HISTORICAL RECORDS
OF
AUSTRALIA.
COMMONWEALTH OF AUSTRALIA.

HISTORICAL RECORDS
OF
AUSTRALIA.

SERIES 1.
GOVERNORS' DESPATCHES TO AND
FROM ENGLAND.

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INTRODUCTION.

SIR CHARLES AUGUSTUS FITZ ROY.

During the administration of Sir Charles FitzRoy, important and vital changes in the constitution of the colony were discussed and the principles involved were determined. The first change was accomplished by the passing of the statute, 13 and 14 Vict., c. lix, entitled, "An Act for the better Government of Her Majesty's Australian Colonies," which received the royal assent on the 5th of August, 1850, and was proclaimed in New South Wales on the 13th of January, 1851, two days after Sir Charles FitzRoy had received it per the ship Scotia. The second change was effected under the provisions of this statute, and was virtually accomplished by the passing of the act of council, 17 Vict., No. xli, entitled, "An Act to confer a Constitution on New South Wales, and to grant a Civil List to Her Majesty." This act was reserved on the 22nd of December, 1853, but was confirmed with slight amendments, after Sir Charles FitzRoy had left the colony, by the passing of the statute, 18 and 19 Vict., c. liv, entitled, "An Act to enable Her Majesty to assent to a Bill, as amended, of the Legislature of New South Wales 'to confer a Constitution on New South Wales, and to grant a Civil List to Her Majesty,'" which received the royal assent on the 16th of July, 1855. The statute of 1850 was virtually an enabling act for the passing of the statute of 1855, whereby the colony of New South Wales was granted full responsible government. Under the provisions of the statute of 1850, the district of Port Phillip was separated from New South Wales and erected into an independent colony called Victoria; legislative councils, similar to that established in the colony of New South Wales under the constitution act of 1842, were established in the colonies of Victoria, South Australia and Tasmania, and power to establish one in the colony of Western Australia was provided; these councils were empowered also to frame constitutions; and accordingly the colonies of Victoria, South Australia and Tasmania also achieved full responsible government, at the same time as New South Wales.
It is necessary to consider the salient features in the discussions which led to the passing of the statute of 1850; the story of the passing of the statute of 1855 will be found in the introduction to a later volume.

The passing of the statute of 1850 was due to the agitation for the separation of the district of Port Phillip from the colony of New South Wales and for its erection into a separate colony.

The agitation for the separation of the district of Port Phillip had been expressed forcibly in a petition* from the members of council representing the district, which was transmitted by Sir George Gipps in January, 1845, for presentation to Her Majesty the Queen. By the instructions of the secretary of state, lord Stanley, this petition was submitted† by Sir George Gipps to his executive council. On the casting vote of Sir George Gipps, the executive council decided in favour of separation for the following reasons:—“1st. The very general desire for separation, which exists in the District; 2. The geographical position of it, which renders it already in a great degree distinct from the rest of the Colony; 3. The Facts established, or which may at least be assumed, that, in point of Revenue and wealth, the District is able to bear the expense of a separate Government; 4. That, from the date of the first occupation of the District in 1836, an intention seems to have been entertained, or at least shadowed out of forming it at no distant time into a distinct Colony, and particularly that separate Accounts have always been kept of the Revenue and Expenditure of the District in consequence of directions given in 1836 by Her Majesty's Government.” Further reasons advanced were (1) the difficulty in finding qualified residents of the district willing to act as members of a council sitting at Sydney, and (2) the failure to establish local government in the form of district councils, as provided in the constitution act of 1842. The executive council was unanimously in favour of a nominee legislative council for the proposed new colony. In transmitting his report, Sir George Gipps expressed a strong opinion‡ against bicameral legislatures in the colony, and stated that the separation of the district of Port Phillip could be effected only by an act of parliament because of the proviso in the fifty-first clause of the

* See page 190 et seq., volume XXIV. † See page 26 et seq., volume XXV. ‡ See page 30, volume XXV.
constitution act of 1842, prohibiting the detachment of any territories south of the twenty-sixth parallel of south latitude from the colony of New South Wales.

In the colonies themselves, there was some dissatisfaction with the existing systems, apart from the agitation for separation by the residents of the district of Port Phillip.

Shortly after the constitution act of 1842 was proclaimed in the colony, serious objections were raised to its provisions. The principal objections* were the limitation of the elective franchise; the principle of representation in the council; the provisions for the establishment of district councils; the amount appropriated as a civil list in the schedules; the denial of responsible government; the neglect to adjust the expenditure on police and gaols according to the popular demand; the denial of control by the council over the land revenues; and the neglect to provide for legal remedies against the crown, and for the independence of the judiciary. These grievances were agitated both within and without the legislative council prior to the arrival of Sir Charles Fitz Roy in August, 1846.

In the South Australian act, 4 and 5 Wm. IV, c. xcv, a promise was held out that a constitution and the principle of representation would be granted as soon as the colony contained fifty thousand inhabitants. In the colony of Tasmania, a legislative council consisting entirely of nominee members was in existence. In both the colonies of South Australia and Tasmania, public opinion was in favour of some form of representative government.

On the 3rd of August, 1846, Sir Charles Fitz Roy assumed the administration of the colony of New South Wales. In the first session of the legislative council after his arrival, he was presented with an address, requesting him to use his influence to secure the disallowance of an act of the Tasmanian legislature, which imposed an *ad valorem* duty of fifteen *per cent.* on the produce of New South Wales imported into Tasmania. In transmitting this address, Sir Charles Fitz Roy expressed the opinion† that no colony should be permitted to pass hostile or retaliatory measures, which might interrupt intercolonial trade. To obviate this evil, he suggested "that, considering its (the colony's) distance from Home and the time that must elapse before the decision of Her

* See page v et seq., volume XXII. † See page 199, volume XXV.
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Majesty's Government upon measures, passed by the Legislatures of these Colonies, can be obtained, it would be very advantageous to their interest, if some superior Functionary were to be appointed, to whom all measures, adopted by the Local Legislatures affecting the general interests of the Mother Country, the Australian Colonies, or their inter-Colonial trade, should be submitted by the Officers administering the Several Governments, before their own assent is given to them.” It is clear that, in this proposal, Sir Charles Fitz Roy was the first to enunciate the principle of a federal unity in the Australian colonies.

In a despatch,* dated 31st July, 1847, the secretary of state, earl Grey, replied to the various despatches on the proposed erection of the district of Port Phillip into a separate colony, and announced the decision of the government to introduce a bill into parliament for the division of New South Wales into two colonies. He based this decision on “the great principle of Colonial Government,” viz., “that all affairs of merely local concern should be left to the regulation of the local authorities”; that, owing to the failure to erect district councils, the representation of the district of Port Phillip in the legislative council of New South Wales was “unreal and illusory”; that the district possessed no form of local self-government; and that the legislative council had “absorbed all the other powers of the Colonial State.” Whilst he advocated local self-government, earl Grey also adopted the principle of federal unity. He stated that the “Colonies have many common interests, the regulation of which in some uniform manner, and by some single authority, may be essential to the welfare of them all. Yet, in many cases, such interests may be more promptly, effectually and satisfactorily decided by some authority within Australia itself, than by the more remote, the less accessible, and, in truth, the less competent authority of Parliament.” He stated that it was intended to devise some method “for enabling the various Legislatures of the several Australian Colonies to co-operate with each other in the enactment of such laws, as may be necessary for regulating the interests common to these possessions collectively; such, for example, are the imposition of duties of import and export, the conveyance of letters, and the formation of roads, railways or other internal communications, traversing any two or more of such colonies.” He further stated that this plan implied the establishment of the system of representation in all the Australian colonies.

*See page 698 et seq., volume XXV.
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In order to erect the district of Port Phillip into a separate colony called Victoria, Earl Grey proposed, therefore, to alter the constitution of New South Wales and to grant constitutions to the colonies of Victoria, South Australia and Tasmania. He advocated the principle of two houses of legislature and of local government by the creation of municipalities. In order to secure to the municipalities "their just weight and consideration," he proposed that they should "bear to the House of Assembly the relation of constituents and representatives."

When this despatch was published in the colony, there was almost unanimous opposition to the proposal to make the municipalities or district councils serve as constituent bodies for the assembly, and numerous petitions* were transmitted to England protesting against this proposal, and some also against the proposal for dividing the legislature into a council and assembly. In acknowledging the despatch, Sir Charles Fitz Roy expressed his personal opinion† in favour of a bi-cameral legislature.

At the beginning of May, 1848, there was a debate‡ on the despatch in the legislative council; and, after considerable discussion and adjournment, it lapsed by a motion for adjournment for six months being carried. During the debates, certain opinions of the council were expressed. Eight resolutions were proposed, of which the following were carried on the voices:—1. "That the erection of Port Phillip into a new Province may be effected without any fundamental change in the Constitution of this Colony." 3. "That it is from the utter inability of the rural districts to bear the expense of District Councils, and not from any desire on the part of the Legislative Council to monopolize all the powers of the colonial state, that the one part of the constitution intended for the colony has been brought into operation, while the other has remained in abeyance." 4. "That any scheme of District Councils, involving powers of local assessment for local purposes, would operate as a virtual confiscation of the lands already alienated, would create endless discord and confusion, and, by simultaneously introducing a federal and local system of Government, render that Government at once ruinously expensive and miserably inefficient." 6. "That this Council cannot acquiesce in any plan for an inter-colonial Congress, in which the superior

* See pages 214, 293 et seq., and 407. † See page 146. ‡ See page 545 et seq.
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wealth and population of New South Wales, as compared with the other colonies of the Australian group both individually and collectively, shall not be fully recognized as the basis of representation.” The second resolution was passed as amended:
2. “That the principle that local affairs should be managed by local authorities, though obviously true as between the colonies and the mother country, cannot at present be extended to the relation between the central government of this colony and its rural districts.” The fifth resolution was submitted and withdrawn: “That, grievous as this Council would esteem it to see any system of delegated election imposed upon the colony, the disfranchisement of the present constituencies in order to confer the elective right upon these justly obnoxious Corporations would render this invasion of public liberty still more intolerable.” The seventh resolution was moved in two parts. The first part was carried on division by eleven votes to ten as follows:—“That the Council is disposed to view favorably the proposition of separating the deliberations of the nominees of the Crown from those of the representatives of the people”; the second part was carried on division by sixteen votes to five, as follows:—“That this Council considers that, if such an amendment be made in the present Constitution, it ought to be accompanied by the cession of the Territorial Revenue, or the Schedules A, B and C, to the appropriation of the Representative Assembly.” The eighth resolution was carried on division by fourteen votes to five as follows:—“That, although this Council has deemed it a duty to give its opinion upon the several propositions contained in the Despatch of the Right Honorable the Secretary of State for the Colonies, it cannot forbear from expressing its strong sense of the indignity, with which the people of this colony are treated by the announcement that a measure so seriously influencing their destiny for good or for evil will be introduced into Parliament, without affording them an opportunity of previously expressing their sentiments upon it.”

Sir Charles Fitz Roy considered that the postponement of a finite decision on these resolutions by the adjournment for six months was due to the question of the establishment of a legislative council distinct from a representative assembly. He stated “that the opposition, that was raised to the Constitution of these
two Legislative bodies, was not grounded upon any principle of Government, but simply and avowedly upon the assertion that a Legislative Council interposed between the Executive Government and the Representative Assembly would render the former more independent of the latter, and therefore not so liable to be controlled by the fear of coming into direct collision with it."

In a despatch* dated 31st July, 1848, earl Grey acknowledged the receipt of the protests against the proposed constitutional changes contained in the petition† from residents at Sydney. He stated that he had decided to postpone legislation in order to ascertain fully the trend of public opinion, and to alter considerably the form of the bill to be presented to parliament. He abandoned the proposals (1) to make the district councils serve as constituent bodies of the legislature, and (2) to establish a bi-cameral legislature; but he proposed to grant the legislative council power to create two legislative houses. He proposed also to separate the district of Port Phillip from New South Wales; to maintain the existing constitution of the legislative council of New South Wales; to grant similar legislative councils to the colonies of Victoria, South Australia and Tasmania; to empower these councils to alter their constitutions; and to provide some method for maintaining uniformity in commercial policy in the different colonies.

In a despatch‡ dated 11th August, 1848, Sir Charles Fitz Roy expressed his opinion in favour of a bi-cameral legislature, and against the proposal to make the district councils serve as constituent bodies for the legislature.

In the month of July, 1848, the electors of the district of Port Phillip expressed their determination to secure separation by refusing to elect members to represent the district in the legislative council, and by electing earl Grey as member for the city of Melbourne.§ In the month of October following, a new election was held. The attempt to defeat the election failed, although the duke of Wellington, viscount Palmerston, lords Brougham and John Russell, and Sir Robert Peel were nominated as candidates.||

* See page 529 et seq. † See page 214. ‡ See page 548. § See page 609 et seq. || See page 729 et seq.
In a despatch, dated 15th August, 1848, Sir William Denison, lieut.-governor of Tasmania, expressed his opinion in favour of a bi-cameral legislature in order that the upper house might prevent the operation of the democratic spirit, which actuated the large mass of the community in that colony.

On the 31st of January, 1849, the correspondence on the bill for the government of the colonies was referred to the committee of the privy council for trade and foreign plantations. This committee presented a report, dated 4th April, which was adopted by the privy council on the 1st of May, 1849, and on which the bill as submitted to parliament was framed.

The committee recommended the granting of the principle of a representative legislature to the colonies of South Australia and Tasmania; the erection of the district of Port Phillip into a separate colony to be called Victoria; the establishment in these three colonies of "a legislature comprising two estates only, that is a Governor and a single house, composed of nominees of the Crown and of the representatives of the people jointly"; the granting of the power to these legislatures of "amending their own constitutions by resolving either of these single Houses of Legislature into two Houses"; and the granting of the power to make any other amendments in their constitution, provided that no act of a colonial legislature "to enlarge, retrench or alter the constitution of that legislature of its rights and privileges" was valid, until confirmed by the Queen in council after lying before each house of parliament for thirty days. On the problem of municipal government, the committee recommended that the clauses in the constitution act of 1842, which provided for district councils, should be amended "by enacting that the district councils should not be brought into operation, unless upon the petition of the inhabitants of the several districts." To provide for the expenditure of the district councils, the committee advocated the surrender to the councils of the moiety of the territorial revenue at the disposal of the lords commissioners of the treasury. The committee recommended that a uniform customs tariff should be established in all the colonies by the authority of parliament, and that the existing tariff of New South Wales with slight modifications should be the general tariff of Australia.
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The committee also proposed that a federal legislature should be established representing the four colonies of New South Wales, Victoria, Tasmania and South Australia. The principal objective of this legislature was to provide for making any alteration in the general tariff, and the proposal was as follows:

"For this purpose we propose that one of the Governors of the Australian colonies should always hold from Your Majesty a commission constituting him the Governor-General of Australia. We think that he should be authorized to convene a body to be called the General Assembly of Australia at any time and at any place within Your Majesty’s Australian dominions which he might see fit to appoint for the purpose. But we are of opinion that the first convocation of that body should be postponed until the Governor-General should have received from two or more of the Australian Legislatures addresses requesting him to exercise that power.

"We recommend that the General Assembly should consist of the Governor-General and of a single House, to be called the House of Delegates. The House of Delegates should be composed of not less than twenty, nor of more than thirty members. They should be elected by the Legislatures of the different Australian colonies. We subjoin a schedule explanatory of the composition of this body, that is, of the total number of delegates, and of the proportions in which each colony should contribute to that number.

"We think that Your Majesty should be authorised to establish provisionally, and in the first instance all the rules for the election of the delegates, and for the conduct of the business of the General Assembly; but that it should be competent to that body to supersede any such rules, and to substitute others, which substituted rules should not, however, take effect until they had received Your Majesty’s sanction.

"We propose that the General Assembly should also have the power of making laws for the alteration of the number of delegates, or for the improvement in any other respect of its own constitution. But we think that no such law should come into operation until it had actually been confirmed by Your Majesty."
"We propose to limit the range of the legislative authority of the General Assembly to the ten topics which we proceed to enumerate. These are:

"1. The imposition of Duties upon Imports and Exports.
"2. The Conveyance of Letters.
"3. The formation of Roads, Canals, or Railways, traversing any two or more of such colonies.
"4. The erection and maintenance of Beacons and Light-houses.
"5. The Imposition of Dues or other Charges on Shipping in every Port or Harbour.
"6. The establishment of a General Supreme Court, to be a court of original jurisdiction, or a court of appeal for any of the inferior courts of the separate provinces.
"7. The determining of the extent of the jurisdiction and the forms and manner of proceeding of such Supreme Court.
"8. The regulation of Weights and Measures.
"9. The enactment of laws affecting all the colonies represented in the General Assembly on any subject not specifically mentioned in the preceding list, but on which the General Assembly should be desired to legislate by addresses for that purpose presented to them from the legislatures of all those colonies.
"10. The appropriation to any of the preceding objects of such sums as may be necessary, by an equal percentage from the revenue received in all the Australian colonies, in virtue of any enactments of the General Assembly of Australia.

"By these means we apprehend that many important objects would be accomplished which would otherwise be unattainable, and, by the qualifications which we have proposed, effectual security would, we think, be taken against the otherwise danger of establishing a central legislature in opposition to the wishes of the separate legislatures, or in such a manner as to induce collisions of authority between them. The proceedings also of the Legislative Council of New South Wales, with reference to the proposed changes in the Constitution, lead us to infer that the necessity of creating some such general authority for the Australian colonies begins to be seriously felt."
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The composition of the house of delegates was provided in the schedule as follows:—"Each colony to send two members, and each to send one additional member for every fifteen thousand of the population, according to the latest census, before the convening of the House. On the present population, the numbers would be as follows:—New South Wales, population 155,000, twelve members; Victoria, 33,000, four; Van Diemen's Land* (deducting convicts), 46,000, five; South Australia, 31,000, four. Total, twenty five members."

A bill for the better government of the Australian colonies, founded on the report of the committee of the privy council, was introduced into the house of commons in the session of 1849; but it was found impossible to proceed with the bill before the session was concluded. In a despatch, dated 18th August, 1849, earl Grey announced his intention to again introduce the bill on the re-assembling of parliament with one important modification, viz., the omission of the provisions for a general and uniform tariff, to be established by the act itself, and unalterable except by the general assembly of all the colonies when convoked. This change was made, as it was considered that the tariff could be better determined by local legislatures.

In transmitting a memorial with a despatch, dated 12th April, 1850, Sir Charles Fitz Roy commented on public opinion on constitutional questions at that date. In the memorial, it was proposed "that the Government of New South Wales should consist of three Estates, a Governor to be paid and appointed by the Crown; a Legislative Council to be composed of Members appointed for life by the Crown, and of Ex Officio Members in the proportion of not more than one in four; and a House of Assembly to be elected by the Colonists." This proposal was endorsed by Sir Charles Fitz Roy, and he considered it of little moment whether the members of council were appointed for life or only during pleasure. He stated that it was alleged "that a difficulty might exist in finding the materials for two Houses in this Colony, and it has been asserted that a representative Assembly even in its present form has been granted to it too soon. The apathy that has recently been displayed on more than one occasion by the inhabitants of the Colony generally with respect to matters of public interest, and particularly the reluctance that has been shown on the part of gentlemen of weight and influence in the community

* Tasmania.
to offer themselves as Candidates for vacancies, which have occurred in representative seats in the present Legislative Council, have been adduced in support of these opinions; but I apprehend that other causes may be justly assigned for at least the last named fact. I believe that many gentlemen, well qualified by education, character and property, have been deterred from coming forward either by an unwillingness to undergo the ordeal of popular suffrage in a contested election; the probability that, if elected, their tenure of their seats from the approaching separation of Port Phillip from this District, would be but of short duration; the extravagant expenses, which have been entailed on many candidates at former Elections; the great length to which the sittings of the Legislative Council have hitherto been protracted, taking up time which Members from the Country can ill spare from their private avocations; and some perhaps from an objection to enter a mixed Assembly. There has never, however, been found any difficulty in filling up the vacancies that have occurred among the Nominee Members of the present Council."

In the memorial transmitted, the second proposal was "that the charges incurred in the collection of the Customs and every other branch of Revenue, including the Land Fund, as well as the Expenditure of the net Revenues of the Colony, should be placed under the control of the Colonial Legislature, which in return should make provision for a reasonable Civil List." Sir Charles Fitz Roy gave a qualified approval of this proposal, provided an intermediate house was established between an assembly and the governor as head of the executive; but he considered that, if immigration was continued, the existing control of the land fund should remain undisturbed.

The third proposal was "that the Colonial Legislature is clearly entitled to the administration of the Waste Lands of the Crown." Sir Charles Fitz Roy disapproved entirely of this proposal.

The last proposal was "that all vacancies in official appointments should be filled up, as far as conveniently may be, from the inhabitants of the Colony." Sir Charles Fitz Roy endorsed this proposal with the qualification that "in practice the occasional infusion of a little fresh blood" from England into the public departments of the colony was beneficial to the colonists themselves.
This despatch was received in England after the statute, 13 and 14 Vict., c. lix, entitled "An Act for the better Government of Her Majesty's Australian Colonies," had received the royal assent on the 5th of August, 1850. This statute was transmitted by earl Grey to Sir Charles Fitz Roy in a despatch, dated 30th August, 1850. Earl Grey stated that the recommendations in the report of the privy council had been closely followed in the statute, and that the fundamental principle of the statute was "that of maintaining the existing Constitution of New South Wales, with as little alteration as possible, in the separate colonies into which it is now to be divided, and extending that Constitution to the other colonies to which Representative Constitutions are under this Act to be granted."

An important deviation in the statute from former practice was an extension of the elective franchise. This was effected by granting the power to the governor and existing legislative council to form new electoral divisions for both New South Wales and Victoria, and admitting such districts as necessary without regard to the "boundaries of location"; and by granting the franchise to anyone holding a license to depasture lands. By these means, many squatters were granted the franchise.

The clauses, providing for the establishment of a general assembly, were deleted in the house of lords, because they "were liable to practical objection, to obviate which it would have been necessary to introduce amendments, entering into details of legislation, which there were no means of satisfactorily arranging without further communication with the colonies."

By the thirty-fourth clause, provision was made for the separation from New South Wales of territories, lying northward of the thirtieth parallel of south latitude upon petition from the inhabitants.

The colonies of New South Wales, Victoria, South Australia and Tasmania were thus granted the principle of a representative government, and provision was made for the erection of the colony of Queensland, the last subdivision to be made of the continent of Australia.

Fredk. Watson.

October, 1925.
DESPATCHES.
Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 196, per ship Tory; acknowledged by earl Grey, 9th March, 1848.)

My Lord,

Government House, 2d October, 1847.

I have the honor to enclose a Copy of the Speech by which I this day closed the Session of the Legislative Council of this Colony, which was opened on the 4th May last, as reported in my Despatch, No. 115 of the 25th May, 1847.

As the Packet ship will sail for England this evening, I have only now time to add that the Acts passed during the Session will be forwarded to Your Lordship in due course as soon as possible.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[A copy of this speech will be found in the "Votes and Proceedings" of the legislative council.]

Earl Grey to Sir Charles Fitz Roy.

(Despatch No. 232, per ship Chaseley.)

Sir,

Downing Street, 4th October, 1847.

I have received your Despatch, No. 68 of the 30th of December last, reporting the arrival of the Ship "Maitland" at Port Phillip with Exiles, and enclosing Copies of Communications which you had received from the Acting Superintendent of that District, illustrative of the desire shown by the Settlers there to receive and employ Exiles and freed Convicts.
The Statements contained in those Reports have a material bearing on the General question of the disposal of Convicts, which was so fully entered into in my Despatch No. 213 of the 3d Ultimo.

I am, &c.,
GREY.

SIR CHARLES FITZROY TO EARL GREY.

(Despatch No. 197, per ship Ganges; acknowledged by earl Grey, 13th September, 1848.)

Government House, 7th October, 1847.

My Lord,

I have had the honor to receive your Lordship's Despatch of the 24th of last March No. 113, informing me in effect:

1st. That Her Majesty's Government had determined to revive the practice of forwarding to this Colony at the public expense the wives and families of married Convicts, who have obtained Pardons or Tickets of Leave, and who may be deemed worthy of that indulgence; and

2ndly. That the plan in a modified form would be extended to those persons, who shall be sent to Port Phillip as "Exiles" from Great Britain.

I enclose for Your Lordship's information a copy of the Notice which I caused to be issued with respect to the wives and families of Convicts; and it will be my duty, in obedience to Your Lordship's commands, to transmit from time to time such recommendations as used formerly to be sent to England in favor of those Tickets of Leave men or pardoned Convicts, who may be considered proper objects for that indulgence.

With respect to the families of Exiles, the Instructions conveyed to me in Your Lordship's Despatch is "that in every case in which the 'Exile' shall remit to Great Britain one half of the expense of conveying his wife and children to the Colony in which he may be resident, the other half will be charged on the funds granted by Parliament for Convict services."

In obedience to the concluding part of Your Lordship's Despatch, I caused Her Majesty's gracious intentions in this respect to be published through the usual channel.

As, however, it was obviously impossible to predetermine in the Colony the actual expense of conveying hither any such family, I resolved to require the Applicants to deposit such a sum of money as will cover one moiety of the probable expense, calculated according to a fixed scale prescribed in the Notice, leaving the balance (if any), after paying a moiety of the actual expense, to be refunded to the depositor.

In framing this scale, it was assumed that the cost of the passage hither for an Adult would not exceed Eighteen pounds, and
that the Children would be charged for according to the principle laid down in the "Passengers Act," those above 14 years being accounted Adults, and those between one and fourteen charged one half. The deposits to be demanded in the Colony will, as explained in the Notice, be somewhat greater than the moiety of this assumed cost, to prevent the possibility of loss to the Government.

Instead, however, of remitting to England the deposit made in the Colony, I beg to recommend, for Your Lordship's approval, that one moiety of the cost should be paid by Her Majesty's Government in England and the other moiety out of the deposits so to be made in the Colony on the arrival of the families. Besides obviating the necessity for remitting funds to England, this mode of payment will afford the Government some guarantee for a proper performance of the Contract on the part of those engaging to convey the families to the Colony.

I have, &c.,

Chs. A. Fitz Roy.

[Enclosures.]

