Memorial from Wesleyan Methodists to the Colonial Government.

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 shown in the Census Tables of 1841, that is to say:

<table>
<thead>
<tr>
<th>Church of England</th>
<th>73,727</th>
<th>£17,581 2 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Church of Rome</td>
<td>35,690</td>
<td>8,310 14 6</td>
</tr>
<tr>
<td>Church of Scotland</td>
<td>13,153</td>
<td>3,138 9 11</td>
</tr>
<tr>
<td>Wesleyan Methodist Church</td>
<td>3,236</td>
<td>771 13 3</td>
</tr>
</tbody>
</table>

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 139,000 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.

1847.
27 Feb.

Fitz Roy to Grey.
2nd. 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

HISTORICAL RECORDS OF AUSTRALIA.
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 Sepr., 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
1847.
27 Feb.

Recognition of principle of religious equality.

Objections to permanent basis of appropriations on alleged imperfect census.

Reasons for doubting accuracy of census.

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 1/23 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, that 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
religious ordinances. The Wesleyan Church has 40 Chapels and 70 other preaching places. In each week at least 176 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, altho' 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, Sydney, 12th November, 1846.

Reverend Sir,

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 curates 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 EOY.

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 5th 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.

(Despatch No. 104, per ship John Fleming; acknowledged by Sir Charles Fitz Roy, 14th September, 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,

[Enclosure No. 1.]

MR. J. HIKEMAN TO EARL GREY.

London East India and China Association,

My Lord,

No. 2 Cowper's Court Cornhill, 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 Septr., 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 Par. 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 HIGEEMAX, Secretary.

[Sub-enclosure No. 1.]

ORDER-IN-COUNCIL.

At the Court at Buckingham Palace, the 8th of May, 1841.

ORDER-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, intituled, "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 such regulations touching the Trade and Commerce of, to and from any British possession 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 Honourable the Lords Commissioners of Her Majesty's Treasury and the Right Honourable 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. DARPEINT.

To The Right Honourable the Lords of the Committee of Privy Council for Trade.

My Lords,

When on the 2d February The Right Honourable 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 insomuch 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. DARPENT.

[Sub-enclosure No. 4.]

9TH VICT., No. 20 (1845).

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,

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 6d. for every such Gallon.

And if the duty now payable be at the rate of 9s. per Gallon a duty shall be chargeable at the rate of 3d. for every such Gallon.

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.

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, 9 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.

An Act for increasing the Duties on Spirits, etc., imported into the Colony of Scale of duties on spirits.

4th Vic., Ch. 11 (15 Septr., 1840).

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 hygrometer proof, and so for any greater or less quantity

On other Spirits pr. imperial Gallon

[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 Letter under his consideration your Letter of the 5th Ult., in which, on acknowledged, 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 5th 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. TREVELYAN 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. TREVELYAN.

[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.

[Enclosure No. 1.]

SIR GEORGE GIPPS TO UNDER SECRETARY STEPHEN.


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.

[Enclosure No. 2.]

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

Sir, 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 Government 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 to 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 incidental 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.

[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. Leichhardt'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.

I have, &c.,

GREY.

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.

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,
Practice to be resumed.

Proposals re passages for families of "exiles."

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 expense 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 expense 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 persons, 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 included in the arrangement; and it was until after it had been ascertained that there were insuperable objections to such an arrangement, that it was determined by Sir James Graham that the practice must be discontinued owing to the increase of expence 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 resumed, 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 Convict Ships; and Sir George Grey has no doubt that, with the sanction 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 Majesty'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 expence of their passage. In case these persons can be conveyed at the Public expence 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 expence of their passage from Van Diemen's Land to New South Wales; and, as a Ship is now about to be chartered 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 possible to avoid the delay which must be occasioned by a previous reference in this particular instance to the Governor of the Colony.
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.

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 FITZROY.
(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, 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. FBEDK. ELLIOT.
C. ALEXANDER WOOD.

[Enclosure No. 2.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration Office, 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.
1847.
21 March.
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Report by land and emigration commissioners re proposals for bounty on children of immigrants.

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 enterprize 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 fulfill them under a certain amount of risk and difficulty.

We have, &c,

T. FREDK. ELLIOT.
FREDERIC 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 Expense.

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
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Request for opinion of C. Chisholm.

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.

Sir,

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 Commissioners, 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.
 GREY TO FITZ ROY. 407

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

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present, is but small to the moral one, for to my knowledge hun-
dreds 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 in-
dependent of the husband.

That Capitalists, however, will grasp at the description of labour
which they think will afford them the largest return for their out-
lay 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 opportu-

nity 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 Chil-
dren 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.

Dear 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 comprises 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. 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 comprises 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.
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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.

Rule re children of immigrants.

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 up-held 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 Comrs. of the Admiralty, I now transmit for your information and guidance a copy of their reply, from which you
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Site proposed for lighthouse at King Island.

