to the said Bishop of Sydney and his Successors full power and authority finally to decree and determine the said Appeals. And we do further Will and ordain that, in case any proceedings shall be instituted against any of the said Bishops of Newcastle, Adelaide, Melbourne, Tasmania and New Zealand, when placed under the said Metropolitan See of Sydney, such proceedings shall originate and be carried on before the said Bishop of Sydney, whom we hereby authorize and direct to take cognizance of the same. Moreover, We will and grant by these Presents that the said Bishop of Sydney shall be a Body Corporate, and do ordain, make and constitute him to be a Perpetual Corporation, and to have perpetual succession; and that he and his Successors be for ever hereafter called and known by the name or Title of the Lord Bishop of Sydney; and that he and his Successors, by the name or Title aforesaid, shall be able and capable in the Law and have full power to purchase, have, take, hold or enjoy Manors, Messuages, Lands, Rents, Tenements, Annuities and Hereditaments of what nature or kind soever in Fee or in perpetuity or for a Term of Life or Years; and also all manner of Goods, Chattels and things Personal whatsoever, of what nature or value soever; and that he and his Successors, by and under the said Name or Title, may prosecute claim, plead and be impleaded, defend and be defended, answer and be answered in all manner of Courts of Us, Our Heirs and Successors, and elsewhere in and upon all the singular Causes, Actions, Suits, Writs, and Demands, Real and Personal and Mixed, as well spiritual as temporal, and in all other things causes and matters whatsoever. And that the said Bishop of Sydney and his Successors shall and may for ever hereafter have and use a Corporate Seal, and the said Seal from time to time at his and their Will and pleasure break, change, alter and make anew, as he or they shall deem expedient.

And we are moreover pleased to order and direct that the said Bishop of Sydney under that Title may take up, continue and proceed with every Act or engagement, lawfully commenced, done or entered into as Bishop of Australia under the Letters Patent heretofore granted to him as Bishop of the said See of Australia.

And We do hereby further ordain and declare that the Church, called Saint Andrews, in the City of Sydney aforesaid shall henceforth be the Cathedral Church and See of the said Right Reverend Father in God William Grant Broughton and his Successors, Bishops of Sydney.

And We do further by these presents expressly declare that the said Bishop of Sydney and his Successors, having been respectively by Us, our Heirs and Successors, named and appointed and, by the said Archbishop of Canterbury for the time being as Metropolitan of the said See, canonically ordained and consecrated according to the Form and Usage of the United Church of England and Ireland, may perform all the Functions peculiar and appropriate to the Office of Bishop within the said Diocese of Sydney.

And We do by these Presents further declare that the aforesaid Bishop of Sydney and his Successors may exercise and enjoy full power and authority by himself or themselves, or by the Archdeacon or Archdeacons, or the Vicar General, or other Officer or Officers hereinafter mentioned, to give Institution to Benefices, to grant Licenses to Officiate to all Rectors, Curates, Ministers and Chaplains of all the Churches or Chapels or other places within the
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Letters patent
for erection of
bishopric of
Sydney.

said Diocese, wherein Divine Service shall be celebrated according
to the Rites and Liturgy of the Church of England, and to visit all
Rectors, Curates, Ministers and Chaplains, and all Priests and
Deacons in Holy Orders of the United Church of England and Ire­
land, resident within the said Diocese, and also to call before him or
them or before the Archdeacon or Archdeacons, or the Vicar Gene­
ral, or other Officer or Officers hereinafter mentioned, at such com­
petent days, hours and places, when and so often as to him or them
shall seem meet and convenient, the aforesaid Rectors, Curates,
Ministers, Chaplains, Priests and Deacons, or any of them, and to
enquire as well concerning their morals as their behaviour in their
said Offices and Stations respectively, subject nevertheless to such
rights of reviews and appeal as are hereinafter given and reserved;
and, for the better accomplishment of the purposes aforesaid, We
do hereby grant and declare that the said Bishop of Sydney and
his Successors may found and constitute one or more Dignitaries
in his said Cathedral Church, and also one or more Archdeaconries
within the said Diocese, and may collate one or more fit and proper
persons to be Dignitaries of the said Cathedral Church, and also
one or more fit and proper persons to be the Archdeacons of the
said Archdeaconries respectively. Provided always that such Digni­
taries and Archdeacons shall exercise such jurisdiction only as
shall be committed to them by the said Bishop or his Successors;
and the said Bishop and his Successors may also from time to time
nominate and appoint fit and proper persons to be respectively the
Officers hereinafter mentioned, that is to say, to be Vicar General,
Official Principal, Chancellor, Rural Deans and Commissaries,
either General or Special, and may also appoint one or more fit
and proper Persons to be Registrars and Actuaries; Provided
always that the Dignitaries and Archdeacons aforesaid shall be
subject and subordinate to the said Bishop of Sydney and his
Successors, and shall be assisting to him and them in the exercise
of his and their Episcopal Jurisdiction and Functions; and We will
and declare that, during a vacancy of the said See of Sydney, by
the demise of the Bishop thereof or otherwise, the said Dignitaries
and Archdeacons, and the said Vicar General, and other Officers
respectively appointed as aforesaid, shall continue to exercise, so
far as by Law they may or can, the Jurisdiction and Functions
delegated to them; and that the said Registrars and Actuaries shall
respectively continue to discharge the Duties whereunto they have
been appointed, until a new Bishop of the said See of Sydney shall
have been nominated and consecrated, and his arrival within the
Limits of the said Diocese shall have been notified to the said
Parties respectively.

And We further will and do by these Presents declare and
ordain that it shall be lawful for any party, against whom any
Judgment, Decree or Sentence shall be pronounced by any of the
said Archdeacons, or by the Vicar General, or other Officer or
Officers of the said Bishop or his Successors, to demand a re­
examination and review of such Judgment, Decree or Sentence
before the Bishop or his Successors in person, who, upon such
demand made, shall take cognizance thereof, and shall have full
power and authority to affirm, reverse, or alter the said Judgment,
Sentence or Decree; And, if any Party shall conceive himself
aggrieved by any Judgment, Decree or Sentence, pronounced by the
said Bishop of Sydney or his Successors, either in case of such review or in any cause originally instituted before the said Bishop or his Successors, it shall be lawful for the said party to appeal to the said Archbishop of Canterbury or his Successors, who shall finally decide and determine the said appeal; Provided Always that, in any such Case of Appeal or review, notice of the Intention of the Party to make such appeal or Demand such review shall be given to the Bishop or Subordinate Judge, by whom the Sentence appealed from or to be reviewed shall have been pronounced, within Fifteen days from the promulgation thereof. And We do further Will and by these Presents ordain that, in all cases in which an Appeal shall be made or review demanded as aforesaid, a copy of the Judgment or Sentence in such case promulgated or given, setting forth the causes thereof, together with a copy of the Evidence on which the same was founded, shall without delay be certified and transmitted by such subordinate Judge to the said Bishop or his Successor, or by the said Bishop or his successor to the said Archbishop of Canterbury as the case may require. Moreover it is Our Will and pleasure and We do hereby declare and ordain that nothing in these Presents contained shall extend, or be construed to extend, to repeal, vary or alter the provisions of any Charter whereby Ecclesiastical Jurisdiction has been given to any Court of Judicature within the limits of the said Diocese. And, for removing Doubts with respect to the validity of the resignation of the said Office and Dignity of Bishop of Sydney, it is our further will that, if the said Bishop or any of his Successors shall by Instrument under his Hand and Seal, delivered and sent to the Archbishop of Canterbury for the time being, and by him accepted and registered in the Office of Faculties of the said Archbishop, resign the Office and Dignity of Bishop of Sydney, such Bishop shall, from the time of such acceptance and registration, cease to be Bishop of Sydney to all intents and purposes, but without prejudice to any responsibility to which he may be liable in Law or Equity in respect of his conduct in his said Office; and lastly, to the end that all things aforesaid may be finally holden and done, we will and grant to the aforesaid William Grant Broughton that he shall have Our Letters Patent under Our Great Seal of Our said United Kingdom duly made and sealed. In Witness whereof, we have caused these Our Letters to be made Patent. Witness Ourself at Westminster, the 25th day of June in the eleventh year of our Reign.

By Writ of Privy Seal.

[Enclosure No. 2.]

LETTERS PATENT FOR ERECTION OF BISHOPRIC OF NEWCASTLE.

[The first paragraphs were similar to the first three and a half paragraphs of the letters patent in enclosure No. 1.]

And We do further, by these Presents, erect, found, ordain, and constitute all those parts or portions of Our Colony, known or called by the names of the Counties of Northumberland, Hunter, Durham, Brisbane, Phillip, Bligh, Gloucester, Macquarie, Stanley, with the Territory to the North and West bounded by the 21st Parallel of Latitude, and the 141st Degree of East Longitude, to be a Bishop's See and Diocese, and to be called from henceforth the Bishopric
of Newcastle. Saving nevertheless unto Us, our Heirs and Successors, the powers of altering from time to time with the consent of the Archbishop of Canterbury for the time being, if the said See be vacant or otherwise of the said Archbishop and of the Bishop of the said See for the time being, the Limits of the said Diocese or of the jurisdiction of the Bishop thereof. And to the End that this our Intention may be carried into due effect, We having great confidence in the Learning, Morals, Probit and Prudence of Our Well Beloved, William Tyrrell, Doctor in Divinity, Do name and appoint him to be ordained and consecrated Bishop of the said See of Newcastle. And We do hereby signify to the Most Reverend Father in God, William, by Divine Providence Lord Archbishop of Canterbury, Primate of all England and Metropolitan, the erection and constitution of the said See and Diocese and our nomination of the said William Tyrrell, Requiring and, by the Faith and Love whereby He is bound unto Us, commanding the said Most Reverend Father in God to ordain and Consecrate the said William Tyrrell to be Bishop of the said See and Diocese in manner accustomed, and diligently to do and perform all other Things appertaining to his Office in this Behalf with Effect. And We do Ordain and declare that the said William Tyrrell, so by Us nominated and appointed, after having been ordained and consecrated thereunto as aforesaid, may by virtue of such appointment and consecration enter into and possess the said Bishop's See as Bishop thereof without Let or Impediment from Us. Our Heirs and Successors, for the Term of his Natural Life, subject nevertheless to the right of resignation hereinafter more particularly expressed.

Moreover, We Will and Grant by these Presents that the said Bishop of Newcastle shall be a Body Corporate, and do Ordain, make, and constitute him to be a Perpetual Corporation, and to have Perpetual Succession, and that He and His Successors be forever hereafter called or known by the name or Title of the Lord Bishop of Newcastle. And that He and His Successors by the name or Title aforesaid shall be able and capable in the Law and have full power to purchase, have, take, hold and enjoy Manors, Messuages, Lands, Rents, Tenements, Annuities and Hereditaments of what nature or kind soever in Fee and in Perpetuity, or for a Term of Life or Years, and also all manner of Goods. Chattels and Things Personal whatsoever, of what nature or value soever: And that He and His Successors, by and under the said Name or Title, may prosecute, claim, plead and be imploded, defend and be defended, answer and be answered, in all manner of Courts of Us. our Heirs and Successors, and elsewhere in and upon all and singular Causes, Actions, Suits. Writs and Demands, real and Personal and Mixed, as well Spiritual as Temporal, and in all other Things, Causes and Matters whatsoever. And that the said Bishop of Newcastle and his Successors shall and may for ever hereafter have and use a corporate Seal, and the said Seal from time to time, at his and their Will and pleasure, break, change, alter or make anew as He or They shall deem expedient.

And We do further by these Presents ordain and constitute the Town of Newcastle within the said Colony of Australia to be a Bishop's See, and the Seat of the said Bishop. And We do Ordain that the said Town of Newcastle shall henceforth be a City and be called the City of Newcastle.
And we do hereby further ordain and declare that the Church called "Christ Church" in the said City of Newcastle shall henceforth be the Cathedral Church and See of the said William Tyrrell and his Successors, Bishops of Newcastle.

And we do further ordain and declare that the said Bishop of Newcastle and his Successors shall be subject and subordinate to the Bishop of Sydney as Metropolitan in the same manner as any Bishop of any See within the Province of Canterbury in our Kingdom of England is under the Metropolitical See of Canterbury and the Archbishop thereof.

And We do further Will and ordain that every Bishop of Newcastle shall take an Oath of due obedience to the Bishop of Sydney for the time being as his Metropolitan, which oath shall and may be ministered by the said Archbishop or by any Person by him duly appointed or authorized for that purpose.

And We do further by these Presents expressly declare that the said Bishop of Newcastle and also his Successors, having been respectively by Us, our Heirs and Successors, named and appointed, and by the said Archbishop of Canterbury canonically ordained and consecrated according to the Form of the United Church of England and Ireland, may perform all the Functions peculiar and appropriate to the Office of Bishop within the said Diocese of Newcastle; and, for a Declaration of the Spiritual causes and matters in which the aforesaid jurisdiction may be more specially exercised, We do by these Presents further declare that the aforesaid Bishop of Newcastle and his Successors may exercise and enjoy full power and authority by Himself or Themselves, or by the Archdeacon or Archdeacons or the Vicar General, or other Officer or Officers hereinafter mentioned, to give Institution to Benefices, to grant Licenses to officiate to all Rectors, Curates, Ministers and Chaplains of all the Churches or Chapels or other places within the said Diocese, wherein Divine Service shall be celebrated, according to the Rites and Liturgy of the Church of England, and to visit all Rectors, Curates, Ministers and Chaplains, and all Priests and Deacons in Holy Orders of the United Church of England and Ireland, resident within the said Diocese, as also to call before Him or Them, or before the Archdeacon or Archdeacons, or the Vicar General, or other Officer or Officers hereinafter mentioned, at such competent days, Hours and Places, when and so often as to him or them shall seem meet and convenient, the aforesaid Rectors, Curates, Ministers, Chaplains, Priests and Deacons, or any of them, and to enquire as well concerning their Morals as their Behaviour in their said Offices and Stations respectively; subject nevertheless to such rights of review and appeal as are hereinafter given and reserved; and, for the better accomplishment of the Purposes aforesaid, We do hereby grant and declare that the said Bishop of Newcastle and his Successors may found and constitute one or more Dignities in the said Cathedral Church and also one or more Archdeaconries within the said Diocese, and may collate one or more fit and proper persons to be Dignitaries of the said Cathedral Church, and one or more fit and proper persons to be Archdeacons of the said Archdeaconries respectively. Provided always that such Dignitaries and Archdeacons shall exercise such jurisdiction only as shall be committed to Them by the said Bishop or his Successors, and the said Bishop and his Successors may also from time
1847.
27 Aug.

Letters patent for erection of bishopric of Newcastle.

to time nominate and appoint fit and proper persons to be respectively the Officers hereinafter mentioned, that is to say, to be Vicar General, Official Principal Chancellor, Rural Deans, and Commissaries either General or Special, and may also appoint one or more fit and proper persons to be Registrars and Actuaries. Provided always that the Dignitaries and Archdeacons aforesaid shall be subject and subordinate to the said Bishop of Newcastle and his Successors, and shall be assisting to him and them in the Exercise of his and their Episcopal Jurisdiction and Functions. And We Will and declare that, during a Vacancy of the said See of Newcastle by the demise of the Bishop thereof or otherwise, the said Dignitaries and Archdeacons and the said Vicar General and other Officers respectively appointed as aforesaid shall continue to exercise, so far as by Law they may or can, the Jurisdiction and Functions delegated to them; and that the said Registrars and Actuaries shall respectively continue to discharge the Duties whereunto they have been appointed, until a New Bishop of the said See of Newcastle shall have been nominated and consecrated, and his arrival within the limits of the said Diocese shall have been notified to the said Parties respectively.

And We further Will and do by these Presents declare and Ordain, that it shall be lawful for any Party against whom any Judgment, Decree, or Sentence shall be pronounced by any of the said Archdeacons, or by the Vicar General, or other Officer or Officers of the said Bishop, or his Successors to demand a re-examination and review of such Judgment, Decree or Sentence before the Bishop or his Successors in person, who upon such Demand made shall take cognizance thereof and shall have full power and authority to affirm, reverse, or alter the said Judgment, Sentence or Decree; and, if any party shall conceive himself aggrieved by any Judgment, Decree, or Sentence pronounced by the said Bishop of Newcastle or his Successors either in case of such review or in any cause originally instituted before the said Bishop or his Successors, it shall be lawful for the said Party to appeal to the said Bishop of Sydney or his Successors, who shall finally decide and determine the said appeal. Provided always that, in any such case of appeal or reviews, notice of the intention of the Party to make such appeal or Demand such review shall be given to the Bishop or subordinate Judge, by whom the Sentence appealed from or to be reviewed shall have been pronounced within Fifteen days from the promulgation thereof. And We do further Will and by these Presents ordain that, in all cases in which an Appeal shall be made or review demanded as aforesaid, a Copy of the Judgment or Sentence, in such case promulgated or given, setting forth the causes thereof, together with a Copy of the Evidence on which the same was founded, shall without delay be certified and transmitted by such subordinate Judge to the said Bishop or his Successor, or by the said Bishop or his Successor to the said Bishop of Sydney as the case may require.

Moreover It is Our Will and Pleasure, and We do hereby declare and ordain that nothing in these presents contained shall extend, or be construed to extend, to repeal, vary or alter the Provisions of any Charter whereby Ecclesiastical Jurisdiction has been given to any Court of Judicature within the Limits of the said Diocese,
and for removing doubts with respect to the validity of the Re-
signation of the said Office and Dignity of Bishop of Newcastle.  
It is Our further Will that, if the said Bishop or any of his Suc-
cessors shall by Instrument under his Hand and Seal delivered and 
sent to the Archbishop of Canterbury for the time being and by 
him accepted, and registered in the Office of Faculties of the said 
Archbishop, resign the Office and Dignity of Bishop of Newcastle,  
such Bishop shall from the time of such acceptance and registrati-
on cease to be Bishop of Newcastle to all intents and purposes, 
but without prejudice to any responsibility to which he may be 
liable in Law or Equity in respect of his conduct in his said Office.  