[Copies of these notices, dated 27th August and 9th September, 1847, were printed in the "Government Gazette."
to the loss of income which they have sustained under the recent arrangement, I should consider that they could by so doing be adopting a very proper Course; And you are authorised to place such a Vote in the Estimates to be submitted to the Council, if you should find that that Body would be prepared to sanction it.

I am, &c.,
GREY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 198, per ship Ganges; acknowledged by earl Grey, 7th July, 1848.)

My Lord,

Government House, 8th October, 1847.

With reference to my Despatch, No. 195 of the 29th Ultimo, enclosing the copy of an Address and Resolutions, which had been presented to me by the Legislative Council, with the Report of the Select Committee appointed to consider and report upon the present demand for labour in this Colony, and the best means of obtaining a supply of the same, I have the honor to forward herewith an Address which has been adopted by the Leg. Council, and which they respectfully request may be laid at the foot of the Throne, expressing their sympathy and regret at the great and overwhelming distress prevailing in different parts of the United Kingdom from the scarcity of food and super-abundant population, and representing the great demand for labour now existing in this Colony; in consideration of which circumstances, the Council humbly pray that Her Majesty will be graciously pleased to sanction the adoption of such measures, as to Her Majesty may seem meet, for the removal from the United Kingdom of such of Her subjects as may be desirous to emigrate to this Colony.

I have, &c.,
CHS. A. FITZ ROY.

[Enclosure.]

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

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 234, per ship Chaseley.)

Sir,

Downing Street, 9 October, 1847.

I have received your Despatch, No. 97 of the 27th of April last, enclosing a Bill of Exchange for the sum of £43 12s. 2d., being the Balance of Fees due on your Commission as Governor of New South Wales.

I am, &c.,
GREY.
FITZ ROY TO GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 199, per ship Ganges; acknowledged by earl Grey, 19th March, 1848.)

My Lord, Government House, 9th October, 1847.

Having laid before the Legislative Council a copy of your Lordship's Despatch, No. 153 of the 24th May last, communicating to me the decision of the Lords Commissioners of Her Majesty's Treasury respecting the deduction from the Pension granted by the Home Government to the late Speaker, Mr. Alexander MacLeay, as Secretary to the Transport Board in England, an Address to Her Majesty, which I have the honor to enclose, was adopted by that Body, the object of which is to request that I may be instructed to place upon the Estimates of this Colony a sum sufficient to compensate Mr. MacLeay for the loss of Pension which he sustained during the time he held the Office of Speaker.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

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

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 200, per ship Ganges; acknowledged by earl Grey, 15th March, 1848.)

My Lord, Government House, 10th Octr., 1847.

In my Despatch of the 17th February last No. 39, I explained at some length the difficulty which had arisen in giving effect to Her Majesty's Instructions for the disallowance of the Act, passed by the Legislature of this Colony, intituled "An Act to give a preferable Lien on Wool from season to season, and to make Mortgages of Sheep, Cattle and horses valid without delivery to the Mortgagee," and for the confirmation of the reserved Bill, 9th Victoria, No. 30, which had for its object the repeal the former enactment, and for the substitution for a limited time of other provisions in lieu thereof.

I also stated to Your Lordship that, under all the circumstances of the case, it was my intention to suspend the publication of the Order in Council disallowing the 7th Vict., No. 3, and the issue of any Proclamation confirming the 9th Vict., No. 30, until a Bill could be passed in the Colony to effect the objects of the latter.
An enactment of this nature has accordingly been passed by the Legislative Council during its late Session and assented to by me on Her Majesty's behalf, an authentic copy of which will be transmitted to Your Lordship in due course.

It is now my duty to report to Your Lordship that, immediately after assenting to the last mentioned enactment, I issued a Proclamation, of which the enclosed is a copy, formally promulgating Her Majesty's disallowance of the original Act, 7 Vict., No. 3.

I should here explain that this Proclamation was issued under the advice of the Crown Law Officers, to whom I deemed it prudent to refer, in consequence of an error, no doubt a clerical one, having been discovered in the Transcript of the Order in Council before alluded to, which it was apprehended might possibly vitiate that document. The error, to which I advert, may be thus briefly described. The Act of Council, which Her Majesty's Order in Council purports to disallow, is therein recited in the only place in which its title occurs as "An Act to give a preferable Lien on Wool from Season to season, and to make Mortgages of sheep, cattle, and horses valid without delivery to the Mortgagee, and to substitute for a limited time other provisions in lieu thereof."

This title is, however, incorrect, the words ending with "Mortgagee" being the correct title of the Act intended to be disallowed, whilst the words underlined are a portion of the title of the substituted Bill, 9 Vict., No. 30.

Although the Law Officers were of opinion that this error did not affect the validity of the Order in Council, I have deemed it my duty to report the facts for your Lordship's information.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

[The proclamation, dated 26th August, was printed in the issue of the "Government Gazette," dated 31st August, 1847.]

[Enclosure No. 2.]

MESSRS. PLUNKETT AND MANNING TO COLONIAL SECRETARY THOMSON.

Sir, Attorney General's Office, 16th August, 1847.

In returning the original documents transmitted to us with your Letter of the 9th Instant, relative to the preferable Lien Bill, we have the honor to report that in our opinion the Order in Council must be taken to be a disallowance of the Act "To give a preferable Lien on Wool from Season to Season and to make Mortgages of Sheep, Cattle and Horses valid without delivery to the Mortgagee," notwithstanding the Clerical error which has been
FITZ ROY TO GREY.

made in copying the Title of the Act in the transmitted record, and that such disallowance should be signified accordingly. The error is merely clerical, and as not only the whole of the real title is given, though with an erroneous addition, but the day on which the Governor gave the Royal Assent to it is mentioned, there cannot by any possibility be a question that this particular Act was intended to be and was in fact disallowed by the actual decision of Her Majesty and the Privy Council.

We have corrected the Draft of the Proclamation submitted to us and propose that it should issue in the form in which it is now returned.

We have, &c.,
John H. Plunkett, Attorney General.
W. M. Manning, Solicitor General.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 201, per ship Ganges.)

My Lord,
Government House, 11th October, 1847.

In reply to your Lordship's Despatch, No. 151 of the 18th May last, enclosing a Copy of a letter from Mr. F. Strickland, requesting Your Lordship's interposition in enabling him to recover the amount of a debt which he alleges was contracted with him by Mr. G. P. F. Gregory, the Prothonotary of the Supreme Court of this Colony, in the year 1842; I have the honor to transmit a copy of the reply which I have received to a communication which I caused to be addressed to Mr. Gregory on the subject.

I have, &c.,
Chs. A. Fitz Roy.

[Enclosure.]

MR. G. P. F. GREGORY TO PRIVATE SECRETARY FITZ ROY.

Sir,
Supreme Court, Sydney, 1st Octr., 1847.

I beg leave to apologise for not sooner replying to your letter of the 22d Ulto., but I have to state that it did not reach my hands until this morning on my arrival in Sydney from the Maitland Circuit Court, whither I had been summoned on duty.

The Right Honble. the Secretary of State appears to consider it incumbent on me to give an explanation of the circumstances of a small debt of a personal nature claimed against me by a Mr. F. W. Strickland. The explanation is extremely simple and straightforward, and I have therefore no hesitation in at once giving it. The fact is that that individual has made his application for the discharge of what was due to him in the wrong quarter. He should have applied to my Brother, Mr. Gregory, No. 1 Bedford Row, who, it was well known, was duly empowered to collect for me, and to get in such small accounts as might be due from me, and to pay them. Had he done so, he would have found the funds ready for him, so far as his demand was just (and from my recollection of the matter I rather think that the demand is somewhat grown since). It is just as probable that Mr. Strickland has found
out his error and may probably have received his money from that
source. I have only his own word for it that he has not; and, as
I am writing by this Packet to London, I have called Mr. Gregory's
attention to the matter, and have requested him, if not paid, to
discharge it at once.

I have, &c.,
G. P. F. GREGORY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 202, per ship Ganges.)

My Lord, Government House, 12th October, 1847.

I duly received your Lordship's Despatch of the 14th May
last, No. 149, enclosing the copy of a letter from Messrs. Wade
and Pennington, complaining of a charge to which, in the trans­
action of some Professional business through a legal firm in this
Colony, they had been subjected on account of a fee to the Chief
Clerk in the Office of the Principal 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.

Having immediately called on Mr. Ryan, through the head of
the Department, for his explanation of the matter, I received
the reply of which I have now the honor to enclose a copy.

I have, &c.,
CHS. A. FITZ ROY.

[Enclosure.]

MEMORANDUM for Captain McLean, in reply to the charge of re­
ceiving Five Guineas as a Fee for Searches and giving
Extracts from the Registers of this Office, referred to in the
Colonial Secretary's letter of the 23rd instant, No. 47/252.

I REGRET that the charge should have been made in so vague a
manner, as to render it impossible for me to reply to it as fully
as I should wish. It is only left for me to deny in the most positive
terms the truth of this statement, as I never have received a fee of
any kind or amount from any one, upon any occasion, for searches
or for giving extracts or other information whatever from this
Office, beyond the following, namely, where I am subpoenaed to pro­
duce any document before the Supreme Court in its Civil Jurisdic­
tion, I receive a fee of one Guinea, and the like sum is given to me
in every case when required to attend before a Notary Public or
the Mayor to make Oath or declaration (for transmission to Eng­
land or elsewhere) to the indentity of any person, who, having
been transported to this Colony, had become free; and even these
sums are given without any demand from me, and are I believe
usual in such cases. I may observe that I do not consider proving
the identity of a free man or the making of an oath or declaration
as above mentioned as any part of my official Duties.

30th September, 1847.

THOMAS RYAN, Chief Clerk.
FITZ ROY TO GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 236, per ship Chaseley.)

Sir,
Downing Street, 13th October, 1847.
I have received your Despatch, No. 89 of the 15th of April last, submitting for Her Majesty's approval or disallowance certain Rules which had been promulgated by the Judges of the Supreme Court of the Colony.
In your previous Despatch, No. 40 of the 18th of February last, you reported that the general subject of the manner of disposing of such Rules of Court was then under the consideration of the Legislative Council, and that it was understood that the discussion of it would be revived during the ensuing Session with a view to some Legislative proceedings thereon.
Until informed of the result of such deliberations, I shall defer submitting the Rules which you have now transmitted for the consideration of Her Majesty.
I am, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 237, per ship Chaseley.)

Sir,
Downing Street, 14th October, 1847.
I have received your Despatch of the 2nd of April last, No. 71, enclosing a Memorial from Mr. Stephen Partridge, late Superintendent of Convicts at Port Macquarie, praying Compensation for the loss of his Office, which was discontinued at the close of the Year 1846.
I have to convey to you the necessary sanction for the payment, which you report having made to Mr. Partridge of the Sum of Two Hundred Pounds, being equal to his Salary at the rate of £100 per annum for two Years.
I am, &c.,
GREY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 204, per ship Ganges.)

My Lord,
Government House, 14th October, 1847.
Adverting to my Despatch of the 20th April last, No. 94, I have the honor to transmit, in pursuance of the instructions contained in Lord Stanley's Despatch of 14th October, 1841, No. 16, Duplicates of the permissions which I have granted to the parties named in the accompanying List, to import labourers from the Continent of Europe, under the Notice issued by this Government of 7th April, 1847, a Copy of which was forwarded to Your Lordship in my Despatch referred to.
I have, &c.,
CHS. A. FITZ ROY.
List of Persons to whom permission has been given to import Labourers from the Continent of Europe under the Notice of the 7th April, 1847.

<table>
<thead>
<tr>
<th>No.</th>
<th>Name of Applicant</th>
<th>Number and description of Labourers applied for</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Mr. Richard Windeyer</td>
<td>Vine Dressers 1, Wine Cooper 7</td>
<td>8</td>
</tr>
<tr>
<td>2</td>
<td>Henry Carmichael</td>
<td>Vine Dressers 3, Wine Cooper 1</td>
<td>4</td>
</tr>
<tr>
<td>3</td>
<td>Edward Cox</td>
<td>Vine Dressers 2, Wine Cooper 2</td>
<td>4</td>
</tr>
<tr>
<td>4</td>
<td>George Cox</td>
<td>Vine Dressers 2, Wine Cooper 1</td>
<td>3</td>
</tr>
<tr>
<td>5</td>
<td>James King</td>
<td>Vine Dressers 2, Wine Cooper 1</td>
<td>3</td>
</tr>
<tr>
<td>6</td>
<td>William Carwell</td>
<td>Vine Dressers 2, Wine Cooper 1</td>
<td>2</td>
</tr>
<tr>
<td>7</td>
<td>William Burnett</td>
<td>Vine Dressers 1</td>
<td>1</td>
</tr>
<tr>
<td>8</td>
<td>W. Ogilvie</td>
<td>Wine Cooper 1</td>
<td>2</td>
</tr>
<tr>
<td>9</td>
<td>Edward Ogilvie</td>
<td>Vine Dressers 2, Wine Cooper 1</td>
<td>3</td>
</tr>
<tr>
<td>10</td>
<td>J. Savory Rodd</td>
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<td>Cornelius O'Brien</td>
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<td>12</td>
<td>Francis Mitchell</td>
<td>Vine Dressers 2, Wine Cooper 1</td>
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<td>13</td>
<td>Henry Hall</td>
<td>Wine Cooper 1</td>
<td>2</td>
</tr>
<tr>
<td>14</td>
<td>T. A. Guion</td>
<td>Wine Cooper 1</td>
<td>4</td>
</tr>
<tr>
<td>15</td>
<td>William Charles Wentworth</td>
<td>Vine Dressers 3, Wine Cooper 1</td>
<td>4</td>
</tr>
<tr>
<td>16</td>
<td>Janes Manning</td>
<td>Vine Dressers 2, Wine Cooper 1</td>
<td>3</td>
</tr>
<tr>
<td>17</td>
<td>Messrs. William Walker and Co.</td>
<td>Vine Dressers 6, Wine Cooper 1</td>
<td>6</td>
</tr>
<tr>
<td>18</td>
<td>Mr. George Blaxland</td>
<td>Vine Dressers 2, Wine Cooper 1</td>
<td>2</td>
</tr>
<tr>
<td>19</td>
<td>William Bowman</td>
<td>Vine Dressers 2, Wine Cooper 1</td>
<td>2</td>
</tr>
<tr>
<td>20</td>
<td>A. W. Scott</td>
<td>Vine Dressers 5, Wine Cooper 1</td>
<td>6</td>
</tr>
<tr>
<td>21</td>
<td>A. Windeyer</td>
<td>Vine Dressers 1, Wine Cooper 1</td>
<td>2</td>
</tr>
<tr>
<td>22</td>
<td>E. Weston</td>
<td>Vine Dressers 1, Wine Cooper 1</td>
<td>2</td>
</tr>
<tr>
<td>23</td>
<td>Alexander Thomson</td>
<td>Vine Dressers and Wine Cooper</td>
<td>10</td>
</tr>
</tbody>
</table>

Total: 79

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 206, per ship Ganges.)

18 Oct.

My Lord,

Government House, 16th October, 1847.

Adverting to my Despatch of the 25th August last, No. 171, communicating such information as I had been enabled to collect respecting Redmond Sheering, relative to whom particulars were required by Your Lordship's Despatch of 13th November, 1846, No. 57, I now do myself the honor to state that a letter, dated Deniliquin, Edward River, 16th September, 1847, has been received from a Mr. S. B. Daniel, by which I learn that Redmond
Sheering is now in the employment of Benjamin Boyd, Esquire, and that any communication forwarded to Mr. Daniel's address will be delivered to him.

I have therefore caused to be forwarded to Sheering a copy of the Memorial of Thomas Sheering received in Your Lordship's Despatch referred to.

I have, &c.,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 207, per ship Ganges.)

My Lord,

Government House, 17th October, 1847.

I duly received Your Lordship's Despatch, No. 138 of the 26th April last, transmitting a Petition from Henry H. Dixon and Elizabeth Dixon, praying that enquiry may be made relative to the property said to have been left in this Colony by the late Mr. William Noble.

Having referred for information on this matter to the Curator of Intestates' Estates, I have the honor to transmit to Your Lordship a copy of the reply of that Officer, in which he details the mode of disposal of the property of a person named William Noble.

It is not quite clear whether this person was identical with the William Noble mentioned in the Petition of H. H. Dixon and wife; but the particulars furnished by Mr. Milford, the Curator, are so circumstantial as to enable the Petitioners easily to determine the fact.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

MR. S. F. MILFORD TO COLONIAL SECRETARY THOMSON.

Supreme Court House,

Sir, Sydney, 20th September, 1847.

In reply to your letter No. 669, I have the honor to inform you that William Noble arrived in this Colony in the Year 1809 and became free in 1822.

In 1826, he made his Will in favor of his Wife Elizabeth, and within a few months after died.

Elizabeth Noble subsequently married a Hugh Corrigan, and departed this life a few years afterwards; Hugh Corrigan, as her husband, possessed himself of her property without obtaining letters of Administration, nor does any order to collect her Estate appear to have been made. In 1834, Corrigan also departed this life intestate, and Registrar Manning collected under an order of Court in the usual course his supposed Estate; but the greater part of such Estate was in fact the property of his nominal Wife.

After Mr. Manning had disposed of about three fourths thereof, he discovered that Corrigan had a Wife alive in England, married to him prior to his marriage in this Colony to the said Elizabeth Noble, so of course the latter marriage was null and void.
1847.
17 Oct.

Report re estate of W. Noble.

Will of W. Noble.

IN the Name of God. Amen.

I, William Noble, painter and Glazier of No. 94 Upper Castlereagh Street, Sydney, in the County of Cumberland, New South Wales; my first request is that I am laid decent in the ground and paying my funeral expenses and lawful debts. First, I do declare and make void all other Wills heretofore made by me in England or elsewhere, but now declare this to be my last will and Testament. I bequeath unto my Wife, Elizabeth Noble, but came into this Country in the Ship Indispensable, Captn. Best, by the name of Elizabeth Thompson. It is my wish and particular desire that all the property I possess be all hers after my decease, she helping to work for the same cash in hand all grants of land, Leases of Houses, wheresoever they may be found, also all kind of Stock whatever, and do Also make her my Executrix; and further, if any of my relations whatever should ever make application, either by law or any other means, it is my particular request that each of them may receive one shilling each lawful money of Great Britain, and no more, under any pretence whatsoever. Witness my hand this 19th day of January in the Year of Our Lord One thousand eight hundred and Twenty six. Sd. WILLIAM NOBLE.

Witnesses:—signed JAMES WILSHIRE, sd. DANIEL MILLER, sd. W. J. WILSHIRE.

Probate granted to Elizabeth Noble of Sydney, Widow of the deceased, the 9th June, 1826.

Memo. for J. E. Manning, Esqr.—William Noble arrived pr. Admiral Gambier 1 in 1809; was tried at Middlesex G.D., 4th December, 1805. Sentenced 14 years; obtained a Certificate of Freedom 7th September, 1822; Native Place, White Chapel; trade, Plumber and Glazier.

Principal Supt. of Convicts' Office, 31st May, 1834. THOMAS RYAN.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 238, per ship Chaseley; acknowledged by Sir Charles Fitz Roy, 7th April, 1848.)

Sir,
Downing Street, 18th October, 1847.

I beg to direct your attention to Mr. Secretary Gladstone's Despatch of the 16 March, 1846, calling for any observations which you might have to offer on a representation made by Mr. N. Dennys to certain alleged hardships, to which his son is exposed as Treasurer of a District Council in New South Wales under the Act of Parlt., 3 and 4 Vict., cap. 62; and I have to request that you would furnish me with an early Report on the subject.

I am, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch marked "Military, No. 7," per ship Chaseley.)

Sir,
Downing Street, 19th October, 1847.

I have to acknowledge the receipt of your Despatch, No. 100 of the 30th of April last with its enclosures, reporting
 GREY TO FITZ ROY.  

the steps proposed to be taken by the Lieutenant General Commanding Her Majesty’s Troops in the Australasian Settlements, in obedience to my instructions to yourself of the 24th of November last for increasing the force in New Zealand by the reduction of that in New South Wales, and also pointing out the difficulty which exists in organizing an efficient Police Corps for the last named Colony.

Although the Force, which you propose to retain in New South Wales, is somewhat larger in amount than I have directed you to keep there, it is not my intention to withhold my approval from this arrangement as one of a temporary nature. Viewed in this light, I see no sufficient reason for objecting to the arrangement, because the force, which it provided for New Zealand, will be raised nearly to the amount that was intended, while the restoration of tranquillity in that Colony has greatly diminished the want of Troops, which seemed to exist there, when I addressed to you my Despatches above referred to. At the time the arrangements which you now report were adopted, there was a further reason for departing in some degree from those which had been directed, in consequence of the demand which still continued on the services of the Troops in New South Wales to keep the Convicts in subjection. This demand will, however, now cease, as orders have been given for breaking up the Convict Establishment in that Colony. Hence, and taking also into consideration the fact that this Colony is peculiarly exempt from the danger of being attacked by a foreign Enemy, I am of opinion that the Garrison of New South Wales should be reduced, will ultimately be amply sufficient, and I cannot, accordingly, hold out to you the expectation that so considerable a force as that to which you refer will long continue to be kept there, merely for the purpose of supporting the Police in the maintenance of order, this being a service for which the Colony must provide. You will do well, therefore, to bring under the consideration of the Legislative Council of your Government the propriety of taking early measures to increase the police, so as to be prepared for the further reduction in the number of regular Troops maintained in the Colony, which will probably be effected at a very early period. In taking any measures for this purpose, you will suggest to the Legislative Council that it deserves to be considered whether the difficulty, which is described to exist in obtaining the services of an adequate number of effective policemen, might not be met by causing Men to be engaged for this purpose in England. I have no doubt that Men well fitted for the duty might easily be engaged here under a stipulation to serve for 7 or 10 years for reasonable
wages, and, in order to secure their performance of the Agreement, some bonus should be held out to them on the completion of their term of service, while, on the other hand, in the event of their either leaving the service voluntarily or being dismissed for misconduct before the expiration of the stipulated period, they should be made subject to a penalty equal to the probable cost of their conveyance to the Colony, for the recovery of which stringent and summary powers should be given to the Governor by the Act authorizing the measure.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZROY.

(Despatch No. 240, per ship Chaseley; acknowledged by Sir Charles Fitz Roy, 23rd October, 1848.)

Sir, Downing Street, 20 October, 1847.

I transmit to you herewith Copies of a Correspondence which has taken place on an application from the Most Revd. Archbishop Polding for the grant of Passage Allowance to three Roman Catholic Clergymen, who have accompanied him to New South Wales.

That application, as you will perceive from the Correspondence, was founded on a recommendation contained in Sir George Gipps' Despatch, No. 153 of the 15th Sepr., 1845, that Six Roman Catholic Clergymen should receive the usual passage Allowance, and be added to the Ecclesiastical Establishment of the Colony. A Communication was accordingly addressed to the Revd. Dr. Heptonstall on the receipt of that Despatch, but until now only two of the six Clergymen have been selected. Under the circumstances stated in the correspondence, H.M.'s Government have not felt authorized to assume that the funds were still available for that purpose. But, if that should prove to be the case, you will lose no time in paying the amount to Archbishop Polding, or in remitting it to the Agent for the liquidation of the payment made in this Country, as may be judged most advisable.

I am, &c,

GREY.

MOST REVD. ARCHBISHOP POLDING TO EARL GREY.


I have the honor to request your Lordship's sanction to the payment of £150 for outfit and passage to each of the following Gentlemen, who are preparing to accompany me to New South Wales in the St. Vincent, the day appointed for sailing being the 6th of October:—

The Revd. Michael Ryan, of the College of All Hallow near Dublin, the Reverend Edmund and Bernard Caldwell of the English College at Donai.
I have received from the Superiors of these Colleges satisfactory testimonials in favor of the abovementioned Clergymen; I have therefore no difficulty in recommending them to Your Lordship. I have, &c.

[J. B. Polding.

[Enclosure No. 2.]

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

Sir,

Downing Street, 1st October, 1847.

On the 15th Septr., 1845, the then Governor of New South Wales, at the request of the Roman Catholic Archbishop of that Colony, addressed to Lord Stanley a Despatch, recommending that six additional Roman Catholic Clergymen might be sent as Colonial Chaplains to New South Wales; and he proposed that the consequent expenditure should be defrayed from the surplus which he anticipated would be left of the Funds set apart for Religious Worship by the Statute 5 and 6 V., ch. 76, Schedule C.

In pursuance of this recommendation, two Roman Catholic Clergymen were despatched to New South Wales in November, 1846. But the Agent of Archbishop Polding in this Country, though called upon by Mr. Secretary Gladstone to name four other Candidates, did not in fact make any such nomination. The Archbishop has now arrived in England and has requested Lord Grey to despatch three more of the Six Clergymen in question to New South Wales at the Public Expense.

Lord Grey is very unwilling to refuse that request. But, without the express sanction of the Lords Commissrs. of the Treasury, he cannot accede to it because, during the length of time which has elapsed since the date of the Governor's recommendation, the anticipated surplus of the Funds applicable to this service may have been devoted to other purposes of the same kind in the Colony; and his Lordship has, therefore, no absolute assurance that such an expenditure, if actually incurred, could be made good out of the only Fund at the disposal of Her M.'s Govt., which is applicable to such services.

If without receiving such an assurance, but in the prospect of the Funds being probably forthcoming in New South Wales, the Lords Commissioners of the Treasury would sanction such an outlay, Lord Grey would instruct the Agent for the Colony to advance the Money out of other Funds in his hands, which will however be ultimately required for other purposes. I have, &c.

JAS. STEPHEN.

[Enclosure No. 3.]

MR. J. PARKER to UNDER SECRETARY STEPHEN.

Sir,

Treasury Chambers, 5th October, 1847.

With reference to your letter of the 1st Instant, I am commanded by the Lords Commissioners of Her Majesty's Treasury to acquaint you, for the information of Earl Grey, that, as it does not appear that there is any Sum applicable for the purpose contemplated in your letter, viz., sending six additional Roman Catholic Clergymen as Colonial Chaplains to New South Wales, My Lords cannot sanction this Expenditure being incurred.

Their Lordships consider that it would be better, after the lapse of so long a time, to refer the question to the Governor of New South Wales, to ascertain if any Sum has been reserved for this purpose.

I am, &c,

J. PARKER.
1847.
20 Oct.

[Enclosure No. 4.]