Opinion re proposed 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 Septr., 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.

Sir Charles Fitz Roy to Earl Grey.

[Despatch No. 53, per ship Caledonia; acknowledged by Earl Grey, 22nd September, 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."
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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.
GREY TO FITZ ROY.

[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
sent to me by Her Majesty's Principal Secretary of State for the endorsement.
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.
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 FITZ ROY 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. FITZ ROY.

[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.
(Despatch 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

* Note 41.
1847.
26 March.
Regret at necessity for suspension.

Approval of suspension by executive council.

Conditional approval of reinstatement of J. Cassell.

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 23rd 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.  27 March.

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 Is. 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.

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

* 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 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, Belonging 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 the only child of 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
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 Elizabeth Mary, his Wife, or of the survivor of them, to and for such uses, intents and purposes and subject to such powers and conditions 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 Successors, 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 Nevertheless, and We do hereby reserve unto Us, Our Heirs and Successors, 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 sea, and 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 Arbitrators; 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 in exchange for or in lieu of the 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 Appoint-
ments in and by these presents limited, expressed and declared,
and then and from thenceforth these presents and the Grant herein-
before 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. Pro-
vided 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 approba-
tion 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 indefeas-
able estate of inheritance in fee simple, of as good value in all
respects as the lands and hereditaments hereby granted and
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 adminis-
trators, in exchange for or in lieu of all or any part or parts of the
lands and hereditaments hereby granted as aforesaid, shall be re-
spectively settled and conveyed by the said Trustees and the sur-
vivor 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 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 appro-
bation of the said Reverend Henry Hodgkinson Bobart and Eliza-
beth 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 Wit-
nesses, 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

1847.
29 March.

Deed of land
grant to
trustees for
H. H. and
E. M. Bobart.
Deed of land grant to trustees for
H. H. and
E. M. Bobart.

1847.
29 March.

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 hereinbefore 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.

Witnesour 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 Delays in issuing 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 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
GREY TO FITZ ROY.

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.

ORDER-IN-COUNCIL.


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 should 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
aforesaid, or for any of them, and any such rules and regulations again to repeal, renew, alter and amend; and that all such Orders in Council should have the force and effect of law in the Colonies aforesaid:

And whereas it is expedient that the rules and regulations herein-after 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 Government 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 assessments of taxes or rates on sheep and cattle, and are to be paid without abatement on account of the existing or any future assessments 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 indefeasibly 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 mentioned 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
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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 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 adjudi­
cation 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 under certain restrictions 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
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.

**Repayment of charges for voyage of schooner Frolic.**

**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 Memorials 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.]

[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.
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 FITZ ROY 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 to 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. FITZ ROY.

[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.
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. ROBINS.
DANIEL COOPER, Junr.  J. WALKER.
THO. SMITH and Co.  JAS. N. SMITH.
W. S. DELIOT, J.P.  SMITH and CAMPBELL.
B. BOYD.

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:

<table>
<thead>
<tr>
<th>Name</th>
<th>Amount</th>
</tr>
</thead>
<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></td>
<td>£329 13 6</td>
</tr>
</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>£ 1,500 570 17 0</td>
<td>£ 1,500 570 17 0</td>
<td>£ 1,500 570 17 0</td>
</tr>
<tr>
<td>Sub Treasurer</td>
<td>Wm. Lonsdale</td>
<td>Alex. McCrae</td>
<td>£ 500 190 5 7</td>
<td>£ 500 190 5 7</td>
<td>£ 500 190 5 7</td>
</tr>
<tr>
<td>Chief Clerk in the Sub Treasury</td>
<td>Alex. McCrae</td>
<td>do.</td>
<td>£ 250 95 2 91</td>
<td>£ 250 95 2 91</td>
<td>£ 250 95 2 91</td>
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<td></td>
<td>£ 250 95 2 91</td>
</tr>
<tr>
<td>Total saved</td>
<td></td>
<td></td>
<td>£ 332 19 10</td>
<td></td>
<td>£ 332 19 10</td>
</tr>
</tbody>
</table>

Wm. Lithgow, Aud. Gl.

Audit Office, Sydney, New South Wales, 24th March, 1847.

SIR CHARLES FITZ ROY 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.

(My 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 marred 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 merit.

And your Memorialist as in duty bound shall ever pray,

S. PARTRIDGE,
Port Macquarie, New South Wales, 8th October, 1846.

[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 the 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.
Commandant's Office, Port Macquarie, 10th April, 1847.

Charles Horn Roberts, Ensign, 48th Regt., Foot.
W. Wilson, L.t., 48th Regt., Foot, Actg. Engineer.
1847.

2 April.

Testimonials in favour of S. Partridge.

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.

W. GILLMAN, Commodet.

Surry Hills, 30th July, 1846.