And lastly, to the End that all things aforesaid may be firmly 
holden and done, We Will and grant to the aforesaid William 
Tyrrell that He shall have Our Letters Patent under Our Great 
Seal of Our said United Kingdom duly made and sealed.  In Wit­ness whereof We have caused these Our Letters to be made Patent. 
Witness Ourselves at Westminster the 25th day of June in the 
Eleventh Year of Our Reign.

By Writ of Privy Seal.

[Enclosure No. 3.]

LETTERS PATENT FOR ERECTION OF BISHOPRIC OF MELBOURNE.

[These letters patent were similar to those contained in enclo-
sure A with the substitution of Charles Perry for William  
Tyrrell, and Melbourne for Newcastle, wherever these names occur, 
and of the church, called “St. James the Great,” for the church, 
called “Christ Church,” as the cathedral church; and with the 
alteration of the boundaries of the diocese as follows:—]

All those parts or portions of Our said Colony, known or called 
by the name of Port Phillip District, the same being bounded by a 
Line drawn from Cape Howe to the nearest Source of the River 
Murray, and by the course of that River until it reaches the 141st 
Parallel of East Longitude, to be a Bishop’s See or Diocese, and 
to be called henceforth the Bishopric of Melbourne.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 173, per ship Sunflower; acknowledged by 
Earl Grey, 21st February, 1848.)

My Lord,

Government House, 27th August, 1847.

Referring to my Predecessor’s Despatch of the 17th No-
vember, 1845, No. 190, reporting that, with the advice of the 
Executive Council, Leave of Absence for eighteen months with 
half Salary had been granted to Mr. Assistant Surveyor Bourke;  
I now do myself the honor to state to Your Lordship that the 
time for which leave of absence was granted to Mr. Bourke, and 
which was confirmed by Mr. Gladstone’s Despatch, No. 28 of 
28th May, 1846, has expired, but that he has not yet returned to 
the Colony.

I have, &c.,

CHS. A. FITZ ROY.
1847. 28 Aug.

Ship chartered for conveyance of "exiles."

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 211, per ship Kelso; acknowledged by Sir Charles Fitz Roy, 23rd March, 1848.)

Sir,
Downing Street, 28 August, 1847.

I have to acquaint you that the ship "Marion" has been chartered for the conveyance of Three hundred Exiles from Millbank, Pentonville and Parkhurst Prisons to Port Phillip.

I have, &c.,
GREY.

30 Aug.

Despatch acknowledged re redemption of debentures.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 212, per ship Kelso; acknowledged by Sir Charles Fitz Roy, 8th January, 1848.)

Sir,
Downing Street, 30 August, 1847.

I have the honor to acknowledge the receipt of Your Despatch, No. 19 of the 30th of January, reporting that the outstanding Debentures issued on account of former Emigration, to the amount of £100,000, will be paid off this year, and that the Crown Revenues will therefore become quite unencumbered; and recommending a renewal of Emigration to the extent of 5,000 Statute Adults.

I have to state that, on the expediency of renewing Emigration, I entirely concur in the opinion you express. I am fully alive to the urgent demand for labor, and it would be a source of deep regret to Her Majesty's Government if, with a flourishing revenue and a large trade, the prosperity of the Colony were permanently endangered for want of hands to develop its resources.

The only difficulty has been to settle the mode in which the expenditure should be provided for. It was ascertained that to make a stipulation as you suggest that, in the event of your failing from any unexpected reason to raise the requisite Funds, the Ship Owner should accept payment in Debentures, would be liable to defeat the measure or at any rate to expose the Colony to the most serious disadvantage in the terms it could obtain. On the other hand, it might have been in vain, and would possibly have been attended with difficulties of a legal nature to attempt this year to raise a Public Loan for the Colony in the London Money Market. For some time before receiving your Despatch, I had under my consideration a proposal of an advance by one of the Banks; but to take a Loan of this kind by private Contract would have been a questionable measure, and on investigation it appeared that virtually the offer of the Bank was only tantamount to advancing the money in the Colony, where, from your—
representation in the present Despatch, I trust that it will be in your own power to raise it in a regular way by public Competition.

On the whole, therefore, being anxious to relieve the Colony from that extreme want of labour which at present exists, and relying on the confident expectation you express that Funds can be raised, I have resolved to direct the Emigration Commissioners to take the necessary measures without delay to send out 5,000 Statute Adults to New South Wales.

It remains that I should notice some particulars on the manner in which the Emigration is to be conducted, and on the pecuniary arrangements.

I agree with you that it is important that means should be taken to distribute the Emigrants promptly after arrival. Some deficiency in this respect is said to have been experienced at the time of the last Emigration to New South Wales. So fully do I feel the importance of this object, that I should especially wish you to adopt every advisable means for corresponding with the interior on the demand for Servants, and for employing during the Emigration any additional Agency which may appear calculated more readily to find the people good employment in the Country. But I do not think it would be advisable to insert, as you suggest, a provision in the Charter-parties that Ships may be ordered from Sydney and Port Phillip to Minor Ports. This measure might affect Insurances; it would impair the facilities of Ship Owners for taking Cabin Passengers and Cargo, and, by thus diminishing convenience and economy, would entail the disadvantage on the Colony of enhancing terms on which Contracts could be entered into. Important therefore as I deem the object, it appears to me that it may be more fitly met by making use of the Coasters and Steamers on the spot. And I have not, therefore, caused any change to be made in the Charter Parties.

I may take the present opportunity of informing you that it has been mentioned by Mrs. Chisholm, in some evidence before a Committee of the House of Lords, that there used to be a want of proper accommodation for the reception and protection of young women immediately on their landing from Emigrant Ships. This is a point to which I would request your early attention, and I am sure that I need not impress upon you the importance that single women, who arrive by Emigrant ships, should not be exposed to any hardships or dangers which can possibly be averted by the Government.

I have not caused the Emigration to be resumed on the footing of what is called Bounty. That system, in its original shape, has long since been abandoned. In the modified form in which
1847.
30 Aug.

it was last used, it was not unsuccessful, because fortunately it fell into the hands of Contractors of great experience and respectability. But there is always the risk that the Contract may be acquired by less deserving or less competent persons. Many Merchants may be excellent Shipowners, without at all understanding the complicated business of selecting and despatching large bodies of Emigrants.

On the whole, there is stated to have grown up a general consent among all parties, that it is better that the Shipowners should attend to their own business of finding Ships, and the Government not abandon its proper functions of selecting Emigrants; and, upon this footing accordingly, I have directed the Emigration Commissioners to proceed in carrying into effect the present measure. No Board of Inquiry is to sit in order to examine in the case of every Emigrant, whether or not he appears a Man on whom it is fit to pay Bounty.

The Commissioners will select the most fitting Candidates they can procure, and the Shipowner will be paid for every passenger whom he conveys.

Turning now to the pecuniary arrangements, I have to inform you that the Commissioners have ascertained that there will be no objection on the part of the Trade to dispense with receiving any portion of the freight at the time of Sailing from this Country; but that, in order to avoid the inconvenience of Agency and remittance, Owners would rather not be paid in the Colony, and would prefer waiting till intelligence reaches England of the safe arrival of the Emigrants.

The Lords of the Treasury have agreed that, in order to promote this arrangement, they will authorise the Chief Officer of the Commissariat to receive any Sums which you may pay into the Military Chest for Emigration purposes, and will direct him to give immediate notice of the same to their Lordships, upon which they will at once issue the same amount to the Emigration Commissioners to be applied to the objects of the present measure.

I have to instruct you therefore as soon as possible to raise and pay to the Commissariat a Sum of £20,000, in order to meet the liabilities of the earlier Ships, and to raise and pay in like manner the remainder of the total amount of £100,000 in Instalments of not less than £10,000 in each succeeding month until the whole be completed. Half this amount of £100,000 is to be raised by the Sale of Debentures secured separately on the Crown Revenues of Sydney, and half by the sale of Debentures secured on the Crown Revenues of Port Phillip. The Emigrants will also be divided equally between those two destinations, so that each will receive the number of Emigrants for which it pays.
In your Despatch, you appear to contemplate the possibility of issuing at par Debentures bearing only 5 Per cent. Interest. But the value of money has since so much risen in almost every part of the world that I apprehend it is very unlikely you would now find such favorable anticipations realized. If such should be the case, it will be of great importance to the permanent advantage of the Colony that you should rather meet this change in the Money Market by raising the rate of interest at which the Debentures are issued, than by consenting to allow a discount on Debentures issued at 5 per cent. By the latter course, the interest, to be paid on the amount of money actually paid by the leaders into the Colonial Treasury, would probably be the same, or nearly the same, as that paid on the money received for Debentures bearing a higher nominal interest; but the Colony would incur a loss in the ultimate repayment of the principal, and also the power of hereafter obtaining a reduction in the rate of interest, if a fall in the market value of money should occur.

With this general remark, I must of course leave it to you to be guided by local circumstances, at the time, in the details of a transaction of this nature.

One observation only I must strongly impress upon you. The present Emigration has been commenced in consequence of your report that the outstanding Debentures will in the course of this year be paid off; extensive liabilities are about to be contracted in the faith that the Colony will supply the means of defraying the charges incurred for an object, justly described as of such vital importance to its interest. I do, therefore, rely upon you to omit no effort to ensure the prompt raising and remittance of the Funds necessary to maintain the Credit of New South Wales, and to justify the Government on future occasions in continuing or renewing similar efforts to supply it with labor. No useless expense, of course, should be incurred in borrowing the money; but, should circumstances be adverse, you will still bear in mind that the first duty is to provide, even at a sacrifice, the means of meeting the engagements now going to be formed, and, that no ordinary difficulties must on any account be considered a reason for failing to satisfy that paramount object. I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 176, per ship Sunflower; acknowledged by earl Grey, 14th April, 1848.)

My Lord,

Government House, 30th August, 1847.

With reference to my Despatch, No. 141 of the 11th ultimo, forwarding the proceedings of the Board appointed to
Resignation of J. Dunlop as astronomer.

1847. 30 Aug.

Examine into the state of the Books and Instruments in the Observatory at Parramatta, and reporting the steps I had taken to insure their preservation, I have the honor to transmit the copy of a letter from Lieut. Colonel Gordon, Commanding Royal Engineer, and the Ordnance Storekeeper, enclosing a communication from Mr. Dunlop, intimating his wish to resign the appointment of Astronomer in consequence of his continued state of ill health, which incapacitates him from the fatigue of observing; and I have the honor to report that I have accepted his resignation accordingly.

I have also approved the suggestion of the Board that the expense incurred in packing and removing the Instruments from the Observatory to the Ordnance Store in Sydney be charged to the Engineer Estimate for Civil Services.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

MR. JAMES DUNLOP TO THE BOARD OF VISITORS OF THE PARRAMATTA OBSERVATORY.

Observatory, Parramatta, 18th August, 1847.

Gentlemen,

The Observations were commenced by me about the middle of January, 1832, with a five-and-a-half (5½) feet transit and a two (2) feet mural circle by Troughton, and continued until the transit was replaced by Jones' three-and-a-half (3½) feet transit circle in the middle of the year 1835, after which the mural circle was principally used, the circle by Jones being very difficult for one person to work.

The observations consist of right ascensions and polar distances with moon, culminating stars, comets, etc. The reductions of a portion of the observations between 1832 and 1835 have been proceeded with, but, having no assistant or clerk, they have not proceeded so far as I could wish.

The buildings of this Observatory are in a very bad state of repair. The white ant has been most destructive, and, as the surrounding ground is full of them, it would be fruitless to attempt a repair, which could not last above two or three years at most. The building was originally of a very inferior description, being only intended as a private establishment* and not calculated to last beyond a few years. (The building was commenced in December, 1821, and the instruments were fixed and the observations commenced about the 11th of March, 1822).

The subsoil is alumina schistose, into which the stone piers are sunk several feet, and from the access of air and water the alumina is gradually dissolving and the pillars sinking, and some of them unsteady.

The Library is in much the same state as it was when I took charge of it in 1832.

The manuscript observations are contained in five volumes and six or seven smaller volumes.

* Note 50.
The instruments and clocks are in good working order. The spirit level of the transit circle, by Jones, burst by exposure to the sun a few months after it was set up, the tube being filled with sulphuric ether, which boils at a very low temperature, far below the powerful influence of the solar rays. This circle would have been a more powerful instrument had it read off with four microscopes instead of three. The errors arising from eccentricity (if any) would thereby in a great measure have been neutralized, which cannot be the case with three microscopes. Altogether it is an unhandy instrument.

As the building cannot long protect the instruments in safety, I would recommend their removal to one of Her Majesty's Stores in the Military Barracks.

The site of the present building is what I could not recommend for the erection of a more complete and useful establishment, not only on account of the poisoned state of the ground by the white ant, but its local situation, and also its distance from Sydney, the sea-port. I think a very desirable and convenient site may be obtained on the high grounds on the North Shore in the vicinity of Sydney, out of the smoke of the city and view of the harbour and shipping, which would give to the masters of vessels the desirable opportunity of obtaining their time, and ascertaining the rate of their chronometers by signal or ball as practised at Greenwich and other places.

For myself, I have now weathered it nearly three-score years, and I find the last quarter of a century spent in this country has considerably blunted my energies of body and mind. With your recommendation to His Excellency the Governor, it is my wish to try a change of scene and occupation with what little health and strength remains, to endeavour to weather it a few years longer.

I have, &c.,

JAMES DUNLOP.

[Enclosure No. 2.]

LIEUT.-COLONEL GORDON AND MR. ROGERS TO COLONIAL SECRETARY THOMSON.

Sir,

Sydney, 23rd August, 1847.

1. In reference to the accompanying letter from Mr. Dunlop, the Astronomer at Parramatta, we beg to request the authority of his Excellency the Governor for the instruments and books belonging to the Parramatta Observatory being packed in cases and deposited in either the Royal Engineer Office or Ordnance Store in Sydney.

2. Captain King, R.N., the senior Commissioner for visiting the Observatory, previously to his leaving Sydney acquiesced in the propriety of this measure as the best that could be adopted for the safety of the instruments and books pending the construction of a new Observatory.

3. It is proposed, subject to the approval of His Excellency, to charge to the Engineer Estimate for Convict Services the expense to be incurred in providing the packing cases and in the removal of the instruments and books.

We have, &c.,

RICH. ROGERS, Ordnance Storekeeper.
HISTORICAL RECORDS OF AUSTRALIA.

1847.
31 Aug.

LORD GREY TO SIR CHARLES FITZ ROY.
(Circular per ship Kelso.)

Blank returns for "blue book."

LORD GREY presents his compliments to Sir Charles Fitzroy and transmits herewith 2 copies of Blank Returns of which the Annual Blue Book is composed for the year 1847.

Downing Street, 31st August, 1847.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch marked "Separate," per ship Sunflower; acknowledged by earl Grey, 18th February, 1848.)

My Lord,

Government House, 31st August, 1847.

Referring to my Despatch of the 29th ultimo, I have the honor to enclose the accompanying Address of Condolence with Lady Gipps, on the death of the late Sir George Gipps,* from the Mayor and Aldermen of the City of Sydney, who have requested me to forward it through your Lordship to insure its safe transmission.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

COPY of an Address of Condolence to Lady Gipps on the death of Sir George Gipps, adopted by the City Council on 19th July, 1847.

May it please Your Lordship,

We, the Mayor, Aldermen and Councillors of the City of Sydney in Council assembled, beg leave to offer to your Ladyship our deep Sympathy and condolence on the painful bereavement with which it has pleased God to visit you in the sudden death of your Consort, His Excellency Sir George Gipps, who, for upwards of eight years, and during a period of unparalleled Commercial embarrassment and difficulty, administered the Government of this distant but important portion of Her Majesty's dominions.

It must be gratifying to Your Ladyship to feel that the name of Sir George Gipps is associated with the introduction of Free Institutions into this Colony, and in such proud confection will survive, when the present generation has passed away, and the conflicting interests, which the introduction of liberal measures must always put in motion, are forgotten.

While we maintain a grateful remembrance of the Parent of that Institution which gave us Corporate existence, we have reason, on account of our Constituents, deeply to regret the untimely death of one whose great abilities and powerful influence might still have been exerted in our behalf, and our regret is increased by the conviction that his death was hastened if not occasioned by his anxious and unremitting labours in the service of his Country while Governor of New South Wales.

In conclusion we feel assured that, in the expression of our deep and unfeigned sympathy with your Ladyship on the irreparable loss which you have sustained, we are echoing the sentiments of

* Note 40.
the whole Community, where your virtues will long be remem-
bered: and praying that He, who has laid his afflicting hand on you,
may give you strength to endure the blow, and that you may be
preserved for many years to watch over the education of your
son, and to train him up to tread in the Steps and to emulate the
upright and manly example of his illustrious Father.

We have, &c.

JOHN RAE, Town Clerk.

THOS. BROUGHTON, Mayor.

SIR CHARLES FITZ ROY TO EARL GREY.

My Lord, Government House, 1st September, 1847.

I have the honor to acknowledge the receipt of your Lord-
ship's Despatches numbered in the margin,* which arrived this
day by the ship "Sterling."

I have, &c, CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

Sir, Downing Street, 3 September, 1847.

I have to acknowledge the receipt of Your Despatch of the
6th November, 1846, No. 56, transmitting a Memorial from
Gentlemen resident in Sydney, together with copies of Petitions
presented to the Legislative Council of New South Wales against
the revival of Transportation to the Colony, and also the Report
of a Committee of the Legislative Council upon the same subject.