MOST REV'D. ARCHBISHOP POLDING TO EARL GREY.

My Lord,
31 Sel Street, Liverpool, 6th Octr., 1847.

I regret no communication has yet reached me, in reference to my application for Outfit and passage to New South Wales for the Revd. Messrs. Ryan and Caldwell. Not anticipating any difficulty, and being desirous to return to Sydney, I engaged passages for these three Gentlemen with myself in the Saint Vincent. Certificates from the Captain to this effect have been transmitted to the Revd. T. Heptonstall of Acton, my Agent in London. The money required I have obtained from the Commercial Bank; and I earnestly hope Your Lordship will enable me, at an early period, to refund it through the Revd. T. Heptonstall. We sail 7 October.

I have, &c.,

J. B. POLDING.

[Enclosure No. 5.]

UNDER SECRETARY HAWES TO REVD. DR. HEPTONSTALL.

Sir, Downing Street, 18th October, 1847.

inability to grant allowance for passage money without reference to governor.

I am directed to acquaint you that Lord Grey was unable to return a final answer, before the departure of the most Revd. Archbishop Polding, to the application made by him for the issue of Passage Allowance to three Roman Catholic Clergymen, who have sailed with him for New South Wales.

His application was, as you are aware, founded on an intimation conveyed to you from this Department in the month of February, 1846, that the usual allowance would be granted to Six Roman Catholic Clergymen, for which service adequate funds would, as the Governor then reported, be set apart in the Colony. Two Clergymen only were selected by you, and the delay which has since occurred has created a doubt, of which Dr. Polding was informed, whether sufficient Funds remain available for that purpose from the portion of the £30,000 for Public Worship, devoted to the Roman Catholic Church, or whether the whole amount so appropriated may not, in the meantime, have been absorbed in the general maintenance of the establishment of that Church. Lord Grey, therefore, felt it impossible to direct the issue of the allowance in question without the sanction and guarantee of the Board of Treasury; and the Lords Commissioners have considered that it would not be safe, after the lapse of so long a time, to act without a further reference to the Governor of New South Wales. Lord Grey will communicate by the first opportunity with that Officer, who will be directed, if there should be funds available for that purpose, either to pay the amount to Archbishop Polding, or remit it to the Colonial Agent as may be found most convenient.

I have, &c.,

B. HAWES.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 210, per ship Ganges; acknowledged by earl Grey, 11th March, 1848.)

My Lord,
Government House, 20th October, 1847.

At the request of the Revd. R. Mansfield, I have the honor to forward herewith a copy of the "Analytical View of
FITZ ROY TO GREY.

the Census of New South Wales for the year 1846," which he has recently published,* and of which he begs your Lordship's acceptance.

I have, &c.,

CHS. A. FITZ Roy.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 241, per ship Chaseley.)

Sir,

Downing Street, 21 October, 1847.

I have received your Despatch, No. 60 of the 27th of March last, enclosing a Memorial addressed to the Lords Commissioners of the Treasury by Lieutt. Colonel Gibbes, the Collector of Customs at the Port of Sydney, praying that he may be relieved from a surcharge of £145 1s. 7d. on account of a payment, which he had erroneously made in the distribution of Certain Seizures to Mr. Cooper whilst holding the Office of Comptroller at Sydney; and, having forwarded that Memorial to the Lords Commissioners of the Treasury, I have now to acquaint you that I have received a communication from their Lordships' Board, instructing that they have acceded to your recommendation in favor of Colonel Gibbes, and have directed the Commissioners of Customs to relieve him from that surcharge.

I am, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 211, per ship Ganges.)

My Lord,

Government House, 21st October, 1847.

In my Despatch, No. 26 of the 30th September, 1846, I had the honor to inform Your Lordship's Predecessor that Dr. Leichardt was about to proceed on an expedition from Moreton Bay Westward through the central portion of Australia, in the hope of reaching the Western Coast about Swan River. I regret, however, to report to Your Lordship that, much to his disappointment, Dr. Leichardt was compelled to relinquish his attempt and to return to the Darling Downs on the 28th July, in consequence of the severe illness which attacked himself and the whole party.

I have the honor to transmit an extract of a letter from Dr. Leichardt, which appeared in the "Moreton Bay Courier," and which contains a brief account of his Expedition.

I also enclose a Number† of the "Sydney Morning Herald," which contains a narrative of his journey undertaken previous to his return to Sydney with the view of examining the Country between Sir Thomas Mitchell's Track and that followed by himself on his recent excursion.

SER. I. VOL. XXVI—B * Note 1. † Note 2.
HISTORICAL RECORDS OF AUSTRALIA.

1847.
21 Oct.
Proposed new expedition.

Your Lordship will perceive that this enterprising traveller arrived in Sydney on the 9th instant, and, not discouraged by his late reverses, intends to make another attempt* to reach Swan River overland as soon as he can make the necessary arrangements.

I have, &c,

CHS. A. FITZ ROY.

22 Oct.
Inefficiency of light at Shortland bluff.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 212, per ship Ganges.)

My Lord, Government House, 22d October, 1847.

I have the honor to inform Your Lordship that, in September, 1846, I received a Petition from the Mayor, Aldermen and Council of the Town of Melbourne, representing the inefficiency of the Light at Shortland's Bluff at the entrance of the Harbour of Port Phillip, and that, having referred this Petition to the Superintendent of the District, he concurred in their representation, and recommended accordingly the substitution of a light of sufficient power, the present one being of Colonial manufacture and of bad construction.

Under these circumstances, I deemed it proper to include in the Estimates, which were laid before the Legislative Council in the last Session, a sum of £450 to defray the expense of purchasing in England a Lantern and Apparatus suitable to the present Column of the Light House.

The Council having voted this money from the General Revenue of the Colony, I have caused the amount to be issued from the Colonial Treasury to the Deputy Commissary General; and I have to beg that Your Lordship will give the necessary directions for a corresponding sum to be paid to the Colonial Agent General from the British Treasury, to enable him to procure the Articles and forward them to Melbourne, in conformity with a communication which has been addressed to him on the subject by the Colonial Secretary.

A Memorandum of the particulars of the Lantern required, and a copy of the Certificate given by the Deputy Commissary General on receipt of the money, have been forwarded to Mr. Barnard.

I have, &c,

CHS. A. FITZ ROY.

24 Oct.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 214, per ship Ganges; acknowledged by earl Grey, 18th May, 1848.)


I do myself the honor to transmit to Your Lordship the copy of a letter from Mr. La Trobe, the Superintendent of Port

* Note 3.
FITZ ROY TO GREY. 19

Phillip, reporting the death of Mr. Hunt, the Acting Collector of Customs at Melbourne, and to report to Your Lordship the arrangement, which I have made for the performance of the duty pending the decision of the Lords Commissioners of Her Majesty's Treasury.

By my Despatch, No. 183 of the 17th ultimo, I had the honor to forward to Your Lordship some documents bearing on certain alleged irregularities on the part of Mr. P. Stewart, who had but then been lately appointed first Clerk in the Customs Department at Melbourne; and, as this gentleman would have a claim to supersede Mr. Wildman, who had been appointed by Mr. La Trobe in the place of Mr. Hunt as Acting Collector, I called on the Collector at this Port to state whether he could propose an arrangement by which the difficulty would be avoided, as I could not but consider Mr. Stewart as unfit to be entrusted with an Office of so much responsibility. A copy of the Collector's letter in reply I have also the honor to transmit, and to state to Your Lordship that I have acceded to the recommendation made by that Officer by appointing Mr. Llewellyn, the Chief Clerk of this Port, to act as Collector at Melbourne.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

MR. C. J. LA TROBE TO COLONIAL SECRETARY THOMSON.

Superintendent's Office,

Sir, Melbourne, 17th Septr., 1847.

Recalling to your recollection the previous correspondence on the subject of the inability of the Acting Collector of Customs, Mr. Hunt, at this Port to attend to his duties from severe indisposition, and the temporary arrangement which His Excellency sanctioned under these circumstances, it is now my duty to notify the death of the Gentleman in question, which took place on the 9th Instant.

The circumstance being duly notified to me by Mr. C. A. Wildman, Chief Clerk in the Longroom, upon whom the discharge of the Collector's duties had devolved during Mr. Hunt's illness, I beg leave to mention, for His Excellency's information, that, in order to obviate inconvenience. I have now authorised that Gentleman to continue to act as Collector of Customs, and to maintain the existing arrangement until I could communicate to His Excellency the Governor, and issue further instructions for his guidance.

I have further, upon the representation made to me in the enclosed communication, sanctioned the employment of Mr. R. H. Andrews (2nd Clerk) to act as 1st Clerk, and Mr. W. G. Dredge (3rd Clerk) to act as Second Clerk; and shall assume authority to appoint a competent person to perform the duty of 3rd clerk as suggested.

I have now to request that you will bring the State of the Customs Establishment at this Port under His Excellency's notice,
and ascertain whether it is His Excellency's pleasure, pending the suspension of the Acting Collector, Mr. Cassell, to allow matters to remain in the position in which they now are.

I have, &c.,

C. J. LA TROBE.

[Sub-enclosure.]

MR. C. A. WILDMAN TO MR. C. J. LA TROBE.

Sir, Customs, Melbourne, 17th Sept., 1847.

I have the honor to acknowledge the receipt of your letter of the 16th Instant, approving of my acting as Collector, in consequence of the death of Mr. T. B. Hunt, until His Excellency the Governor's pleasure can be known thereon.

I beg to submit for Your Honor's approval the following arrangement for the execution of the duties of this Department in the interim, the present number of hands being totally insufficient to prevent arrears at this busy Season:

Mr. R. H. Andrews to act as 1st Clerk.

" W. G. Dredge " , 2d Clerk.

a proper person to be appointed by Your Honor as 3rd Clerk.

I have, &c,

C. A. WILDMAN, Actg. Collr.

[Enclosure No. 2.]

MR. J. GIBBES TO COLONIAL SECRETARY THOMSON.

Sir, Customs, Sydney, 29th September, 1847.

Proposed acting clerks.

I have the honor to acknowledge the receipt of your letter of the 28th Instant, No. 108, with its enclosures, reporting the death of the Acting Collector at Melbourne, and calling on me to state whether, under the circumstances therein set forth. I could propose any arrangement for the due conducting of the business of that office; and, in reply, I beg to state that I know of no other, than the sending down the Chief Clerk of this Port, Mr. William Norman Llewelin, who has performed the duties of his situation with much credit to himself for the last two years and a half, and who, although a young man, is quite competent to undertake those of the higher Station of Collector.

Mr. Llewelin has been six years in the Department, a larger period than either Mr. O'Dell or Mr. Wildman; is 28 years of age; and is a very respectable young man.

It is quite out of the question that a charge of so much responsibility should be entrusted to such a person as Mr. Peter Stewart; and I am of opinion that Mr. O'Dell, the Senior Landing Surveyor at Melbourne, is better suited to the office of Landing Surveyor (which he at present fills) from his knowledge of the waterside practice, than that of Collector, whose duties he cannot be made acquainted with.

I should certainly have recommended to His Excellency the Governor, as a most proper person to send down, Mr. Thomas Jeffrey, the Second Officer at this Port (although I should much miss his assistance); but, on consulting him as to his views on the subject, he declines taking charge of any Establishment with such a man as Mr. Peter Stewart as Chief Clerk under him. The same feeling, I find, exists with the Senior Landing Waiters here, Mr. Deane and Mr. Garling, who have been Sixteen and Eighteen years respectively in the Service.

I therefore repeat that I see no better arrangement which can be made, than the sending down of Mr. Llewelin; and, should the Governor approve of this, I would suggest that he should receive his appointment in time to proceed by the "Shamrock" Steamer, which sails from hence on the 1st Proximo, Mr. Stewart having embarked yesterday in a sailing vessel.
FITZ ROY TO GREY.

I do not myself know the amount of Bond required, but believe that Mr. Webb's Security was One Thousand pounds. This point can, however, he left to His Honor the Superintendent at Port Phillip.

I have, &c.,

J. GIBBES, Collr.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 245, per ship Chaseley.)

Sir, Downing Street, 25 October, 1847.

I have received your Despatch, No. 96 of the 22d April last with a Copy of a Letter from the Acting Superintendent at Port Phillip, enclosing one Addressed to him by the Mayor on behalf of the Town Council of Melbourne, suggesting, with reference to the transmission of Letters from this Country to Port Phillip, that the Mails should be conveyed by Private Ships direct to Melbourne instead of being detained for the Sydney Packet, and that the route by Hobart Town or Launceston is preferable to that via Sydney.

In reply, I beg to refer you to the Arrangement intimated in my Despatch, No. 178 of the 26th of June last, which is in accordance with the views of the Town Council of Melbourne.

I am, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 215, per ship Ganges.)

My Lord, Government House, 25th October, 1847.

On the receipt of Your Lordship's Despatch, No. 141 of the 28th April last, calling upon me to furnish certain information required by the Lords Commissioners of the Admiralty, 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 appointed a Board consisting of the following Officers of this Government, viz.:

The Auditor General, The Ordnance Storekeeper, and The Port Master,

with instructions to report on the points on which information was desired. I now have the honor to transmit herewith a Copy of the Report made by those Officers; from which your Lordship will perceive that no difficulty will be experienced in establishing at Sydney a Depot for supplying Coals to any Extent that may probably be required at the rate of 14s. or 15s. per ton; and that, if the coal should be taken direct from the Staith at Newcastle, the cost will not exceed 8s. per ton. It may not be irrelevant to observe that the Port of Newcastle will admit Vessels with a
HISTORICAL RECORDS OF AUSTRALIA.

1847.
Capacity of port at Newcastle.

Transmission of report of select committee on coal trade.

Capacity of port at Newcastle.

Transmission of report of select committee on coal trade.

Report by board re proposed coal depots at Sydney and Auckland.

HISTORICAL RECORDS OF AUSTRALIA.

1847.
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HISTORICAL RECORDS OF AUSTRALIA.

1847.
Capacity of port at Newcastle.

Transmission of report of select committee on coal trade.

draft not exceeding seventeen feet, and that the lading could be effected at a very slight advance on the rate charged at the Staith.

Connected with the capabilities of this Country for the supply of Coal, I have the honor also to transmit herewith a copy of the evidence taken before a Select Committee of the Legislative Council in the late Session, and to state that the business of the Committee terminated on the receipt in the Colony of the intelligence that the privileges, hitherto secured to the Australian Agricultural Company in working the Coal Mines at Newcastle, had been given up by the Company. I have, &c,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

MESSRS. LITHGOW, ROGERS AND MORIARTY TO COLONIAL SECRETARY THOMSON.

Sir, Sydney, New South Wales, 16th October, 1847.

We have the honor to acknowledge the receipt of your letter, No. 807 of the 4th Instant, transmitting the copy of a Despatch from the Right Honorable the Secretary of State, with its enclosures, requesting information as to the possibility of organizing a Depot at Sydney for Supplying Coals to Her Majesty's Steam Vessels, the probable cost per ton, and the other particulars adverted to by the Lords of the Admiralty.

Having given our best attention to the subject referred to us, in compliance with the direction of His Excellency the Governor, We beg to report as follows, viz.:—

With respect to the formation of a Depot at Sydney for supplying coals to Her Majesty's Steam Vessels, we do not anticipate any difficulty whatever in procuring from the neighbouring Port of Newcastle, for the purpose of such Depot, Coals of a description well suited for this service, and to any extent which may probably be required.

The usual price of Coal delivered at the Staith at Newcastle is Seven Shillings per ton; The Colonial Government has latterly been supplied at Six Shillings and Sixpence per ton; but recent circumstances render it probable that the price at Newcastle may be subject to a little variation, particularly when it is ascertained that Supplies are likely to be required for Her Majesty's Vessels.

It may, however, be estimated that the expense of delivery at the Staith would not exceed Eight Shillings the ton; and if, with the view to expedition, in cases of emergency, the vessel should proceed directly to Newcastle, We are assured that, with a draught not exceeding Seventeen feet, the lading could be effected at a very slight advance on the rate charged at the Staith.

The freight of Coal from Newcastle to Sydney is ordinarily Six Shillings per ton, which, with the original cost of the Coal, and fourpence a ton for discharging, would make the expense of delivery from the Depot at Sydney, say, from fourteen to fifteen shillings per ton, at which rates, under proper arrangements, we are satisfied the necessary Supplies may be obtained.

The freight to Auckland is generally Thirty five shillings per ton; but, if opportunities be taken to enter into Contracts, when
GREY TO FITZ ROY.

vessels, short of cargo, are bound to the Eastward, China or Val-paraíso and the Western Coast of America, we are of opinion that Freight may be obtained at from Twenty to Twenty five shillings per ton.

We are not in a position to state what facilities Auckland affords for discharging coal, or what expense would be entailed thereby, respecting which the proper Authorities at that place will be enabled to give the best information; but, upon all the other points referred to our consideration, we have no hesitation whatever in stating that, under judicious arrangement, a Depot can be established at Sydney for supplying Coals to any extent that may probably be required here or at Auckland on the terms mentioned. Indeed we consider that there is perhaps no Harbor that affords a greater selection of eligible sites on the edge of the water, or facilities for the formation of a Depot for supplying Coals to Shipping than that of Port Jackson.

The State of the Coal Trade in this Colony has recently undergone a very searching enquiry before a Committee of the Legislative Council; and we respectfully suggest the propriety of transmitting, with this Report, a copy of the Evidence taken on that occasion, as calculated to supply the fullest information on the subject.

We are, &c.,

W. LITHGOW, Aud. Genl.
MERION MOLIARTY, Port Master.
RICHD. ROGERS, Ordnance Storekeeper.

[Enclosure No. 2.]

[This was the "Report from the Select Committee on the Coal Inquiry with Appendix and Minutes of Evidence," which will be found in the "Votes and Proceedings" of the legislative council.]

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 246, per ship Chaseley.)

Sir,

Downing Street, 26 October, 1847.

I have received your Despatch, No. 78 of the 4th of April last, transmitting a Petition addressed to the Queen by the Town Council of Melbourne, praying that Her Majesty would be graciously pleased to disallow the Act, lately passed by the Legislative Council of the Colony, intituled, "An Act to amend the Laws incorporating the Town of Melbourne."

You will acquaint the Petitioners that I have laid their Petition before the Queen, who was pleased to receive it very graciously, but that, as the Act had already been approved and allowed, it was of course impossible to Comply with the prayer of that Petition.

You will further intimate to the Petitioners that, if they should continue to think that the Act requires amendment, their proper course will be to petition the local Legislature.

I am, &c.,

GREY.
1847.
26 Oct.

Allowance of private act of council for Revd. H. and E. Bobart.

Statistical returns transmitted.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 247, per ship Chaseley.)

Sir, Downing Street, 26 October, 1847.

With reference to your Despatch, No. 68 of the 29th of March last, and to my Despatch, No. 200 of the 31st July last, I have now to acquaint you that Her Majesty has been pleased to confirm and allow the Private Act, passed by the Governor and Legislative Council of New South Wales on the 30th October, 1846, entitled, "An Act to enable the Reverend Henry Hodgkinson Bobart of Parramatta in the County of Cumberland, Clerk, and Elizabeth, his wife (late Elizabeth 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."

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

I am, &c.,
GREY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 216, per ship Ganges.)

My Lord, Government House, 26th October, 1847.

I have the honor to forward herewith to Your Lordship a few printed copies of certain Statistical Returns of this Colony from 1837 to 1846, which have been compiled by the Colonial Secretary from Official Records in this Office, and which may perhaps be found useful for reference in Your Lordship's Department.

I have, &c.,
CHS. A. FITZ ROY.

[Enclosures.]
[Copies of these returns are not available.]

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 248, per ship Chaseley.)

Sir, Downing Street, 27 October, 1847.

I have received your Despatch, No. 81 of the 7th April last, in which you transmit a Letter from Mr. James Croke, Clerk of the Crown and Crown Prosecutor at Port Phillip, soliciting that, in the event of the separation of that District from New South Wales, he may be appointed Attorney General of the New Colony.

You will acquaint Mr. Croke that, until that measure shall have been finally decided upon and sanctioned by Parliament, it will not be in my power to enter into any arrangement relating to the appointment of Public Officers who may then be required.

I am, &c.,
GREY.
GREY TO FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 249, per ship Chaseley.)

Sir,
Downing Street, 28 October, 1847.

I have received your Dispatch, No. 83 of the 9th of April last, transmitting a Petition to The Queen from the Town Council of Melbourne, 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 Immigration, commensurate with the wants of the Community.

You will acquaint the Petitioners that I have laid their Petition before The Queen, who was pleased to receive it very graciously.

It is satisfactory to me to observe that the object of the Petition has been anticipated by the recent measures, under which Emigration is now in progress to New South Wales.

Mr. La Trobe in his Report upon the Petition suggests that, in proposing Emigration to New South Wales, the wants of Port Phillip should be borne in mind, and he further proposes that one half at least of the Emigrants dispatched should consist of Females.

With reference to the first point, I may remark that one half of the present Emigration will be directed to Port Phillip; and, with regard to the second recommendation, the same regulations will be adopted, which have hitherto been acted upon, that the Emigrants should consist of married couples or of an equal number of single women and single men. Beyond that, I am given to understand by the Immigration Commissioners that, under the present peculiar circumstances of Ireland, it may be anticipated that several Widows would proceed to the Colony, and the Commissioners have also stated that they propose to forward experimentally a small number of well conducted females from the Foundling Hospitals at Dublin and Cork, with the view of ascertaining how far Emigrants of that description may be deemed eligible by the Colonial authorities.

I have, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 250, per ship Chaseley.)

Sir,
Downing Street, 28 October, 1847.

I transmit to you, for your information, Copies of a Correspondence which has passed between this Department and the Board of Treasury on the subject of a representation made by the Head of the Roman Catholic Church in Van Diemen's Land of the inadequacy of the means of a Religious Instruction for the Roman Catholic Convicts in that Colony.
On the understanding stated in that correspondence, Bishop Willson has been authorized to select five New Roman Catholic Clergymen for appointments in the Convict Establishment of the Colony.

I have communicated Copies of this Correspondence to the Most Revd. Archbishop Polding.

Grey.

[Enclosure No. 1.]

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

Sir, Downing Street, 27th July, 1847.

I am directed by Earl Grey to transmit to you herewith, to be laid before the Lords Commissioners of the Treasury, the enclosed copies of a correspondence which has passed between the Roman Catholic Bishop at Van Diemen's Land and himself on the subject of the inadequacy of the means of Religious Instruction for the Roman Catholic Convicts in that Colony.

Their Lordships will observe that the smallest number of Roman Catholic Priests which Dr. Wilson considers necessary in Van Diemen's Land is Ten. Their Lordships are aware that there are at present eight Roman Catholic Clergymen provided for by the Convict Department; and it appears from Dr. Willson's Statement that of those eight one has retired, one is about to return to New South Wales from Norfolk Island, and a third may be expected shortly to return to this Country on Leave of Absence. This would reduce the actual number to five, and Dr. Willson accordingly applies for the appointment of five new clergymen, which would in reality be only an addition of two to the number actually on the Establishment.

Lord Grey considers it of extreme importance with a view to any real improvement in the condition of the Convicts that ample means of Religious Instruction should be provided for them: and he therefore desires me to express his strong opinion that the addition of two Roman Catholic Priests should be sanctioned as a measure indispensable for the proper care of the Convicts, and that Dr. Willson should be authorized to proceed to the Selection of those Priests, and of the three required to supply the Vacancies above noticed.

I am to request that the decision of the Lords of the Treasury may be communicated to Lord Grey as soon as possible, as it is highly desirable that Dr. Willson should select the Clergymen himself, and his early return to Van Diemen's Land will leave him but little time for doing so.

I am, &c,

B. Hawes.

[Sub-enclosure No. 1.]

RIGHT REVD. DR. WILLSON TO EARL GREY.

My Lord,

6 Manchester Street, Manchester Square, 19th June, 1847.

I have the honor to call your Lordship's attention to the present provision made for the Religious culture of Convicts in Van Diemen's Land who profess the Catholic faith.

In February, 1846, I addressed a letter to the Comptroller General on that subject, and urged the additional appointment of Catholic Chaplains, etc., to the three already employed. Lord Stanley in consequence of my application was pleased to sanction the appointment of three additional chaplains, and in August last two of them sailed for Van Diemen's Land, where they are now employed.

I feel assured that it is a subject of much regret that my application, made in February, 1846, was not, for reasons now painfully obvious, more fortunate.
I beg leave respectfully to state that I have deferred placing this subject before Your Lordship since my arrival in England until now, knowing that there were many important questions to be settled relative to the system of treatment to be followed as regards the Convict Population in Van Diemen’s Land. 

You now, however, most urgently and respectfully beg to call your Lordship’s attention to that part of the Convict Population, which lies under my spiritual direction; and I for that purpose venture to state that more than one third of the Convicts in Van Diemen's Land unfortunately are Catholics, which I am prepared to show your Lordship by a Return made in August last, and that the number of Clergymen and Catechists, hitherto granted to watch over them, will bear no proportion with those appointed to attend the Members of another Church: and I believe this arose from the want of proper application being made by the Local to the Home Government.

I beg leave also to mention that, when the Convicts shall be removed from Norfolk Island, the two Catholic Clergymen who reside there will return to New South Wales, as they do not belong to me, and also that the Revd. Jas. Cotham, who is now employed in the Convict Dept. in Van Diemen’s Land, and who has been resident Chaplain in that Island thirteen years, wishes to return to Tasmania.

I feel assured that, when Your Lordship reflects upon the number of unhappy men who are now in Bondage, many of whom must necessarily remain so for years to come, also their state of degradation, and the difficulties to effect a moral restoration which present themselves on every side, I am sure my application will not be in vain.

There is also another circumstance I would respectfully mention, and that is the great difficulty we are under in obtaining clergymen with the qualifications requisite for the discharge of Duties among Convicts; this is a subject of vital importance; I am, therefore, most anxious, while I am in England, to procure the aid of those who would be likely to prove beneficial to the unhappy Convict by personal application.

The Home Government in 1845 sanctioned the appointment of certain Clergymen of the Protestant Church for the Spiritual Superintendence of Convicts, who hold Tickets of Leave, or Pass Holders in Service, and who are located in various parts of the Island where they have no chance of obtaining moral instruction or Pastoral Care. This Spiritual charge, if properly attended to, must no doubt be productive of great good. I would, therefore, urge upon Your Lordship my claim for similar aid upon similar grounds, with this remark that those who profess the Protestant Religion have comparatively speaking greater facilities for obtaining Spiritual Instruction than the Catholics, the latter having at present only three Public Churches in the whole Island.