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.

I am, &c.,

To Mr. Partridge, Supdt. of Prisoners.

ARCH. C. INNES, Commandant.

I HEREBY certify that the foregoing are true and correct copies of documents shewn to me this day by Mr. Stephen Partridge.

Port Macquarie, Police Office, 8th October, 1846.

A. E. HALLORAN, C.P.S.

Sydney, 28th July, 1846.

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 Captn., 48th Regt.

Despatch acknowledged re resignation of bishop from Executive council.

SIR CHARLES FITZ ROY TO EARL GREY.

(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 adverts 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 commence­
ment of the next Session, and I shall be guided by the result.

I have only further to state that the additional Royal Instruc­
tion, transmitted in Your Lordship's Despatch No. 58 of the
14th November last, authorising the appointment of Her Ma­
jesy'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 apprize 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, 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.

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 i-
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. FITZROY.

SIR CHARLES FITZROY 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. FITZROY.

SIR CHARLES FITZROY 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. FITZROY.

* Marginal note.—Wos. 37 to 68; Mly., 1 to 3; Cir., 30 Septbr.; Cir., 8 Octbr.
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, intitled, "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.] CHS. A. FITZ ROY.

[Enclosure.] Petition transmitted against Melbourne incorporation amendment act.

[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,

Government House, 6th April, 1847.

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,

Government House, 7th April, 1847.

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.

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.

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 hydrodynamics. "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 rent 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 of Milan. 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 the circuit of five miles from Milan.

In the greater part of Lombardy, according to the writer De-Regi, the standard Milanese oncia is worth 1,000 Austrian livres for the summer season, and 100 for the winter season.

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 6 Austr. liv. 38 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 prices of the Canal of Ivrea in Piedmont, and of the Canal of Carlo Alberto, are sold at the rate of from 1 Austr. liv. 27 cent, to 2 Austr. liv. 30 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 grain.

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.
\$ One Austrian livre is equal to 8d. sterling.
§ 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.
460  HISTORICAL RECORDS OF AUSTRALIA.

460  HISTORICAL RECORDS OF AUSTRALIA.

1847.  

8 April.  

General principles of irrigation supplied by government of Milan.  

Law re drainage and improvement of marsh lands in Lombardo-Venetian provinces.  

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 work 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.
Article 11. The plan is prepared, verified and approved at the expense of the undertakers of the work. It shall specify the ownership and extent of each property, and shall contain sections of the works and levels. If the requisitionists who have caused the plan to be prepared and verified are not successful in their application, the expense of the plan shall be reimbursed to them by the successful candidates.

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), 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, then 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 to observe the correct exactness of the limits upon which 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 proprietors 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 proprietors 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 according 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 improvement 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 difficulties 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 15. The disputes, which the Act of permission may give rise to in this respect, come under the cognizance of the public courts of law.
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.

The subdivision of classes is verified, the improved marsh lands being divided 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 improvements. 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 will 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 priority 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 34 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. Those 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.

For the Viceroy, The Privy Councillor, Secretary of State.

A. STRACELI.
1847.
8 April.

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.

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.

Consul-General Dawkins to Viscount Palmerston.

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CLINTON G. DAWKINS.
The laws on irrigation are nearly the same throughout all Upper Italy, but the facts are different. In those provinces lying in the flat country between the Ticino and the Adda, the land is irrigated to the extent of 5-10ths of its surface, whilst between the Adda and the Clisio it is only irrigated to the extent of 2-3ths; 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 Lodì 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 Lodì almost the half of the year, in Milan more than half, in Brescia two-thirds. During the winter and spring, rainy weather is frequent, and still more so during the autumn. But after the middle of 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 occasional cloudy summer indeed takes place, but then it is unfavourable for agriculture; hence the proverb, La carestia viene in barca. "Famine comes in a boat." In Ireland there are doubtable 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 those 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 atmosphere, 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 dilation of carbonic acid gas in the water is perhaps more necessary for the rice than humidity itself, since in pure fresh water the rice does not thrive, though by opposite means, the same result as in lower latitudes, where the excessive 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 neighbouring country. Lombardy may be said to have an European climate, with an almost Egyptian summer; in short, the heat of the summer is accompanied by an
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 99°, falls often as low as 2° in summer by western breezes 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 500 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 the evaporation from the tepid and muddy water that spreads 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 hot, damp sea air aggravates the noxious exhalations of a soil in a state of fermentation. And in truth, when the breezes from the Alpine valleys are less than usual, the Lombard plain, principally in August, becomes covered with an awning of immovable clouds; the air is then oppressive and suffocating, and hurtful even to the vegetation. In a few hours extensive rice-fields become of a yellow hue, under this scourge, which some attribute to an electric influence.