I have to inform you that, these documents having received
the attentive consideration of Her Majesty's Servants, we have
not been able altogether to assent to the views which have been
adopted by the Committee of the Legislative Council, or to the
greater part of the proposals which are founded upon them; but
that the result of their enquiry suggests a course of proceeding
which I trust will prove of great benefit both to the Colony and
to the Mother Country.

The system of assignment, tho' no doubt of great pecuniary
advantage to those of the Settlers in New South Wales and
Van Diemen's Land to whom it was the means of affording a
supply of gratuitous or, at all events, of very cheap labour, is one
which has been condemned on grounds so conclusive that I can-
not anticipate the possibility of its ever being resumed. Hence it
is unnecessary that I should enter into any examination of the
extensive changes, which are proposed on the supposition that it
might be so.

* Marginal note.—Nos. 122 to 146 (inclusive). Circular, 8 April, 1847; Circular,
12 April, 1847; Circular, 16 April, 1847; Circular, 19 April, 1847; Circular,
19 April, 1847.
On the other hand, I concur with the Committee in considering it to be inexpedient that Transportation to New South Wales should be revived with the view to the infliction in that Colony of punishment upon Convicts by placing them in Penal Gangs.

To whatever extent it may be found advisable that Penal labour should be inflicted upon Convicts, the experience of the last few years demonstrates the importance of its being so where its effects can be more closely watched by Her Majesty's Government; and such improvements, as from time to time may be found to be necessary in the system under which it is enforced, more promptly introduced.

I also concur with the Committee in thinking that Convicts, holding Tickets of Leave or Conditional Pardons, may be sent to Australia with great advantage to themselves, the Mother Country and to the Colony. To Convicts themselves, their removal to Australia, after having undergone a reformatory course of punishment at home, would be the best means of affording a prospect of once more becoming honest and useful Members of Society. To the Mother Country, there would be the advantage of being relieved from the presence of a Class of persons, who, if they remain at home, are almost irresistibly forced back by the circumstances in which they are placed, into a life of crime; while, to the Colonies, there would arise the advantage of obtaining without charge a supply of labour which is greatly needed, and this, as I believe, without serious danger (supposing proper precautions to be adopted) of entailing upon the Colonial Society countervailing moral evils.

Of these precautions, the most essential is that Offenders thus sent into exile should have been previously subjected to a reformatory punishment at home. Though exile is no doubt in itself a punishment, and in some cases a severe one, still, as experience proves that many thousands of honest and industrious persons of the labouring class are annually content to submit to the pain of leaving their Native Country for the sake of the higher Wages which they can earn in the Colonies, it is impossible to regard mere removal to the Australian Colonies with Tickets of Leave or Conditional Pardons, as a sufficient punishment for persons who have been guilty of serious offences. Those who have Conditional pardons are, on their arrival in Australia, in precisely the same condition as free Emigrants of the working Class, except in the single particular of not being at liberty to return to their own Country; and the situation of the holders of Tickets of Leave is practically but little different, since, while
they reside in the districts appointed for them and maintain themselves by honest industry, conforming to certain rules by no means of a severe character, they are not interfered with.

Hence, for the ends of Justice, it is absolutely necessary that Offenders should be subjected to some serious punishment at home, before they are thus sent out to the Colonies; and the experience of the last few years justifies the hope that, by adopting an improved system of imprisonment, it may be practicable to render this previous punishment both an object of salutary dread to those disposed to the commission of Crimes, and reformatory as regards Offenders who are subjected to it.

I am happy to find that this conclusion is supported by the Report now before me of the Committee of the Legislative Council of New South Wales, and that, from the evidence they had of the good conduct of the Exiles sent to Port Phillip, this Committee adopted the opinion that Convicts, who have undergone a reformatory punishment at home, might be received with advantage in the Colony; the reasons, however, which they have pointed out for sending Offenders to Australia after their preliminary punishment at home rather with Tickets of Leave than with Conditional Pardons, seem to be just; and they are also, as I find by a Despatch I have received, supported by the opinion of Mr. La Trobe, the Acting Lieutenant Governor of Van Diemen's Land, and of Dr. Hampton, the Comptroller of the Convict Department in that Colony. Should it appear, therefore, from the proceedings of the Legislative Council on its re-assembling, that that body concurs in the opinion expressed by its Committee on this subject, an arrangement will probably be made, in conformity with the views I have now stated, for sending Convicts, after having undergone some portion of their punishment, to New South Wales as Holders of Tickets of Leave or Conditional pardons in general, for the reasons, I have stated, with the former, but in some cases, in which greater indulgence would seem to be proper, with the latter. Her Majesty's Government would of course reserve to themselves the discretion of deciding in each individual case in which of these conditions Convicts should be sent out.

I have to add that it would be a necessary part of the arrangement that, whenever the conduct of Married Convicts so sent to Australia should be such as to entitle them to the indulgence, Her Majesty's Government would be prepared to afford facilities to their Wives and Families to join them; and that still further to guard against the social evils which have heretofore resulted from the system of transportation, means would also be provided (in accordance with the recommendation of the Committee of the
Legislative Council) for sending to Australia, at the cost of the British Treasury, a number of Free Emigrants equal to that of the Offenders who may go there.

Such are the conclusions, to which Her Majesty's Servants have been led, after very mature consideration of this most important subject, and which I hope will be received as not satisfactory by the majority, both of those of the Inhabitants who have petitioned the Council against the renewal of Transportation, and of those who concur in the views of the Committee of that Body by which the subject was investigated. The former will find that there is no intention of resuming Transportation to New South Wales, as it formerly existed, to which they entertain what I regard as such just objections; the latter, that it is contemplated (if the further advices to be expected from the Colony should show the Legislative Council to agree in the views of their Committee) in some degree at least to adopt their suggestions for rendering the system of secondary punishment in this Country subservient to the object of encreasing the supply of labour in the Colony.

I have, &c.,

GREY.

Earl Grey to Sir Charles Fitz Roy.
(Despatch No. 214, per ship Alert.)

Sir,
Downing Street, 3 September, 1847.

With reference to my Dispatch, No. 200 of the 31st Ultimo, I have now to acquaint you that Her Majesty has been pleased to confirm and allow, the Act (No. 13), passed by the Governor and Legislative Council of New South Wales on the 30th of October, 1846, and entitled "An Act to authorize and regulate for a limited time the Warehousing under Bond and the exportation free of duty of Spirits distilled within the Colony of New South Wales."

You will communicate Her Majesty's decision to the Inhabitants of the Colony under your Government by a Proclamation to be published in the usual and Most authentic manner.

I have, &c.,

GREY.

Earl Grey to Sir Charles Fitz Roy.
(Despatch No. 216, per ship Alert.)

Sir,
Downing Street, 4 September, 1847.

I referred a copy of your Dispatch of the 17th of June, 1846, No. 118, to the Lords Commissioners of the Treasury, and I have now to inform you that their Lordships have intimated
to me their approval of your having established a Branch of the Customs Department at the Township of Eden in Twofold Bay, and of the appointment of Mr. Hamon Massie as Sub-Collector and of Mr. Edmund Gibbes as Landing Waiter at that station.

The requisite directions have been given by their Lordships for the confirmation of those appointments.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(A private despatch, per ship Alert.)

Sir, Downing Street, 7th of September, 1847.

I have to acknowledge the receipt of your letter of the 3rd of April last, marked "Private," in reply to which I have only to express my regret at your having suffered so much from the accident* which you have met with.

I have, &c.,

GREY.

MEMO. FROM COLONIAL OFFICE.
(Per ship Alert.)

The accompanying letter has been sent to this office with a request from a person, subscribing himself Michael Carroll, that it may be forwarded through the Governor of New South Wales in order that he Michael Carroll may be protected against some fraud which he seems to apprehend.

Colonial Office, 7th September, 1847.

[Enclosure.]

[A copy of this letter is not available.]

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 217, per ship Alert.)

Sir, Downing Street, 9 September, 1847.

With reference to Lord Stanley's Despatch to Your Predecessor, No. 167 of the 30th of November, 1844, with its Enclosures, relative to the enquiry which had previously taken place into the state of the Customs Department at Port Phillip and to the Surcharges which on that occasion were raised against Mr. Webb, the Sub-Collector at Melbourne, I now transmit, for your information and guidance, the accompanying Extract from a report of the Commissioners of Customs, with copies of a Minute of that Board, and of the Balance Sheet prepared in conformity therewith, together with the Copy of a communication

* Note 42.
which the Lords of the Treasury have directed to be made to the Commissioners, from which you will perceive that their Lordships have decided that, excepting to the extent of Thirty two Pounds, 9s. 7d., Mr. Webb should not be held responsible for the amount of the above mentioned surcharges, and that he is to be reemployed as first Clerk to the Collector at Sydney at a Salary of Three hundred Pounds per annum. I have, &c.,

GREY.

[Enclosure No. 1.]

REPORT To the Lords Commissioners of Her Majesty's Treasury. We beg to represent that, in Our Report to Your Lordships, dated 30th October, 1844, No. 1467, upon a letter from Mr. Stephen transmitting, by desire of Lord Stanley, copy of a dispatch from the Governor of New South Wales relative to an enquiry, which had been instituted in pursuance of our directions by Mr. Barnes, the Collector of Customs at Hobart Town, Van Diemen's Land, into the state of the Customs Department at Port Phillip, New South Wales, and which has led to the discovery that Mr. Webb, the Sub-Collector at that place, had failed to account to the Crown for a considerable portion of the Customs revenue of the Colony, which had been confided to his management.

We adverted to the disorganised state, in which the department had been found by Mr. Barnes, as well as to the numerous surcharges which had been raised upon Mr. Webb's Account; and we at the same time stated that under the circumstances we had felt it to be our duty to suspend Mr. Webb and to direct that Mr. Cassell, the Senr. Clerk to the Collector at Hobart Town, Van Diemen's Land, to continue to act as collector, pending Mr. Webb's suspension, and to proceed in the adjustment of his Accounts, for which purpose we had furnished him with detailed instructions for his Government.

That we have recently received the Report of Mr. Cassell, accompanied by Mr. Webb's explanations, that, after a careful examination of these different statements by the Inspector and Examiner of Plantation Accounts, that Officer had laid before us for Our consideration and decision a statement shewing under 5 different and distinct heads the balance apparently outstanding against Mr. Webb, amounting to the sum of £3,108 11s. 1d.

We beg to annex a copy of Our Minute, dated 23d of June, 1847, marked B, wherein we have detailed the grounds upon which we consider Mr. Webb ought to be relieved from the greater part of the Surcharges therein referred to.

With respect, however, to the surcharges of £1,778 6s. 11d. on account of Wharfage Entrances and clearances, short charged, We beg to annex Copies of the opinion of the Law Officers of the Colony upon the subject, having to state, as already observed in Our minute of the 23d June last upon this item of surcharge, that as the total amount of the sum short charged for Wharfage is entirely of a local nature and unconnected with the Customs revenue, it will be for the competent Authorities in the Colony to decide how far they may see fit to waive their claim to the whole or to any portion of the surcharge.
We also annex a revised Balance sheet, marked C, which has been prepared in pursuance of the directions contained in Our Minute of the 23d June last, from which your Lordships will observe that the actual sums with which Mr. Webb stands in our opinion charged, exclusive of the sum of £1,778 6s. 11d. due on account of Wharfage, is £32 9s. 7d.

With respect to the individual case of Mr. Webb himself, who your Lordships are aware was a Clerk in the Customs Department at Sydney, and had been directed in 1838 to proceed for the purpose of acting temporarily as sub-collector at Port Phillip, We have to state that although there can be no doubt that he failed in carrying out a successful termination the mission with which he had been entrusted, and that the Department generally was in a very disorganized state at the period of Mr. Barnes' visit in 1844, nevertheless considerable allowances are to be made for the difficult situation in which he was in the first instance placed. Mr. Barnes himself having represented at the opening of the Port, when there was scarcely a Hut on the Settlement, or the assistance of any person to be procured, that Mr. Webb's embarrassment was of no ordinary nature, and that it was beyond all human power to carry into effect or enforce at the time our adherence to those rules and regulations, by which long established Ports are governed; in addition to which duties, it is to be observed that Mr. Webb was at one time required under our order from your Lordships to discharge the duties of Colonial Treasurer, which duties we expressed our apprehension in Our report of the 12th April, 1838, No. 548, might be found incompatible with his duties as an Officer of Customs. Under all the circumstances however of Mr. Webb's case, and although we would by no means feel ourselves justified in recommending that he should be again placed as the principal Superintending Officer of a Port like Melbourne, nevertheless we are disposed to give him an opportunity of redeeming his character, and we submit that, upon his foregoing the Balance of £32 9s. 7d. and undertaking to abide the decision of the Colonial Government in regard to the sum of £1,778 6s. 11d. due on account of wharfage, that he be appointed 1st Clerk to the Collector at Sydney at the established Salary of £300 per annum and which office is at present vacant by the suspension of Mr. Bury.

THOS. FREEMANTLE. ED. SAURIN.
H. J. DAWSON. J. GOULBOURNE.

Custom House, 6th August, 1847.

[Sub-enclosure marked B.]

Copy of Board's Minute, dated 23d June, 1847.

The Board have had under consideration the report of the Inspector and Examiner of Plantation Accounts, submitting for their consideration and direction the result of the investigations into the accounts of Mr. Webb, while acting in the capacity of sub-collector at Port Phillip, and from which it would appear that the Balance outstanding against that officer, but subject to the revision of the Board, and which may be classed under the 5 following heads, amounts altogether to the sum of £3,108 lis. 1d., vizt.:

1st. Miscalculations and Miscellaneous sums .............. £111 14 6

The Board are of opinion that Mr. Webb cannot be relieved from the surcharge of £19 16s., being the amount improperly and without due authority advanced to Mr. Le Sceuf, late Acting landing Surveyor, nor from the sum of £12 13s. 6d. being the amount paid in deposit by Mr. Graham for the duties due on Brandy and Whiskey, imported from Leith in 1841, and which clearly have not been paid or accounted for the Colony.
With respect to the remainder of the sums under this head, including the surcharges on the Milk Punch, and which amount altogether to the sum of £79 4s. 11d., the Board are of opinion that Mr. Webb should be relieved, there being no ground whatever to suppose, however irregular he may have conducted the Department, that he was guilty of any misappropriation with respect to them.

2nd. Goods improperly admitted as British... £463 2 0

The most material item forming this heavy surcharge, the Board observe is £326 8s., being the difference between the Foreign and Colonial duty charged on a quantity of rum imported from Bristol.

The Board are willing to give Mr. Webb the benefit of the Circumstance that the Cocket that accompanied the Rum from Bristol omitted to certify that the Rum had been mixed with Foreign spirits, and advertising to their decision in the case of Rum imported into Van Diemen's Land per the Duilius from Bristol under similar circumstances in 1842, they direct that he be relieved from the same.

With respect to the remainder of the sums amounting to £126 15s. under Head, the Board, advertising to the imperfect nature of the Documents which accompanied the goods with a view of establishing their origin and character, as well as to the circumstance that the Landing Surveyor, whose duty it was to have ascertained that fact by examination of the goods as well as a comparison of the result with the proper documents, has been dismissed; and, as there is no ground whatever to suppose that Mr. Webb has not fully accounted to the Colony for all the duties which he received on their account, The Board are of opinion that his account may be relieved from the said sum of £126 15s.

3. Goods Warehoused but not accounted

With respect to the surcharges arising under these heads, the Board have to observe that, at the period at which many of the transactions which have given rise to these surcharges took place when the Colony was in its infancy, that no proper establishment had been fixed for Melbourne, and that the Individuals, who had been temporarily employed, ought never in consequence of their inefficiency and indifferent character to have been admitted into the Department, that the warehouses were insecure, so much so as to leave no doubt that pillage to a considerable extent must have been carried on, the Board, therefore, although they cannot absolve Mr. Webb from great neglect, are of opinion, that it would be an extreme measure in a case involving so many difficult and doubtful considerations to hold him responsible for circumstances, over which it would have been difficult for him under the peculiar circumstances by which he was surrounded to have exercised strict control; and they therefore consider that his accounts shall be relieved from the surcharge under these heads.

5. Wharfage, Entries and Clearances short

The principal part of the Surcharge under this head would appear to have reference to the account short charged previous to February, 1842 (being the period when the first Wharf was erected), and amounts to the sum of £1,278 18s. 10d., inasmuch as it would be an Act of Severity to surcharge him for not having collected Wharfage during the period when no Wharf existed, it appearing that the Queen's Wharf was not constructed until 1842, previous to which period the goods were landed on the River's Bank, which was in a state of nature; and, although the surcharge of £499 8s. 1d. does not altogether stand in a favorable point of view, nevertheless under all the circumstances, and advertising to the view taken of the question by the Law Officers of the Colony, his claim to relief appears to be deserving of consideration, there being no ground whatever to suppose that he received and appropriated to his own use any sum which was strictly due on Account of Wharfage for that period.

As the total Amount however of the sum short charged for Wharfage is entirely of a local nature, and unconnected with the customs revenue, it will be for the Colony to decide how far they may see fit to waive their claim to the whole or any portion of the surcharge.

The Inspector and Examiner will, therefore, proceed in the preparation of a Balance sheet, shewing the sums which Mr. Webb with reference to the opinion herein expressed by the Board stands indebted to the Colony, in order that they may submit his case for the final directions of the Treasury.

[Annexure No. 1.]

REPORT of Mr. Pemberton, Inspector and Examiner of Plantation Accounts in the aforesaid Minute.

The Surcharges having been arranged in conformity with the aforesaid decision of the Board upon Mr. Webb's case, a revised balance sheet is enclosed shewing the amount payable by him to the Colony to be £32 8s. 7d.

24 June, 1847.

(For balance sheet see annexed C.)

E. PEMBERTON.
GREY TO FITZ ROY.

[Annexure marked C.]