With this simple statement, I feel assured that the importance of the subjects now placed under your consideration will call forth all due aid.

I have, &c.,
R. W. WILLSON, Catholic Bishop.

[Sub-enclosure No. 2.]

UNDER SECRETARY HAWES TO RIGHT REVD. DR. WILLSON.
Dowling Street, 9th July, 1847.

I am directed by Earl Grey to acknowledge the receipt of your letter of the 19th Ultimo, on the subject of the inadequacy of the means of Religious Instruction for the Roman Catholic Convicts in Van Diemen’s Land.

Lord Grey has given an attentive consideration to the statements which Your Statement letter contains; and His Lordship would be glad to be informed of the smallest requested number of Priests which you would consider necessary for the Religious Instruction clergy required. For your assistance I am directed by Lord Grey to transmit to you an extract from a recent Despatch from Sir W. Denison, which bears upon the question of the decrease in the number of Convicts on the hands of the Government in Van Diemen’s Land.

I am further directed to observe that, although in a letter which was addressed to the Revd. Dr. Hepworth from this Department on the 7th January, 1846, authority was given for the selection of three clergymen for the Instruction of the Roman Catholic Convicts, it does not appear from the records of this Office that more than two of that number have been as yet selected.

I have, &c.,
B. HAWES.

[Sub-enclosure No. 3.]

EXTRACT of a Despatch from Sir William Denison to Earl Grey.
dated Van Diemen’s Land, 27 January, 1847.

"As regards the Convicts, nearly all those who have received Conditional Pardons have left the Colony: nearly all the Passholders who are able to do a good day’s work
Proposed That Catholic Clergymen be stationed at each of the following places.

In complying with Your Lordship's request, I venture to assume that your
Lordship will sanction the separation of Catholic and Protestant Convicts, with a
view of economising the Spiritual aid granted to both Churches; otherwise the
arrangement I am about to propose would be totally inadequate and when I find at
that Catholic Clergymen be stationed at each of the following places.

2 at Hobart Town (as at present) having the Male and Female Penitentiaries, the
Female House of Correction, the Nursery, the great Hospital for sick Convicts and
Orphan Schools to attend.

1 at Launceston (none there at present) having the Male and Female Peniten-
tiaries, the large Hospital for sick Convicts, the House of Correction, and Hiring
Depot to attend.

1 at Port Arthur (as at present) having the Great Station there, and the Boys
at Point Puer to attend.

1 at the Coal Mines (instead of a lay Catechist at present) having that important
Station, and the one at Salt Water River, two miles distant to attend.

2 at Maria Island, having the Convicts who are now at Norfolk Island to attend.

1 at Oatlands (none there at present) having the Gaol, the Convict Station, the
Hospital for sick Convicts and Male Hiring Depot to attend; and also if time will
permit to have total care over the Prisoner Population in the neighbourhood.

1 at New Norfolk (none there at present) having the Gaol, the Convict Station, the
Lunatic Asylum, the Depot for Aged Convicts to attend, and also, if time will
permit to have pastoral care over Passholders, etc., in the neighbourhood.

1 at Longford (none there at present) having to attend the Prison and to take a
wide range of pastoral care over Passholders, etc., in that populous District, and
give Divine Service to the men on the Muster Sundays.

The above arrangement embracing the whole of the Convict Population, at least
to a certain extent, would occupy the best energies of Ten active and zealous
Clergymen.

There are at present eight provided for by the Convict Department, but one of
them has (I have just learnt) retired from Norfolk Island, and the other, who is
served upwards of twelve years in Van Diemen's Land, wishes to obtain leave of
absence for 18 months, a privilege to which he is entitled by the Regulations
of the Service, in order to visit England, his native Land. That would reduce the
actual number to five. I therefore respectfully venture to recommend the addition
of two to the eight provided for at present, although I solicit your Lordship to
sanction the appointment of five. I beg leave further to remark that already I hold
the sanction of the appointment of one of these two, as referred to in Your Lordship's
letter of the 9th Instant, but which was not carried into effect from the difficulty
of procuring a clergyman possessing the qualifications requisite for such a mission,
and willingness to go to the Colony.

My Lord I feel assured that, when Your Lordship reflects that the Catholic Con-
victs unfortunately form full one third of that unhappy class of our fel lows beings,
alsO on the frightful state they have been proved to be in, I am convinced you will
allow that I have literally adhered to the request of stating the smallest number
I should deem requisite. I venture to observe that, when I reflect upon the
intention of Your Lordship's Predecessor (Lord Stanley) in 1843, namely the wise
and humane intention of separating the religions, and granting a chaplain to every
two Ganges, and that no Gang should exceed 250 or 270 men, and when I find at
Pentonville two chaplains, besides Schoolmasters, for 500 men, although the crimes
of these men, generally speaking, are not to be compared with a large class which
must fall to our share in Van Diemen's Land, I am sure your Lordship will not
charge me with being exorbitant in my request.

I beg leave also to state that I have made no proviso, in case of sickness or
death of clergymen; but trust your Lordship will kindly take into your consideration
the liability of such visitations, and the immense distance we are removed from
procuring assistance.
It may be proper to add that the three Catholic Clergymen occupied by Colonial Duties, and of course paid from the Colonial Fund, have attended by my earnest desire to the utmost of their power some of the probation Stations and other places belonging to the Convict Department; but this practice is attended with great inconvenience, as it removes these gentlemen from their respective flocks, and consumes much time that ought to be otherwise spent. For example, the Revd. Thos. Butler has had, in addition to his large congregation at Launceston and the neighbourhood, to attend the Common Gaol and of course the execution of Criminals; also the large Hospital for Convicts, the Male and Female Penitentiaries, the Probation Station and the Hiring Depot. This gentleman always performs Divine Service at three of those places on a Sunday in addition to the Public Duties at his own Church; and for this extra duty he has not received one farthing, although he has respectfully solicited a little aid.

The Revd. William Hall has also had to visit men under sentence of death at Oatlands, a distance of Sixty Miles from his residence at Hobart Town; and Your Lordship will pardon me for adding, the expenses of his Coach fare for these journeys have not been allowed. I have, &c.

R. W. WILSON,
Catholic Bishop of Hobart Town.

[Enclosure No. 2.]

MR. G. J. PENNINGTON TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 4th August, 1847.

With reference to a letter from Mr. Hawes dated the 27th Ultimo, I am commanded by the Lords Commissioners of Her Majesty's Treasury to acquaint you, for the information of Earl Grey, that the appointment of two additional Catholic Clergymen to the Convict Establishment in Van Diemen's Land is so urgently recommended by Lord Grey, notwithstanding the reduction that has taken place in the number of Convicts under the charge of that establishment, My Lords cannot object to the requisite sanction being signified to Doctor Wilson for the selection of proper persons to fill those appointments.

With respect however to the further selection suggested of three Clergymen to supply alleged Vacancies, and for whom it would be necessary to provide Passages to Van Diemen's Land at the Public Expense, you will observe to Lord Grey that, in consequence of the intended Removal of all the remaining Convicts from New South Wales, My Lords apprehend that the two Roman Catholic Clergymen appertaining to the Convict Establishment of that Colony, who had been stationed at Norfolk Island, will now be available for Service in Van Diemen's Land; and that, if they were superseded by the appointment of other Parties, they might not unreasonably lay claim to some allowance on the ground of discontinuance of their employment. You will also observe to his Lordship that it does not appear from the terms of Doctor Wilson's letter that the Revd. James Cotham, although wishing to return to England, proposes to relinquish the Service in Van Diemen's Land; and under these circumstances You will suggest for Earl Grey's consideration whether it will be advisable that Doctor Wilson should at present be authorized to engage more than the two additional Clergymen.

I have, &c.

G. J. PENNINGTON.

[Enclosure No. 3.]

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

Sir, Downing Street, 10th September, 1847.

I have laid before Earl Grey Mr. Pennington's letter of the 4th Ultimo, in reply to the communication which, by his Lordship's directions, Mr. Hawes addressed to you on the 27th of July on the
subject of the inadequacy of the means of Religious Instruction for the Roman Catholic Convicts in Van Diemen's Land, as represented by the head of the Roman Catholic Church in that Colony.

I am to request that you would acquaint the Lords Commissioners of the Treasury that, looking to the great difficulty which (as Lord Grey is informed by Doctor Wilson) exists in the Roman Catholic Church in transferring Priests from the jurisdiction of one Bishop to that of another, and to the lamentable condition of the Convict Population in Van D. Land, his Lordship adheres to his opinion that the application of Doctor Wilson for permission to select three Clergymen, in addition to the two which he has already been empowered to engage, should be acceded to. It would, of course, be understood that, during the absence of the Reverend Mr. Cotham, from the Colony, he will be entitled to draw only half Salary, the other moiety to be paid to the Clergyman who may be selected to perform his duties while so absent.

I have, &c.,
JAS. STEPHEN.

[Enclosure No. 4.]

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

Sir,
Treasury Chambers, 28th September, 1847.

With reference to your letter of the 10th Instant, I am commanded by the Lords Commissioners of Her Majesty's Treasury to acquaint you, for the information of Earl Grey, that, as His Lordship so strongly urges that Doctor Wilson should be permitted to select three Roman Catholic Clergymen, in addition to the two he has already been permitted to engage for appointments on the Convict Establishment of Van Diemen's Land, My Lords will not any longer object to that proposition.

I am at the same time to observe, with reference to the allusion in Mr. Pennington's letter of 4th Ultimo to the claims which may be preferred by the Roman Catholic Clergymen in attendance on the Convicts in New South Wales for some allowance on the discontinuance of their employment in that Colony, that the offer of continued employment in the neighbouring Colony of Van Diemen's Land would have been the most obvious and satisfactory method of meeting such claims, and that, if arrangements peculiar to the Roman Catholic Church, to which Lord Grey refers, prevent such transfer of Services, My Lords conceive that the Public would be relieved from the obligation of providing pecuniary compensation to the Clergymen in question.

I have, &c.,
C. E. TREVELYAN.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 251, per ship Chaseley; acknowledged by Sir Charles Fitz Roy, 27th October, 1848.)

Sir,
Downing Street, 28 October, 1847.

I transmit to you herewith a Copy of a Memorial from Patrick O'Keefe, requesting information relative to the Property supposed to have been left by his late Uncle in New South Wales; and I have to request that you will transmit any information which you may be able to obtain on the subject. I am, &c.,
GREY.
The Humble Memorial of Patrick O'Keeffe, of Kanturk, in the County of Cork, Ireland.

To the Right Honble. The Secretary of State for Her Majesty's Colonies, etc., etc., etc.,

Sheweth,

That Memorialist's Uncle, Mr. Patrick Irwin, Emigrated to Her Majesty's Colonies in Australia about the year 1807, and was located somewhere in the neighbourhood of Sydney, New South Wales.

That said Patrick Irwin was a native of the Parish of Elin in the County of Limerick, Ireland; was a Gardener by trade; his father's name was John Irwin and his mother's name was Mary Lee.

That property to a considerable amount is supposed to have been accumulated by the said Emigrant, and his family, having lately heard of same, deem it proper, as subjects of the Empire, to consult with Her Majesty's Ministers on the subject.

May it therefore please the Right Honorable the Secretary of State for the Colonies to direct that an enquiry do take place respecting the subject of this communication, and, in soliciting a reply, your Memorialist will pray.

Patrick O'Keeffe.


I recommend the above.—R. R. Shirly, J.P. 18 Oct., 1847.

Earl Grey to Sir Charles FitzRoy.

(Despatch No. 252, per ship Chaseley.)

Sir,

Downing Street, 28 October, 1847.

With reference to my Dispatch, No. 219 of the 14th of September last, I transmit to you herewith, for your information and guidance, the enclosed Order of The Queen in Council, appointing the Town and Port of Portland in the District of Port Phillip, New South Wales, to be a free Warehousing Port; and I have to desire that you will take such measures as may be necessary on your part for giving effect to that order.

I have, &c.,

Grey.

Order-in-Council.

At the Court at Osborne House, Isle of Wight, the 28th day of September, 1847.

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

Whereas Her Majesty doth deem it expedient to appoint the Town and Port of Portland in the District of Port Phillip, New South Wales, to be a Free Warehousing Port, for the purposes of an Act passed in the Session of Parliament holden in the eighth and ninth years of Her Reign, intituled "An Act to regulate the Trade of the British Possessions abroad."
1847.
28 Oct.
Order-in-council re free warehousing port at Portland.

Now, therefore, Her Majesty, by and with the advice of Her Privy Council and in pursuance of the authority committed to Her by the said Act, Doth order and it is hereby ordered that the said Town and Port of Portland shall, from and after the first day of January, one thousand eight hundred and forty eight, be a Free warehousing Port for the purposes of the said Act.

And the Right Honorable the Lords Commissioners of Her Majesty's Treasury and the Right Honorable Earl Grey, one of Her Majesty's Principal Secretaries of State, are to give the necessary directions herein as to them respectively may appertain.

WM. L. BATHURST.

Sir Charles Fitz Roy to Earl Grey.
(Despatch No. 218, per ship Ganges; acknowledged by earl Grey, 14th April, 1848.)

My Lord, Government House, 28th October, 1847.

I have the honor to acknowledge the receipt by the last Packet of Your Lordship's Despatch, No. 147 of the 4th May last, ordering the Convict Establishment in this Colony to be broken up, and those of the Convicts remaining on the hands of Government, to whom Tickets of Leave or Conditional Pardons cannot properly be granted, to be transferred with as little delay as possible to Van Diemen's Land.

I have now the honor to report that, on the receipt of these instructions, I took immediate steps for carrying them into effect, and that arrangements are now in progress by which, as soon as I am informed by Sir William Denison that he is prepared to receive these people, there will be no difficulty in forwarding them to Van Diemen's Land; so that with the exception of the small portion of the Principal Superintendent's Department, which it will be necessary to maintain until those prisoners, who are now holding Tickets of Leave, or who may receive that indulgence within the next two months, can obtain their Conditional Pardons, I can see no reason why the whole of the Convict Establishment in this Colony may not be broken up by the end of the year.

It may be satisfactory to Your Lordship to learn that, under the proposed arrangement, the number of Convicts, exclusive of invalids and lunatics, will be but small as far as I am enabled to state at present, it will not exceed 125 men and 10 women; The number of Lunatics and Invalids will not exceed 350.

I may further state that, with a view to the final abolition of the Convict Department, I propose to shorten the period for which, under existing regulations, Holders of Tickets of Leave must remain under probation before they can petition for their Conditional Pardons, to 12 months with good conduct.

The breaking up of the Convict Establishment at Port Macquarie, and the removal of the whole of the Invalids and Lunatics...
from that Station to the Hospitals at Sydney and Liverpool, which I was enabled to effect previously to the receipt of Your Lordship's Despatch, will render it more easy to carry out Your Lordship's instructions.

When the whole of the arrangements have been matured, I shall have the honor of transmitting them in detail, together with any information relating to them which Your Lordship may desire to possess.

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 253, per ship Chaseley.)

Sir,

Downing Street, 29 October, 1847.

I have to acknowledge the receipt of your Dispatch, No. 99 of the 29th of April last, accompanied by a Petition from Mr. Caswell for an additional Grant of Land.

As this case has already been decided upon by my Predecessor in his Dispatch, No. 4 of the 7th of January, 1843, and, as Mr. Caswell has failed to adduce any new facts, which could induce me to alter or modify the decision contained in that Dispatch, I have to desire that you will acquaint him that it is not in my power to entertain his application.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch marked "Military, No. 8," per ship Jane Catherine; acknowledged by Sir Charles Fitz Roy, 28th May, 1848.)

Sir,

Downing Street, 30th October, 1847.

With reference to my Predecessor's Despatch to Sir George Gipps, No. 2, Military, of the 6th of March, 1846, instructing him to report what means there might be at Port Phillip for ensuring the preservation of the Arms and Guns, which he had directed to be forwarded to New South Wales, for the use of the Colonies therein enumerated, I transmit herewith, for your information, Copies of a Letter and of its enclosure from the Ordnance Office, reporting the arrival at Hobson's Bay of the Ordnance, Ammunition, and Stores in question; and I have to desire that you will take care that proper buildings are erected at the expense of the Settlement for their preservation, and that you will report to me the proceedings which you may adopt with a view to that object. You will, at the same time, distinctly understand that, unless that object be accomplished, you are to cause the Arms and Stores referred to, to be sent back to New South Wales.

I have, &c.,

GREY.
1847. 
30 Oct.

Report transmitted.

MR. R. BYHAM TO UNDER SECRETARY STEPHEN.

Office of Ordnance, 13th October, 1847.

Sir,

The Board of Ordnance having received from their Officers at Sydney a Report, dated 11th May last, of the arrival of Ordnance, Ammunition, and Stores at Port Phillip, and of the arrangements made for the safe custody of the Stores; I am commanded to enclose a copy of such Report for the information of Earl Grey, with reference to the communications from this Office, dated 25th February, 1846, D. 20, and 17th March, 1847. 1,513.

I have, &c.,

R. BYHAM.

ORDNANCE OFFICERS TO MR. R. BYHAM.

Office of Ordnance, Sydney, 11th May, 1847.

Sir,

We have the honor to state for the information of the Board that it was reported to us, by direction of His Honor the Superintendent of Port Phillip, that the Ordnance Ammunition and Stores (ordered for service of Port Phillip, 20th March, 1846) had arrived at Hobson's Bay on 8th March last per "Duke of Roxburgh," consigned to the "Ordnance Storekeeper, Port Phillip," per Bills of Lading, 8th and 26th October, 1846, and that His Honor had directed them to be landed and disposed of in the best way in his power, and, from the want of a proper magazine at the station, had placed the Powder in the Watch House at William Town, the windows of which he had ordered to be fitted with strong shutters for security, and the Guns and stores to be removed to Melbourne, and the whole placed in charge of the Colonial Clerk of the Works until Instructions were received with regard to their disposal. In consequence of which, with the approbation of His Excellency the Lieutenant General Commanding, we instructed the Barrack Serjeant at Melbourne to take charge of the Guns, ammunition and Stores, and to place the same (with the exception of the Powder) in the Yard of the old Gaol and Barrack Store (which was hired for the use of the Troops from the Colonial Government), there being no other Public Store or Building at the Station, in which they could be placed and to sign the necessary Receipt on the Master's Bill of Lading.

2. An expense of £8 15s. has been incurred for making Shutters to the Windows of the Watch-house and authorised to be paid by His Excellency, as well as of 16s. for taking down the materials of the magazine on board the "Duke of Roxburgh," which will be charged in the Storekeeper's Accounts under the head of "Contingent Expenses," which requires the Board's authority; and we trust our proceedings herein will be approved.

3d. The 500 musquets with ammunition and accoutrements, ordered by the Board, 9th March, 1846, for Port Phillip, and received at this station in September, 1840, are still in the Store. His Honor the Superintendent having stated in reply to a communication on the subject "that He had no proper place in which to deposit them."

We have, &c.,

J. A. GORDON, Capt., Comg. RI. Engrs.
R. ROGERS, Storekeeper.
Percival Wilkinson, Dy. Storekeeper.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 220, per ship Ganges.)

Government House, 30th October, 1847.

I have the honor to forward the enclosed copy of a communication received from Captain the Count du Bouzet, commanding the French Corvette "La Brillante," which recently touched at this Port, reporting the discovery of two Coral Reefs in the respective situations* described; and, as it appears desirable that the information thus afforded should be communicated to the Lords Commissioners of the Admiralty, I transmit it to

* Note 4.
GREY TO FITZ ROY.

Your Lordship together with a Notice, which I directed to be published in the New South Wales Government Gazette on the subject.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[This notice in the “Government Gazette” was dated 14th October, 1847.]

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 221, per ship Ganges.)

My Lord,

Government House, 31st October, 1847.

In pursuance of the instructions contained in Your Lordship’s Despatch, No. 154 of the 25th May last, I have the honor to report that I have given instructions for the repayment into the Commissariat Chest in this Colony of the sum of £5,500, being the amount advanced under the directions of the Lords of the Treasury to the Colonial Agent, to enable him to pay for the Lanterns, Apparatus, Stores, &c., for the Light Houses now erecting in Bass Straits.

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 256, per ship Jane Catherine.)

Sir,

Downing Street, 3 November, 1847.

At the instance of the Lords Commissioners of the Admiralty, I transmit to you the enclosed Pamphlet containing suggestions by Dr. Lindley for increasing and improving the production of Vegetation in the Island of Ascension.

I have to desire that you will forward this Paper to the Superintendent of the Botanic Garden at Sydney, with Instructions to send to Ascension by Convenient opportunities any such Plants and Seeds as are there enumerated, being the produce of New South Wales.

You will at the same time call upon the Superintendent to report whether there are any of the Plants named by Dr. Lindley as suitable to a hot and dry Climate, which have not been yet introduced into New South Wales, but which it is probable might be so with advantage.

I am, &c.,

GREY.

[Enclosure.]

[This was an octavo pamphlet of eighteen pages entitled, “On the Cultivation of the Island of Ascension,” by John Lindley.]
Sir Charles Fitz Roy to Earl Grey.
(Despatch No. 223, per ship Ganges.)

My Lord,

Government House, 3d November, 1847.

I have the honor to acknowledge the receipt this day by the ship "Trafalgar" of Your Lordship's Despatches numbered in the margin.*

I have, &c.

CHS. A. Fitz Roy.

Sir Charles Fitz Roy to Earl Grey.
(Despatch No. 224, per ship Ganges.)

My Lord,

Government House, 9th November, 1847.

Immediately on the receipt of Your Lordship's Despatch, No. 120 of the 30th March last, transmitting to me Her Majesty's Order in Council for establishing Regulations relative to the occupation of Waste Lands in this Colony, I submitted that Despatch and its enclosure to my Executive Council in order that, in performing the duty imposed upon me of carrying out the details of these Regulations, I might have the benefit of the advice of that Board in bringing them into operation in as perfect a shape, and with as little delay as possible.

I regret that it is not in my power to put Your Lordship in possession, by the Packet which will sail today, of the result of our deliberations, which, I can assure Your Lordship, have been carried on under a most anxious desire to give the fullest effect to the intentions of Her Majesty's Government; but I hope to be able to report most fully to Your Lordship on the subject in the course of a few days. In the meantime I avail myself of this opportunity of forwarding to Your Lordship a copy of the New South Wales Government Gazette of the 7th Ultimo, containing the Proclamation publishing Her Majesty's Order in Council, and the Notice which I caused to be issued with reference to this Proclamation respecting the Leases of Crown Lands beyond the settled Districts.

In requesting your Lordship to accept my thanks for relieving me from the invidious duty of defining the Lands to be classified as "unsettled" and "intermediate," it may be gratifying to Your Lordship to learn, that no practical difficulty has been experienced in giving effect to Her Majesty's Order in Council.

I have, &c.

[Enclosure.] CHS. A. Fitz Roy.

[This was a copy of the issue of the "Government Gazette," dated 7th October, 1847.]

* Marginal note.—Nos. 162 to 181 (Both inclusive).
My Lord, Government House, 15th November, 1847.

At the request of Mr. William Glaister, a Clerk in the Office of the Principal Superintendent of Convicts in this Colony, I have the honor to forward herewith a Memorial which he has addressed to Your Lordship, praying an appointment in Her Majesty's Customs in lieu of the situation which he now holds, and which will be discontinued on the breaking up of the Convict Establishment.

I have, &c.,

[Enclosure.]  

CHS. A. FITZ ROY.

The humble Memorial of William Glaister, a Clerk in the Office of the Principal Superintendent of Convicts, Sydney, New South Wales,

To the Right Honorable Earl Grey, Her Majesty's Principal Secretary of State for the Colonies, etc., etc., etc.,

Sheweth,

That your Lordship's Memorialist was appointed to his present Department as a Clerk in the month of May, 1834, at a Salary of £100 per Annum, and was promoted according to Seniority until he became second Clerk in the office at a Salary of £180 per annum in February, 1836. In January, 1838, Your Memorialist's Salary was further increased to £200 per annum by the usual increase of £15 a year upon £125 allowed to all Clerks in the Service of Government.

That your Memorialist would represent to your Lordship that the duties of the situation he held were to take charge of the Register of all prisoners in Irons throughout the Colony, and those of prisoners in Assigned Service, reporting on all papers connected with those duties, and the correspondence thereunto belonging.

That, by a Despatch from Lord Stanley when Secretary of State for the Colonies, dated the 16th May, 1845, addressed to the Lieut. Governor of Van Diemen's Land, that Officer was requested to afford every facility in his power for absorbing into the Public Service of that Colony those Officers, who might be displaced in New South Wales by the discontinuance of Transportation, in order to save pensions or retiring allowances. That also, by a Despatch recently received from Your Lordship, it is proposed at once to reduce the present Convict Establishment and transfer to Van Diemen's Land such of the Officers as may obtain employment there; but, as the chance of obtaining situations in that Colony is very doubtful, and your Memorialist would thereby be thrown upon his own resources after a faithful Service under Her Majesty's Government of upwards of thirteen years, He respectfully prays that Your Lordship will confer upon him an appointment in Her Majesty's Customs in this Colony or elsewhere, equal in emolument to his present situation, and thus avoid his claim for gratuity or retiring allowance.

And Your Lordship's Memorialist will ever pray,

WILLIAM GLAISTER.
1847.
15 Nov.

Testimonial

To services of W. Glaister.

I CERTIFY that Mr. Glaister has been employed as a Clerk in the Principal Superintendent of Convicts' Office from the month of May, 1834, till the present period. For the last ten years, he has been Acting under my own eye, and I have ever found him most active, regular attentive and steady in the performance of his duties. It is but justice to Mr. Glaister to add that, from my observation of his habits, I consider that every reliance may be placed in his integrity in whatever situation he may hereafter be appointed.

Sydney, 22 Oct., 1847.

W. McLean, Prin. Supt. of Convicts.

16 Nov.

Address re defenceless state of Port Jackson.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 226, per ship Pinyard Park; acknowledged by earl Grey, 13th May, 1848.)

My Lord, Government House, 16th November, 1847.