The plain of Lombardy is open to the damp and low winds only for a space of perhaps fifty miles, a tract of country lying between Monte Baldo, the spur or outwork of the Alps, and the Reggian Apennines, a distance not perhaps a tenth part of the surrounding mountains covering. But even the winds of the sea, which can thus reach the central plain, and there first deposit the vapours with which they are charged; and when thus condensed, they give birth, along part of the coast, to the vegetation of more 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 saline influence 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 more southern splendour, 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 winds from the sea, which can thus reach the central plain, and there first deposit the vapours with which they are charged. It is precisely in the northern extremity of Ireland that the least rain falls, because the winds arrive there having already discharged their vapours on the mountains and the high central plain. It would seem that in Ireland nature has adapted the amount of rain to a southern position; hence man is the less called upon to supply it by irrigation. And here must be noticed another peculiarity in Lombardy, viz., not only the heights and continuity of the mountain ranges, but the multiplicity of their ramifications (diramazioni).

Thus, while deep vallies are interposed between chain and chain, the winds from the sea cannot reach to any part of these hollows without first passing over frozen summits, thereby changing their character. Descending afterwards by the opposite declivities, the winds harden the glaciers instead of softening them. These glaciers do not disappear even during the summer. The rain even in summer there takes the form of snow. Thus, it is not till the following summer and the heavy rains of a wet autumn tell upon or increase the irrigation of the plain below.

In this country, then, the mountain region and the low country have perfectly opposite temperatures during the summer. This is a great fact to be duly weighed in all that relates to irrigation. It is the phenomenon that exists in the valley of the Nile. But in Ireland the mountains and the plains are subject to the same contemporaneous influences. The mountains are not only not connected in continuous chains, but are of such a middling height that they would be scarcely classed among those of the third or fourth order in this country; and they can readily be swept round and enveloped by the rains from the ocean, and by the fogs engendered by bogs and marshes. Through these agencies the ice is worn away gradually: and even the mountains at the lake of Killarney are free from snow after the month of May.

In Lombardy, on the other hand, when during the summer the deep vallies (or plain) here throws out a furnace-like heat, the great ridge of the Alps is always covered with ice, which melts the more freely the more the air that ascends from the plain is heated. In those burning days and oppressive nights, when there is no hope of water from a speckless bright sky, the lakes receive a more generous supply from the glaciers.
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 14 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 conducts it by a gentle declivity into more or less distant. In the district of Mino, 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 system of irrigation and drainage in Lombardy.

1847. 8 April.

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. There are however some strips of Torrey ground, but the striped soil reappears at a little distance, and at little depth, through which the sluggish waters can easily find an outlet. This erratic soil, incohesive (incorrense) and permeable, has a considerable fall, and a considerable extension, and can be overspread by water from the lakes to the extent of about 4,000 square kilometres.

The draining of the low country is facilitated by the fact that, in the rivers of Lombardy have clear waters, instead of dirty ones. In their channels, they scrape it away as it were from the bottom, thus deepening their beds and forming high and steep banks, which allow the subterranean waters to escape through them laterally into the rivers.

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 slope, they may be reckoned at the slope, they may be reckoned at the slope, they may be reckoned at the slope, they may be reckoned at the slope, they may be reckoned at

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-eighth part of the surface. The population is in fact more interested in raising 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 parts of the British island.

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 (tombinatura) 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 Mantuan districts.

Thus far a general state of things has been sketched. The agricultural operations in Lombardy and the laws and administration must be now described.
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 rectilinear 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 impairish 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.

Rice-grounds require a constant supply of water from the time of sowing until the rice is fit to cut, excepting during a short interval when they are left dry for the purpose of destroying the weeds. They require a layer of water considerably deeper than that required for the marcite. These bodies of water have almost the appearance of lakes. But the water remains motionless as it were, and a much less supply is requisite, as it is only necessary to make good the loss caused by evaporation and absorption. The evaporation is considerable, inasmuch as the stagnant water becomes nearly as hot as the surrounding air during the sunny days. The absorption is necessarily greater in sandy and light soils and in the vicinity of land or canals on lower levels; and there is scarcely any absorption when by reason of the marshy nature of the soil no alteration of crops takes place and rice is the only cultivation.

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 Risaie di tappe, or spade 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 (1/36 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 24 tons an-hour, or 3,600 tons a-day.

The same measure of water would suffice in one day for rather more than twice as much land with maize, or three or four times as much of 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
Account 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 quality, as tending to render the first instance 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 deprivity 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 (inclosed) 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 acre 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 soil 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 whole farm, 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-existence of rice-grounds, 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 sun, in 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 Musza 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 at the bottom of the Venetian Lagoon, which in Milan is called freto and castracane, and in Venice Caranto.