**Balance Sheet, shewing the Amount due to the Revenue by Mr. Webb as stated in the revised queries on his accounts, in conformity with the decision of the Board, dated 23d January, 1847.**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount of Surcharges</th>
<th>Amount of Do. to be struck off</th>
<th>Amount of Surcharges to Remain</th>
<th>Total Amount against Mr. Webb</th>
</tr>
</thead>
<tbody>
<tr>
<td>Miscalculations and Miscellaneous</td>
<td>£ 111 14 6</td>
<td>£ 79 4 11</td>
<td>£ 32 9 7</td>
<td>£ 32 9 7</td>
</tr>
<tr>
<td>Goods improperly admitted as British</td>
<td>£ 453 3 0</td>
<td>£ 453 3 0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Difference in Warehouse Wastage</td>
<td>£ 6 6 2 1</td>
<td>£ 6 2 1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wharfage Entries and clearances short</td>
<td>£ 1,778 6 11</td>
<td>£ 1,778 6 11</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Goods Warehoused and not accounted for</td>
<td>£ 699 4 7</td>
<td>£ 699 4 7</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>£ 3,108 11 1</td>
<td>£ 3,076 1 6</td>
<td>£ 32 9 7</td>
<td>£ 32 9 7</td>
</tr>
</tbody>
</table>

[Annexure No. 2.]


Sir, Melbourne.

In reply to the case submitted to me by the Crown Solicitor, I do myself the honor to state to you that, in my opinion if the goods in question have been landed on the Queen's Land, it is quite evident they are liable to what is technically called Wharfage; if not landed, it is equally clear Wharfage is not chargeable. Mr. Webb seems to admit the goods were landed, but that Wharfage was not charged, first because there was no Wharf, and 2ndly because there was no charge made in Sydney for Wharfage. It strikes me that the charge for Wharfage is a Common Law right; in fact it is an easement, and on that principle the Crown may charge for the easement. It is not necessary that what is technically called a Wharf should exist to enable the Crown to charge, nor is it necessary that the right to Wharfage should be sanctioned by an Act of Council. The right to the charge is a common Law Right.

It is an easement or accommodation, a permission to the Merchant, which he has a right to pay for, should the Crown insist upon the charge; under these circumstances, I consider Mr. Webb liable; but the question is will the Crown charge in a case where there was no regularly constructed Wharf until the year 1842.

Jas. Cassell, Esqre.

[Enclosure No. 2.]

**Mr. C. E. Trevelyan to Commissioners of Customs.**

Gentlemen, Treasury Chambers, 27 August, 1847.

With reference to your report dated 6th instant, No. 1320, I am commanded by the Lords Commissioners of Her Majesty's Treasury to acquaint you that, on considering the circumstances therein adverted to, my Lords have not seen reasons to dissent from their recommendations; that, excepting to the extent of £32 9s. 7d., Mr. Webb should not be held responsible for the amount of the Surcharges which had arisen on the examination of the Accounts of the Department under his charge at Melbourne, or in regard to the re-employment of Mr. Webb as Clerk to the Collector at Sydney; and that my Lords have accordingly caused Earl Grey to be so apprized in order to any requisite notification on the subject being made to the Governor of New South Wales.

I am also to state that my Lords have at the same time signified to Earl Grey their opinion that, notwithstanding Mr. Webb would
1847.  
9 Sept.  

appear to have erroneously omitted to demand Wharfage Dues after a Wharf had been constructed at Melbourne, there is no sufficient ground for making him liable to pecuniary surcharge for the sums that might apparently have been collected, had the demand been made.

I am, &c.,

C. E. TREVELYAN.

SIR CHARLES FITZ ROY TO EARL GREY.  
(Despatch No. 178, per ship Sunflower; acknowledged by earl Grey, 24th February, 1848.)

My Lord,  

Government House, 9th September, 1847.

I have the honor to acknowledge the receipt of Your Lordship's Despatch, No. 144 of the 30th April last, in which, I deeply regret to observe, your Lordship adverts in terms of censure to the course I had pursued in recommending (in my Despatch, No. 44 of the 29th October, 1846) to Your Lordship's favorable consideration an Address presented to me by the Legislative Council of this Colony, requesting me to place on the Estimates for the present year certain sums as compensation to the holders of the Offices, which were abolished in the years 1843 and 1844.

In reply, I can only lament that any want of sufficient explanation on my part should have induced Your Lordship so entirely to misconceive my meaning or motives, as to suppose that I had even the remotest intention of imputing error either to Lord Stanley or Sir George Gipps as regards the decision which had been given on this matter on a former occasion.

Your Lordship will perceive, on reference to Lord Stanley's Despatch, No. 177 of the 8th December, 1844, that the only grounds therein stated, on which Her Majesty had been advised to decline to accede to the Address of the Council, were those of economy and the necessity for retrenchment.

Your Lordship will further perceive that, in my reply (a copy of which is annexed) to the Address of the Council to myself, I declined, in consequence of the decision that had already been given, to comply with the wishes of the House. But, as I was aware of the strong desire that prevailed both in the Council and in the Colony generally (a desire having no reference to former political feeling) that some compensation should be awarded to those unfortunate persons whose Offices had been so abruptly abolished, many of them having been thereby reduced to a state of destitution, I certainly did not conceive that, in bringing the question again under the consideration of Her Majesty's Government at a time when the improved state of the finances of the Colony would warrant the Expenditure, I was making a concession to the Legislative Council that was contrary to the letter or
FITZ ROY TO GREY.

spirit of any provision of the Constitutional Act, but rather that I was acting in accordance with the instructions contained in Lord Goderich's Despatch, No. 27 of the 29th September, 1831, regulating the scale upon which individuals, whose Appointments in the Colony might under any arrangements of expediency be from time to time abolished, were to be compensated for their loss of Office. I have, &c.


REPLY BY SIR CHARLES FITZ ROY.

Chs. A. Fitz Roy, Governor,

In reply to the Address of the Legislative Council, dated the 29th ultimo, requesting that "a sum may be placed on the Estimates for 1847, not exceeding one year's salary in each case, for the purpose of affording compensation to the Public Officers, holding office under the Colonial Government only, whose Offices were abolished in the years 1842 and 1843." the Governor has to express his regret that the terms of Lord Stanley's Despatch, No. 177 of the 8th December, 1844 (a copy of which was submitted to the Council by Sir George Gipps on the 12th September, 1845), prohibit his compliance with the wishes of the House.

In deference, however, to the opinion expressed by the House, and in consideration of the disappointment experienced by the Public Officers referred to from the abolition of their Offices, the Governor will take an early opportunity of submitting their case to the consideration of Her Majesty.

Government House, Sydney, 8th October, 1846.

(True Copy) : G. H. Fitz Roy, Private Secy.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 218, per ship Alert.)

Sir, Downing Street, 10 September, 1847.

In answer to your Dispatch of the 28th of March last, No. 61, forwarding a new order which had been promulgated by the Resident Judge in the District of Port Phillip, determining the scale of Fees to be taken by the Deputy Sheriff of the District, it will be sufficient for me to refer you to my dispatch, No. 177 of the 25th of June last. I have, &c.

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 179, per ship Sunflower; acknowledged by earl Grey, 18th March, 1848.)

My Lord, Government House, 10th September, 1847.

I have the honor to acknowledge the receipt of Your Lordship's Despatch, No. 145 of the 30th April, 1847, in which your Lordship has animadverted in terms of displeasure on the course
which I adopted in applying to the Legislative Council for a supplementary Vote in aid of the amount appropriated by Schedule A of the Constitutional Act of this Colony, 5 and 6 Vict., C. 76, for the Miscellaneous expenses of the Administration of Justice.

It is with the most unfeigned regret that I have thus learned that, from the obscurity with which I must have expressed myself in my Despatch to Your Lordship's predecessor, No. 54 of the 6th November, 1846, I have given rise to the misapprehension of the real facts of the case under which Your Lordship appears to have laboured in making the observations which you have addressed to me on the subject, and which has called forth the severe censure which, I lament to perceive, pervades the whole tenor of Your Lordship's Despatch. I am indeed at a loss to discover from what part of my Despatch, above referred to, the conclusion could have been drawn that I had "abandoned to the control of the Legislative Council the funds, which Parliament placed at the disposal of the Queen, and under the Audit of the Lords Commissioners of The Treasury"; or that "the Judges' Salaries were with my consent to be made the subject of an annual grant"; on the contrary, it was only on the assurance that "the Council had no intention of proposing any reduction in the Salaries to which Her Majesty's Government was pledged," that I consented to lay before them an Estimate in detail of the whole of the Expenses of the Administration of Justice. The Council has never, I believe, asserted the right to interfere in any manner with the salaries specifically provided for in the Schedule, including, of course, those of the Judges of the Colony. If any such right had been assumed, or if any attempt had been made to alter the other Salaries to which I conceive the faith of Her Majesty's Government stands pledged, it would have been my undoubted duty to have abstained from accepting any supplement burthened with such a condition; and, whatever might have been the inconvenience consequent on such a course, I would most unhesitatingly have adopted it.

The views which I entertain, and the course which I have adopted, are so perfectly accordant with the opinion on this subject held by my predecessor, as so fully and ably explained in his Despatch to Lord Stanley No. 176 of the 28th October, 1843, that, to avoid unnecessary repetition, I would take leave to refer Your Lordship to that Despatch.

In asking the Council for a supplementary vote for the Miscellaneous expenses of the Administration of Justice, I only acted in strict conformity with the instructions to my predecessor
of the 9th March, 1843. Although I anticipated that the excess of the sum appropriated by Schedule B of the Constitutional Act over the Estimated Expenditure would be sufficient to meet the supplement required on Schedule A, yet I could not rely with perfect certainty on that appropriation, as it was of course liable to be applied under Her Majesty’s authority to contingent expenses, the nature and extent of which could not be foreseen, as, for instance, in the case of Mr. Willis, a sum exceeding £8,000 became chargeable on that fund. I felt persuaded also that, if the practice of obtaining a supplement from the Council were once discontinued, it would be extremely difficult, if not impossible, ever after to resort to it.

Having determined for these reasons to ask the Council for a Supplement, I was unable to refuse the application they made to me in their Address of the 7th October, 1846, to lay before them a detailed estimate of the whole of the expenses of the Administration of Justice, more especially under the assurance which I received that no alteration would be proposed in any Salaries to which the faith of Her Majesty’s Government was pledged.

My Predecessor, in his Message to the Council of the 19th October, 1843, the general tenor of which appears to have been approved by Lord Stanley in his Despatch, No. 47 of the 29th March, 1844, observes that, considering that it undoubtedly rested with the Council to give or withhold the whole or any portion of the excess, he deemed it proper to lay the entire Estimate for the Administration of Justice before the Council, for it seemed to him impossible to exercise a right discretion in giving or withholding the excess without knowing how it was proposed to expend the sum granted to the Government by Schedule A. Concurring as I do entirely in these views, and conceiving that they were approved by Her Majesty’s Government, I did not hesitate to adopt a similar course to that taken by my predecessor.

In the Appropriation Act, 10 Vict., No. 12, which was transmitted in my Despatch, No. 10 of the 9th January, 1847, the right of Her Majesty to the Appropriation, for the purposes now under consideration, of the sums mentioned in Schedule A, has been carefully preserved. By Section 8 of the Act in question, it is enacted that "there shall and may be issued and applied any sum or sums of money not exceeding £4,385 13s. 4d., to defray the Miscellaneous Expenses of the Administration of Justice, in addition to the amount appropriated for the purpose by Schedule A to the Act of Parliament, 5 and 6 Vict., cap. 76, annexed.” I trust, therefore, that your Lordship will thus see that there exists no necessity for advising Her Majesty to withhold the
Royal Assent to the Appropriation Act, in consequence of any invasion of the Rights conferred upon Her Majesty by the Constitutional Act of the Colony.

In conclusion, I hope I may be allowed to observe that, having ever since I have had the honor of administering a Colonial Government enjoyed the confidence of Her Majesty's Government, I trusted rather to my obtaining credit for having acted with prudence and judgment in the matter referred to than to any detailed explanation of the facts of the case, or of the motives which influenced me in adopting the measure which I deemed necessary in reference to the case in question; and I trust that, in the explanation which I have now given, your Lordship will clearly perceive that I in no way compromised the Rights of Her Majesty, nor granted any concession to the Legislative Council except what the occasion justified and required, and from which no possible inconvenience could arise as a precedent. The control, which the Council could exercise over the appropriations of the minor or miscellaneous expenses of the Administration of Justice, could in no way embarrass the Government, whilst by their own express declaration they abstained from any interference whatever with the salaries of Officers, which were either specifically provided for in the Schedule, or guaranteed under Her Majesty's authority. Had the Council, even in the minor details of the Schedule, recommended any alterations or reduction which, in my opinion, would have materially impaired the Efficiency of the Courts of Justice, the course was still open to me to refuse any supplement encumbered with such a condition, and to have fallen back upon the amount appropriated by the Schedule itself.

It only remains for me to express the confident hope that the explanation which I have now given will prove satisfactory to Your Lordship, and will relieve me from the severe imputation, for the first time attributed to me, of having failed to guard with due care and proper judgment the important rights which Her Majesty entrusted to my administration.

I have, &c.,

Chs. A. Fitz Roy.

Earl Grey to Sir Charles FitzRoy.
(Despatch No. 219, per ship Alert.)

Sir,
Downing Street, 14 September, 1847.

In answer to your Dispatch, No. 33 of the 1st of February last, accompanied by the Copy of a Petition, which had been addressed to you by certain Inhabitants of the Town of Portland,
praying that the said Town may be constituted a Free Warehousing Port, I have now to acquaint you that I have been apprized by the Lords Commissioners of the Treasury that they have requested the Lords of Her Majesty's most Honorable Privy Council to cause an order to be submitted for the approval of Her Majesty in Council, whereby the object sought by the Petitioners will be effected. I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch marked "Military, No. 6," per ship Alert; acknowledged by Sir Charles Fitz Roy, 20th March, 1848.)

Sir,
Downing Street, 14th of September, 1847.

I transmit herewith, for your information, copies of a letter and of its enclosures which have been received from the War Office, relating to the employment of Dr. Silver, Colonial Assistant Surgeon at New South Wales, as Medical Officer to a detachment of Troops sent from Sydney to North Australia, together with a copy of the reply which I have directed to be returned to that communication.

I have, &c.,

GREY.

[Enclosure No. 1.]
MR. L. SULIVAN TO UNDER SECRETARY STEPHEN.
Sir, War Office, 2 September, 1847.

I am directed to transmit to you the enclosed copies of a letter and its enclosure, transmitted to this Office by the Treasury, regarding the payment of 7s. 6d. a day to Dr. Silver, Colonial Assistant Surgeon, for a period he was employed in Medical charge of a detachment of Troops, sent from Sydney to the New Settlement of North Australia; and to request that you will acquaint me, for the Secretary at War's information, whether Dr. Silver is in receipt of any Salary as Colonial Surgeon, and if so, whether, in the opinion of Earl Grey, payment should also be made by this Department for duties which Dr. Silver may perform to the Military.

I have, &c.,

L. SULIVAN.

[Sub-enclosure No. 1.]
COMMISSARY-GENERAL RAMSAY TO MR. C. E. TREVELYAN.
Sir, Commissariat, Sydney, 6th March, 1847.

I have the honor to annex, for the information of the Lords Commissioners of H.M.'s Treasury, a copy of a letter from the Assistant Military Secretary of this date, conveying the Lieutenant General's authority for employing Dr. Silver (Colonial Assistant Surgeon) as Medical Officer in charge of the Detachment proceeding to the New Settlement of North Australia per Ship "Thomas Lowry," with pay at the rate of 7s. 6d. per diem, and passage, with messing, free. His Excellency has also been pleased to approve of the advance of one month's pay being made to this gentleman.

I have, &c.,

WM. RAMSAY, C.G.
Correspondence re employment of J. Silver as assistant surgeon in North Australia.

1847, 14 Sept.

[Sub-enclosure No. 2.]

CAPTAIN O’CONNELL to COMMISSARY-GENERAL RAMSAY.

Sir, Assistant Mil. Secy.’s Office, Sydney, 6th March, 1847.

In the absence of the Deputy Inspector General of Hospitals, I am directed by the Lt. General Commanding to acquaint you that Dr. Silver, a Colonial Assistant Surgeon, has been appointed to take Medical charge of the Detachment now on board the Ship "Thomas Lowry," proceeding to the new Colony in North Australia, he receiving the pay of an Assistant Surgeon at the rate of 7s. 6d. per day, with his passage and expense of living on board free; and His Excellency has been further pleased to approve of an advance of one month’s pay being granted to Mr. Silver, previous to embarkation.

I am desired also to request that you will be pleased to make the necessary arrangements for proper accommodation being provided for Dr. Silver on board the Ship "Thomas Lowry."

W. B. O’CONNELL, A.M.S.

[Enclosure No. 2.]

UNDER SECRETARY STEPHEN to MR. L. SULLIVAN.

Sir, Downing Street, 14 September, 1847.

Having laid before Earl Grey your letter of the 2nd instant with its enclosure, relating to the payment to Dr. Silver, Colonial Assistant Surgeon at New South Wales of 7s. 6d. a day, during the period of his employment as Medical Officer to a detachment of troops sent from Sydney to North Australia, I am directed to request you will state to the Secretary at War that his Lordship collects, from the correspondence in this Office, that Dr. Silver was in the receipt of Colonial pay at the rate of 7s. 6d. a day as Assistant Surgeon on the Establishment of New South Wales, when he was selected to accompany the troops to North Australia; and that his Lordship sees no reason for objecting to the appointment of Dr. Silver to accompany the troops; but that it must be understood that Dr. Silver’s Colonial pay ceased from the date at which he drew pay from the Military Chest, and that his Lordship has instructed the Governor accordingly.