With reference to my Despatch, No. 166 of the 20th August last relating to the defenceless state of the Harbour of Port Jackson, I have the honor to forward herewith to Your Lordship the copy of an Address on the same subject, which was presented to me on the 4th instant by a Deputation from the Corporation of the City of Sydney, together with my reply thereto.

I have, &c,

CHS. A. FITZ ROY.

[Copies of these papers are not available.]

17 Nov.

Letter transmitted.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 258, per ship Jane Catherine; acknowledged by Sir Charles Fitz Roy, 30th September, 1848.)

Sir, Downing Street, 17th November, 1847.

I transmit to you the Copy of a Letter which has been addressed to one of my Under Secretaries by Mrs. Liardet, stating the grounds on which she is desirous to obtain absolute possession of a small piece of Land, the property of the Crown, at Port Phillip. The Writer has been informed that, in the absence of any information as to the circumstances of the case, I am unable to entertain her request; I have, therefore, to desire that you will furnish me with an early report on the subject.

I have, &c,

GREY.

[MRS. C. E. LIARDET TO UNDER SECRETARY HAWES.

3 Addison Rd., North Bayswater, 15th October, 1847.

Sir,

A long and severe indisposition has hitherto prevented my answering your obliging reply of the 13th Ultimo, in which you announce Earl Grey's kind permission to me to give an explanation of my wishes, and more recently your note of the 7th instant acknowledging, on the part of His Lordship, receipt of the view of Melbourne.
When I reflect upon the multiplicity of affairs which must constantly engage your attention, I cannot, Sir, but fear, that this most unfortunate delay may have forfeited for me the gracious consideration I had ventured to hope from Lord Grey or yourself. I must trust, however, that the substance of my former letters may not have escaped your recollection, and proceed to explain the grounds of my appeal to his Lordship. My husband and I reached Port Phillip in the year 1839, just at the time when the first large arrivals of Immigrants were taking place; he was bearer of a letter from Sir Richard Bourke, the late Governor to the Colonial Secretary at Sydney, which procured him not only a kind reception, but the offer of a Police Magistracy, which he however declined, as he was engrossed with a totally different purpose. I have said that at that time Immigrants were arriving in great numbers at Port Phillip, and a Stranger could not but be struck, with the want of all facilities for their landing and conveyance to the Town. This was a serious evil for all, but particularly those of the better class, who were very numerous, and my husband was deeply impressed with it.

He was a man of enterprise and energy, and had come out prepared to devote himself to any object worthy of earnest pursuit, and, with remarkable public spirit, he resolved immediately to direct his efforts to supply wants of this grave importance. In the face of very serious difficulties, vizt. the scarcity of labour and the enormously high rate of wages, the difficulty of carriage and deficiency of materials for building, and even the want of adequate funds, to which may be added the absence of any accommodation for our very large family, and the extravagant price of provisions, he built a house of sufficient capacity on the Beach, at a convenient spot for landing passengers, and, having procured boats, he established a regular communication with the Shipping.

He next ran out a long jetty to remove the risk and inconvenience of landing at low tide, etc. and started carriages, which conveyed the passengers to the Town. In all these undertakings which in an Infant Colony were of great magnitude, he had nothing to rely upon, but his own energy, the assistance of his sons, and the slender means of a private individual; but he was so possessed with their public importance that he overcame every obstacle. Nor did he rest here. The Mails had become very considerable but no provision had been made for their reception, or conveyance to the Town, and they were literally thrown on the Beach by the Ships' Crews, and left to the chapter of accidents, and the mercy of the elements. He was too public spirited to suffer this abuse to continue, and offered of his own accord to the Superintendent to turn the means he had now at his disposal to the conveyance of the Mails, and the offer being accepted, he for some time gratuitously performed the Mail duty, and subsequently, having made a strong representation, the Governor agreed to make a small allowance for the duty in future; but it was quite inadequate to his expenses. Hitherto he had received no encouragement from the local Government, notwithstanding the immense public benefit of his labours, and the spirit with which he had contended against every impediment; and, now when he offered to contract for the Mails, the Sum stipulated was so low that it could not repay him; nevertheless he would not relinquish this important service, and my eldest son, who later took the management of everything, in consequence of the embarrassments in which his
1847.
17 Nov.

Road constructed to Melbourne.

Effect of steam vessels.

father became involved, continued the duty, and has since carried it on, though it has possibly been at a loss. Night and day, it has frequently occasioned them severe toil and heavy risks and responsibility; but still it has been discharged under every disadvantage during seven or eight years, to the perfect satisfaction of the authorities, who have frequently expressed their high sense of the zeal and integrity displayed by my family.

I may mention as an illustration of their zeal that they voluntarily and at their own expense cut through the heavy hills of Sand over which lay the road to Melbourne, and literally worked with their own hands, for hours daily, till they had succeeded in making it a tolerably good road. They had now effected the principal objects which my husband had had in view, and naturally looked forward to an improving return of profit, commensurate with their own exertions; but they found themselves the victims of the most adverse circumstances. They had indeed toiled in vain! It was then the monetary crisis, which so severely affected the whole Colony, almost paralysed its commerce, and the traffic, upon which they had counted, was suspended if not at an end. It was only by the severest struggles that so large a family as ours was kept from ruin, and we suffered the greatest distress.

This was most untimely, but our hopes met with more than a temporary reverse, depending on the general depression. Steam, which had been established on the river, was too powerful a rival to contend against successfully, and took away the profits we had looked forward to, and a thousand causes, incidental to the rapid growth of the Town and its resources, had worked a radical change in our prospects. In the Year 1845, I was forced to return to England for my health, which had suffered very much from Climate. I brought home with me four Daughters and their younger brother, that the exertions of my eldest Sons might be unencumbered, and that, relieved from this heavy burden, they might save money to remit to England for my support; but, since I left them, far from being able to do this, they have had a hard struggle to cover their expenses and keep clear of debt, being forced to leave me in a position of the greatest difficulty, to contend against positive penury. I do not mention this fact with any other view than to prove the ill success, the spirited efforts of my family have met with; and, generally throughout this long letter, his Lordship and you, Sir, must pardon me if I have touched upon points that are apparently strictly private and personal, but which it is necessary to bring forward to do the subject justice. And now, Sir, we are forced to recognise as a certainty that those undertakings, which were so fraught with benefit to the community, for which my husband and his sons, Gentlemen by birth and habits, had laid aside their feelings of delicacy, and laboured almost incessantly, of which I succor, had abandoned, and which had engulphed all our capital, could no longer afford our family even the means of support. Under these circumstances, upon which I am sure I need make no further comment, we have anxiously considered how the energy and perseverance, of which so much has been unprofitably expended, might be turned to account: and we do not despair of finding a favourable opening in a Colony where success depends, in a great measure, on personal and systematic exertion; but some little capital is necessary to commence with in any pursuit, and all our's has, as I have said, been expended in
this ungrateful undertaking. To the works which have cost us so dear and which has hitherto made us no proportionate return, we naturally look to yield us the means, which judiciously employed might afford us a comfortable livelihood. But, even this hope, the only return we expect for our incalculable sacrifices, is checked by a difficulty, which to us under all circumstances becomes peculiarly hard. It is this difficulty which I wish to represent to his Lordship; and I cannot but believe that, when he considers the extreme hardship of the case, Lord Grey will, as he alone can, grant us the boon that will alleviate our fatal disappointment. When my Son, according to our reluctant decision, exerted himself to make a sale of the buildings, etc., he made the terrible discovery that they could not be sold legally, as the ground upon which they stood was not ours but belonged to the Govt., and that, except the value of the materials that had cost us so much, but that would be now worth very little for the purpose of removing, we could not expect to realize one farthing. No one would, if they could, buy a property subject to the caprice of a third person, having literally more power over it than himself, and our only hope is now, therefore, to become ourselves proprietors of the ground, on which we have laid out the whole of our funds, and thus give a marketable value to the investment however trifling. The nature of the ground is a barren sand and the extent necessary for our purposes would not exceed three acres, which are covered with the monuments of the extraordinary industry and spirited labours of my husband and his Sons. The possession of this land is the object so near our hearts and which would not be the only means of relieving our most unmerited difficulties; we might then be able to obtain a few hundred pounds, with which to try our fortunes once more, and would cheerfully recommence our hard struggles. I implore his Lordship (with all the earnestness of a distracted mother, who sees the bare means of support snatched from her large family who are truly deserving and beholds but one resource that may yet afford them subsistence), to grant this important favour, and thus confer a well merited reward on the philanthropic spirit and courageous perseverance that prompted the undertakings of my family, and above all for the steady zeal and unexceptionable fidelity with which they have performed the arduous Mail duty, not only without benefit, but even at a positive loss to themselves and with a continual risk of life! I do not know that I could have made this statement with more brevity, though I feel that it is of unusual length; but the extreme importance of doing the subject justice in the eyes of his Lordship must be my excuse; and, with the earnest prayer that Lord Grey will grant my humble application, and that you Sir will lend me Your valuable assistance to obtain this first object of my heart, I beg to remain, &c.

CAROLINE EVELYN LIARDET.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch marked "Military Circular," per ship Jane Catherine.)

Sir,

Downing Street, 17th of November, 1847.

Adverting to the Regulations now in force, under which Retired Officers of the Army and Navy are entitled to claim certain advantages, in respect of the purchase of Lands in several

Earl Grey to Sir Charles FitzRoy.

Request for grant of three acres of land at Port Phillip.
1847.
17 Nov.

Exclusion of officers of E.I. company from concessions in purchase of land.

HISTORICAL RECORDS OF AUSTRALIA.

of the Colonial Possessions of the Crown, and of which I enclose copies, I have to acquaint you that Retired Officers of the East India Company's Service are not entitled to participate in any of the advantages specified in those Regulations. I have, &c.,

GREY.

[Enclosure.]

[This was a printed copy of "Information for the use of Military and Naval Officers purposing to settle in the British Colonies," dated September, 1843.]

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 299, per ship Jane Catherine; acknowledged by Sir Charles Fitz Roy, 26th July, 1848.)

18 Nov.

Sir,

Downing Street, 18 November, 1847.

I transmit to you herewith a Copy of a Letter, which has been received from the Assistant Secretary to the Board of Treasury with a Copy of a communication from the Deputy Commissary General at New South Wales, from which it appears that, in the Month of February last, you had issued instructions to that officer for the payment to the Secretary of the Benevolent Asylum at Sydney of the contribution for that year from the British Treasury in aid of the Institution without the deduction which, in pursuance of the Instructions* of Her Majesty's Government, it had been arranged should be annually made from the Grant, until it should have been finally discontinued. I perceive that the reason assigned for that measure, in the Letter of the Colonial Secretary to the Commissariat Officer of the 18th of February, is that, under the circumstances stated to you when you visited the Asylum, and referring to the number of persons relieved therein who had been Convicts, you considered that it would not be just to reduce the Government contribution for the present year below that of the preceding year, Vizt., £2,000. What may have been the circumstances to which you refer as having been represented to you does not appear; but I concur with the Board of Treasury in their opinion that the fact of a great portion of the persons relieved in the Asylum having formerly been Convicts affords no reason for a departure from the previous arrangement. Many of the persons referred to have no doubt since obtaining their freedom become useful Members of Society, as has proved to be the case in the instance of these persons sent to the Colony with Conditional Pardons from Pentonville Prison; and I can perceive no just reason for relieving the Colony from this charge at the expense of the British Treasury.

* Note 5.
I take this opportunity of acknowledging your Predecessor’s Despatch, No. 188 of the 15th November, 1845, transmitting an application from the Committee of the Asylum, requesting that the amount of the assistance then granted to the Institution from Convict Funds might not be reduced.

I had deferred finally considering that application until the general question of Convict Establishments in New South Wales should have been disposed of. I need scarcely add that it is not in my power to accede to the wishes of the Committee.

I have, &c.

[Enclosure.]

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

Sir, Treasury Chambers, 30th October, 1847.

With reference to the communications from this Board, dated the 20th August, 1842, and the 9th January, 1844, I am commanded to transmit to you the enclosed Copies of a Letter from Deputy Commissary General Ramsay, dated the 11th April last, and its enclosures, respecting Issues made to the Benevolent Asylum at New South Wales from the Funds of this Country; and I am to request that you will lay the same before Earl Grey and observe to his Lordship that the arrangement referred to by Mr. Ramsay for the gradual extinction of the Contribution was made in consequence of Instructions from the Secretary of State, given in accordance with the suggestion of My Lords contained in the communications above referred to.

I am further to state that, so far as My Lords are enabled to judge from the statement made by direction of the Governor to the Deputy Commissary General, there do not seem to be sufficient grounds for a departure from the arrangement in question, as the fact of a great portion of the persons relieved in the Asylum having formerly been Convicts affords no reason for prolonged Assistance to its Funds by this Country.

I am, &c,

C. E. TREVELYAN.

[Sub-enclosure No. 1.]

DEP. COMMISSARY-GENERAL RAMSAY TO MR. C. E. TREVELYAN.

Sir, Commissariat Office, Sydney, 14th April, 1847.

His Excellency the Governor having been pleased to direct the sum of Five hundred Pounds to be paid to the Secretary of the Benevolent Asylum, as the first Quarterly Instalment to be contributed by the British Government in support of benevolent that Institution, I have deemed it my duty to bring the same under the special notice of the Lords Commissioners of Her Majesty’s Treasury, the usual annual reduction not having been made for the reasons stated in the annexed copy of the Colonial Secretary’s letter of the 18th February last, No. 47/37, and which reduction was fixed at £250 per annum, as pointed out in the Colonial Secretary’s Communication, addressed to the Assistant Commissary of Accounts, bearing date 23d February, 1844, copy herewith.

I have, &c,

T. W. RAMSAY, D.C.G.

[Sub-enclosure No. 2.]

COLONIAL SECRETARY THOMSON TO DEP. COMMISSARY-GENERAL.

Sir, Colonial Secretary’s Office, Sydney, 18th Febry., 1847.

I do myself the honor to transmit to you the copy of a letter from the Reasons for Secretary to the Benevolent Society, applying for payment of the first Quarterly maintenance Instalment of the Sum sanctioned by the British Government towards the support of subsidy.
of the Benevolent Asylum, during the year 1847; and, with reference to my com-

munication to the Assistant Commissary General of Accounts, dated 23d Feb., 1844,

No. 20, apprising him that the aid allowed was to be reduced every year in the sum

of £250 beginning from 1845, until entirely discontinued, to inform you that the

Governor thinks that, under the circumstances stated to His Excellency when he

visited the Benevolent Asylum, and the number of persons relieved therein, who

have been Convicts, it would not be just to reduce the Government contribution of

the present year below that of last year, viz. Two thousand Pounds, and to request,

therefore, that you will prepare a Warrant for the issue from the Military Chest

to the Secretary of the Institution, adverted to, of the sum of Five Hundred

Pounds, being one fourth part of the amount now authorized for the present year,

provided you see no objection. I have, &c,

E. Deas Thomson.

[Sub-enclosure No. 3.]

MR. W. Elyard, Junr., TO ASSISTANT COMMISSARY-GENERAL

Charles Bridgen.

Sir, Chief Secretary's Office, Sydney, 23d Feb., 1844.

I have the honor to acknowledge the receipt of your letter of the 8th Instant,

No. 19, enquiring the Sum to be fixed as the Contribution by Government to the

Benevolent Asylum for the present year, with reference to my communication of

the 16th March, 1843, No. 12, which limited the amount for the last year to

Two thousand five hundred Pounds, and intimated a contemplated gradual reduc­

tion, until the aid from the Military Chest towards the support of the Asylum

should finally cease.

In reply, I am directed by His Excellency the Governor to inform you that

the Sum of Two thousand five hundred Pounds will be allowed for the present

Year, on account of the prevailing distress; but the Government Contribution must

from the commencement of the Year 1845 be reduced Two hundred and fifty pounds

in each year until entirely discontinued.

I have, &c.,

W. Elyard, Junr.

Earl Grey to Sir Charles Fitz Roy.

(Despatch No. 20, per ship Jane Catherine.)

Sir, Downing Street, 19 November, 1847.

I have received your Despatch, No. 115 of the 25th of May last, accompanied by a Copy of the Speech with which you had

on the 4th of that Month opened the Session of the Legislative Council of New South Wales.

I have, &c.,

Grey.

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 229, per ship Pinyard Park.)

My Lord, Government House, 19th November, 1847.

I have had the honor to receive Your Lordship's Despatch, No. 167 of the 12th June last, referring to Mr. Gladstone's Des­

patch of 30th May, 1846, and enclosing copy of a letter from Mr.

John Hughes, renewing his enquiry respecting the fate of his

two sons who emigrated to this Colony in 1841.

My Despatch, No. 68 of the 31st March last, which I presume

had not reached Your Lordship's hands on the 12th June, will

have already put Your Lordship in possession of all the information which I have been able to procure in the matter.

I have, &c.,

Chs. A. Fitz Roy.
Sir,

Downing Street, 20 November, 1847.

...
suggested that, in order to facilitate the enquiry, the Commissioners should place themselves in direct communication with Mr. Jackson.

I enclose for Your information a copy of the Report of these Gentlemen, and I have felt bound to adopt the conclusion at which they have arrived, that no imputation whatever appears to them to rest upon Mr. Jackson's character in respect of the transaction in question.

I have, &c.,

[Sub-enclosure No. 1.]

Mr. J. A. Jackson to Under Secretary Hawes.

Sir,

2 Trigons Road, Clapham Road, 5th June, 1847.

I had the honor to receive your letter of the 29th Ultimo, informing me of the answer which had been returned through the Governor of New South Wales to a letter, which I addressed from Sydney to Lord Stanley on the 27th December, 1845, wherein I had urged my claims for re-employment in the Colonial Service.

I was not before aware Sir, that in the opinion of any Member of Her Majesty's Government, there rested any "imputation on my character," and which therefore I was called upon to remove. I understand by those terms an imputation on my probity. I had inferred that my conduct had been viewed as irregular and wanting in judgment; though I have always felt that a fair and unbiased enquiry would go far to relieve me, if they did not do so entirely, of even those imputations.

I am fortunately not so circumstanced in life that I can afford to rest upon my own consciousness of rectitude, in opposition to the opinions of individuals, when forming a part of so distinguished a body as Her Majesty's Government. The general presumption will probably be that their opinions are founded on reason and justice; and I feel very assured that they are never entertained when hostile to the character of an individual, without the reluctance which in such cases would await the conclusions arrived at by honorable and independent minds. But I hope it will not be considered as disrespectful when I say that, while confiding fully in the just intentions of Her Majesty's Government, I feel that, in the calls upon their time and attention of great national concerns, in the great difficulty of obtaining all the facts in any instance from distant Colonies, and I will even make bold to say in the habitual presumptions of Office, an Individual, situated as I am, may find that substantial justice is denied him; yet little of this may suggest itself to the mass of men, at least in England, and the general decision of Her Majesty's Government that there is an "imputation" on my character may serve to render the whole of my future progress through life an uninterrupted succession of disaster. It may be in effect to condemn me and my family to a punishment, which would be severe for the greatest delinquency, were it ever so clearly and conclusively established.

I think Lord Grey will readily admit that I am entitled to ask, as to this imputation on my character, on what grounds it specifically rests; and I would therefore beg to be informed:

1st. What distinct Acts of mine have raised presumptions prejudicial to my reputation?

2d. What moral characteristic is attributed to those Acts? for the self same Acts may be viewed in very different lights by different men; by some being held in various degrees of culpability, by others possibly as involving no culpability whatever, and by others even it is not inconceivable as involving grounds for commendation. And a certain impression is entertained upon any given state of facts, some accidental or overlooked circumstance may be adduced, which, though in itself trivial, would serve to remove such an impression altogether.

3. What opportunities have been afforded me of rebutting any imputations on my character.

4. Wherein and to what extent any explanations afforded by me have been deficient.

Without wishing to indulge in any general assertions, I can only say, as the case stands at present, that I am conscious of never having acted in any manner unbecoming the station I filled in South Australia; that, during my residence there, I devoted all my energies to the Public Service, working early and late to the serious injury of my health; that, in accepting an Office, which I never solicited, I have irrevocably damaged my prospects in life, and that I am well assured there is not a single man now in the Colony, who was personally acquainted with me at the time of my resignation, who will credit that any imputation on my character can be successfully sustained.

My object is not now to seek for re-employment; it is simply to have the opportunity afforded me of removing unjust imputations.

I have, &c.,

J. A. JACKSON.
Sir, Colonial Land and Emigration Office, 27th October, 1847.

With reference to your Letter of the 11th ultimo, enclosing a correspondence with Mr. J. A. Jackson, formerly Colonial Secretary of South Australia, and requesting our opinion whether or not any imputation rests upon that Gentleman's character in respect of the proceedings of the South Australian Bank, noticed in our Letter of the 11th August, 1843, we have the honor to submit the following Report.

In the communication referred to, we pointed out that the local Manager of the South Australian Bank had for a long time retained a balance of £9,804, due to this Commission without rendering any account of it either to the Governor or to this board, a circumstance which appeared to us to afford a just ground for serious complaint. We at the same time suggested that it would be proper to require the Colonial Treasurer to clear himself from any knowledge of this balance, and that, unless he could afford a satisfactory explanation, it might be a question for higher authority than ours whether he should be allowed to continue in the public service; and it would appear that for that reason no explanation was required from him at that period. The question having now been revived, and Mr. Jackson himself claiming an investigation, we have in compliance with Lord Grey's desire made the best enquiry in our power into the facts of the case. There were two points on which, referring to our Report, it appeared to us that Mr. Jackson should offer an explanation, vizt: first, whether he would not in the ordinary course of his business have been cognizant of the balance in question. And, secondly, whether or not the practice, until Governor Grey's administration, had been to draw £3,000 from the Bank every quarter, such practice being changed immediately on the arrival of a new Governor who was unacquainted with the previous course.

On the first point, Mr. Jackson has shown us to our satisfaction that he had no means necessarily in his office of being acquainted with the balance, which was withdrawn from the Governor's knowledge. As Colonial Treasurer, he had extensive accounts with the Bank, but the balance in question was one in our Account with the Colonization Commissioners, which did not fall within the scope of his business.

As soon as he had paid over to the credit of the Commissioners any money he received for land, he had nothing further to do with their account.

On the other point, the following were the grounds on which an explanation appeared necessary from Mr. Jackson.

By the arrangement between the Commissioners and the Bank, the Governor was at liberty to draw £3,000 out of the Land Fund every quarter, so long as there were any assets in that fund and quite irrespective of the dates at which the receipts accrued.

It is quite plain that, if this course had been steadily followed, the accumulated balance of £9,804 must have been brought to light and used by the Governor. It was supposed, at the date of our Report in 1843, that Governor Gawler had fully understood and acted on his powers in this respect, and that it was only Governor Grey who had been led to imagine that he could not draw for more money than might have accrued in the immediately preceding quarter. Mr. Jackson was to account for the difference of practice.

But he has shown us that in point of fact he had laboured under exactly the same error as Governor Grey during the administration of his predecessor, and that even at that period the whole amount of £3,000 was not drawn from the Land Fund unless it had accrued in the previous quarter.

Mr. Jackson has shown this to us by memoranda extracted from a duplicate copy of his accounts corroborated by publication in the local gazette and confirmed by accounts which we possess from the Bank.

We have much satisfaction therefore in submitting to Lord Grey our report exonerating that no imputation whatever appears to us to rest upon Mr. Jackson's character in J. A. Jackson, respect of the transactions to which our letter of the 11th August, 1843, related.

Should this conclusion be adopted, Mr. Jackson has expressed an earnest hope it may be communicated to the Board of Treasury and also to the Governor of New South Wales, if, as Mr. Jackson supposed possible, the existence of any doubt upon his character had been intimated to that authority.

We referred Mr. Jackson for the result of this to such communication as he may receive from the Colonial Office.

We have, &c.,

T. FREDK. ELLIOT.

J. G. S. LEFEVRE.

P.S.—The original enclosures which accompanied your letter are herewith returned.
Earl Grey to Sir Charles Fitz Roy.

(A circular despatch, per ship Jane Catherine; acknowledged by Sir Charles Fitz Roy, 15th July, 1848.)

Sir,

Dowing Street, 20th November, 1847.

My attention has lately been called by the Lord Lieutenant of Ireland to the fact that the Prelates of the Roman Catholic Church in the British Colonies have not hitherto, in their official correspondence with the Governor and Authorities, been usually addressed by the Title to which their rank in their own Church would appear to give them a just claim. Formerly there were obvious reasons for this practice; but, as Parliament has by a recent Act (that relating to Charitable Bequests in Ireland) formally recognized the rank of the Irish Roman Catholic Prelates, by giving them precedence immediately after the Prelates of the Established Church of the same degree, the Roman Catholic Archbishops and Bishops taking rank immediately after the Protestant Archbishops and Bishops respectively, it has appeared to Her Majesty's Government that it is their duty to conform to the rule thus laid down by the Legislature, and I have accordingly to instruct you hereafter officially to address the Prelates of the Roman Catholic Church in your Government by the title of "Your Grace" or "Your Lordship," as the case may be.

Parliament not having thought proper to sanction the assumption by the Prelates of the Roman Catholic Church in Ireland of titles derived from the Sees which they hold, a similar rule will be followed in the Colonies; thus, for example, the Roman Catholic Prelate in New South Wales will be addressed as the Most Reverend Archbishop Polding, and in Van Diemen's Land, as the Right Reverend Bishop Willson.

I have, &c.,

Grey.

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 230, per ship Pinyard Park.)

My Lord,

Government House, 20th November, 1847.

On the 13th September last, I had the honor to receive Your Lordship's Despatch of the 26th May, 1847, directing that a yearly deduction of Fifty pounds should be made for the benefit of Mr. Moger from the salary of Mr. Slade, the Clerk of Petty Sessions at Moreton Bay, and that the deduction should commence from the 28th April, 1847. I accordingly gave instructions for the necessary measures to be adopted for carrying the arrangement into effect; but, having received from Mr. Slade a communication, of which I have the honor to enclose a Copy,
FITZ ROY TO GREY.

representing that he has no means whatever of retrospectively meeting the demand, I have directed, as there appears to me to be no other alternative, that the stoppage of one third of Mr. Slade's monthly pay shall commence from the 1st Octr., 1847, the month following that in which your Lordship's Despatch arrived in the Colony.