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,
There is no doubt that the different kinds of husbandry or courses, regard must be had not only to the chemical collected and thrown on a layer of earth, which when impregnated is spread over the herbage of the higher part. This of itself must be of service, and must act to 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 marl, 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 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 in summer by sudden rains, which naturally overflow 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 certain torrents which bring down clayey substances from the neighbouring hills, have been made use of. This operation is what is called in Tuscany "colmata," and it has the advantage in course of time, of rendering an otherwise barren soil capable of producing wood, and perhaps of becoming arable land. But such operations would be impracticable in the irrigated plains, without destroying the whole apparatus of irrigation.

With regard to the use made of water to diffuse manure over the land, all that is practised here is to conduct the small channels from the farm-yard into the field immediately adjoining. But it may easily happen that heavy rains would carry away this useful matter beyond the bounds of the farm. No regular use is consequently made of this method of manuring.

With regard to the comparative efficacies of irrigation by pure water, or by water impregnated with earthy particles or marl, it is certain that the farmer would always prefer water flowing through well-manured land, to water fresh from rivers or large canals. But on the other hand it often happens that the proprietors of such water, if their neighbours on a lower level are already provided with water, must allow these last the use of it, for naturally he cannot carry his water to market for sale in search of other customers, and it also very frequently happens that the expense of conducting such water across different properties and levels would exceed the value to be derived from it. Hence no uniform calculation can be made as to the difference in productiveness produced by application of water with manures or earths in suspension, as compared with simple water.

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 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 marcite 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 receives 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, Lodli, and Pavia, contain about 100,000 head of cattle, 100,000 fat pigs, and 55,000 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 is at least 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, 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 apparatus of irrigation, it would be turned to account. There is consequently a great advantage in having the free and exclusive use of a body of water on one and the same
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, and 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 system of proprietors. In such cases perhaps the water may not be able to be had in such and drainage intervene.

Account of days, and at certain hours, in consequence of its being shared by different pro-

1847.
8 April.

HISTORICAL RECORDS OF AUSTRALIA.

8 April. certain quantity of water, how can it be applied in the most profitable manner

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orario 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 23 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 access 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, wheat in Russia, potatoes in Ireland. But the digestion is not so much a method of applying capital to land which is the best adapted to the fertility as a remedy for its sterility. This may be seen on following the course of 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 marcihe 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 (agromi) cultivated. These are let for an annual rent, and make corresponding rupee, and they are a fine grass 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 Abbiategross 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.

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 to be considered; and 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 acqua 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 marciets 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 Musa, 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 (50 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 80 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 Pavese, which last is also navigable and belongs to the inhabitants of Boratto. Some belong to hospitals and other charitable institutions; some to a partnership of proprietors, as for instance the Musa, 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, Lodri, 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.

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The canals of the first magnitude which issue from the Ticino and the Adda, comprising the Musa 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. 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, as well as 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, as well as the salaries of the engineers, accountants, and others who attend to the administration and preservation of the waters. 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 maroits. 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), if 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 sources have been mentioned in the first part of this paper as extending over hundreds of miles. Neither must it be forgotten that this expensive cultivation requires a large amount of live-stock, while good roads and communications with markets are necessary. Of any place of land of equal amount of capital at about a kilometre from the Muzza for every square kilometre of surface, or in all at 2,000 kilometres. Now these roads become more expensive from the continual vicinity of the waters and the incredible frequency of bridges.

The part called the Thirteen Bridges, between Genivolta and Casal Morano, is well known, where the road from Cremona to Bergamo, in the very short space of about 200 paces, crosses thirteen bridges. Bridges fit for carts are very numerous in each farm, to cross the ditches in the different fields. Taking all these circumstances into consideration, it may be said that an enlightened Government wishing to transplant at once a system of agriculture similar to that of the low Milanese 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 unaccustomed 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 proprietor 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. All which
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 Pallanzone was the cause of long-continued distress to the illustrious and drainage family who constructed it; and the Casa 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 16th 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 Mincio. 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., "Claudite jam rivos pueri, sat prata liberunt."

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, Pusia, Pompeia, Cornelio, Albiana, Terentia (Mutza, Pusa, Villa Pompeyana, Corneliano, Albuxano, 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 approximates 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 marcella. On the hills, and on the shores of the lakes, the great 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 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
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 being 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 another, and do something which will benefit his successor in case the lease be ended.

An account is also kept not only of the preparatory operations to be carried out in the next season, and to be completed at the expiration of the lease, but also the state in which he leaves the land manured. Encouraged by such a fair balance of account, 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 marcle. 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 diligence, 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, he is creditor, if the plantations have increased. Hence, if at the expiration of his lease the farmer does not return an equivalent, he is debtor of the sum wanting, and, rice versà, he is creditor, if the plantations have increased.

The system of valuation 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 marcle. 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 diligence, 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, he is creditor, if the plantations have increased.

The same system of valuation is supported by another institution, that of consignments (consegna) 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, indicating 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 versà, he is creditor, if the plantations have increased.