JAS. STEPHEN.

[Despatch acknowledged.]

SIR CHARLES FITZROY to EARL GREY.

(Despatch No. 180, per ship Tory.)

My Lord, Government House, 14th September, 1847.

I have the honor to acknowledge the receipt of Your Lordship’s Despatch of the 12th of March last, No. 104, enclosing a copy of a representation from the Secretary to the London East India and China Association against the rate of duty charged on Spirits, the produce of the possessions of the East India Company, on importation into New South Wales; and desiring to be informed of the reasons which led to the suspension by the Local Government of the operation of the Order of the Queen in Council of the 8th May, 1841, for the reduction of duties levied in this Colony upon Articles, the produce and manufacture of the British possessions in India, to the same rate as were imposed upon similar Articles, the produce or manufacture of the United Kingdom or other British possessions.

Having referred to the Collector of Customs for an explanation on the subject, I do myself the honor to transmit a Copy of the
Report received from that Officer, by which your Lordship will observe that the meaning of the words "the produce of the United Kingdom or of other British possessions," in the order of the 8th May, 1841, has been held to be that the duty on Spirits, the produce of the British possessions in India, is to be the same as on Spirits the produce of the Mauritius, which is the high or foreign rate of duty.

I have, &c,

CHS. A. FITZ ROY.

MR. J. GIBBES TO COLONIAL SECRETARY THOMSON.

Sir, Customs, Sydney, 21st August, 1847.

I have the honor to acknowledge the receipt of your letter of the 18th Instant, No. 91, transmitting to me Copy of a Despatch from the Right Honorable the Secretary of State for the Colonies on the subject of the rate of duty charged here on Spirits, the produce of the Possessions of the East India Company, and desiring that I will afford any explanation in my power on that Subject.

In compliance therewith, I beg to state that, in accordance with the provisions of the Act of Parliament, 3rd Geo. 4th, ch. 96, Spirits, not the produce of the British Possessions in the West Indies or in North America, and not coming direct from the United Kingdom, have always been charged with the highest rate of duty on importation into this Colony; and, although there can be no doubt that the intention of the Order of the Queen in Council of the 8th May, 1841, was that Articles, the produce or manufacture of British India, should be admitted here at the same rate of duty as similar articles, the produce or manufacture of the United Kingdom were, still the words which followed, viz., "or of other British Possessions," destroyed that object altogether, because, as no Act of Council ever had been passed here, in contravention of the above mentioned Imperial Act, Rum coming from the Mauritius (even by way of Great Britain) could only be admitted at the high or foreign rate of duty, as would too have been the case with Rum from the West Indies, if brought direct from those Islands.

Thus, as the Produce of those other Colonies would of necessity be charged with the high rate of duty, so would the produce of India.

It is however to be observed that, although no articles similar to Rum or Arrack are manufactured in the United Kingdom, we have of late given the advantage intended by the order in Council to Spirits from British India, if brought by way of the United Kingdom; and the method of charging duty on other articles from that Country is this:

If they are similar to articles produced in the United Kingdom, as Gunny Bags, which are Sacks, they come free.

If Muscovado Sugar, which is not manufactured in the United Kingdom but is in other British Colonies, the same duty is charged thereon as on the manufacture of those Colonies; and where any article, which is produced both in the United Kingdom and in other British Colonies, is imported, as for instance a Horse, which from Van Diemen's Land pays a duty of Ten per cent. ad valorem, and from England nothing, I give the advantage to the Importer by charging the lower rate of duty, that is admitting it free.

I have, &c,

J. GIBBES, Collr.
EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 220, per ship Alert.)

Sir,
Downing Street, 15 September, 1847.

In answer to your Dispatch, No. 72 of the 3d of April last, recommending Mr. Bidwill for the appointment of Colonial Botanist at Sydney, it is sufficient for me to refer you to my Dispatch of the 10th of July, in which you were informed that I had selected Mr. C. Moore to fill that Office.

I have, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 221, per ship Alert; acknowledged by Sir Charles Fitz Roy, 19th March, 1848.)

Sir,
Downing Street, 15 September, 1847.

I herewith transmit, for your information and guidance, an Extract from a Report addressed by the Commissioners of Customs to the Lords of the Treasury, relative to the suspension from office of Mr. Cassell, Acting Collector of Customs at Melbourne, together with a Copy of a communication which the Commissioners have also made to the present Acting Collector in that Town; and I have to add that I am informed by the Lords of the Treasury that they are willing to assent to the reinstatement of Mr. Cassell in the office, from which he has been suspended, provided you have no objection to offer to the arrangement.

With reference to the concluding paragraph of your Dispatch, No. 57 of the 26th of March last, I beg to call your attention to that part of the Report of the Commissioners of Customs, in which it is stated that they had called Mr. Cassell’s attention to his instructions and had expressed to him their strong disapprobation at his having failed to pay prompt obedience to your Orders.

I have, &c.,
GREY.

[Enclosure.]
having refused to furnish Mr. Webb, now under suspension, but who had been formerly employed as Acting Clerk at Melbourne with copies of certain Documents, which were considered of importance to enable him to reply to the queries, which had been raised on his account by Mr. Barnes, Collector at Van Diemen's Land.

"We beg leave further to state that, upon the receipt of Mr. Hunt's communication, We lost no time in drawing Mr. Cassell's attention to his Instructions, and expressing to him Our strong disapprobation at his having failed to pay prompt obedience to the Orders of His Excellency the Governor of New South Wales, and that under these circumstances he must abide by all the consequences resulting from his suspension. A copy of Our Order to the Collector at Melbourne, dated 22d July last, marked B, We beg leave to annex for your Lordships' information.

"That in bringing these circumstances under the consideration of Your Lordships, We deem it proper to state that Mr. Cassell has been 10 Years in the service; that he is a very capable and efficient Officer; and that, with the exception of the occasion upon which he incurred the displeasure of the Governor of New South Wales, his conduct has been such as to meet our approval; and under these circumstances and as considerable embarrassment is likely to be experienced by the Department being deprived of his Services. We would submit whether the severe admonition, which he has already received from us, as well as the loss of Salary which he must necessarily suffer, while under suspension, may not be deemed a sufficient punishment for his improper conduct on the occasion in question, and that he be restored from suspension and directed to resume the duties of Acting Collector at Melbourne."

[Sub-enclosure B.]

COMMISSIONERS OF CUSTOMS TO ACTING COLLECTOR AT MELBOURNE.

Sir,


Having had under consideration Your Report, dated 18th February last, Instructions to No. 11, transmitting a letter from Mr. J. Cassell, late Acting Collector at Melbourne, acting collector together with copies of his correspondence with the Acting Superintendent detailing at Melbourne, the circumstances, which have induced His Excellency the Governor of New South Wales to suspend Mr. Cassell from duty for not having furnished Mr. Webb with a copy of his (Mr. Cassell's) report upon the completion of the surcharges upon his accounts, in which report you signify that you fully concur with Mr. Cassell in his proceedings on this occasion,

We direct you to draw Mr. Cassell's attention to Our General Orders of the 8th July, 1814, and 25th Sept., 1835, and express to him our surprize and strong disapprobation that, in violation of the Instructions of Her Majesty's Govt, so distinctly conveyed in Our Orders above referred to, and notwithstanding the warning contained in Our General Order of the 25th Sept., 1835, he should have failed to pay prompt obedience to the first requisition of the Governor and Superintendent, dated 11th January, 1847; and he is to be further apprized that, in having persisted in refusing to obey the Governor's order after his attention had been drawn by His Excellency's desire to the Instructions of Her Majesty's Govt, upon the subject, he has properly incurred the severe displeasure with which he has been visited by His Excellency the Governor of New South Wales, and that, under these circumstances and pending the consideration of his case by H.M. Government, Mr. Cassell must abide by all the consequences resulting from his suspension; and We direct you to adopt forthwith prompt measures in order that Mr. Webb may, in accordance with the original directions of the Governor, be furnished with a copy of Mr. Cassell's Report on the adjustment of Mr. Webb's surcharges; but, in the event of his having left the Colony, you will deliver the same to the Superintendent in order that they may be forwarded to the Governor of New South Wales.

And We acquaint you that, as you would appear to have concurred in the very erroneous view which had been taken of the question by Mr. Cassell, we, in drawing your attention to Our Orders upon the subject, have to apprise you that it is your bounden duty to comply with any requisition or Order, you may receive from the
SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 182, per ship Tory; acknowledged by Earl Grey, 22nd March, 1848.)

My Lord,

Government House, 16th September, 1847.

I have the honor to acknowledge the receipt of your Lordship's Despatch, No. 117 of the 24th March last, desiring me to call upon Mr. W. Cape of O'Connell Street, Sydney, for a Copy of a letter, which he addressed and forwarded direct to Your Lordship on the 24th September, 1846.

In compliance with your Lordship's instructions, I have the honor to enclose a copy of a letter, which I have received from Mr. John Smith, covering the communication in question, the object of which appears to be merely to request that search should be made in the Colonial Office for four letters, which were addressed to Mr. Cape by the late Colonial Secretary of this Government, and which he forwarded to Lord Stanley in 1844, for the purpose of endeavouring to substantiate his claim to an Allotment of Land in Sydney, a promise which he states that he obtained from Sir Thomas Brisbane.

For the last sixteen years, Mr. Cape has been in constant communication with the Home and Local Government respecting some supposed Land grievance; and his case has been fully reported upon by Sir Geo. Gipps in his Despatches, Nos. 139 of 4th September, 1843, and No. 82 of 30th April, 1845.

The original letters from Mr. Macleay, which form the subject of Mr. Cape's present request, were forwarded with his Memorial to Lord Stanley, dated 31st March, 1842, a copy of which was returned to Sir Geo. Gipps with his Lordship's Despatch, No. 5 of 8th January, 1845.

I may add that I have been informed that Mr. Cape is a very old and (to say the least) an eccentric man, which may in some measure account for the style of his correspondence.

I have, &c.,

CHS. A. FITZ ROY.
FITZ ROY TO GREY.

[Enclosure No. 1.]

MR. W. CAPE TO EARL GREY.

O'Connell St., Sydney, N. S. Wales,

Sir, 24th September, 1846.

May I be permitted to introduce myself to you through the Right Honorable the Chancellor of the Exchequer, whose lamented Brother, Major Goulburn, for many years held the appointment of Colonial Secretary in this Colony under the administration of Sir Thomas Brisbane as Governor General. At the time referred to, I was head Master of the Sydney Public School, and from holding that appointment was prevented from locating the Lands which had been granted to me, and from obtaining a Town Allotment to which I was entitled, and a remuneration of Cattle, Rations, etc. All these had been promised to me; but on the sudden departure of Sir Thomas Brisbane from this Colony it was discovered by Major Goulburn, who shortly afterwards followed Sir Thomas home, that the Grant of a Town Allotment had been omitted to be made out in my favor. Independent of this omission, no remuneration whatsoever was made to me in Cattle or Rations, as had been the custom. Prior to the departure of Major Goulburn, I waited upon Mr. Alexander McLeay, afterwards Major Goulburn's successor, and urged upon his attention the omission of Sir Thomas; he promised both Major Goulburn and myself that I should at once be put in possession of a Town Allotment and my other rights; upon this assurance, I was for a time satisfied, and relied upon his promises, until I discovered that the very allotment, which had been selected by me and which he had promised should be conveyed to me, had actually been selected and granted to himself. Beside this duplicity on the part of Mr. McLeay, there was still another grievance of which I had to complain. I possessed one thousand acres of valuable Land in Van Diemen's Land, and it had been agreed by the Government that I should be permitted to exchange it for the same quantity in this Country, and that the same should be free of Quit Rent; the result of this was that six hundred and forty Acres only were granted to me in lieu of the One thousand Acres, and that too charged with a heavy Quit Rent; the conduct of Mr. McLeay in this matter was represented to Earl Bathurst by Major Goulburn in 1828, but the matter was permitted to be passed over by that Nobleman without affording me any redress. In 1835 or '36, my friend Sir Thomas Mitchell, Surveyor General of this Colony, having Official business in England, and being aware of the justice of my claim, offered and did present my Memorial to Lord Glenelg, with Mr. McLeay's Letters annexed, but at the same time advised me not to be too sanguine, as his Lordship had taken no notice whatever of his own Memorial. Finding that I could obtain no redress at home, I determined still to push my claim upon the Local Government but without effect; and, Mr. Goulburn having been restored to office as Chancellor of the Exchequer, I determined once more to push my claim through him, and with that view forwarded to that Gentlemen in 1842 for presentation a Memorial to Lord Stanley. In the following year 1843, I heard that my Memorial had been presented, and that a Despatch would be at once forwarded to Sir George Gipps authorising an investigation into the merits of my claim. On receipt of this intelligence, I waited repeatedly upon His Excellency Sir George Gipps, who positively denied having received the Despatch until the 19th April, 1844,
when he acknowledged its arrival. The investigation having been reported upon by His Excellency without my knowledge, I addressed a letter to the Chancellor of the Exchequer upon the subject and memorialised once more Lord Stanley, and submitted with such Memorial four original Letters from Mr. McLeay, which has been totally disregarded; my immediate object therefore, Sir, in addressing you is to beg that you will have the goodness to cause a search in your office for these Letters, as these productions will be of importance to me in an investigation which His Excellency Sir Charles Fitz Roy has been pleased to intimate he will cause to be made in the matter.

I have, &c.

WM. CAPE.

[Enclosure No. 2.]

MR. J. SMITH TO COLONIAL SECRETARY THOMSON.

Sir, O'Connell Street, Sydney, 26th August, 1847.

Copy of letter in compliance with the request of His Excellency the Governor, I beg to enclose the copy of a Letter addressed by Mr. William Cape to the Secretary of State for the Colonies on the 24th September last.

Mr. Cape has placed in my hands all his papers connected with the subject of his letter, and his extreme age and severe indisposition induces me to solicit your early attention to the investigation of his claim.

I have, &c.

JOHN SMITH.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 183, per ship Tory; acknowledged by Earl Grey, 18th May, 1848.)


In reference to my Despatch of the 26th May last No. 116, forwarding to your Lordship a copy of the proceedings of my Executive Council relating to the suspension of Mr. Peter Stewart of the Customs Department, I now do myself the honor to transmit, with a view to their being submitted to the Honble. the Board of Customs, Copies of a letter and its enclosures, which I have received from the Collector at this Port, on the subject of an Order made by the Board for the appointment of Mr. Stewart to the Customs Department at Port Phillip.

By the Board's order of 29th April, 1847, Mr. Stewart has been removed from Sydney to Melbourne, and the Collector here expresses a doubt whether, in deciding in Mr. Stewart's case which appears to have been brought under the Board's notice by Mr. Barnes, the Officer who has been specially employed investigating into the Customs Department at Sydney, the Board had had before them his letter of 14th Octr. 1846, which forms one of the Enclosures now forwarded to Your Lordship.

I have, &c.

[Enclosure.] CHS. A. FITZ ROY.

[A copy of this letter is not available.]
Earl Grey to Sir Charles Fitz Roy.
(Despatch No. 223, per ship Alert.)

Sir, Downing Street, 18th September, 1847.

I have received your Despatch of the 1st of April last, in which you bring under my consideration the claim of Mr. La Trobe to the receipt of his full Salary as Superintendent of Port Phillip from the date of his giving up the temporary charge of the Government of Van Diemen's Land, on the arrival of Sir William Denison, to the period of his resuming his duties as Superintendent at Melbourne, amounting to £139 7s. 11d. and also the claim of Captain Lonsdale to the receipt of full Salary at the rate of £1,500 pr. annum during the period he acted as Superintendent at Port Phillip during Mr. La Trobe's absence, amounting to £190 5s. 7d.

I have to convey to you the necessary authority for making these payments to Mr. La Trobe and Captain Lonsdale respectively.

I am, &c.,
Grey.

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Sir Charles Fitz Roy to Earl Grey.
(Despatch No. 184, per ship Tory.)

My Lord, Government House, 18th Sept., 1847.

In reference to my Despatch of the 31st March last No. 68, communicating to Your Lordship the information I had obtained relating to William Hughes, respecting whom particulars were required by Your Lordship's Circular Despatch of 30th May, 1846, I now do myself the honor to report that I have received a letter from Mr. Edward B. Hawkins, dated Boyne River, August 21, 1847, in which he states that Henry Hughes, the Brother of the person above named, and who also forms the subject of Your Lordship's Despatch referred to, is at present in his service as a Shepherd, and that during three years he has known him, his conduct has been good.

I have, &c.,
Grey.

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Sir Charles Fitz Roy to Earl Grey.
(Despatch No. 185, per ship Tory.)

My Lord, Government House, 19th Sept., 1847.

I have had the honor to receive your Lordship's Despatch, marked "Separate," of the 2nd February, 1847, enclosing an application from the individual, named in the margin,* for information respecting Thomas MacGuire and family, who are stated to have emigrated to this Colony.

* Marginal note.—Philip Wholehan.
I now beg to forward to Your Lordship the copy of a communication from the Police Magistrate of Maitland, containing such information as could be obtained of this family.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

MR. E. D. DAY TO MR. F. L. S. MEREWETHER.

Sir, Police Office, Maitland, 30th August, 1847.

In reply to your letter of the 21st July last, I have the honor to state that Thomas McGuire has this day called upon me, and stated that he resides at Old Banks in the Paterson Police District, where he rents and cultivates a small Farm. He has four children in the Colony, two Daughters (one married and one unmarried who resides with him) and two Sons, both married.

McGuire himself came to the Colony as a Convict in the "Prince Regent" about 25 Years since, and his Children came out as Emigrants about seven years since.

I have, &c.,

EDW. D. DAY, Pol. Mag.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 224, per ship Alert.)

Downing Street, 20th September, 1847.