The amount of the deduction, at the rate of £50 a year, I propose to remit quarterly to Mr. Barnard to be paid to Mr. Moger.

I have, &c.,

[Enclosure.]

CHS. A. FITZ ROY.

MR. G. M. SLADE TO COLONIAL TREASURER.

Sir, Brisbane, 2nd November, 1847.

Having reference to a letter I have just received from the Colonial Treasurer, enclosing the Copy of one from you, stating that, in pursuance of Instructions from the Secretary of State, a deduction at the rate of fifty pounds per Annum was to be made from my salary as it became due, commencing from 28th April, 1847, and that I will furnish you quarterly with a report of the sums which may then remain in my hands on this Account. In reply, I have the honor to inform you that this demand was made so unexpectedly that I have not one farthing in the world at present to meet it. The two months pay for August and September, I had desired Mr. Riddell to retain as part payment of Fines and Fees due by me to the Public up to that date; the only way I can liquidate the debt is by commencing the Stoppage from the 1st of October last of one third of my monthly pay.

From the very serious Expenses attendant on the death and funeral of the late Mrs. Slade, and also from having been affected myself for the last eighteen months, I have been obliged to pay a clerk to do my duty; with all these drawbacks, it is totally out of my power to Settle the affair in any other way than I have offered. I, therefore, hope and trust that His Excellency will not order the amount, which I have paid into the Treasury in part payment of Fines and Fees due by me to the Public, to be stopped on the beforementioned account, as I have no other means of making up the deficiency, the result of which after my being twenty seven years in this Colony in the Government employ, a dismissal from my situation.

I have, &c.,

GE. M. SLADE, Clk. P. S.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 233, per ship Pinyard Park; acknowledged by earl Grey, 25th May, 1848.)

My Lord, Government House, 23d November, 1847.

My Predecessor, in his Despatch, No. 185 of the 12th November, 1845, transmitted to Mr. Secretary Gladstone the copy of an Address from the Legislative Council of this Colony, setting forth the great advantages to be derived from the construction at Sydney of a Dry Dock capable of holding Men-of-War, and suggesting the employment of Convicts for that purpose.

SER. I. VOL. XXVI—D
Mr. Secretary Gladstone, in his Despatch of the 10th June, 1846, No. 39, forwarded to me copies of the correspondence, which had taken place on this subject between the Colonial Office and the Lords of the Admiralty, from which I learned that, while their Lordships approved of the work itself, as well as the locality pointed out by Sir Geo. Gipps, they were not prepared to recommend that the expense of the undertaking should be borne by the British Treasury.

Impressed with the importance of the proposed work, I submitted to the Legislative Council the expediency of undertaking it at the cost of the Colony.

The Council referred the matter to a Select Committee of their own Body, a copy of whose Report is enclosed for your Lordship's information; and eventually the Council voted the sum of Five hundred pounds on the Supplementary Estimates for the present year and the like sum for 1848, towards the construction of the proposed Dry Dock.

I have now the honor to inform Your Lordship that it is my intention to proceed with the work on the Plan and Scale recommended by the Committee.

I may explain to Your Lordship that the site selected for the intended Dock (Cockatoo Island) is also the place set apart for the coercion of Convicts in this Colony; and it is conceived that Convicts under Colonial sentences, who will become disposable in consequence of the discontinuance of transportation from this Colony to Van Diemen's Land, can be employed with great advantage on a Work of this nature.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[A copy of this report will be found in the "Votes and Proceedings" of the legislative council.]

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 262, per ship Jane Catherine; acknowledged by Sir Charles Fitz Roy, 30th September, 1848.)

Sir,

Downing Street, 24th November, 1847.

With reference to my Despatch of the 17th Instant, I now transmit to you the Copy of a further Letter from Mrs. Liardet, urging the extreme importance to her of an early decision in regard to her wish to be furnished with a title from Her Majesty's Government to a portion of the Beach at Port Phillip, and requesting that I would dispense with the Report upon her Case, which in the Despatch above cited you were directed to send home.
GREY TO FITZ ROY.

Under the peculiar circumstances of Mrs. Liardet's case, she has been informed that I have assented to her present application. In communication, therefore, with the Superintendent of Port Phillip, you will at once decide upon and do whatever you may consider to be right in this matter; and I am of opinion that if, under the Act of Parliament, there should be any difficulty in making a Grant of the Land in question, Compensation (supposing it to be found due) might be made, by putting up the Land to Auction, and giving to Mrs. Liardet whatever may be realized beyond the upset price of it.

I am, &c.,

Grey.

[Enclosure.]

MRS. C. E. LIARDET TO UNDER SECRETARY HAWES.

Sir, 3 Addison Road North, 17th November, 1847.

I must again trouble you, on the subject of the application I have made to Earl Grey, respecting the grant of three acres of land in Hobson's Bay, Port Phillip. I have received a communication from the Colonial Land and Emigration Office, which informs me that the application has been reported upon by the Commissioners, and returned to the Colonial Office, where it now remains for the decision of his Lordship. The Secretary for the Colonial Land and Emigration Office farther observes (in reply to the earnest solicitations contained in my letter to the Commissioners, that the urgent position of my family might be taken into consideration, and that any delay which might under ordinary circumstances take place should in this instance be avoided) that he apprehends that his Lordship will probably communicate with the Authorities in the Colony on the subject, and that this course will take up a considerable lapse of time. It is on this point, Sir, that I am anxious once more to engage the attention of his Lordship and yourself. I am already deeply grateful to his Lordship for his kindness in entertaining my application so promptly; but, at the risk of appearing importunate, I must urge the distressed position of myself and children here, resulting from the helpless condition of the rest of my family in Port Phillip. Sir, I assure you, and I beg to assure his Lordship, that I am most painfully situated from the inability of my husband and sons to send me the funds necessary for my support; that I cannot effect my return to them for want of means; and that, even if that difficulty were removed, and that I and the children I have with me were once more with them in the Colony, they would not in the present state of their resources support so great an additional burthen on their energies. Such must and will be the state of things, until the boon I have sought shall be granted, when they will be able to realize the property raised by their industry, as it will then have a marketable value, and apply the proceeds to an investment that will at least secure the family from want. And now, Sir, I ask you, and I ask his Lordship, is not this a case in which the delay that it appears is usual might be dispensed with? When the evil is so great and imminent, ought not the cure to be promptly applied? Indeed, Sir, I do not know to what on earth we are to turn to relieve our
position during the interval of 18 months or two years that would elapse, if his Lordship were to communicate and recomunicate with the Local Authorities on the subject. Is it not too probable that, if the final decision were favourable, it would be given too late? I am no practised petitioner; I have not, nor, to the best of my belief, has any Member of mine, or my Husband's family ever before asked a public favor; and it is not a little repugnant to my feelings at this moment, as a Member of a family who have always maintained themselves independently in an honorable position in society, to plead circumstances of personal distress; but the necessity of speedy relief is so urgent that I am forced to set aside my feelings of delicacy; and I appeal to you, Sir, and to His Lordship in the cause of humanity to make an exemption from the general rule in favour of my case.

With the highest respect and consideration,

I remain, &c.,

CAROLINE EVELYN LIARDET.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 234, per ship Pinyard Park; acknowledged by Earl Grey, 27th July, 1848.)

My Lord,

Government House, 24th November, 1847.

Referring to my Despatch, No. 214 of the 24th ultimo, reporting to Your Lordship the arrangement which I had sanctioned for the performance of the duty of Acting Collector of Customs at Melbourne, Port Phillip, in consequence of the death of Mr. Hunt, I have now the honor to transmit to Your Lordship the copy of a letter from the Collector of Customs, proposing an arrangement for carrying on the duties of the Long Room in Sydney, which became necessary on the removal of Mr. Llewellyn, the first Clerk, to Melbourne as Acting Collector; and I have to report to Your Lordship that I have approved of the Collector's proposals, pending the pleasure of the Honorable the Board of Customs.

Your Lordship will perceive that the arrangement includes the re-employment of Mr. Homersham, as authorised by Your Lordship's Despatch, No. 107 of the 15th March, 1847.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

MR. J. GIBBES TO COLONIAL SECRETARY THOMSON.

Sir,

Customs, Sydney, 29th October, 1847.

Referring to my letter of the 2nd Ultimo, No. 94, and to the order of the Honorable the Board of Customs of the 29th April last, No. 26, enclosed therein. I have the honor to State that I have received a notification of the admission to office at Melbourne of Mr. W. N. Llewellyn as Acting Collector, and Mr. Peter Stewart as first Clerk, the former on the 11th and the latter on the 21st
GREY TO FITZ ROY.

Earl Grey to Sir Charles Fitz Roy.

(Despatch No. 263, per ship Jane Catherine; acknowledged by Sir Charles Fitz Roy, 27th May, 1848.)

Sir,

Downing Street, 25th November, 1847.

I request that you will furnish me with the particulars of any information it may be in your power to obtain relative to an application, of which the enclosed is a Copy, from Mr. Peter Lawson, having reference to his Son in Law, Henry Davis.

The Writer has been informed that this reference has been made to you.

I have, &c.,

J. GIBBES, Collector.

[Enclosure.]

Mr. P. Lawson to ________.

No. 3 Joint Stock Buildings,
Dundee, 12th November, 1847.

Sir,

I take the liberty of applying to you for any information you can afford regarding Henry Davis (my Son in Law) who was discharged from the 24th Foot, and transferred to New South Wales as Overseer of Convicts on 30th September, 1843. I have not heard from him nor had any account of him these three years past. If you can give me any information whether or not he is alive, you will oblige, &c.,

PETER LAWSON.

Earl Grey to Sir Charles Fitz Roy.

(Despatch No. 264, per ship Jane Catherine.)

Sir,

Colonial Office, 26 November, 1847.

The claim preferred in your Despatch, dated the 1st April, 1847 (No. 75), to be reimbursed the amount of the expenses which you may incur in travelling from one part of your...
Government to another in the discharge of your public duties is, I willingly admit, a fair and reasonable demand. I cannot, however, consent to fix that charge on the Territorial Revenue of New South Wales. If there should be a surplus sufficient for the purpose of the Fund, which is placed at the disposal of Her Majesty's Government by Schedule B of the Constitutional Act, I have to convey to you the necessary authority for such an application of that Surplus. But, before any payment is made on any such account, it will be necessary that the particulars of the charge should be brought under the consideration of the Executive Council of your Government, and that they should be satisfied,

1st. That the Journey, on respect of which the charge may be made, was undertaken exclusively and properly on Her Majesty's Service;
2nd. That each item of the charge is moderate and reasonable and supported by the requisite Vouchers; and
3rdly. That there is a real, and not merely an apparent, surplus of the Fund comprized in Schedule B, which could be applied in satisfaction of this charge without leaving unprovided for any of the more specific objects of that Schedule.

I have, &c.,
GREY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 236, per ship Pinyard Park.)
My Lord,

Government House, 26th November, 1847.

It is my painful duty to report to Your Lordship that Mr. Thomas Jeffrey, who for many years past held the appointment of Landing Surveyor at this Port, died on Saturday the 30th ultimo.

At the same time I have the honor to transmit to Your Lordship the copy of a letter from the Collector of Customs, suggesting the steps which should be taken to supply the place of Mr. Jeffrey, and to state to Your Lordship that, under the circumstances mentioned by the Collector that Mr. Deane, the Senior Landing Waiter, is incapacitated for the Office through excessive deafness, I have sanctioned the appointment of Mr. Frederick Garling, the second Landing Waiter, as acting Landing Surveyor, under the arrangement proposed by the Collector, that the Salary of £400 and £300 a year, attached respectively to the Offices of Landing Surveyor and Senior Landing Waiter, shall be equally divided between the two Officers, Messrs. Deane and Garling, until the pleasure of the Board of Customs shall be known.
FITZ ROY TO GREY.

This will not interfere with the arrangement reported to Your Lordship in my Despatch of the 24th instant, No. 234, for conducting the duties of the Long Room. I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

MR. J. GIBBES TO COLONIAL SECRETARY THOMSON.

Sir,

Customs, Sydney, 4th November, 1847.

In compliance with the directions contained in your letter of the 3rd Instant, No. 114, I beg to State that the Steps, which I would propose should be taken to supply the place of the late Mr. Jeffrey, would be to appoint Mr. Frederick Garling, second Landing Waiter at this Port, to be Acting Landing Surveyor until such time as instructions may be received from Home on the Subject.

Mr. Garling has been Officiating as a Landing Waiter for nineteen years, and is in every way qualified to perform the duties of the Office in question.

Mr. Deane, the Senior Landing Waiter, who has been sixteen years in the service, and who is, as far as zeal, integrity and knowledge of business goes, also well qualified, is unfortunately so excessively deaf that verbal communication with him is almost impracticable, and the nature of the duties of Landing Surveyor is such that scarcely a day passes without his having to come to me with merchants and others for explanations on points of difficulty or for my decision in disputed cases.

Under these circumstances, I have pointed out to Mr. Deane the expediency of nominating Mr. Garling to act in the higher Office; but, as it is hard upon the former that owing to an Act of Providence he should be debarred from the whole of the emoluments which he would have received by promotion, I have undertaken to recommend, for the consideration of His Excellency the Governor, that the Seven hundred a year attached as Salaries to the two Offices of Landing Surveyor and Senior Landing Waiter should be equally divided between them, until the pleasure of the Board of Customs may be known, with which arrangement (if approved) Mr. Deane will be perfectly satisfied.

The Promotions, which will necessarily follow, will leave vacant an office of only one hundred pounds per annum; but, whether it will be that of Locker or Tidewaiter, I am not at the present moment in a position to say, Mr. Williams First Class Established Tidewaiter being absent at Broken Bay where he is Acting Coast-waiter.

I have, &c.

J. GIBBES, COLT.

[Enclosure No. 2.]

MR. J. GIBBES TO COLONIAL SECRETARY THOMSON.

Sir,

Customs, Sydney, 5th November, 1847.

I have the honor to acknowledge the receipt of your letter of the 4th Instant, No. 123, and to State that I have no fresh arrangement to propose in respect of the Promotion and Appointment of Clerks in the Long Room, in Consequence of the Death of Mr. Jeffrey; and that I shall be very glad to have the Services of Mr. Homersham (if he is to be appointed) at as early a date as possible, three of my clerks being absent from Sickness, and much difficulty being experienced in consequence in carrying on the business of the office.

I have, &c.,

J. GIBBES, Collector.
HISTORICAL RECORDS OF AUSTRALIA.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 265, per ship Jane Catherine.)

Downing Street, 27th November, 1847.

Sir,

I have had under my consideration your Despatch, No. 82 of the 8th of April last, in which you inform me that, pending an investigation into certain charges of irregularity preferred against Mr. and Mrs. Smythe, the Storekeeper and Matron of the Female Factory at Parramatta, by Mr. Elliot, the Visiting Magistrate, you had found it necessary to dismiss those persons at once from their employment and had appointed Mr. and Mrs. Statham in their stead.

I approve of your proceedings in both these cases.

You likewise transmit to me Copies of a Correspondence, which had passed respecting an act of peculation in the issue of Soap, with which Mr. Elliot had been charged by Mr. Bell, the former Storekeeper, as well as of irregularity on the part of that Gentleman in employing the Female Convicts to wash and work for his family, without pay.

I see no reason to dissent from your opinion that the Statement made in his own defence by Mr. Elliot is a complete and satisfactory refutation of those charges. I cannot, however, avoid drawing your attention to a practice which, as I gather from the papers enclosed in your Despatch, seems to prevail, of the Officers connected with the Convict Establishment being permitted to have their Washing and Needle Work done at the Factory without paying for it. It is obviously improper that any portion of their household expenditure should be saved at the expense of the public; nor have the parties in question, at any time, so far as I am aware, been allowed this indulgence by Her Majesty’s Government. You will, therefore, give directions for the immediate abolition of all such perquisites, taking care that no gratuitous work be done at the Factory for the benefit of the Convict Officers; and you will establish a Tariff, or List of prices, according to which they, and all others, should be charged, for Washing and Work performed in the Institution.

With this regulation in force, it will of course be competent to them to employ the Inmates of the Factory. I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 266, per ship Jane Catherine.)

Downing Street, 29th November, 1847.

Sir,

I have to acknowledge the receipt of your despatch, No. 104 of the 14th of May last, enclosing a letter which has been addressed to me by Mr. Campbell Drummond Riddell, the
Treasurer for the Colony of New South Wales, relating to the position with regard to seniority, which he is entitled to occupy in the Executive Council of that Colony.

I have to instruct you to acquaint Mr. Riddell that the Members of the Executive Council of New South Wales take place and rank in that Body in the order in which they are designated in Her Majesty’s Instructions under the Royal Sign Manual and Signet addressed to yourself. I have, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

Sir,
Downing Street, 30 November, 1847.

I have received your Despatch, No. 119 of the 29th of May last, enclosing a Copy of a Letter from Mr. Justice Therry, on the subject of his position on the Bench of the Supreme Court in New South Wales.

It appears to me evident, from the terms of my Predecessor’s Despatch, No. 46 of the 16th October, 1846, that it was intended to assign to Mr. Therry the position next in order to Mr. Justice Dickinson, and the casual circumstance of Mr. A’Beckett’s name having appeared before that of Mr. Therry in the announcement of their Appointments in the Royal Gazette cannot be considered as in any way interfering with the contemplated order of their nominations. Mr. Therry must therefore be regarded as the Senior Judge.

You will acquaint those Gentlemen that such is my view of the Case.
I have, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

Sir,
Downing Street, 4 December, 1847.

I have received your Despatch, No. 64 of the 30th of March last, reporting that, with the advice of your Executive Council, you had granted Twelve Months’ leave of absence to Sir Thomas Mitchell, the Surveyor General to your Government, to enable him to proceed to England on urgent private affairs.

I transmit for your information Copies of a Correspondence with Sir Thomas Mitchell on the subject.

I regret that I cannot consider as satisfactory the grounds assigned by Sir T. Mitchell for his application for leave, particularly as he had recently been so long absent from his duties in the Colony; but, as you had thought proper to grant him that leave, and as upon the strength of it he had come to Europe, I did
1847.
4 Dec.

Limitation of leave of absence.

not consider it just to refuse to sanction his receiving his absent Allowance during that period, although at the same time I have intimated to him that I should be unable to extend the period or to sanction the issue of half Salary beyond the date at which the present leave will expire, even although the objects, for which he has visited Europe, should not by that time be completed.

I have, &c.,

Grey.

[Enclosure No. 1.]

SIR THOMAS MITCHELL TO EARL GREY.


Having arrived from New South Wales on leave of absence for one year, I have the honor to state that I left Sydney on the 29th day of March last, and to request that Your Lordship may be pleased to cause a communication to be made to the Colonial Agent General, and also to the War Office, stating such particulars as may be required to enable those Authorities to pay me my half Salary as Surveyor General, and my half Pay as an Unattached Major.

I have, &c.,

T. L. MITCHELL,

Surveyor General of New South Wales.

[Enclosure No. 2.]

UNDER SECRETARY HAWES TO SIR THOMAS MITCHELL.

Sir, Downing Street, 8th August, 1847.

In reply to the request contained in your letter to Earl Grey of the 24th Ultimo, I am directed by his Lordship to inform you that no Despatch has yet been received from the Governor of New South Wales, announcing the leave of absence which you state has been granted to you, but that, whenever such Report shall have reached this Department, the necessary communications on the subject will be made to the Colonial Agent and to the War Office.

I have, &c.,

B. HAWES.

[Enclosure No. 3.]

UNDER SECRETARY HAWES TO SIR THOMAS MITCHELL.

Sir, Downing Street, 27th September, 1847.

In my letter of the 8th August last, I informed you that no report had then been received from the Governor of New South Wales, announcing your leave of absence. I am now directed by Earl Grey to acquaint you that such a report has now reached him, but that he learns from it that you have returned to England only on the ground of urgent private affairs.

Lord Grey directs me to observe that he cannot consider this as a sufficient explanation of the grounds on which you propose so long to absent yourself from Your Public duties. His Lordship regards the difficulty of acquiescing in such a plea as the more considerable, when he advertts to the great length of time during which you were absent from those duties on your last visit to England. Under such circumstances, he cannot sanction your leave of absence, nor direct the payment of your half Salary; but he is ready to receive and consider any statement on the subject, which you may be able and desirous to lay before him.
Lord Grey directs me to add that, in his report of your leave of absence, the Governor of New South Wales has remarked that 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 your late exploratory expedition, as it will be now, it will not be necessary, in the event of any vacancy occurring, that both the appointments should be filled up. Lord Grey would, therefore, wish to be informed what is your own opinion as to the necessity of maintaining both a Surveyor General and a Deputy Surveyor General on the establishment of the Colony of New South Wales.

I have, &c.

B. Hawes.

[Enclosure No. 4.]

SIR THOMAS MITCHELL TO UNDER SECRETARY HAWES.


On my arrival in town this day, having left Malaga on the 3d Instant, I had the honor to receive Your letter dated 27th September, to which I hasten to reply.

I beg to state, for Earl Grey's information, that the grounds on which I applied to the Governor of New South Wales for leave of absence were, first, that very unfavorable reports as to the state of my health had been sent to the Colonial Office; Secondly, that my health had been affected by an attack of paralysis for the cure of which Dr. Nicholson, my physician, recommended a Sea Voyage; and, Thirdly, that I had occasion to give to the public the details of a Journey undertaken at the Public expense. On these grounds, I personally asked and obtained from the Governor of New South Wales leave of absence to come to England.

I regret exceedingly to learn from your letter that Lord Grey feels more difficulty in acquiescing in my present plea when His Lordship adverts to the great length of time during which I was absent from my Public duties on my last visit to England. I beg to apprize his Lordship that Public duties then engaged my attention, partly in another branch of the service it is true, but for objects similar to that which now brings me to London, namely, to give to the Public the benefit of surveys, performed at the public expense. I admit that I consider the due and full completion of any Public service entrusted to me, as being the most urgent of my private affairs, even although it involves the sacrifice alternately of my Military half pay, or half my Colonial Salary; but I cannot afford to lose both and maintain a very large family. I have been unable to receive either my half pay or half Colonial Salary since my return to England on Leave of Absence; and the very serious inconvenience, indeed distress, to which I must be reduced may be imagined, if the issue of my half salary and half pay is not immediately sanctioned.

With respect to the question on which you request my opinion for Lord Grey's information as to the necessity of maintaining both a Surveyor General and a Deputy Surveyor General on the establishment of the Colony of New South Wales, I beg to observe that this appears to me to depend wholly on the nature of the duties to be required henceforward of the Surveyor General (Lord Stanley's letter to the Governor of New South Wales, dated 15th June, 1833, is very particular on this point as to the past). According to the Royal Instructions of 1825, extensive territorial
divisions and reserves were commanded to be made, and, pursuant to a Commission under the great seal of the Colony, I made with my own hand a trigonometrical Survey and determined the boundaries and contents of nineteen Counties, marked out the great roads, and superintended their construction by upwards of two thousand Convicts, and explored the interior to the Westward, Southward, and lastly to the Northward. It must be obvious that I could not be always present at the Seat of Government, where my Deputy signed for me Official Documents requiring my signature. I know of no other service on which I have required that Officer's assistance, besides that general superintendence of others employed under my written instructions; and, therefore, I could not object to such a diminution of my department, if, as I am led to infer from your letter, my duty as head of the Survey Department may be performed at Sydney.

I have further only to add that my health is much improved by this visit to Europe, and that I have no desire to remain longer in England than may be necessary to enable me to bring out the work,* whereof Lord Grey has been pleased to sanction the publication.

I have, &c.

T. L. MITCHELL.

[Enclosure No. 5.]

UNDER SECRETARY HAWES TO SIR THOMAS MITCHELL.

Sir, Downing Street, 3d Decr., 1847.

I have laid before Earl Grey your letter of the 15th Ultimo, in explanation of the circumstances under which you obtained leave of absence from New South Wales.

In reply, I am directed to acquaint you that, as the Governor of New South Wales thought proper to grant you leave of absence for a period of twelve months, and as, upon the strength of that leave you came to Europe, His Lordship will not, during that time, refuse to sanction your receiving your half Salary, although he cannot but regard the grounds upon which leave was granted to you as far from satisfactory, considering that you had at a recent period been so long absent from your duties in the Colony. Under these circumstances, Lord Grey cannot sanction any extension of your leave of absence or the grant of half Salary beyond the date at which your present leave will expire, even although the objects for which you have visited Europe should not by that time be completed.

I have, &c.

B. HAWES.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 237, per ship Catherine Jamison; acknowledged by earl Grey, 1st June, 1848.)

My Lord, Government House, 6th December, 1847.

With reference to my Despatch, No. 218 of the 28th October last acknowledging your Lordship's Despatch, No. 147 of the 4th May, 1847, directing the reduction of the Convict Establishment of this Colony and the removal to Van Diemen's Land of those Convicts, to whom Tickets of Leave or Conditional Pardons cannot properly be granted, and instructing me to

* Note 6.
FITZ ROY TO GREY.

concert with the Lieut. Governor of Van Diemen's Land such measures as may be necessary for carrying this arrangement into effect with as little delay as possible, I do myself the honor to enclose for your Lordship's information copies of the correspondence, which has already passed on the subject between this Government and that of Van Diemen's Land.

From the letter written under my direction on the 23d November last to the Comptroller General of Convicts in Van Diemen's Land, your Lordship will perceive that I have furnished the information desired by that Government respecting the number and condition of the Convicts liable to be removed, the Officers of the Convict Establishment of this Colony whose services will be dispensed with, and the quantity of serviceable clothing, stores, etc., belonging to the Convict service; and that I have intimated to Sir William Denison that the Convicts can be transferred as soon as the Government of Van Diemen's Land is prepared to receive them.

Your Lordship will observe that Sir William Denison has asked for the transfer of the Steamer "Kangaroo," which was purchased for the service of North Australia, to the Government of Van Diemen's Land for the use of the Convict Service, and that I have given my assent to the proposal on condition of the original cost of the Vessel (£3,000) being paid into the Military Chest of this Colony to be placed to the Credit of the account of Expenditure for North Australia. As I have since learned from your Lordship's Despatch of the 1st July last, No. 182, that the North Australian Expenditure is to be defrayed from the Parliamentary Grants for the Convict Establishments in New South Wales and Van Diemen's Land, the payment of the price of the Steamer into the Military Chest will not of course be required by me.

I have, &c,

CHS. A. FITZ ROY.