What a difference between this balance (bilancio) in our agricultural system and the confusion, etc., of the Irish conacre, 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 rice名人, and the bilancio presupposes the existence of the con. The term in general description of the county, 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 (censo), and its value at that time. This is an institution 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 policy 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 scudi, 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 scudi, 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 given 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 divided between the proprietors; 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 servitu and 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 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
1847.
8 April.

Account of
system of
irrigation
and drainage
in Lombardy.

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 graded country requires farms of a certain extent, and not disgusted; 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 gradual rotation 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 managed by the owners, of buildings must be constructed, nearly as large as what would suffice for 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; some cultivated 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 (casine), 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 house of the farmer, indeed their dwellings in general run in rows round the courtyard of the farm-house, and are included in the consope. 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 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 who 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 so 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 (famiglii), have the appearance of the shepherds of primitive Switzerland. The day labourers (villeggiare) 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.,

CHS. A. FITZ ROY.
GREY TO FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 83, per ship Ann Milne; acknowledged by earl Grey, 28th 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 Jany. 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.]

[Enclosure.]

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.
SIR CHARLES FITZ ROY TO EARL GREY.

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. RIDDLE.

[Sub-enclosure.]

MEMORANDUM of Notices respecting Quit Rents, published in N. S. Wales since the 1st January, 1830.

1830, Oct. 1. Land Regulations. Form A.
1832, Nov. 12. An important notice repeated, 1st Octr., 1834.
1833, Feb. 11. Redemption allowed at 10 years' purchase.
1834, Feb. 19. Redemption allowed at 10 years' purchase.
1835, Jan. 20. Redemption at 10 years' purchase.
1836, Feb. 6. Redemption at 10 years' purchase.
1836, May 4. Redemption by importing Immigrants.
1836, Aug. 4. Sydney.
1837, Feb. 7. Repeating the notice respecting Redemption at 10 years' purchase.
1838, Sep. 5. Sydney.
1841, Jan. 1. Very important notices, still in force and acted upon.
1841, Sep. 4. The notice of the 4th Sep., 1841, repeated.
1842, Apr. 1. Redemption at 10 years.
1843, Dec. 1. Notice by the Colonial Treasurer.
1843, Feb. 1. Discount allowed to persons paying voluntarily, with reference to the notice of Sep. 4th, 1841.
1844, Jan. 23. Redemption of Quit Rent on Town Allotments.

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.

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...
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
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 as assented to on behalf of the Crown by my Predecessors, I have now to apprize 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 communications 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 application, 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 disadvantage to the Company, will be secured by continuing the conditions and restrictions respecting the tenure and Sale of Land, which in the early negociations 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.

Mr. R. K. Purves to ————.

Gentleman.

Haddington, 26th 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.

For he was sent out to Port Phillip for to be one of the Government Pilots in year 1830 or 1840; his 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 relative to 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 Dis­
trict 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. 

Sir, 

The Lords Commissioners of the Treasury having con­
sidered 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 Lord­
ships’ wishes, to transmit to me, first, a Table exhibiting the 
Amount of Fees now paid to the Officers within your Govern­
ment 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 com­
municated to the Lords Commissioners of the Treasury for their 
Lordships’ approval or alteration. I have, &c., 

GREY. 

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 Hydro­
grapher’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 Capt. 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.
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.

19 April.
Annual colonisation circular transmitted.
Circular to be amended.

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
1847.
20 April.

Objections to proposals of J. N. Beit.

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. BEIT.

[Enclosure No. 2.]

PROPOSALS for procuring a continued influx of German Emigrants to the Colony of New South Wales.

Sydney, the 25th Jan'y., 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.
1847.
20 April.

Proposals by J. N. Beit for introduction of German immigrants.

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 Chapeauronge 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.
1847.
20 April.

Letter acknowledged.

Proposals returned.

Statement re previous foreign immigration.

[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 authorize 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

* Marginal note.—Despatch of 29th March, 1837, printed in House of Commons, Paper No. 358 of the year 1837, p. 69. (Sec note 46.)
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 ease 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 hither 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

*Marginal note.—Letter of 5th July, 1842, Commons' Paper No. 323 of 1843, P. 222.
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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. 36 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., 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 to 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 sum advanced by him, in order to extricate himself from the dilemma of having either to retain a
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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 still, 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, which are so abundant, would otherwise be lost, and 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
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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 1835 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 of such 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 transportable 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.
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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.
FITZ ROY TO GREY.

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.

I have, &c.,

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 Mr. William Macarthur and myself, to be employed in the cultivation of our Vineyard at J. Macarthur, 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 Neufchatel.

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.

I have, &c.,

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 Moselle, Main and 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 Vinegrower 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 Vine-dressers, 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 Vine-dressers 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 Tarban 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,

[Enclosure.]

CHS. A. FITZ ROY.

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...
Application by J. L. Innes for allowance as visiting magistrate at Cockatoo island.