In Compliance with the request contained in your Despatch of the 31st March last, No. 67, I have to Convey to you the necessary authority for the enactment of a local Law for the Naturalization of Samuel Folk, a Native of Prussia, and now residing in New South Wales.

I am, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 225, per ship Alert.)

Downing Street, 21st September, 1847.

I have received your Despatch, No. 66 of the 30th March last, transmitting three Memorials addressed to the Queen and the two Houses of Parliament by certain of the Inhabitants of the District of Goulburn, in New South Wales, praying that the Transportation of Criminals to that Colony may not be renewed.

The Memorial addressed to the Queen I have laid before Her Majesty, who was pleased to receive it very graciously. That addressed to the House of Lords, I shall take an opportunity of presenting; and that addressed to the House of Commons, I have forwarded to Mr. Ewart in accordance with the intention of the Petitioners.

I am, &c.,

GREY.
SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 187, per ship Tory.)

My Lord,

Government House, 21st Sept., 1847.

I have had the honor to receive Your Lordship's Despatch, No. 133 of the 22d April last, enclosing copy of a letter from the Reverend D. Stoddart, requesting to know the result of the enquiry which, by Mr. Gladstone's Despatch, No. 8 of the 17th March, 1846, Sir George Gipps was directed to make respecting certain property supposed to have been left by Thomas Canny. My Despatch No. 61 of 22d December last, which I conclude had not reached Your Lordship's hands on the 22d April, will have already apprised your Lordship that no trace whatever could be found of the individual above named.

I have, &c,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 226, per ship Alert.)

Sir,

Downing Street, 22d September, 1847.

The question, which you have proposed to me in your Despatch of the 24th of March, 1847 (No. 53), respecting the course to be taken for enlarging the Pardons of Convicts, who, before your receipt of Mr. Gladstone's Dispatch of the 13th of May, 1846, had already received Conditional Pardons, will, I think, be best answered as follows.

I do not think that it is either necessary or desirable that an Act of Parliament should be passed to provide for these cases. The Law Officers of the Crown in New South Wales have advised that course, to obviate a difficulty which they think may "possibly arise in some supposeable cases," as to the efficacy of the endorsements which you have made on the old Pardons. What those supposeable cases are, and what the anticipated difficulty would be, is unexplained, and I cannot supply the omission. But supposing that, in any particular instance, the validity of your endorsement should be brought into question, an entirely new Pardon would be an effectual remedy for the inconvenience. It is an inconvenience, however, which can scarcely be anticipated, for, except in some rare and most improbable contingency in which the Title to real Estate might be brought into Debate, in the person of one of these Convicts, the efficacy of his Pardon could be controverted by no one but an officer of the Crown, and the authority of the Crown would be sufficient to arrest any such controversy.
It must be remembered that, after all, these Pardons are Acts of Grace and Bounty, and that the Convict is not in a position entitling him to demand that unusual and inconvenient steps should be taken to anticipate and remove doubts which, in some remote possibility, might be raised as to the strict legal accuracy as to the Title under which he will enjoy his freedom. Practically he will enjoy it without molestation. I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 188, per ship Tory; acknowledged by earl Grey, 8th March, 1848.)

My Lord,

Government House, 22d Sept., 1847.

I have received a communication from Charles Nicholson, Esq., M.C., as Chairman of a Committee of a Public Meeting held at Sydney for the purpose of raising a sum of money to be presented to Mrs. Chisholm in acknowledgment of the services of that Lady in promoting Emigration to this Colony, requesting, in pursuance of a Resolution passed at the Meeting, that I would grant a small sum of money from the Public Funds in aid of the purposes of the general subscription.

I have not, however, taken upon myself the responsibility of granting the request; but I beg to forward to Your Lordship for the consideration of Her Majesty's Government a copy of the application received from Mr. Nicholson.

It is scarcely necessary for me to mention that Mrs. Chisholm’s exertions have already been under your Lordship’s notice, and that her name appears in Your Lordship’s Despatch of 20 March, 1847, addressed to the Lieut. Governor of V. D. Land, relating to the Wives and Families of Convicts sent out in the ship “Asia” to join their relatives in this Colony.

I have, &c.

Chs. A. Fitz Roy.

[Enclosure.]

MR. C. NICHOLSON TO COLONIAL SECRETARY THOMSON.

Sir,

Sydney, 10th September, 1847.

I have the honor to state that a Public Meeting was held in Sydney on the 7th ultimo for the purpose of raising a sum of money to be presented to Mrs. Chisholm in acknowledgment of the distinguished services of that lady in promoting Emigration to this Colony.

At the Meeting above referred to, a resolution was passed directing that application should be made to the Government for the purpose of soliciting the grant of a small sum of money from the Public Funds in aid of the purposes of the general subscription.

By direction of the Committee appointed to collect subscriptions, I have now respectfully to bring under His Excellency’s notice the resolution above referred to.
As it is believed that His Excellency the Governor and the Officers of the Executive Government have had opportunities of becoming acquainted with the valuable and disinterested services of Mrs. Chisholm, it is hoped that the present application may receive His Excellency’s favorable consideration. I am authorised to state that the Right Honorable the Secretary of State for the Colonies and other members of Her Majesty’s Government have been pleased to signify their approval of Mrs. Chisholm’s benevolent exertions, and to afford them every encouragement.

Under such circumstances, the Committee venture to express a hope that His Excellency the Governor may be pleased to authorise or recommend such a contribution from the Public Treasury, as he may think fit for the purpose above specified.

I have, &c.,

CHARLES NICHOLSON,
Chairman of Committee.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 227, per ship Alert.)

Sir, Downing Street, 23d September, 1847.

I transmit to you herewith the Copy of a Letter from the Secretary to the Lords Commissioners of the Treasury, enclosing the Copy of a Communication from the Board of Customs, with Commissions and Instructions for Mr. H. Massie as Sub-collector, and Mr. E. Gibbes as Searcher, Landing and Coast Waiter at Eden in Twofold Bay, New South Wales; and I have to desire that you will cause the necessary directions to be given for the admission of those parties to the Situations to which they have been appointed by the Board of Treasury.

I have, &c.,

GREY.

[Enclosure.]

MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 10th September, 1847.

I am commanded by The Lords Commissioners of Her Majesty’s Treasury to transmit to you the enclosed copy of a communication from The Board of Customs, dated the 3d instant, with Commissions and Instructions for Mr. H. Massie as Sub-Collector and Mr. E. Gibbes as Searcher, Landing and Coast Waiter at Eden in Twofold Bay, New South Wales; and I am to request that you will submit the same to Earl Grey and move his Lordship to cause the directions suggested by The Commissioners of Customs to be conveyed to The Governor of New South Wales.

I am, &c.,

C. E. TREVELYAN.

[Sub-enclosure.]

MR. W. MACLEOD TO MR. J. PARKER.

Sir, Custom House, 3d Sept., 1847.

The Lords Commissioners of Her Majesty’s Treasury having been pleased by Their Warrants, dated 31st Ultimo, to nominate Mr. H. Massie and Mr. E. Gibbes to the Offices of Sub-Collector and Searcher, Landing and Coast Waiter at Eden in Twofold Bay, New South Wales, and, in pursuance of the Instructions contained in your Letter of the 4th August, 1846, “that any information it may appear necessary
to furnish to Governor of Colonies should be transmitted to The Lords of the Treas­ury," I have it in command to transmit, herewith, Commissions and Instructions for Messrs. Masee and Gibbes, and at the same time to signify the request of the Board that their Lordships will be pleased to cause the requisite measures to be taken for the purpose of having the same forwarded to the Governor of New South Wales, in order that His Excellency may cause the necessary directions to be given for the admission of those parties to the situations to which they have been appointed.

I am, &c.,
W. MACLEOD.

(Copies of the commissions and instructions are not available.)

EARL GREY TO SIR CHARLES FITZ ROY.
(A circular despatch, per ship Alert.)

Sir,
Downing Street, 25th September, 1847.

In the last Session of Parliament, an Act was passed "for the Naturalization of Aliens," 10th and 11th Vict., ch. 83. I herewith enclose a Copy of it.

The Preamble of that Act explains briefly the circumstances in which it originated. In almost all of the British Colonies, Laws had, of late years, been enacted, the object of which was to impart the privileges of Natural-born British Subjects to Aliens inhabiting the Colonies in which those Enactments were made. On referring those Acts to the successive Law Officers of The Crown, it appeared from their answers to such references to be a matter of great doubt whether they were valid and effectual for their purpose, and whether The Queen could properly be advised to confirm them. The principal ground of this doubt was the existence in the British Statute Book of various General Acts respecting the Naturalization of Aliens, some of which Acts of Parliament, and especially the Statute, 7th and 8th Vict., ch. 66, were supposed by Her Majesty’s Legal Advisers to extend to, and to be in force throughout the British Colonies. But the Colonial Acts in question being found to be in several respects at variance with, and repugnant to those Acts of Parliament, it was inferred that such Colonial Enactments were null and void either in whole or in part.

To obviate a conclusion replete with so much inconvenience, and recommended by no assignable advantage, Her Majesty’s Government recommended to Parliament in their last Session the passing of the Act, which I now enclose.

The result of that Act is, First, to give validity to all Colonial Naturalization Acts formerly passed, and to declare that they shall be taken to have been valid from the time of their Enact­ment; Secondly, the Act then proceeds to provide that all Naturalization Acts, which shall hereafter be passed by any Colonial Legislature, shall within the limits of the Colony have
the force of Law, any Law or Statute to the contrary notwithstanding. But, Thirdly, both the retrospective and the prospective operation of the 10th and 11th Vict., ch. 83, is confined to Colonial Acts, which authorize the enjoyment of the privileges of Naturalization within the limits of the Colony within which such Act shall have been or shall be made. It also declares, Fourthly, that all such Naturalization Laws shall be subject to the Rules which regulate the Enactment and disallowance of Colonial Laws on any other subject. And, Finally, it declares that the 7th and 8th Vict., ch. 66, does not extend to the British Colonies.

The result of these Enactments will be to remove all doubts which have hitherto prevented the confirmation of various Naturalization Acts of the different British Colonies, and to ascertain the competency of the Colonial Legislatures to confer on Aliens the privileges of Natural-born British subjects, if the exercise of those privileges be limited to the particular Colony in which the Enactment may be made.

It may obviate a possible misconception to add that, inasmuch as that part of the Navigation Act which confines to British Subjects the ownership of British Registered Shipping is not repealed, but continues in full force, the disability of an Alien, naturalized under a Colonial Act, to own such Shipping is not removed by the accompanying Statute, 10th and 11th Vict., ch. 83. It would, indeed, be at variance with the terms of that Act to claim such a privilege in pursuance of it, inasmuch as the privileges, which it authorises the Colonial Legislatures to confer, are expressly restricted to the limits of the Colony within which they may so be conferred.

I propose, in a series of separate Despatches, to advert to and dispose of the particular questions of this kind which have hitherto been pending, those separate Despatches being, of course, addressed to the Governors of those Colonies only in which any such questions have arisen. I have, &c.,

Grey.

[Enclosure.]

This was a copy of the statute, 10 and 11 Vict., c. lxxviii.]

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 228, per ship Alert.)

Sir,

Downing Street, 25 September, 1847.

Referring to my "Circular" Dispatch of this date, on the subject of the naturalization of Aliens, I have to observe that the effect of it will be to enable the Legislature of New South
Wales, if such should be their pleasure, to impart the privileges of Naturalization to be enjoyed within the limits of that Colony to the persons recommended for that purpose in Sir George Gipps's Despatches dated the 4th of June, 1846, No. 110, the 18th of the same month, No. 119, the 19th of the same month, No. 120, and in your own Despatch dated the 24th of September, 1846, No. 18. You will therefore instruct the Petitioners to address themselves to the Legislative Council on the subject.

I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 191, per ship Tory; acknowledged by earl Grey, 7th March, 1848.)

My Lord,

Government House, 25th Sepr., 1847.

At the request of the Legislative Council of this Colony and with reference to Mr. Secretary Gladstone's Despatch "Confidential" of the 30th April, 1846, I have the honor to transmit, for your Lordship's information, the copy of an Address recording the opinion of the Council "that a return to the system of Transportation and Assignment would be opposed to the wishes of this Community, and would also be most injurious to the moral, social, and political advancement of the Colony."

I have, &c.,

CHS A. FITZ ROY.

[Enclosure.]

ADDRESS To His Excellency Sir Charles Augustus Fitz-Roy, Knight Companion of the Royal Hanoverian Guelphic Order, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, etc., etc., etc.

May it Please Your Excellency,

We Her Majesty's most dutiful and loyal subjects, the Members of the Legislative Council of New South Wales, in Council assembled, beg respectfully to transmit to Your Excellency the following Resolutions adopted by the Council this day:—

(1) That this Council disapproves of the principles avowed and recommendations contained in the Report of the Select Committee, appointed on the 13th October, 1846, to enquire into and report upon the Despatch of the Right Honorable the Secretary of State for the Colonies to Governor Sir Charles Fitz Roy, dated 30th April, 1846, respecting the renewal of Transportation to this Colony; and desires to record the expression of its opinion that a return to the system of Transportation and assignment would be opposed to the wishes of this Community, and would also be most injurious to the moral, social and political advancement of the Colony.
(2) That an address be presented to His Excellency the Governor, transmitting a Copy of the above Resolution, and respectfully requesting that His Excellency will be pleased to forward the same to the Right Honorable the Secretary of State for the Colonies for the information of Her Majesty's Government.

And respectfully to request that Your Excellency will be pleased to forward the same to the Right Honorable the Secretary of State for the Colonies, for the information of Her Majesty's Government.

CHARLES NICHOLSON, Speaker.

Legislative Council Chambers, Sydney, 14th September, 1847.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 230, per ship Alert.)

Sir, Downing Street, 26 September, 1847.

I have received your Dispatch, No. 56 of the 25th of March last, enclosing an Extract from the proceedings of the Executive Council of New South Wales on the subject of an application made to you by the Warden of the District Council of Sydney for the sum of £1,000, in order to effect the liquidation of a debt which had been incurred on the responsibility of himself and two other Members of the District Council, and which that Body were unable to defray from the want of legal powers to levy a rate for that purpose, in the manner prescribed by the Constitutional Act.

Under the circumstances detailed in your Dispatch, and acting on the advice of the Executive Council, you request authority to relieve the Warden and his Co-sureties from their liability by payment of the amount out of the Casual Revenues of the Crown, or out of the unexpended balance of the Sums reserved in Schedule B of the Constitutional Act.

I regret that I am unable to subscribe to the reasonableness of this proposal.

The Gentlemen, who have incurred the liability in question, have unfortunately acted without adopting the precaution of previously ascertaining the state of the Law and the facts on which the Law depended; and it appears to me that their proper remedy now is to apply to the Legislature for powers to raise the Rate or for Funds to relieve themselves from their liability. On general considerations it is not only inexpedient but dangerous to admit the liability of the Executive Government in cases of this nature. If any one such precedent were admitted, many other applications of the same kind would be promptly made. Neither does it appear to me that either of the funds which you have pointed out could be properly resorted to in the case, even if the general expediency of the Executive Government rendering such assistance were admitted.
1847.
26 Sept.

Methods for obtaining relief.

The Funds, which can be saved from the Crown Revenue, are much required for other purposes and especially for Immigration and the Fund arising from Schedule B of the Constitutional Act will, I apprehend, be exhausted by the appropriations to be made from it in order to defray the cost of Mr. Willis's litigation.

The legal difficulties, under which the applicants in this case labour, are stated by the Law Officers of your Government so briefly and indeed so obscurely that I am unable to suggest with confidence any mode of overcoming them. But, so far as I can collect the real state of the facts, the most obvious method would appear to be either that of issuing a new Charter correcting the error existing in the Charter originally granted to the District Council, or that of passing an Act of the Legislative Council conferring on the Corporation all such further powers as may be required to enable them to levy this rate.

I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 192, per ship Tory; acknowledged by earl Grey, 12th March, 1848.)

My Lord,

Government House, 26th Sepr., 1847.

With reference to that part of my Despatch "North Australia" No. 1 of the 1st February last, wherein I reported the return of the Deputy Surveyor General, Captain Perry, from an unsuccessful attempt to reach the mouth of the River Boyne, so called by the Moreton Bay settlers under the supposition that it was the same River as that to which the same name had been given by Surveyor General Oxley, and which flows into Port Curtis, I have now the honor to submit copies of two Reports from Mr. Surveyor Burnett, who accompanied Capt. Perry on his Expedition, and who, as soon as the dry weather set in, returned to and continued the Expedition from the spot whence Capt. Perry was compelled to turn back.

Your Lordship will perceive that Mr. Burnett succeeded in tracing this River as far as the confluence of fresh and tide water, whence, from the nature of the Country on its banks, he considered it advisable to return to Moreton Bay. He then proceeded from Moreton Bay in an open Whale Boat, succeeded in entering the mouth of the River, and traced is to the point which he had reached on his land expedition.

Mr. Burnett also reports having entered and proceeded about forty miles up another River, recently known as the Wide Bay River, which had not until then been explored.
The result of Mr. Burnett’s expeditions has proved that the former of these Rivers is not identical with that to which the name of the Boyne was given by Surveyor General Oxley, the latter or the Wide Bay River, according to Mr. Burnett’s report, would appear to be a discovery of some importance.

In conclusion, I trust Your Lordship will approve of my having marked my sense of the perseverance and enterprise evinced by Mr. Burnett in the performance of his public duty, which on the second occasion was attended by considerable personal danger, by directing that the first River explored should henceforth be designated as the River Burnett.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosures.]

[These reports were contained in the issues of the “Government Gazette,” dated 7th and 8th September, 1847.]

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch per ship Chaseley.)

Sir, Downing Street, 27th September, 1847.