[Enclosures.]

[Copies of this correspondence is not available.]

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 238, per ship Catherine Jamison; acknowledged by earl Grey, 24th May, 1848.)

My Lord,

Government House, 6th December, 1847.

In your Despatch of the 30th March, 1847, No. 120, transmitting Her Majesty's Order in Council of the 9th March, 1847, respecting the occupation of Crown Lands in this Colony Your Lordship expresses great 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 the long period of fourteen years.

I am, I conclude, right in assuming that it was owing to this anxiety on the part of Your Lordship that the respective boundaries of the Unsettled and Intermediate Districts were not definitively fixed by the Order in Council, but that they were left subject to alteration at any time before the end of the year 1848 by the proclamation of New Counties, which will have the effect of adding the lands comprised in such Counties to the Intermediate class.

The manner, in which I should best fulfil my portion of the duty which this important power of extending the Intermediate Districts involves, has engaged my most serious attention; and I now proceed to report to Your Lordship the course which, with the advice of my Executive Council, I have deemed it most proper to adopt.

Having learned from the Deputy Surveyor General of this Colony that a considerable number of proposed new Counties had been for some time marked on the Charts of his Office, I called upon him to report, with respect to such of those Counties as are situated in the middle or Sydney District, which of them could be described before the end of the year 1848, in such manner as I have been advised by the Law Officers of my Government will be sufficient to admit of their being proclaimed for the purpose of bringing them within the class of Intermediate Lands, under the terms of Sec. 3 of ch. 1 of the Order in Council.* From the Superintendent of Port Phillip, I requested a similar Report in respect to such of the proposed Counties as lye within that District.

The information furnished by these Officers enables me to report that, besides those undetermined Counties which are already included in Settled or Intermediate Districts, there are Twenty eight New Counties, Fifteen of which are situated in the Middle and Thirteen in the Port Phillip District, which can be proclaimed before the end of the ensuing year without any considerable exertion or expense. I have accordingly directed that measures should be taken to ensure the completion of the requisite descriptions of the respective boundaries of those Counties in sufficient time to admit of their being proclaimed on or before the 31st December, 1848.

I shall not of course feel myself at liberty to proclaim these Counties or any of them without the express sanction of Her Majesty's Government, but neither does it appear to me consistent with the objects, which induced Your Lordship to relieve

* Note 7.
me from the duty of defining the lands to be classified as Un-
settled and Intermediate, that I should make any specific recom-
mendation as to the extent to which the already fixed Inter-
mediate Districts should be enlarged. Having reported, there-
fore, that the requisite descriptions of the boundaries will be
ready within the time allowed by the Order in Council, I beg to
refer Your Lordship to the accompanying Map, showing the
respective positions of the Counties in question; and to request
that I may be favored with Your Lordship's Instructions as to
whether all or any of them shall be proclaimed.

The names by which the Counties are distinguished in the
Maps are as follows, viz.:

Middle District.

Port Phillip District.
5. Hampden.

These names, however, are merely provisional, their ultimate
adoption being dependent on Your Lordship's approval.

In the appendix to the Minutes of proceedings of the Execu-
tive Council, of which I enclose copies, will be found the corre-
spondence which has passed on the subject of the proposed
Counties, including the Reports from the Deputy Surveyor
General and the Superintendent of Port Phillip to which I have
above referred; and I would beg to direct Your Lordship's atten-
dion particularly to two letters, the one from Mr. James Atkinson,
and the other from Mr. William Rutledge, respecting the pro-
clamation of a new County in the neighbourhood of Port Fairy,
in the situation, that is, of the proposed County of Villiers in the
District of Port Phillip.

On the further request contained in these letters, that a certain
portion of the Country about Port Fairy may be declared a settled
District, I shall address Your Lordship in another Despatch.

I have, \\

[Enclosures.] Chs. A. Fitz Roy.

[Copies of the minutes of the executive council will be found
in a volume in series II.]
SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 239, per ship Catherine Jamison; acknowledged by earl Grey, 24th May, 1848.)

My Lord,

Government House, 6th December, 1847.

Although the arrangements are not yet complete, I think it right to make Your Lordship acquainted with the steps which have up to this time been taken towards the bringing into effect of the Regulations contained in Her Majesty's Order in Council of the 9th March, 1847, which was transmitted to me with Your Lordship's Despatch of the 30th March, 1847, No. 120. With this object, I enclose copies of the Minutes of my Executive Council which contain the recommendations on which my measures have been framed.

The Surveys, requisite to enable the boundaries of Runs to be described in the Leases with that certainty which, as I am advised, the Law Requires, cannot be accomplished without very considerable expense and delay. I have, however, studiously endeavoured to adopt such a system as will combine expedition and economy as far as the circumstances of the case will allow.

The arrangement, which I have sanctioned, is as follows:—
The Unsettled and Intermediate Lands will be divided into Districts comprising one or more "Commissioners' Districts," and in each of these there will be stationed a Government Surveyor with a party of six men, whose duty it will be to Survey the general features of the Country, to fix starting points for the surveys of the boundaries of Runs, to lay down main lines of thoroughfare with Township Reserves at intervals along them, and to check and supervise the work of the Contract Surveyors by whom I propose that the boundaries of the Runs shall be laid down.

I am not prepared to assert that the Surveys of the boundaries of Runs might not be performed at a lower rate per mile by the Government Department than by Contract. I am, however, convinced that the incidental expenses, which an increase of the Survey Department for this temporary object would entail after the completion of the work, would make the ultimate and real cost of a Government Survey by far the heavier of the two. On this account, as well as to avoid the inconvenience which would arise from the real or assumed claims of the Officers who would be reduced on the completion of the Surveys, I have determined in favor of the Contract system.

I have not yet issued any advertisements for Contracts, but I shall do so as soon as the demands for Leases are received and admitted, and the Boundary lines to be surveyed are determined, so as to admit of their being duly described to the Contractor.
My Executive Council having thought it very desirable that Reserves for Townships and small Agricultural Settlements should be made along the main line of thoroughfare in the Unsettled and Intermediate Districts, I have taken the opinion of the Law Officers of my Government as to whether, under the powers granted by the 9th Section of ch. II of the Order in Council, I could legally except from Leases, demanded under the 11th Section of Ch. II of the Order, or resume during the continuance of Leases such lands as might be required for those purposes. The Law Officers having informed me that I can legally do so, I propose to make such Reserves, varying in extent from nine to twenty-five square miles; and I have given directions that they may be selected and submitted for my approval accordingly.

The Crown Law Officers having given an opinion in favor of such a distinction being made, I propose to subject the tenderers for “New Runs,” who will frequently have incurred considerable trouble, risk and expense in discovering such Runs, to a less general competition than the applicants for previously occupied Runs which may have fallen vacant. On the receipt of applications for the latter, I shall in every case cause a description of the Run to be published in the Government Gazette, with a Notice of the day on which Tenders for it will be received; but, in respect to New Runs, I propose to issue a general Notice that Tenders may be sent in at any time without previous notice, and that such Tenders will be opened on the first Monday in every month; by which means the Tenderer will be secured against the competition of any other persons than those who may happen to have obtained a knowledge of the Run, and of his intention to apply for a lease of it. If, however, the Run applied for should prove to contain any land already leased or under promise of lease, or to comprise part of a Run separately tendered for by another person, I conceive that the day on which fresh tenders will be received must, under the terms of the 13th Section of Ch. II of the Order in Council, be publicly announced; and I shall accordingly notify it in every case in the Government Gazette. I intend to appoint a Board in Sydney for the opening of Tenders for the Leases of Runs, consisting of the undermentioned Five Officers of My Government, three of whom will form a Quorum, viz.:

The Colonial Secretary; The Colonial Treasurer; The Auditor General; The Surveyor General; The Clerk of the Executive Council.

I shall consult the Superintendent of Port Phillip as to the formation of a similar Board at Melbourne.
It does not occur to me that there are any other matters in
the arrangements now reported, which I need place prominently
under Your Lordship's notice; and I beg to refer to the enclosed
Minutes of my Council for further information as to details.

I have reported in a separate Despatch the measures which
I have taken respecting the preparation of descriptions of the
boundaries of New Counties, with a view to their proclamation
before the end of the year 1848, if directed by Your Lordship.

Regulations for the occupation of Crown Lands in the settled
Districts, in accordance with the provisions of ch. IV of the
Order in Council, are now under the consideration of my Execu­
tive Council.

Regulations under
consideration.

CHS. A. FITZ ROY.

[Enclosure.

[Copies of the minutes of the executive council will be found in
a volume in series II.]

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 270, per ship Sydney; acknowledged by
Sir Charles Fitz Roy, 2nd June, 1848.)

Sir, Downing  Street, 8 December, 1847.

An application, of which the enclosed is a Copy, has been
received from Mrs. E. Hodges whose object, as you will see, is to
ascertain whether her Husband, who it appears proceeded from
New Zealand to New South Wales in 1844, is alive or not.

I have to request that you will take immediate measures for
causing the proper enquiries to be made on this subject, and
report to me the result.

I am, &c.,

GREY.

[Enclosure.

MRS. E. HODGES TO MR. RUSSEL GURNEY.

Sir, 15th November, 1847.

At the request of my friend Mr. Ogle, I beg leave to inform
you that I am desirous of obtaining information respecting Mr.
Alfred Hodges, who was at Port Nicholson, New Zealand, until
early in 1843, and landed in Sydney, New South Wales, per Mary
Nixon in April, 1844. He was in Bathurst Street, Sydney, at the
Office of a Mr. Potts in July, 1844, and who I hear has since
failed and left Sydney. Mr. Hodges directed his letters thro' the
Post Office to a Mr. Smith, Trinity Square, Tower Hill; he also
at one time spoke of being connected by marriage with the name
of Hansard and was considered either a Widower or single man.
I believe in 1844 or soon after he had some employment which
had to do with Timber.

Mr. Ogle will satisfy you that I am not in a position to incur
the expense of employing any professional means of obtaining this
information, and I beg leave to subscribe myself,

Your Obedient Servant,

ELIZA HODGES.

* Marginal note.—No. 238 of 6 Decr., 1847.
Sir, Downing Street, 11th December, 1847.

Mr. W. H. Kerr, Chief Commissioner of Insolvent Estates in New South Wales, having applied to me for three Months’ extension of the Leave of Absence which you granted to him in January last, in order that he may pass the present Winter, for the benefit of his health, in a warm Climate, I have to inform you that, under the circumstances of the case, I have assented to Mr. Kerr’s request.

I am, &c.,
GREY.

Earl Grey to Sir Charles Fitz Roy.
(Despatch No. 272, per ship Sydney.)

Sir, Downing Street, 11th December, 1847.

I have to acknowledge the receipt of your Despatch of 29th of April last, No. 94, with its enclosures, on the subject of proposals which had been made to the Government of New South Wales by Mr. John N. Beit, for procuring a constant influx of German Emigrants into the Colony.

These proposals both yourself and the Immigration Agent consider to be impracticable, and in many respects objectionable. But, although strongly opposed to this, or to any general scheme of foreign emigration on an extensive scale, it appears that the local Authorities have come to the conclusion that it might be desirable to introduce a limited number of skilled laborers from the Continent of Europe, following trades and callings which are not prosecuted in the United Kingdom, provided these Emigrants be brought out at the instance of parties, who may desire to employ them on their own properties, and not in the way of Mercantile Speculation. To carry out these views, you have issued a Notice, subject to the approval of Her Majesty’s Government, offering a small bounty on such laborers as may be imported in conformity with the above conditions. It is proposed that the whole amount of bounties should be limited to £20,000 to be expended in two years, and that the funds should be provided from the Territorial Revenue, but not out of the moiety of the proceeds arising from land Sales applicable to Immigration, that moiety being, by the Land Sales Act, only applicable to emigration from the United Kingdom.

Although past experience has not shewn many instances of success in Immigration carried on by the parties seeking for themselves the services of the Immigrants, and residing at the great distance of Australia, Her Majesty’s Government are prepared to give the measure you have proposed a fair trial, being fully
11 Dec.

Difficulty re certificates of age and character.

There is, however, one point of detail to which I think it necessary to advert. By the second paragraph in the Government Notice, the Secretary to the Land and Emigration Commissioners is required to authenticate the testimonials of character and Certificates as to Age, which must be produced by each Immigrant for whom bounty is claimed. The Commissioners have informed me that they have not the means of obtaining the intelligence requisite to comply with this rule, and that the difficulty of their doing so would be greatly increased by the difference of language, and the distance of the parties with whom they would have to communicate on the subject. This obstacle, it would appear, has not been overlooked by the Colonial Government. In a Letter which the Commissioners have received from the Colonial Secretary of New South Wales, it is suggested that these Documents should in the first instance be authenticated by the Consul or other British Authorities resident in the Country in which the Emigrants may be selected, and that the Secretary to the Commission should merely authenticate the signature of those Officers; even this, however, would be attended with some inconvenience and delay to the parties conducting the emigration; and considering that the Emigrants will be selected by the private Agents of the persons in the Colony, who wish to engage their Services, and who will have double interest in obtaining good selections since they will lose the bounty if the Emigrants are ineligible, it appears to Her Majesty's Government that these are the real securities on which it is best to rely, and that the transmission of the Certificates to the Land and Emigration Board for authentication may be dispensed with.

With the above exception, Her Majesty's Government approve of the Government Notice, which you have issued. They also approve of your proposal that the funds for the payment of the bounties shall be provided from that moiety of the Territorial Revenue of the Colony, not by law set apart for Immigration.

I have, &c.,

GREY.

13 Dec.

Query re provision for naval stores at Sydney.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch marked "Military, No. 9." per ship Sydney; acknowledged by Sir Charles Fitz Roy, 15th July, 1848.)

Sir,

Downing Street, 13th December, 1847.

The Board of Admiralty have expressed to me their desire to obtain information as to whether accommodation can be provided at Sydney for the safe custody of a twelve months' supply of Naval Stores for a 5th Rate, a Sloop, and a Steam Vessel.
I consider that the Colony under your Government would derive great advantage from Sydney becoming a depot for Stores for Her Majesty's Navy. If any difficulty should arise in finding a suitable place for the purpose, I would suggest to you to bring under the consideration of the Legislative Council the propriety of their supplying the requisite funds for providing such a place.

With reference to this subject, I have further to inform you that the Board of Admiralty have at present under their consideration the question of establishing in one of the Australian Colonies or in New Zealand a dock capable of receiving a first Class Steamer for repair; and it would be well worthy of the consideration of the Legislative Council of New South Wales whether it might not be expedient for the Colony to undertake the construction of such a dock, of which use might be made both by Merchant Ships and by Her Majesty's Navy. That Board have stated to me their readiness to promote such an undertaking, by agreeing to pay for the use of the Dock when wanted for any of Her Majesty's Vessels, and that they will sanction such payments in the event of the Dock being so required.

I have, &c,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 273, per ship Sydney.)

Sir,
Downing Street, 14th December, 1847.

I herewith transmit to you the Copy of a Letter from the Colonial Land and Emigration Commissioners, wherein they requested that, for the reasons assigned by them, a Sum of £2,000 might be placed to their account at the Bank of England, to enable them to defray the expenses connected with the Despatch of two Vessels with Emigrants to New South Wales; and I have now to inform you that the Lords of the Treasury have, on my recommendation, authorized the Paymaster General to transfer from the Commissariat Chest Fund to the credit of the Commissioners the Sum in question, as an advance for defraying expenses of Emigration to New South Wales, and on account of payments to be made from the Land Fund of that Colony to the Commissariat Chest on the Station in respect of Emigration Services.

I have, &c,
GREY.

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY HAWES.

Colonial Land and Emigration Office,

Sir,
8th November, 1847.

With reference to the Emigration to New South Wales which has recently been renewed under the sanction of Earl Grey, We have the honor to state that an advance of Funds to our account...
1847.  
14 Dec.  

Request for advance for emigration services.

will be required to meet the special expenditure necessary at our Office for copying and Travelling disbursements to carry out this Service, for Agency paid on the selection of Emigrants, their maintenance in Depot, and the other usual preliminary charges in connection with this Emigration. The Lords Commissioners of Her Majesty's Treasury have, we understand, consented to issue hereafter the necessary Funds for defraying the freights of the Vessels sent out, on receiving notice that Funds have been deposited by the Colonial Government in the Commissariat Chest in New South Wales. These charges, however, will not fall due for many Months. In the meanwhile, we would request that their Lordships may be moved to cause the sum of £2,000 to be placed to our account at the Bank of England, which sum will probably be sufficient to cover all the preliminary expenses connected with the despatch of the Ships during the next three Months.

I have, &c.

T. FREDK. ELLIOT.

FREDERIC ROGERS.

SIR CHARLES FITZ ROY. TO EARL GREY.

(Despatch No. 240, per ship Pinyard Park; acknowledged by earl Grey, 8th July, 1848.)

My Lord,  

Government House, 14th December, 1847.

I do myself the honor to submit, for your Lordship's information, the following Report of the present state of the Land Fund of this Colony, and of the sum likely to be available for Immigration purposes between the present date and the end of the year 1848.

The Debentures issued in former years on the security of the Territorial Revenue have been all paid off; and that Revenue is now therefore entirely free from incumbrance.

There is at the present time lying in the Colonial Treasury at the Credit of the Territorial Revenue the sum of £109,302 5s. 8d.  

Your Lordship will therefore see that the anticipations expressed in my Despatch, No. 19 of the 30th of January, 1847, when I recommended the resumption of Emigration to this Colony to the extent of 5,000 Statute Adults, have been fully realized.  

The sum likely to be available for Immigration purposes between the present time and the end of the year 1848 (including the £109,302 5s. 8d. now lying in the Treasury) is estimated by the Auditor General of the Colony at £170,000. I do not expect that the actual amount available for Immigration will fall far short of that named by the Auditor General; but I think it right to remark that, in estimating the deduction to be made from the gross Revenue of the ensuing year for the expense of surveys and other primary charges upon it, the Auditor General has not taken into account the additional expense which will be incurred in the Surveys requisite for the issue of Leases under
FITZ ROY TO GREY.

Her Majesty's Order in Council of the 9th March, 1847. Of this last mentioned expense, I have at present no data on which to form an Estimate.

In further evidence of the urgent and daily increasing demand for labour which exists in every branch of Colonial industry, I beg to enclose a Copy of a Petition which has been addressed to me by 943 persons, comprising a large proportion of the most influential and respectable inhabitants of the Colony. The Petitioners represent that the consequences to the best interests of the Colony will be disastrous if some public measure be not promptly adopted for obtaining a continuous and sufficient Immigration. They suggest that funds for the immediate renewal of Immigration should be raised by Debentures secured on the Land Revenue; and, in the event of that Revenue being found insufficient to meet the sum annually required, they propose that the liquidation of the principal and interest of the debt should be provided for by an annual rate to be levied on all employers of labour, in proportion to the number of persons in their employment.

Until favored with Your Lordship's answer to my Despatch, No. 19 of 30th January, 1847, above referred to, I shall come to no conclusion as to the course which it may be expedient to adopt in compliance with the prayer of this Petition.

I have, &c,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

RETURN Shewing the estimated Amount, which will be available for the purposes of Immigration between the present date and the end of the Year 1848.

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<th>£</th>
<th>s</th>
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<tbody>
<tr>
<td>Estimated Balance at the credit of the Land Revenue on 31st December, 1847.</td>
<td>113,000</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Estimated Amount of Revenue in 1848</td>
<td>84,000</td>
<td>0</td>
<td>0</td>
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<tr>
<td>Less Estimated Amount of Charges on the same</td>
<td>27,000</td>
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<tr>
<td>Estimated Balance available for Immigration between this date and 31st December, 1848</td>
<td>57,000</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Estimated Balance available for Immigration between this date and 31st December, 1848</td>
<td>170,000</td>
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WM. LITHGOW, Aud. Gl.
Audit Office, Sydney, New South Wales, 13th December, 1847.

[Enclosure No. 2.]

THE Humble Petition of the undersigned Colonists,
To His Excellency Sir Charles Augustus FitzRoy Governor in Chief of the Colony of New South Wales, etc., etc., etc.,
Sheweth.

That, whilst in parts of Great Britain and Ireland destitution prevails to a fearful extent, this Country possesses a

* The Balance at the present date is £109,302 5s. 8d.
† This Estimate does not include the additional expense which will be incurred for the Surveys requisite for the issue of Leases under the Order in Council of 9 March, 1847.
superabundance of the chief necessaries of life, whilst it languishes from a deficiency of Labour; and, even should the recommendation for the revival of Immigration transmitted by Your Excellency in the early part of this year to the Home Government be complied with, Your Petitioners consider that Five Thousand Adults would be quite inadequate to the wants of the Colony.

That the principle of deferred payment by means of Loans appears to your Petitioners to be peculiarly applicable to Immigration, inasmuch as the benefits derivable from it are, in a Great measure, prospective rather than immediate; and they are further of opinion that recourse to the system of Debentures, to a moderate extent, bearing a low rate of interest within the Colony, would in other respects be attended with salutary results.

Your Petitioners would therefore suggest that Funds for the immediate renewal of Immigration should be raised by the issue of Debentures to be secured upon the Land Revenue of the Colony; and, in the event of the Land Revenue being found insufficient to meet the sum annually required, that the liquidation of the principal and interest of this Debt should be provided for by an Annual Rate, to be levied on all employers of Labour in proportion to the number of persons in their employment, by which course the Immigration Fund would be under the control of the Local Legislature.

That Your Petitioners are firmly persuaded that this Rate would not only be readily assented to by the employers of labour generally, but would also be easy of collection, and need not be made to press heavily upon the payer, inasmuch as the first outlay for Immigration would be provided by the issue of Debentures, and the cost to the Colony would, as Your Petitioners conceive, be considerably lightened by contributions from the Parochial Authorities and others at Home, to an amount equal to the expense of the passage of Adults to the North American Colonies, and of the whole passage of the children in each family to this Colony, so that the arrival of the Immigrants might possibly precede the collection of the Rate, and a return equivalent at the least to the amount of the Rate levied would be secured to the employers of Labour, together with incalculable benefit to the Community at large.

Impressed with the urgent need of Labour that exists, and the disastrous consequences to which the best interests of the Colony must be exposed, if some public measure be not promptly adopted for obtaining a continuous and sufficient Immigration, and feeling deeply that no time could be more opportune than the present for rendering the good of this Country Subservient to the relief of those at home, who have the strongest claim upon their sympathy. Your Petitioners beg earnestly to press this most important subject upon the consideration of Your Excellency.

And your Petitioners will ever pray, etc., etc., etc.

[Here follow 943 signatures.]
FITZ ROY TO GREY.

Earl Grey to Sir Charles Fitz Roy.  
(Despatch No. 274, per ship Sydney; acknowledged by Sir Charles Fitz Roy, 3rd August, 1848.)

Sir,

Downing Street, 16 Dec., 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 Mr. Edward Kearney, who is stated to have Emigrated to the Colony under your Government, and I have to request that you will transmit to me such information as you may be able to obtain on the subject of the enquiry.

I have, &c.,

[Enclosure.]

Mrs. E. M. Kearney to ————.

Sir, 5 Peare Mount, Rathgæ, Dublin, 5 Decr., 1847.

Might I beg to enquire if Mr. Edward Kearney has a situation under the Government in Australia. I heard he was appointed to some place in Bathurst by Govr. Sir G. Gipps early in 1842, and should feel most grateful if his Address there or elsewhere could be procured.

I have, &c,

E. M. Kearney.

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 241, per ship Pinyard Park; acknowledged by earl Grey, 5th September and 27th November, 1848, and 26th January, 1849.)

My Lord, Government House, 16th December, 1847.

I have the honor to transmit herewith, for Her Majesty's Transmission of most gracious allowance, authenticated transcripts of Thirty-nine public Acts and Two private Acts passed during the last Session of the Legislative Council. I have also the honor to enclose printed copies of the several Acts in question, together with copies of the Crown Law Officers' Opinion which I deemed it necessary to take upon each of them before exercising the powers conferred upon me by the Constitutional Act of the Colony, 5 and 6 Vict., Cap. 76, and Her Majesty's Instructions in giving or withholding my assent on Her Majesty's behalf to Bills passed by the Legislative Council; under this advice, I have assented to the whole of these Acts, with the exception of that† for amending the laws relating to Aliens, and which has, under their Report, been reserved for the signification of Her Majesty's pleasure, on the ground of its being of an extraordinary or unusual nature. The following are the Acts referred to, viz.:—

11 Victoria, No. 1. "An Act to continue for a limited time An Act intituled 'An Act to regulate for a limited time the exportation of Gunpowder and warlike Stores from the Colony of New South Wales.'"

* Marginal note.—Mrs. E. M. Kearney, 6 Decr. 47.
† Marginal note.—11 Vict., No. 39.
The object of this Act is to continue for a further period of two years the Act of Council, 9 Victoria, No. 6, a measure which was introduced by my predecessor in the Session of 1845, in consequence of the state at that time of the neighbouring Colony of New Zealand. Finding, on communication with the Government of that Colony, that the Lieut. Governor considered the continuance of this Act both expedient and necessary for its tranquility, I did not hesitate to propose to the Council a Bill for this purpose.

11 Victoria, No. 2. “An Act to facilitate the recovery of possession of tenements after due determination of the Tenancy.”

The provisions of this Act are framed upon those of the Act of Parliament, 1 and 2 Victoria, Cap. 74. The measure was introduced by one of the Elective Members; and, not having been objected to by my legal advisers, I saw no reason to withhold my assent to it on Her Majesty’s behalf.

11 Victoria, No. 3. “An Act for the regulation of Steam navigation and for requiring Sea going Vessels to carry Boats.”

This Act was introduced by the Government and follows very closely the provisions of the Act of Parliament, 9 and 10 Vict., Cap. 100. Care has been taken to exempt from its operation Her Majesty’s Ships of war and also Steam Vessels employed in the Royal Mail Service, or under contract with the Lords Commissioners of the Admiralty. The measure is one which was loudly called for in consequence of the great irregularities found to prevail with respect to the navigation of Steam Vessels in this Colony. The melancholy shipwreck* of the “Sovereign,” which took place in the month of March last on her passage hither from Moreton Bay, and which was attended with considerable loss of life, was supposed to have arisen from some defect in the Machinery of the Vessel, which could scarcely have passed unobserved if the provision respecting the periodical examination and certificates required by this Act had previously been in operation.