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 Magisterial 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.

Sir,

Downing Street, 22 April, 1847.

I have received your Despatch dated the 2nd November, 1846, No. 49, in which you advise a compliance with the request of Mrs. Green that the Authority given by Sir Richard Bourke to Captain Green to obtain the remission money of his rank in Land may be renewed in her favour.
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.,

CHS. 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 Govern­
ment 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 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,
HISTORICAL RECORDS OF AUSTRALIA.

but leaving in this country, John Noble, Thomas Noble, your Petitioner, Elizabeth Dixon (formerly Noble), and Frances Upton (formerly Noble), his Nephews and Neices, and only next of kin 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. HILLIE 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,

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,

I have laid before Earl Grey your letter of the 17th Uldo, 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 FITZ ROY TO EARL GREY.

(Despatch No. 97, per ship Ann Milne; acknowledged by Earl Grey, 9th October, 1847.)

My Lord,

Government House, 27th April, 1847.

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. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(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 circumstance 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,

GEORGE MOGER.

[Sub-enclosure.] 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
1847.
28 April.
Report required.

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.
(Despatch 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.
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.
1847.
29 April.
Memorial of W. Caswell re claims to land grant.

HISTORICAL RECORDS OF AUSTRALIA.

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.

Refusal 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 Expences 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 Expences 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 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."

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.

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.,

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 mere 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 be of 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 free will and of their own accord, committed an act of perjury, I think it very natural that Judges, labouring under such apprehension but which was an entire misapprehension, should have expressed themselves so strongly as they did below, for instance saying "Perhaps he cannot be indicted for perjury, but, in point of morals and conscience, it is shocking." "The whole proceeding is all 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 frightful."

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 sifting 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 of £12 from a Client for fees as Counsel. Now their Honours 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 any 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 entering into 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 ensued 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.

[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 Wollomoloo 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. I have, &c.

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.
HISTORICAL RECORDS OF AUSTRALIA.

[Sub-enclosure No. 1.]

LORD FITZ ROY SOMERSET TO SIR MAURICE O'CONNELL.

Sir,

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 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, &c.,

FITZ ROY SOMERSET.

[Sub-enclosure No. 2.]

EARL GREY TO DUCHE OF WELLINGTON.

My Lord Duke,

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 to signify 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, &c.,

GREY.

[Enclosure No. 2.]

SIR CHARLES FITZ ROY TO SIR MAURICE O'CONNELL.

Sir,

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.
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.] GREY.

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.
Grey to Fitz Roy.

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,

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.

J. Stephen.
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.

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 Promovent or party at whose instance the suit had been instituted in the Vice Admiralty Court.

It is asserted in Mr. Elvild'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 to 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 Brennan 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 Brennan, 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 Subtraction 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 Brenan 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 on 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 Brenan 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 Promootive 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 ls., which said sum was paid to your Petitioner by the said John Ryan Brenan, 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
lency 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.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 102, per ship Honduras; acknowledged by
earl Grey, 1st January, 1848.)
My Lord,

Government House, 12th May, 1847.

I have the honor herewith to transmit to Your Lordship a copy of a letter from Mr. William Brooks, a Settler in this Colony, forwarding a Memorial of which I also enclose a copy, soliciting an additional Grant of Land under the local Regulations published on the 27 June, 1837.
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.

Sir, Locheed 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 had 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 by 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 Secretary 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 entreats your Lordship's attention to the following facts and dates:—Memorialist left London on the 8th June, 1826, and arrived in Sydney in November the same year. The Local Regulations were published in Sydney in the month of September, that is, while Memorialist was on his voyage to the Colony, and he believes he did not see them for some years afterwards. The Local regulations promise none of the peculiar advantages of the British regulations, under which he emigrated, whether those of 1824, or those of April, 1826, under which he was placed by General Darling.

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 Her 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.

I am, &c.,

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.]

[Enclosure No. 2.]

MESSRS. ENDERBY TO EARL GREY.

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 surmised, 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, 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 carry on in succession 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 you 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 acknowledgement 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 person being entitled to any rights, it will be necessary that, without exception, you serve them with a notice or taking any other measures indicative of a right on their part to occupy the 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 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 Anchorages; 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 for instance 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 upon 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 propose to 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.
GREY TO FITZ ROY.

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.]

UNDER SECRETARY HAWES TO MESSRS. C. H. AND G. ENDERBY.

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;
1847.
14 May.

Proposed provisional form of government.

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.


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.,
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, to 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.

[Enclosure.]

MR. C. D. RIDDELL 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 heretofore 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.

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 Jany., 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 advertsing 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 to 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
for the purposes of their commerce to have a Light placed upon
King's Island, they should not pay the whole expense of the erec­tion themselves.

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. MOBIBTY, 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 recom­
mand 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).