In pursuance of the recommendation of the Select Committee of the House of Commons, which was appointed in 1845, to examine into the accounts of Colonial Receipt and Expenditure, and to report as to the mode in which it would be desirable to frame the future accounts, in order to introduce uniformity, regularity, correctness, and completeness, I have the honor to transmit to you the accompanying copies of the Resolutions to which that Committee agreed, and to direct you to take an early opportunity of submitting the same to the Legislature of the Colony under your Government, as containing the suggestions of the Select Committee for the general improvement of Colonial accounts.

I have, &c.,

GREY.

[Enclosure.]

REPORT and Resolutions of the Select Committee of the House of Commons appointed to examine into the Accounts of Colonial Receipt and Expenditure.

The Select Committee, appointed to examine into the Accounts of Colonial Receipt and Expenditure laid on the Table of this House, and to Report their opinion as to the mode in which it may be desirable to frame the same for the future, in order to introduce uniformity, regularity, correctness, and completeness, and who were empowered to Report the Minutes of Evidence, have considered the matters referred to them, and have agreed to the following Resolutions, which they recommend should be conveyed to the Crown Colonies, for prompt adoption, in all cases in which they
1847.  
27 Sept.  

Report and resolutions of select committee of house of commons re colonial accounts.

may not have been already adopted and complied with under the instructions that have been issued for the guidance of Colonial Accountants, and to the Colonies having Representative Assemblies, as suggestions for the general improvement of the Colonial Accounts, and for carrying out the objects recommended to the attention of your Select Committee.

RESOLUTIONS.*

1. That in the opinion of this Committee, it is desirable that a uniform plan of Colonial Estimates be adopted.

2. That it is the opinion of this Committee, that such Estimates be prepared (wherever it is possible) in time to receive the sanction of the State Treasury Board and Secretary of State, before the commencement of the service to which the Estimates apply.

3. That it is the opinion of this Committee, that such Estimates be accompanied by a comparative statement of the Receipts and Expenditure, made up to the close of the year previous to that in which the Estimates are prepared.

4. That it is the opinion of this Committee, that such Estimates, as regards the Colonial Receipts, shall represent the gross Revenues under their several and distinct heads.

5. That it is the opinion of this Committee that, as regards the Colonial Expenditure, the different charges, including the charges of collecting the Revenue, be classed separately, under their different heads, and that the same order of arrangement be universally adopted.

6. That it is the opinion of this Committee that the fixed charges for salaries and other personal services be kept distinct from all other charges.

7. That it is the opinion of this Committee, that in case of extraordinary or unanticipated expenditure, a Supplementary Estimate, in the same form as the Yearly Estimate, be prepared in the Colony, and forwarded, without delay, to the Colonial Office.

8. That it is the opinion of this Committee, that immediately after the local examination in each Colony of the annual account has been completed, a comparative statement of the estimated and actual Receipts and Disbursements of the year should be prepared by the Auditors, or other officers by whom the accounts are examined, shewing, under each head of Revenue and Expenditure, any difference that may have occurred between the estimated and actual Receipts and Disbursements of the year, and explaining the cause of any such differences.

9. That it is the opinion of this Committee, that as all the evidence taken before the Committee proves the superiority of the double entry system of book-keeping, its success wherever introduced into the Public Departments, and its general adaptation to Public Service, it is expedient that the said system be adopted for keeping the Accounts of Colonial Revenue and Expenditure.

10. That it is the opinion of this Committee, that a cash book, journal, and ledger be kept in all the Colonies, and that the ledger distinctly represent the various heads of Receipt and Expenditure as exhibited in the Estimates.

11. That it is the opinion of this Committee, that with a view to the prompt examination of the Colonial Accounts, in all cases where a local Auditor has not been appointed, provision should be made for a speedy and efficient local examination of the accounts;

* Note 51.
and the Auditor or other officer to whom such local examination is entrusted, should be empowered, at any and all reasonable times, to compare the cash or other balances of the Treasurer or any other officer entrusted with public money, with the balances represented in the cash accounts of their respective departments; but such inspection and comparison are not to supersede the periodical verification of public balances by Committees or otherwise, which the Governors of Colonies have heretofore been instructed to institute.

12. That it is the opinion of this Committee, that the accounts of Receipt and Expenditure, when sent to the Audit Board in London, be accompanied by the Estimates for the year to which the accounts belong.

13. That it is the opinion of this Committee, that the Colonial Accountants be required to make up and forward their accounts to the Audit Board in London within three months after the close of the financial year to which the accounts refer, or specially to report the causes of any greater delay.

14. That it is the opinion of this Committee, that in addition to the accounts sent home after Audit in the Colonies, copies of the Colonial cash book and journals be forwarded to the Audit Board.

15. That it is the opinion of this Committee, that where any enquiries or questions necessary for the elucidation and prompt Audit of the Colonial Accounts, are suggested by the Board of Audit, the Colonial Accountant be required to reply to the same within one month after their receipt, or to send a special report as to the causes of delay, stating the period at which the explanations may be expected.

16. That it is the opinion of this Committee, that in case such replies or explanations shall not be received by the Audit Board within a reasonable time (to be estimated according to the distance of the Colonies and the facilities of communication with the same), the Audit Board shall call the attention of the Lords of the Treasury to the neglect of the Colonial Accountant.

17. That it is the opinion of this Committee, that a quarterly Report be made by the Audit Board to the Lords of the Treasury on the state of the Colonial Accounts, shewing the arrears and the causes of the arrears, and calling the attention of the Treasury Board to every case of irregularity and delay.

18. That it is the opinion of this Committee, that Abstracts of the Accounts of the various Colonies, after being examined by the Audit Board, be annually presented to Parliament, and that they be accompanied with copies of the Estimates for the years to which they refer.

19. That it is the opinion of this Committee, that it is desirable that steps should be taken for ensuring the more punctual transmission of the periodical returns of Revenue and Expenditure, provided for in the 7th chapter of the "Rules and Regulations for the Colonial Service"; and that it is also desirable that a systematic record should be kept at the Audit Office, in a complete and concentrated shape, of the results of all the Colonial Accounts rendered to and examined in that department, in such manner as, at all times, would afford the means, so far as regards the Crown Colonies, of giving to Government and Parliament specific information on all points relating to the Colonial Receipt and Expenditure; and likewise that the Board of Audit should, from time to time, suggest the introduction of such improvements in the existing
SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 193, per ship Tory; acknowledged by earl Grey, 19th March, 1848.)

My Lord,

Government House, 27th Septr., 1847.

Your Lordship's despatch, No. 161 of the 31st May, conveying to me in terms of censure Your Lordship's disapproval of the mode suggested by me in my Despatch of the 5th January (No. 5) as the only practicable one I could propose for the final settlement of the repeatedly urged claim of Mr. Percy Simpson against the Government of this Colony, has caused me deep pain and regret.

I now beg leave most respectfully to represent that the advice I tendered was not offered upon slight grounds or without due consideration.

The practice of allowing claimants, who may be dissatisfied with the decisions of the Home or Local Authorities, to bring actions against the Government with a view to the final adjustment of their claims, has on more than one occasion been already acted upon in this Colony under the sanction of Her Majesty's Government; in proof of which I take leave to refer Your Lordship to a Despatch from Lord Goderich to General Darling, dated the 19th June, 1831 (No. 41), on the subject of a claim preferred by a Mr. Harris "complaining of a breach of faith on the part of the Government of this Colony during the Administration of Sir Thomas Brisbane, in respect to an agreement which was entered into with him for superintending the construction of certain Works which were then in progress in the Colony." This case was of a nearly similar character to that of Mr. Percy Simpson; and Mr. Harris was permitted to bring an action against the Government under the opinion of the Crown Law Officers of the Colony (the present Attorney General being then Solicitor General), and in accordance with the instructions of Lord Goderich conveyed to General Darling in the Despatch to which I have referred.

I would further beg to state that in the case of Mr. Wilson, who preferred a claim against the Government for remuneration for the Survey of certain lands on the Clarence River in the year 1839, to which the Government did not conceive he was entitled, my Predecessor upon his own authority directed the Colonial
FITZ ROY TO GREY.

Treasurer to appear as nominal defendant to any Action which Mr. Wilson might think fit to bring against the Government. An Action was accordingly commenced by Mr. Wilson; but, under the advice of the Crown Law Officers, who were of opinion that the Government had not good ground of defence, it was not brought to the issue of a trial, but was compromised for the sum of £372 5s. 6d., with the addition of £20 Costs, amounting in full to £392 5s. 6d.

With respect to Mr. Percy Simpson's claim, I feel bound in justice to myself to state that, in proposing that he should be allowed to bring an Action against the Government, I only acted in strict accordance with the views of Sir George Gipps, who, I am enabled to state on the authority of his Private Secretary, Mr. Parker, had on a previous occasion informed Mrs. Percy Simpson that this appeared to him the only mode by which her husband's claim could be set at rest.

While I trust that the explanation I have now offered will be satisfactory to Your Lordship, I cannot but regret that an unfavorable impression of my proceedings in this matter should have been caused by my not having entered in my former Despatch into the details of the precedents to which I have now referred. I can only state in excuse for this neglect that, as I considered they must be well known in Your Lordship's Office, it did not appear to me desirable that I should trespass on Your Lordship's time with a recapitulation of them.

I have, &c,

[Enclosure.]  

MR. G. C. TURNER TO COLONIAL SECRETARY THOMSON.

Civil Crown Solicitor's Office, N. S. Wales,

Sir, 3rd December, 1845.

With reference to yours of 25th instant, returning the papers on the subject of the claim of Mr. C. B. Wilson upon the Government for the survey of land, and further stating that His Excellency the Governor will sanction the payment of Mr. Wilson's claim for work done, provided the Law Officers of the Crown advise that the Government have not a good ground of defence against the Action to which the Colonial Treasurer has been made nominal defendant; I have the honor to state, for the information of His Excellency the Governor, that the Solicitor General thinks it advisable that the Government should submit to Mr. Wilson's claim to the extent of the contract price for work actually performed, which Captain Perry has certified to be £372 5s. 6d., with Mr. Want's costs of £20, amounting in full to £392 5s. 6d.

I have also the honor herewith to transmit a copy of the Solicitor's General opinion thereon for the perusal of His Excellency the Governor.

I have, &c,

G. COOPER TURNER.
1847.
27 Sept.

Legal opinion re claims of C. B. Wilson.

I have perused the accompanying case and the entire correspondence upon the subject, and think it advisable that the Government should submit to the Plaintiff's claim to the extent of the contract price for work actually performed; I do not feel by any means confident that the construction put by the officers of the survey department could be sustained in the absence of proof that Mr. Wilson's services were engaged in accordance with the terms of His Excellency's Minute of 31st October, 1839, and of Mr. Harrington's letter of the 1st November in the same year; but the consideration, which most strongly influences my opinion as to the propriety of yielding to Mr. Wilson's claim to the extent proposed, is this, that the sympathies of the Jury would certainly be enlisted in favor of the Plaintiff, and that the issue of a trial would from that cause probably be that he would succeed, and the Government be exposed to an unfavorable opinion; although it can scarcely be doubted by one who should peruse the whole correspondence that Mr. Wilson must have intended to contract under the notice of 21st November, 1838, and that he has been liberally treated by the Government, I fear that it would be almost impossible to overcome the notion of right to payment founded upon the undeniable fact of the work having been done and its results placed at the disposal of the public, especially as the Crown could not put in evidence such parts of the correspondence, etc., as are not proved to have been communicated to and acted upon by Mr. Wilson.

W. M. MANNING

28 Sept.

Despatch acknowledged.

Regret at censure.

Sir CHARLES FITZROY TO EARL GREY.

(Despatch No. 194, per ship Tory: acknowledged by earl Grey, 19th March, 1848.)

My Lord,

Government House, 28th Sept., 1847.

I have the honor to acknowledge the receipt of Your Lordship's Despatch, No. 159 of 29th May, 1847; and I deem it my duty to lose no time in endeavouring to explain to your Lordship the grounds and motives of my proceedings in the matter to which that Despatch refers.

I must first express my great regret that the want of a full and clear explanation of all the circumstances of the case in my Despatch of the 9th January, 1847, has given rise to this renewed expression of Your Lordship's displeasure. Had I done so, I feel persuaded that Your Lordship would have seen that I have in no way exposed myself to the severe remarks which I grieve to perceive are contained in Your Lordship's Despatch.

In order to understand the whole bearing of this subject, it is necessary that I should advert to the circumstances which led to the introduction into the Legislative Council of the Bill to declare void so much of all Local Ordinances as assumes to vest the appropriation of the Ordinary Revenue elsewhere than in the Legislative Council.

When the Legislative Council refused, on the application of my Predecessor, to vote a Supplement to Schedule A of the Constitutional Act for the Expenses of the Administration of Justice, it became necessary, in order to prevent the public inconvenience which would have arisen from the undue curtailment of this branch of the Public service, to have recourse to some of the permanent appropriations made by the late, as well as the present
Legislative Council; and the expense of the Courts of Request were accordingly, under the advice of the Law Officers of the Crown, charged upon fees arising under the provisions of the Act of Council, 2 Wm. IV, No. 12. The expenses of the Insolvent Court were also charged upon the fees received under the Act of Council, 7 Victoria, No. 19.

In like manner, the expenses of the repairs of Roads and Bridges were charged on the receipts from Tolls under the provisions of the Act of Council, 2 Victoria, No. 15, the Legislative Council having refused to vote any sum, as had been usual, for the Department of the Civil Engineer, who was entrusted with this branch of the public service.

To these Appropriations, the Legislative Council had frequently and strongly objected as interfering with the Legitimate powers conferred upon them by the 34th Section of the Constitutional Act, 5 and 6 Victoria, Cap. 76. In the Session of 1845, the subject was referred to a Select Committee, which reported in favor of the introduction of a Bill of the nature of that now in question. A Bill was accordingly brought in towards the close of the Session of that year, but lapsed in consequence of the House being counted out. Having been again introduced in the Session of 1846, the measure was passed by the Council; but it became my duty to withhold from it the Royal assent, as already reported to Your Lordship.

Having at the commencement of my Administration of this Government, in accordance with the Instruction which I received from your Lordship's Predecessor, endeavoured to establish a good understanding with the Legislative Council, and finding that these permanent appropriations by the late Legislative Council formed one of the most fruitful sources of collision which had previously taken place; I saw no objection or inconvenience that could arise from the passing of a measure which, if properly framed, would have the effect of restoring to the Legislative Council the right of appropriation to the full extent intended by the Constitutional Act. It was under these circumstances that I authorised the communication to be made to the Council that the reasons, which had induced me to withhold my assent to the Bill, did not arise from any objection to the principle of the measure, that principle not being as your Lordship has apparently supposed "an attempted usurpation of a function belonging exclusively to Parliament, an attempt on the part of the Local Legislature to define and determine the limits of the Constitutional authority with which Parliament had entrusted them," but the exercise of a power expressly vested in them by the 53d Section
of the Constitutional Act, namely, the power to repeal, vary, or alter any law or ordinance passed by the late Legislative Council.

In this view of the case, I am borne out by the opinion of the Attorney and Solicitor General, a copy of which accompanied my Despatch of the 9th January last, No. 11. In that opinion, they distinctly state that "the object, which the Council had in view in this instance, might legally be effected by repealing so much of any Acts of the Old Legislature as made permanent appropriations of public money; but this could only be done by direct enactment; and for such purpose it would be necessary, under the Royal Instructions, that the title of each Act repealed wholly or in part should be set out in the Bill before the Governor could give his assent to it."

I conceived, therefore, under this opinion, that I was justified in considering that the objection to the measure was a merely technical one as to the mode in which the object was attempted to be carried out, and not to the object itself, to which upon general grounds of policy there was no real objection. I considered that, in withholding the Royal Assent to this Bill, I sufficiently vindicated the principle that the powers of the Legislative Council should be strictly confined to an exercise of them subject to the limitations of the Constitutional Act, and of Her Majesty's Instructions under which I am permitted to give the Royal Assent to Bills. Had the measure been framed in accordance with those Instructions, I am not aware, nor have the Law Officers suggested, that I would have been precluded, if satisfied of its policy, from assenting to it.

It may not be irrelevant here to inform Your Lordship of the course which I have adopted in reference to all Bills submitted for the Royal Assent, a course which I trust Your Lordship will perceive has been dictated by motives of the greatest prudence and circumspection, and which is well calculated to prevent my falling into the error which, I trust I have shown, has been imputed to me under an erroneous impression of the circumstances of the case, arising, I regret to say, from my having omitted properly to explain them.

Every Bill submitted for the Royal Assent is previously sent to the Crown Law Officers, with a request that they will carefully peruse it with a view to ascertain whether its provisions be in conformity with the Law of England, the Constitutional Act, 5 and 6 Victoria, Cap. 76, and the Royal Instructions issued in pursuance of the same. They are also requested to state whether in their opinion there is any objection to the Governor giving his assent to the Bill, or whether he is required under the provisions
of the above mentioned Act or the Royal Instructions to withhold his assent from it, or to reserve it for the signification of Her Majesty's pleasure. They are further requested to point out any amendments which they may deem necessary to give legal effect to the intentions of the Legislative Council, and to render the Bill in other respects unobjectionable. This has been the invariable course adopted ever since my assumption of this Government; and it was in pursuance of this practice that I obtained the opinion of the Crown Law Officers on the Bill which forms the subject of this communication.

In conclusion, I trust that Your Lordship will permit me to observe that, although I am fully alive to the advantage of maintaining a good understanding with the Legislative Council, I am nevertheless equally impressed with the necessity of maintaining inviolate the rights of Her Majesty and a strict observance of the law. Should the necessity ever arise for an assertion of that principle, I could have no difficulty whatever in adopting the course which in the plain line of my duty I ought to pursue, whatever might be the consequences in a popular point of view, either as regards the Colonial Legislature or the Colonial Public.

Your Lordship may rest assured that I am altogether incapable of making any concession opposed to those rights and principles, which it is my first duty to guard and maintain; and I trust that, with the explanation now given, Your Lordship will be satisfied that in the particular case referred to, I made no surrender which the circumstances did not justify.

I have, &c,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 231, per ship Alert.)

Sir,
Downing Street, 29th September, 1847.

I have received from Lieut. A. Martin, R.N., of Camperdown, Camden, New South Wales, a letter dated the 31st of October, 1846, bringing under my consideration his claim to an additional Grant of Six hundred and Forty Acres of Land.

This Communication having been sent to me from the Colony by the Writer, and not having been transmitted through you, I have to desire that you would apply to the Writer for a Copy of it, and that you would forward that Copy to me, accompanied by such a Report as the case may appear to you to require.

I have, &c.,

GREY.
1847.
29 Sept.

Papers transmitted from legislative council re demand for labour.

Necessity for renewal of immigration.

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 195, per ship Tory; acknowledged by earl Grey, 7th July, 1848.)

My Lord,

Government House, 29th Sept., 1847.

I have the honor to forward to Your Lordship the copy of an Address, which has been presented to me by the Legislative Council, enclosing a copy of the Report of a Select Committee appointed to consider and report upon the present demand for labour in the Colony, and the best means of obtaining a supply of the same, together with certain Resolutions requesting me to urge upon Her Majesty's Government the renewal of Immigration from the Mother Country.

Having, in my Despatch, No. 19 of the 30th January last, brought this subject fully before your Lordship, I can only now add that the experience, which I have since gained in this Colony, has convinced me that a supply of labour is indispensably necessary for its prosperity; and I beg, therefore, to urge most strongly upon Her Majesty's Government a renewal of Immigration to the extent recommended in my Despatch above quoted.

I have, &c.,

Chs. A. Fitz Roy.

[Enclosures.]

[Copies of these papers will be found in the "Votes and Proceedings" of the legislative council.]
COMMENTARY.
COMMENTARY
ON
DESPATCHES
APRIL, 1846—SEPTEMBER, 1847.

Note 1, page 19.
That passed.
This order-in-council formed the appendix to chapter four, on page 25, in the first edition of the "Book of Rules and Regulations" for the colonial service.

Note 2, page 27.
An intention.
The formation of a separate colony at Port Phillip was brought under the consideration of the secretary of state in March, 1836, by G. Mercer as representative of the Port Phillip association; and the under secretary, Sir George Grey, in reply, stated that the question was one "of great importance and difficulty" (see pages 383 and 390, volume XVIII). A petition for separation from residents in the district of Port Phillip was presented to H.M. Queen Victoria in the year 1841 (see page 528, volume XXI).

Note 3, page 31.
The Boundary.
By the second section of the statute, 5 and 6 Vict., c. lxxvi, it was provided "that, for the Purposes of this Act, the Boundary of the District of Port Phillip on the North and North-east shall be a straight Line drawn from Cape How to the nearest Source of the River Murray, and thence the Course of that River to the Eastern Boundary of the Province of South Australia."

Note 4, page 31.
A Despatch.
A copy of this despatch will be found on page 354, volume XXIV.

Note 5, page 33.
The proviso.
The proviso was as follows:—"Provided always that no Part of the Territories lying Southward of the Twenty-sixth Degree of South Latitude in the said Colony of New South Wales shall by any such Letters Patent as afore-said be detached from the said Colony."

Note 6, page 41.
Also page 229.
Circumstances.
Sir Eardley Wilmot was suddenly recalled from the government of Tasmania. In a private letter which accompanied the official despatch of recall, the right hon. W. E. Gladstone stated that he was not recalled for any
errors in his official character, but because rumours had reached the colonial office reflecting on his moral character which precluded him from further employment. There was probably no greater act of injustice committed by the right hon. W. E. Gladstone. Sir Eardley Wilmot asked for the names of his accusers, and the substance of the charges. He was refused the names, and was informed that the charges were subjects of common notoriety. He was thus condemned on rumour and denied the opportunity of defence. In his recall, he received the almost unanimous sympathy of all classes of the community in the colony.

Note 7, page 59.

Gentlemen.

These gentlemen were a deputation from the provisional board of directors of the Great Southern and Western railway company, and consisted of the chairman, Charles Nicholson, the mayor, M. B. O'Connell, William Walker and H. G. Smith. The company proposed to construct railways to Goulburn in the south and Windsor in the west.

Note 8, page 67.

The 23d clause.

This clause was as follows:—

"And be it enacted That the said Legislative Council shall, at its First Meeting and before proceeding to the Despatch of any other Business, elect some one Member of such Council to be the Speaker thereof; and, as often as the Place of the said Speaker shall become vacant by the Death, Resignation or Removal by a Vote of the said Council, shall again elect some other Member to be Speaker thereof; and the Speaker so elected shall preside at all Meetings of the said Council; Provided nevertheless that it shall be lawful for the Governor for the Time being of the said Colony to disallow the Choice of any such Speaker; and, upon such Disallowance being signified by the said Governor to the Legislative Council, such Appointment shall become and be absolutely null and void; and the said Legislative Council shall forthwith proceed to the Choice of some other Member of the same to be Speaker thereof, and so from Time to Time until the Choice of a Speaker who shall be allowed by the Governor for the time being."

Note 9, page 68.

A new Settlement.

This "new settlement" was the creation of a new colony in the northern portion of the modern state of Queensland. It was proposed to settle this area with "exiles," who were convicts who had undergone a probationary period of punishment prior to transportation. The papers relating to this "settlement" will be found in a volume in series III.

Note 10, page 74.

A Periodical.

This was a quarto magazine or newspaper, entitled, The Weekly Register of Politics, Facts and General Literature. It was edited, printed and published by William Alexander Duncan. The first number was dated 29th July, 1843, and the last, 27th December, 1845. The paper was well conducted, and many leading colonists were contributors.
Note 11, page 96.

**Those provisions.**

By the forty-second and forty-fifth clauses of the statute, 5 and 6 Vict. c. lxvi, provision was made that the District councils be empowered to make orders and bye-laws “for providing for the Establishment and Support of Schools,” and that one-half of the expense of the police establishment of the colony (exclusive of the convict establishment) should “be defrayed by Assessment upon the several Districts of the Colony, in such proportions as shall be from Time to Time fixed by the Governor and Legislative Council.”

Note 12, page 109.

_I closed the Session by Proclamation._

The circumstances which preceded the closing of the session have been noted on page xxi _et seq._, volume XX.

Note 13, page 113.

**These Resolutions.**

The first resolution was quoted in the first paragraph of the memorandum of Sir George Gipps.

The second resolution was as follows:—

“That, nevertheless, the Governor has, without being authorised so to do by any such Ordinance as aforesaid, appropriated, according to his own pleasure, the sums of £1,085 8s. 4d. in 1844, and also the sum of £1,005 in 1845, and several other sums, being part of Her Majesty’s said Revenue within the said Colony, arising from taxes, duties, rates and imposts, on the ground that these sums had been previously appropriated by Ordinances of the Governor and former Legislative Council.”

Note 14, page 130.

_The provision in the 5th Clause._

The fifth clause was as follows:—

“And whereas an Act was passed in the seventh year of Her Majesty’s reign, intituled, ‘An Act to give a preferable Lien on Wool from season to season, and to make Mortgages of Sheep, Cattle and Horses valid without delivery to the Mortgagee’; and whereas the said Act may be annulled and disallowed by Her Majesty, and it is expedient to remove doubt as to the validity of engagements, legally made under that Act before the disallowance of the said same can be known in the Colony, Be it enacted, That all mortgages of sheep, horses or cattle, and all liens on wool, legally made under the said Act before the disallowance of the same shall be notified in the Colony, shall, during the continuance of this Act, be valid and effectual in the law to all intents and purposes, notwithstanding the disallowance of that Act.”

Note 15, page 131.

_Her late husband._

The reference was to Henry Nelson Carrington, whose treatment by Mr. Justice Willis was reported by Sir George Gipps in a despatch, dated 13th October, 1842 (see page 321, volume XXII).

Note 16, page 165.

_Your Letter of the 3d Instant._

The reference was to the letter signed by H. Corry (see page 138).
COMMENTARY.

Note 17, page 169.

The unfortunate dissensions.

These "dissensions" have been noted in the introduction to volume XX.

Note 18, page 175.

Under Secretary Hawes.

In the year 1846, Benjamin Hawes was appointed parliamentary under secretary for the colonies in succession to Lord Lyttelton.

Note 19, page 175.

My letter.

A copy of this letter will be found on pages 651 and 652, volume XXIV.

Note 20, page 191.

The Proclamations, issued by the Governor previous to the year 1825 are in Manuscript and those from 1825 to 1832 were printed.

This statement was slightly inaccurate. A selection of the proclamations and general standing orders from the year 1791 to 1802 was printed in the year 1802 (see note 185, volume III). The proclamations issued from the beginning of the administration of Governor Hunter to the end of the year 1824 were contained in manuscript volumes but those issued subsequent to February, 1803, had also been printed in The Sydney Gazette and New South Wales Advertiser. From the year 1825 to 1832, the proclamations together with the acts of council were printed in volumes of "Acts and Ordinances."

Note 21, page 197.

A Copy of the Speech.

In this speech, Sir Charles Fitz Roy announced his appointment as governor of New South Wales, and stated his intention to administer the government on sound, just and constitutional principles, and to initiate a policy for the well-being, happiness and prosperity of the colony. He announced no definite policy, but stated that the estimates would be immediately submitted to the council. The address in reply was adopted without division.

Note 22, page 199.

Some superior Functionary were to be appointed.

This is the first proposal, in the official despatches between the secretaries of state and the governors, for some form of federal unity. Before the administration of Sir Charles Fitz Roy, there was no recognised system adopted for the examination of acts prior to assent being given by the governor. Sir Charles Fitz Roy adopted the practice of submitting each act for the opinion of the attorney and solicitor-general prior to taking any action on it (see pages 774 and 775).

Note 23, page 201.

Also page 262.

My Despatch North Australia No. 1.

A separate series of despatches were written in relation to the affairs of the new colony of North Australia. These despatches will be found in a volume in series III. In the numbered series of the despatches for the colony of New South Wales, frequent references are made to them.
A fresh expedition.

On this expedition, Ludwig Leichhardt proposed to cross the continent of Australia from east to west. On the 10th of December, 1846, he left a station on the Condamine river with a well-equipped party, flocks of sheep and goats, and some bullocks, horses and mules. When in the Dawson country, wet weather was encountered for some weeks, and in consequence members of the party suffered from fever and ague. On the Mackenzie river, the members of the party were too weak to attend to the live stock, and Leichhardt decided to return. On the 6th of July, 1847, the expedition returned to the Condamine, after losing all its stock and with the members of the party suffering from starvation and illness.

Your services in Upper Canada.

Some details of the career of J. W. Willis in Upper Canada will be found on pages 119 and 120, volume XX.

A Despatch.

This despatch was dated 15th September, 1842 (see page 279 et seq., volume XXII).

Two Pier Glasses for the Public Rooms in the Government House.

This was the government house, which in 1846 was nearly completed, and which with additions now (1925) forms the state government house. The pier glasses are still extant.

A Mr. Bateman.

The reference was to John Batman, who obtained by an alleged treaty the cession of large areas of land from the aborigines in the district of Port Phillip (see note 40, volume XVIII).

Considerable relief.

By the act of council, 9th Vict., No. 25, relief was granted to the Savings bank by limiting the amount of deposits on which interest was payable, by increasing the amount which the directors were empowered to lend on mortgage, and by enabling the directors to lend money to the corporations of Sydney and Melbourne (see page 633, volume XXIV).

The scheme.

The route proposed for steam communication with England was via "Torrés" strait and Port Essington to Singapore, to connect with the existing line of steamers to the last port. It was proposed that a monthly service should be maintained by iron vessels of from five hundred to six hundred tons, and from one hundred and fifty to two hundred horse-power.
COMMENTARY.

Note 31, page 263.

The Letters Patent.

These were the letters patent, whereby the colony of North Australia was established in that portion of the continent of Australia, lying north of the twenty-sixth parallel of south latitude (see volume in series III); they were dated 17th February, 1846.

Note 32, page 266.

The Act.—Another Despatch.

The act was 9 and 10 Vict., c. civ; the despatch was dated 29th November, 1846 (see page 271 et seq.).

Note 33, page 267.

Marginal note.

Copies of this correspondence is not available.

Note 34, page 268.

The 8th Condition in the Royal Charter.

This "condition" will be found on pages 566 and 567, volume XI.

Note 35, pages 294 and 295.

The following despatches.

These despatches were principally covering letters to the enclosures. Those enclosures, which are available, will be found in the volumes of the series to which they belong.

Note 36, page 299.

Also page 316.

The progress.

The despatches, dated 9th September and 9th November, were written from camps at the head of the river Salvator, and on the river Baloune; the despatch, published on the 31st December, 1846, was dated "Camp by Snodgrass Lagoon, 14th December, 1845."

Note 37, page 335.

The recommendation.

The recommendation by the executive council was summarised by Sir George Gipps in his despatch, dated 29th April, 1846 (see page 28 et seq.), the two dissentient members being the bishop of Australia and C. D. Riddell, the colonial treasurer.

Note 38, page 338.

The oath of Supremacy.

This oath was as follows:—

"I do swear that I do from my heart abhor, detest and abjure as impious and heretical this damnable doctrine and position that princes, excommunicated or deprived by the pope or any authority of the see of Rome, may be deposed or murdered by their subjects or any other whatsoever. And I do declare that no foreign prince, person, prelate, state or potentate hath or ought to have any jurisdiction, power, superiority, preeminence or authority, ecclesiastical or spiritual, within this realm."
COMMENTARY.

Note 39, page 357.

A Ship wreck.

This wreck occurred about three miles to the south of Terrigal inlet, on the 17th of January. For three days the ship had experienced very thick weather, and the captain, thinking he was in the latitude of Sydney and fifty miles from land, stood in for the land. Shortly after 1 p.m. breakers were observed and high land to the north and south, which prevented tacking. The captain thereupon beached the ship.

Note 40, pages 392, 690 and 734.

The sudden death of Sir George Gipps.

After his return to England, Sir George Gipps was offered the command of the royal engineer department at the Tower hamlets, which post he accepted. On the 28th of February, 1847, the eve of his departure from his sister's house at Canterbury to assume this command, he retired to rest apparently in his usual health, but, reclining on a sofa, he suddenly expired at the early age of fifty-six, the cause of death being heart disease, aggravated by his strenuous administration in New South Wales.

Note 41, page 417.

Your Dispatch No. 25 of the 30th of Sept. last.

In the original letter-book of Sir Charles Fitz Roy, which is preserved at state government house, Sydney, there is the copy of a despatch, dated 30th September, 1846, and numbered 25, reporting the arrival of lieut.-colonel Barney, but without instructions or commission. A note on this despatch states that it was cancelled, and a despatch, numbered 25, with the quarterly returns for immigration purposes, was substituted. It is evident from earl Grey's reply that a copy of the cancelled despatch was sent to England; it will be found in a volume in series III.

Note 42, page 445.

Also page 739.

A severe accident.

The accident was caused by the horse, ridden by Sir Charles Fitz Roy, falling, when Sir Charles Fitz Roy's leg was bruised very severely from the ankle up to the knee.

Note 43, page 446.

A Country House.

The reference was to the government house at Parramatta, which was surrendered by Sir George Gipps on the 1st of January, 1846, under instructions from the secretary of state (see pages 376 and 724, volume XXIV). This house is now used as a preparatory school for King's school.

Note 44, page 447.

My two former Governments.

In the year 1837, Sir Charles Fitz Roy was appointed lieut.-governor of Prince Edward island, and, in the year 1841, governor and commander-in-chief of the Leeward islands.
COMMENTARY.

Note 45, page 483.
Also pages 489 and 594.

Your Despatch No. 4.

These despatches belonged to the series of North Australian despatches, which will be found in a volume in series III (see also note 23).

Note 46, page 499.

Despatch of 29th March, 1837.

A copy of this despatch will be found on page 716, volume XVIII.

Note 47, page 615.

India and Australia Mail Packet Compy.

By the preliminary prospectus, this company was provisionally registered, and it was proposed to obtain a royal charter. The capital proposed was £1,000,000 in fifty thousand shares of £20 each. It was proposed to establish steam communication with India, Australia and China, and for this purpose "to run a Packet (in the first instance once a month) to Alexandria, to correspond with a Packet from Suez to Aden, Ceylon, Madras and Calcutta, and another Packet from Ceylon to Sydney direct (via Singapore). The prospectus was signed by John Yates, who was the secretary.

The second prospectus was issued after incorporation by royal charter, dated 20th May, 1847. The contents of this prospectus were similar to those contained in the first.

Note 48, page 627.

A Pamphlet.

This was an octavo pamphlet, containing eight pages, which was published at Sydney in the year 1847.

Note 49, page 702.

A central authority.

The necessity for uniformity in legislation within the Australian colonies was thus early recognised. As will be noted in later volumes, the power to establish a general assembly for the Australian colonies was included in the bill submitted to parliament, but was deleted by the house of Lords.

Note 50, page 732.

A private establishment.

The observatory was established privately by Sir Thomas Brisbane, who, on his arrival in the colony, brought with him at his personal expense two astronomers, Charles Rumker and James Dunlop, with the necessary instruments (see note 137, volume XI).

Note 51, page 768.

Resolutions.

These resolutions were laid on the table of the legislative council and were ordered to be printed on the 8th of June, 1848, together with remarks on them by William Lithgow, the auditor-general. These will be found in the Votes and Proceedings.
SYNOPSIS.
## SYNOPSIS OF DESPATCHES

The reference to the despatches marked "a" in the sixth column will be found on pages 677-9, volume XXIV.

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