<table>
<thead>
<tr>
<th>District of</th>
<th>Report of</th>
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<tbody>
<tr>
<td>Moreton Bay</td>
<td>Mr. Commissioner</td>
</tr>
<tr>
<td>Darling Downs</td>
<td>Mr. Simpson</td>
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<tr>
<td>Clarence River</td>
<td>Mr. Fry</td>
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<tr>
<td>MacLeay River</td>
<td>Mr. Massie</td>
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<tr>
<td>New England</td>
<td>Mr. Macdonald</td>
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<tr>
<td>Liverpool Plains</td>
<td>Mr. Mitchell</td>
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<tr>
<td>Bligh</td>
<td>Mr. Hunter</td>
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<tr>
<td>Wellington</td>
<td>Mr. Wright</td>
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<tr>
<td>Lachlan</td>
<td>Mr. Beckham</td>
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<tr>
<td>Morumbidgee</td>
<td>Mr. Bingham</td>
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<tr>
<td>Maneroo</td>
<td>Mr. Lambie</td>
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Port Phillip District.

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<tr>
<th>District of</th>
<th>Report of</th>
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<tbody>
<tr>
<td>Western Port</td>
<td>Mr. Commissioner</td>
</tr>
<tr>
<td>Portland Bay</td>
<td>Mr. Grimes</td>
</tr>
<tr>
<td>Murray</td>
<td>Mr. Fyans</td>
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<tr>
<td>Gipps Land</td>
<td>Mr. Smythe</td>
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<tr>
<td>Grant (County of)</td>
<td>Mr. Tyers</td>
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<tr>
<td>Burke</td>
<td>Mr. Addis</td>
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<td></td>
<td>Chief Protector,</td>
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<td>Port Phillip.</td>
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<td></td>
<td>Revd. Mr. Watson</td>
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</tbody>
</table>

[Enclosure No. 1.]

MR. J. LAMBIE 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 LAMBIE, 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, Bengalia and Boatally</td>
<td>17</td>
<td>14</td>
</tr>
<tr>
<td>Wongaga, Tilba Tilba and Myha</td>
<td>68</td>
<td>10</td>
</tr>
<tr>
<td>Windellia, 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>Pamboola</td>
<td>10</td>
<td>5</td>
</tr>
<tr>
<td>Cape Howe</td>
<td>32</td>
<td>19</td>
</tr>
<tr>
<td>Maharatta and Cambeleng</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>
</tbody>
</table>

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[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—

At Tumut .......... 50 At Lake Bingham .......... 150
" Geraphana ...... 200 " Nerang, Port Phillip .. 300
" Zangar .......... 200 " Nap Nap ............ 150
" Murray Downs ... 200

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 indis­
criminately 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 engage­
ments which occur between the neighbouring Tribes in endeavour­
ing 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
formerly 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, nor 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
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.

W. H. WRIGHT (late) Commr. of C. Lands, Wellington District.

[Enclosure No. 5.]

REPORT on the Aboriginal Natives by Graham D. Hunter, Commissioner of Crown Lands, District of Bligh, for the Year 1846.

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.
HISTORICAL RECORDS OF AUSTRALIA.

1847.
17 May.

Report on aborigines in district of Bligh;

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.
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. I have, &c,


[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.
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, Commr. C. Lands.

[Enclosure No. 8.]

MR. R. G. MASSIE TO COLONIAL SECRETARY THOMSON.
Commissioner of Crown Lands Office,
McLeay River, 31st December, 1846.

Sir,

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 deter-
mined 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 Euro-
peans. 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 prac-
tice 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 sim-
plicity, 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 com-
mended 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 dif-
ferent 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 un-
known 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.

I have, &c.,

ROBT. GEO. MASSIE, C. C. Lands.

[Enclosure No. 9.]

MR. O. FRY TO COLONIAL SECRETARY THOMSON.

Commissioner of Crown Lands Office,
Sir, Clarence River, 8th January, 1847.

In transmitting the annual report on the state of the Aborigines in this District during the past year, I am concerned at having to inform you that, though nothing could exceed the tranquility 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 Aborigines 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 morning 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 succeeded 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 Helfer 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.

[Enclosure No. 10.]

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, however, 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 that 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 civilizing 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 fail 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 any­
thing 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 mis­
"ion, 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 Clergy­
m an, 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 ex­
penses 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 uncleared 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., 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, slabbed 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 shewn him."
I shall be happy if my Missionary labours shall produce in the mind of Sir Charles Fitz Roy a similar opinion.

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 apprise 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,

[Enclosure.]

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. Swithin's 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, S Symonds Inn, Chancery Lane, 28th April, 1847.
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.
1847.
18 May.

Reasons in favour of pension for G. Brooks.

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,

Memorial of G. Brooks soliciting pension.

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 Still 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.

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. 20 May.

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 the 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.]

22 May.

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.