11 Victoria, No. 4. “An Act to repeal an Act, intituled, ‘An Act to give a preferable lien on Wool from season to season, and to make Mortgages of sheep, cattle and horses valid without delivery to the Mortgagee, and to substitute for a limited time other provisions in lieu thereof.’”

On the subject of this Act, I beg to refer your Lordship to my Despatches, No. 39 of the 17th February and No. 200 of 10th October, 1847, in which I have fully explained the circumstances out of which this measure has arisen. Being strictly analogous to the provisions of the Act 9 Vict., No. 30, which, although

* Note 8.
confirmed by Her Majesty, did not for the reasons therein
detailed come into operation, I trust that it will receive Her Ma­
jesty's confirmation and allowance. It is only necessary that I
should further explain that this Act is limited in its duration to
the 31st December, 1850, and contains a clause saving the rights
of Her Majesty as to any waste lands of the Crown described in
any liens or Mortgages as the lands or stations on which any
sheep, horses or cattle mentioned therein may be depasturing.

11 Victoria, No. 5. "An Act to make permanent the Act to
exempt from duty Metallic Ores, imported into New South
Wales."

This measure was introduced by the Government; and its
object is to make permanent the Act of the Governor and Council,
9 Vict., No. 23, which has already received the confirmation and
allowance of Her Majesty.

Metalliferous Ores are received in considerable quantities from
the Copper Mines of the neighbouring Colonies of South Aus­
tralia and New Zealand for the purpose of being smelted, and for
which the extensive Coal fields of this Colony and the low price
of Coal afford great facility. It is important, therefore, that the
Ores should not be subject to a duty which, although insignificant
for purposes of revenue, would operate as a prohibition to their
importation, and thus deprive this and the neighbouring Colonies
of the mutual advantage, which the measure is calculated to
confer upon them.

11 Victoria, No. 6. "An Act to suspend for one year so much
of an Act to declare the Town of Sydney to be a City, and to in­
corporate the inhabitants thereof, and so much of an Act to in­
corporate the Town of Melbourne, as relates to the estimating
and levying a rate for the Police of the said City and Town
respectively."

This Act has been passed in order to place the inhabitants of
the City of Sydney and Town of Melbourne upon the same foot­
ing as the other inhabitants of the Colony in respect to Police
expenditure. Similar Acts have been passed during the last four
years in consequence of the refusal of the Legislative Council to
bring into operation that part of the Constitutional Act, which
provides for the payment of half the Police expenditure in the
rural Districts by assessment on the inhabitants; and, without
the concurrence of the Legislature in apportioning the sums to
be applied for this purpose in each district, it has been held that
the Executive Government has no power to raise funds for this
purpose by local assessment under the provisions of the Act
referred to.
1847.
16 Dec.

Spirits duties act.

Explanation of principles and provisions of spirits duties act.

II Victoria, No. 7. "An Act to define the duties on Spirits."

As the Act of Council, 9th Vict., No. 20, intituled "An Act to reduce for a limited time the duties on Spirits imported into or distilled in the Colony," will expire on the 31st of December next, it became necessary to introduce some measure to regulate the duties on Spirits after that period. Adverting to the observations contained in Your Lordship's Despatch intimating Her Majesty's confirmation of the Act above referred to, and also to the instructions conveyed to my Predecessor by Lord Stanley in His Lordship's Circular Despatch of the 28th June, 1843, prohibiting the enactment of any measure for imposing discriminating duties on any articles with reference either to their place of production or to the Country whence imported, whether British or foreign, it became necessary so to remodel this measure as to render it conformable to these instructions. The duties have accordingly been fixed so as to avoid any discriminating character in either of these respects. At the same time, the due protection of the Revenue required that the spirits should be divided into two classes, chargeable with duty at the respective rates of six shillings and three shillings and six pence per gallon, being similar to the rates imposed by the 9th Vict., No. 20. The following are the two classes referred to, namely, all Spirits distilled in the Colony and imported Rum and Whiskey, which are made chargeable with a duty of three shillings and six pence per Imperial gallon, and all other imported spirits which are made chargeable with a duty of six shillings per gallon.

The descriptions of spirits most consumed in this Colony are Colonial Rums made from Sugar, Imported Rums, Brandy and Hollands. Of English Gin, although hitherto admissible at the lower rate of duty, the consumption has been comparatively trifling. It is not conceived therefore that, in now classing it with Spirits upon which the higher duty is payable, its consumption will be in any way affected. It is necessary, however, that I should explain why this change in the classification of British Gin has been made. Being, as already stated, prohibited from assenting to any measure of a discriminating nature, this article could not have been admitted at the lower rate of duty without also including Geneva or Holland's Gin, which has hitherto paid the higher duty, and from which a considerable revenue has been derived, which it was very essential should not be interfered with. Under Your Lordship's sanction, however, there would be no difficulty, it is conceived, in passing a short Act to place British Gin upon its former footing. For your Lordship's further information on this subject, I have the honor to enclose herewith a printed Return prepared for the Legislative Council during the last Session, containing in detail the quantities and descriptions
of spirits imported into and consumed in the Colony since the
year 1843 inclusive. This Return is in continuation of one laid
before the Council in 1843, containing similar information for
the years 1833 to 1842 both inclusive.

I cannot close my observations on the subject of this Act with­
out stating that, as under its provisions Rum the produce of
British India will become admissible at the lower rate of duty,
I entertain the hope that it will afford facilities for promoting
a commercial intercourse between this Colony and that Country,
which cannot fail to prove mutually advantageous. Hitherto
considerable difficulty has been experienced in obtaining a me­
dium of remittance for the proceeds of Horses, which have during
the last few years been sent in considerable numbers on specula­
tion from this Colony to the Indian Presidencies. The enactment
of this measure will, it is anticipated, in a great measure remove
this difficulty, whilst, by affording a return freight to the Colony,
it may be found conducive to the encouragement of Steam com­
munication with Singapore, should it be ultimately determined
by Her Majesty's Government to adopt that route for the trans­
mission of the Mails from England.

11 Victoria, No. 8. "An Act for giving further time to prepare
and revise certain lists of persons entitled to vote at the Election
of Members of the Legislative Council."

The object of this Act is to remedy certain omissions in the
preparation of the Electoral Lists for the present year. The mea­
sure was introduced by the Government under the advice of the
Crown Law Officers, and does not appear to require any further
explanation as to the nature of its provisions.

11 Victoria, No. 9. "An Act to amend an Act, intituled, 'An
Act to amend and consolidate the laws between Masters and Serv­
ants in New South Wales.'"

This Act was introduced by one of the Elective Members, and
its object is to amend in certain respects the provisions of the
Act, 9 Vict., No. 27. The most important feature of the present
enactment is perhaps that contained in the 13th Clause, which
exempts, from the operation of the law relating to Master and
Servant, "the Natives of any Savage or uncivilized tribe in­
habit ing any Island or Country in the Pacific Ocean or else­
where." It is obvious that the persons thus described are wholly
incapable of understanding the nature and conditions of an
agreement to serve in any of the capacities usually required in
this Colony. If the Act, therefore, had remained applicable to
cases of this nature, it would have had a tendency at least to
give an undue advantage to the Master over his Servant, whilst
on the other hand it is unnecessary for the protection of the
latter, inasmuch as the operation of the ordinary law is, it is
congeved, sufficient for that purpose.

11 Victoria, No. 10. "An Act for the regulation of benefit
building Societies."

This Act was introduced by one of the Elective Members and
its object is to provide for the establishment of Building So-
cieties amongst the industrious classes, for the purpose of raising
by small periodical subscriptions a fund to assist the Members
in obtaining a small freehold or leasehold property.

11 Victoria, No. 11. "An Act for the establishment and regu-
lation by Trustees of a General Cemetery near to the City of
Sydney, to be called "the Necropolis."

Upon the subject of this Act, I will address Your Lordship in
a separate Despatch.*

11 Victoria, No. 12. "An Act to continue for a limited time
the Act to amend the Acts now in force respecting the distilla-
tion of Spirits, and more effectually to prevent illicit distillation."

The object of this Act, as the title implies, is the temporary
continuation of the Act, 9 Vict., No. 26, which would otherwise
have expired on the 31st December, 1847.

I had previously introduced a complete measure, prepared under
the direction of the Colonial Secretary, consolidating all the
laws in force relating to distillation, and adopting some important
modifications in the mode of checking the collection of the duties
payable on Spirits made in the Licensed distilleries, according
to the system in operation in the United Kingdom; but the
Council were unwilling to enter into the details of so extensive
a measure during the late Session, and it became necessary,
therefore, to pass a short Act to continue the present Act which,
although capable of much amendment, is upon the whole suffi-
ciently stringent to prevent any extensive fraud upon the revenue.
The Act has accordingly been continued for a period of five
years; but it is my intention to endeavour to obtain the recon-
sideration and enactment of the larger measure as soon as may be
found practicable.

11 Victoria, No. 13. "An Act to amend the laws respecting
defamatory words and libel."

This Act was introduced by an Elective Member, and is framed
upon the provisions of the Act of Parliament, 6 and 7 Victoria,
No. 96, and does not appear to require further explanation.

11 Victoria, No. 14. "An Act to provide for the payment of
dues towards the maintenance of Lighthouses at Gabo Island
and Cape Otway respectively."

The object of this Act is to impose a tonnage rate on Ships
and Vessels passing the Light houses in question, so soon as the

* Marginal note.—Vide Despatch No. 242 of 16 December, 1847.
same shall have been brought into operation. On the subject of the establishment of these Lighthouses, I beg to refer to my Predecessor's Despatches noted in the margin.*

It is only necessary that I should further explain that the proposed rate is one penny per register ton for each time a Vessel may pass either Light; but Vessels employed in the Colonial or Coasting trade are only made chargeable with one third of that rate; and Vessels employed in the Coasting trade between this Colony and Van Diemen's Land and Vessels engaged in the fisheries are wholly exempted from any payment under this Act. With respect to Vessels trading between this Colony and Van Diemen's Land, I beg to state that it is under an agreement with the local Government of that Colony that their exemption has been provided for in consideration of the following condition, namely, that the Light house at Kent's Group in Bass Straits should be erected and maintained at the expense of that Government, the Lantern and apparatus being provided by the Government of this Colony. With respect to the exemption of Vessels engaged in the fisheries, I beg to explain that, since the passing of the Act of Council, 8 Vict., No. 16, they have been wholly exempt from Port Charges; and it has been considered expedient therefore to continue the same principle in reference to the provisions of the Act now under consideration.

11 Victoria, No. 15. "An Act to amend the Laws for the payment of pilotage on shipping, and to secure the payment of harbour and other dues on shipping."

The chief object of this Act, which was introduced on the application of the Superintendent of Port Phillip, is to secure the payment of all dues on shipping, by authorising the Collector or other chief Officer of Customs to withhold the clearance of the Vessel until the same shall have been certified to have been duly made.

11 Victoria, No. 16. "An Act to regulate the licensing of Auctioneers, and the collection of duties on property sold by them."

The object of this Act is to make more effectual provision for the regulation of Sales by Auction, and for ascertaining the character of persons applying to be licensed as Auctioneers. The measure was introduced by an Elective Member, but underwent considerable amendments in its progress through the Council, which were deemed necessary by the Government for the protection of the Revenue. The principle change, which the present Act will effect, is the reduction of the duty on sales by Auction from one and a half per cent. to one half per cent.; but, to compensate for this, all sales effected by Licensed Auctioneers, whether by private contract or otherwise, are to be subject to the

payment of duty. It has been ascertained beyond a doubt that the present high rate of duty has led to the most Extensive evasion of its payment. A few lots are offered for sale and the remainder withdrawn and sold by private Contract to evade the payment of duty. Under the New Act, there will be no longer any inducement to resort to this practice; and it is consequently anticipated that, notwithstanding the reduction in the rate, there will be a considerable increase in the amount of revenue, which will be received from this source.

11 Victoria, No. 17. "An Act to explain and amend the Acts relating to the Corporation of the Town of Melbourne."

This Act was introduced by the Member for Melbourne on the application of the Town Council thereof. The provisions of the Act do not appear to call for any particular explanation on my part.

11 Victoria, No. 18. "An Act to authorise for a limited time an Assessment upon Stock pastured beyond the settled districts of New South Wales."

The object of this Act, as its title implies, is to raise a Revenue by an Assessment on Stock pastured beyond the Settled districts. The rates which have been imposed are one half of those formerly levied under the local Act, 2d Vict., No. 27. This measure was introduced by the Government in consequence, as more fully explained in my financial Minute* laid before the Legislative Council on the 23d June last, of the necessity to make up for the large loss of revenue, amounting to £57,260, which had arisen from the reduction of taxation since the year 1843. The produce of the present Act has been estimated by the Auditor General at £16,000; but it is evident that, with the increase of Stock, the amount will also increase in a corresponding degree. It was intended that the amount of this Assessment should have been carried to the credit of the Revenue for general purposes; but it having been objected that, this tax being imposed upon a particular class only, its proceeds should be exclusively applied for objects connected with their benefit; and, finding by the previous Act, 2 Vict., No. 27, which it was intended to replace, that the appropriation of the Revenue was specifically confined to the maintenance of a police force beyond the boundaries of location, I saw no objection to making the proceeds of the Assessment under the present Act exclusively applicable to local purposes within the districts in which it was raised, more especially as the object of the Government in introducing the measure will be thereby equally met. The principal charge upon this item will be the expenses of Police beyond the Settled districts, estimated at about £13,200. This will leave a balance, which will be found

Marginal note.—Vide Despatch No. 243, 16 Decr., 1847.
FITZ ROY TO GREY.

very convenient in future years in providing for many objects of utility in the intermediate and unsettled districts of the Colony.

11 Victoria, No. 19. "An Act for facilitating the winding up of Joint Stock Companies unable to meet their pecuniary engagements."

This Act was introduced by the Government and follows very closely the Act of Parliament, 7 and 8 Vict., Cap. 111.

11 Victoria, No. 20. "An Act to consolidate and amend the laws relative to Jurors and Juries in New South Wales."

This Act was introduced by the Attorney General in consequence of the Jury laws of the Colony being about to expire. It merely embodies in one Act the several provisions of the laws relating to Jurors and Juries without in any material way altering their constitution or principle. It is not necessary, therefore, that I should trouble Your Lordship with any further observations on the subject.

11 Victoria, No. 21. "An Act to enable the Council of the City of Sydney to make By-laws for the Licensing and regulating Hackney Carriages within the City of Sydney and its vicinity, and the conduct of the owners and drivers thereof."

The object of this Act is simply what its title implies. It was introduced by one of the Members for Sydney; and, not having been objected to by the Crown Law Officers, I signified the Royal Assent to it on behalf of Her Majesty.

11 Victoria, No. 22. "An Act to amend the law relative to the security to be given in Appeals from the decrees and orders of the Primary Judge in Equity to the three Judges of the Supreme Court of New South Wales."

The object of this act is to prevent vexatious appeals against the orders and decrees of the Judge in Equity, by requiring security to be given before they are entered. The measure was introduced by one of the elective Members; and the Crown Law officers not having raised any objection to it on its being referred for their opinion, I did not hesitate to assent to it on Her Majesty's behalf.

11 Victoria, No. 23. "An Act for the protection of Seamen entering on board Merchant Ships."

This Act was introduced by the Government, and is founded upon the Act of Parliament, 8 and 9 Vict., cap. 116, the provisions of which it follows very closely. It is a measure which was much required in the Colony, and it is anticipated will be found highly beneficial in its operation.

11 Victoria, No. 24. "An Act for the better preservation and management of the Estates of deceased persons in certain cases."
This Act was introduced by the Attorney General at the instance of His Honor the Chief Justice and the other Judges of the Supreme Court.

It was intended originally to have embraced real property as well as personal effects; but, in consequence of some objections which were raised in the progress of the measure through the Council, that part of it was ultimately withdrawn. One of the principal objects of this Act is to provide for security being given by the Curator of Intestates' Estates; by the first clause, he is required to give a Bond with Sureties in the sum of £2,000 for the collection and payment of all monies coming into his hands in virtue of his Office. It also imposes on that Officer the duty of protecting from waste all estates of deceased persons in the event of no representative appearing or taking out letters of Administration within six calendar months; and it also authorizes, after the lapse of twelve calendar months, payments to be made to relatives and legatees of small sums not exceeding £50, without putting them to the heavy expense attending letters of administration. By the 17th Clause, all sums belonging to Intestates' Estates, which remain unclaimed in the Savings Bank for a period of six years, are required to be paid over to the Colonial Treasurer for the public uses of the Colony and in support of the Government. The 18th Clause provides, however, for the satisfaction from the Public Treasury of any claim which may after that period be satisfactorily established. The sums, which may never be claimed, will become applicable to general purposes. The Crown as "ultimus hares" would of course have been entitled to receive the amount as one of its droits, but for the arrangement sanctioned by Your Lordship's Despatch, No. 11 of 6 August, 1846.

11 Victoria, No. 25. "An Act further to amend the laws relating to the Savings Banks of New South Wales and Port Phillip respectively, and to empower the Trustees of the Savings Bank of New South Wales to erect premises wherein to carry on the business of that Institution."

This Act was introduced by the Government at the instance of the Trustees of the Savings Bank of New South Wales. The chief object is to enable the Trustees, with the approval of the Governor, to deposit for safe custody in the Colonial Treasury any portion of the funds of either Institution, which it may be found impossible to invest at interest under the present state of the law. This has been rendered necessary by the very large balances now remaining in the hands of the Trustees of the Institution at Sydney, and lately amounting, on the land and
immigration debentures being paid off, to no less a sum than £85,000, which was equally divided and deposited in the four Banks* now carrying on business at Sydney. Of this amount, I have lately sanctioned, on the application of the Trustees, that the sum of Twenty eight thousand eight hundred pounds be transferred to the Colonial Treasury, it being considered inexpedient to continue such considerable balances in the several Banks in addition to the sums now deposited therein belonging to the Colonial Government. I forebore to propose any further measure for the beneficial investment of the funds of the Savings Banks, until I should have been honored by a reply to My Despatch, No. 46 of the 31st October, 1846, and which I received on the 5th instant.

11 Victoria, No. 26. "An Act to indemnify the Officers of Customs in respect of certain duties omitted to be charged."

This Act was introduced by the Government on the application of the Collector of Customs at this Port, whose attention, it appears, had been drawn to the subject by a query from the Auditor in England. Its object is to rectify an unintentional misconstruction with respect to the duty chargeable on the fourth class of articles enumerated in the first section of the Act of Council, 4 Victoria, No. 11, intituled, "An Act for increasing the duties on spirits, wine, and other Goods and merchandize imported into the Colony of New South Wales and its dependencies." It appears that, contrary to what was understood to be the intention of the Legislature in framing the provisions of that Act, and the practice which had always previously prevailed in respect to articles the produce and manufacture of the United Kingdom, no provision was made in the section in question for the exemption of the articles of the fourth class, enumerated therein, from duties under that Act. The Collector, however, acting on his own impression of the state of the law, it further appears, omitted to charge any duty on the articles in question imported from the United Kingdom; and it was only on his attention being drawn to the point by the query of the Auditors in England that it was discovered that he had unintentionally misconstrued the Act. Having no reason whatever to doubt the bona fide nature of the transaction, I did not hesitate to propose to the Council a measure for the relief of the Officer concerned, and I accordingly now recommend the Act for favorable consideration.

11 Victoria, No. 27. "An Act to render valid the Acts and appointments of parties as Guardians of the persons and estates."

* Marginal note.—Bank of New South Wales; Commercial Bank; Bank of Australasia; Union Bank of Australia.
of infants, and as Committees of the persons and estates of Lunatics under orders made by the Primary Judge in Equity and to authorise the making of orders in cases of infancy by the said Primary Judge in future."

This Act was called for in consequence of a recent decision of the Supreme Court, which was calculated to render void acts and decisions of the late Sir James Dowling and the other Judges, who successively filled the Office of Primary Judge in Equity. By the decision alluded to, it was held that, in matters of Infancy and Lunacy, the Primary Judge in equity had not jurisdiction; that, according to the charter of Justice, it could only be exercised by the Full Court. As this jurisdiction had been exercised by the Equity Judge since the passing of the Act, 4 Vict., No. 22, in the year 1840, it became of serious consequence to all persons, who acted in obedience to the orders of the Court, and who were interested in Infant and Lunatic Estates, to pass this Act.

11 Victoria, No. 28. "An Act to facilitate the granting of leases."

This Act was introduced by one of the Elective Members. Its provisions are founded upon those of the Act of Parliament, 8 and 9 Vict., cap. 124, and 9 and 10 Vict., cap. 112, and do not appear to require any further explanation on my part.

11 Victoria, No. 29: "An Act to amend an Act intituled, 'An Act for the more effectual appropriation of fines and penalties in certain cases in the Colony of New South Wales.'"

This measure was introduced by the Attorney General, and its object is to appropriate any fines which, under any Act of Parliament in force in the Colony, would be payable to the Overseers of the Poor for the use of the County or other rates, to the Treasurer of the Benevolent Asylum or any other charitable Institution of the District, in which the same may be collected.

11 Victoria, No. 30. "An Act for the better punishment of indecent assaults upon female children."

This Act was introduced by one of the Elective Members. Its object is to facilitate the trial, and to render more certain and effectual the punishment of crimes of this class, which have been very numerous in this community during the last few years; and some amendment of the law seemed therefore to be both desirable and necessary for their suppression. The Crown Law Officers having raised no objection to the provisions of this Act as passed by the Council, I did not hesitate to signify the Royal Assent to it on behalf of Her Majesty.

11 Victoria, No. 31. "An Act to enable Trustees of Commons in New South Wales to have perpetual succession and to empower
them to regulate the use of such lands as may be granted as Commons within the said Colony, and for other purposes relating thereto."

This measure was introduced by the Government; and its object is to enable it to fulfil certain engagements made by former Governors of the Colony in the granting of the Commons enumerated in the following list, viz.:


The whole of these Commons, with the exception of those for Wollombi and Liverpool, have, it appears, been formally granted by Deed* from the Crown; but it has been held by the Crown Law Officers that the old Deeds have been inoperative and invalid by reason of their legal insufficiency. It has been found necessary, therefore, to devise some means of carrying out the intention of the Government in originally setting apart these Commons for the benefit of the inhabitants of the Districts in which they are situated; and it was under the advice of my Executive Council and the Crown Law Officers that I have adopted the present course. With respect to the Commons at Wollombi and Liverpool, as it appears that, although not formally granted by Deed, they were promised to the inhabitants, I have thought it right that this promise should be fulfilled; and, in this opinion, I find, by a recorded Minute on the subject, that my predecessor Sir George Gipps entirely concurred.

11 Victoria, No. 32. "An Act for compensating the families of persons killed by accidents."

This measure was introduced by one of the Elective Members. The provisions follow very closely those of the Act of Parliament, 9 and 10 Victoria, Cap. 93, and do not appear therefore to require any further observation on my part.


This measure was introduced by an Elective Member. Its provisions are framed on parts of the Acts of Parliament, 6 and 7 Vict., cap. 73, 8 and 9 Vict., cap. 119 and 124, and 9 and 10 Vict., cap. 95. Having been considered unobjectionable by the Crown Law Officers, I saw no reason to withhold from it the Royal assent.

11 Victoria, No. 34. "An Act to substitute other punishments for transportation beyond the seas."

This measure was introduced by the Government in consequence of the instructions conveyed in Your Lordship's Despatch,

* Note 9.
No. 101 of the 27th February, 1847; and having been framed by
the Crown Law Officers after the advantage of a conference with
their Honors the Judges of the Supreme Court, with whose
opinions on the subject it is understood to accord, I trust that
it will receive Your Lordship's favorable consideration. It will
be my duty to report at length the measures which it will be
necessary to adopt for carrying into effect the provisions of this
Act so soon as the same shall have been fully matured and
brought into operation.

11 Victoria, No. 35. “An Act to amend the laws relating to
Courts of Request in the City of Sydney and County of Cumberland and in the Town of Melbourne and County of Bourke
respectively.”

This Act was introduced by the Government at the instance of
the Commissioners of the Courts of Request for the County of
Cumberland, in consequence of a decision of the Judges as to the
jurisdiction of those Courts under the provisions of the Act of
last Session, 10 Vict., No. 10. The present Act merely declares
the law according to the original intention of its framers; affirms
the judgments which have been given in accordance therewith;
and indemnifies the Officers of the Court for any liability they
may have incurred in consequence of the decision of the Supreme
Court on the point submitted for its judgment.

11 Victoria, No. 36. “An Act for removing doubts as to the
election of Mayor and Aldermen, and for other purposes therein
mentioned.”

This Act was introduced by one of the Members for Sydney at
the instance of the City Council; Its object is chiefly that which
its title implies, and its provisions do not appear to require any
further explanation from me.

11 Victoria, No. 37. “An Act for applying certain sums arising
from the Revenue receivable in New South Wales to the service
thereof for the year one thousand, eight hundred and forty eight,
and for further appropriating the said Revenue.”

This is merely the general Appropriation Act of the Session,
embodying the several Resolutions passed by the Finance Com-
mittee. On the subject of the general financial arrangements for
the ensuing year, I beg to refer to my Despatch No. 243 of this
date.

11 Victoria, No. 38. “An Act to facilitate the proof of Letters
Patent or Deeds of Grant from the Crown.”

This measure was introduced by the Colonial Secretary in
order to facilitate the proof of Deeds of Grant from the Crown in
consequence of the great difficulty experienced in some cases in producing the original Instruments.

11 Victoria, No. 39. "An Act to amend the laws relating to Aliens within the Colony of New South Wales."

This measure was introduced by an Elective Member; and its object is to facilitate the naturalisation of Aliens in this Colony. Its provisions are founded upon the Act of Parliament, 7 and 8 Vict., cap. 66. As already stated, being of an extraordinary or unusual nature, I have, under the advice of the Crown Law Officers and in conformity with Her Majesty's instructions, reserved this Bill for the signification of Her Majesty's pleasure thereon. I am not aware that, with the safeguards provided in the same for ascertaining the character of applicants previously to their obtaining the privileges, which may under its provisions be conferred, any objection exists to its being passed into a Law. I, therefore, would beg to recommend the Bill for Her Majesty's gracious allowance. I take leave here to point out that, under the 33d section of the Constitutional Act of this Colony, 5 and 6 Vict., Cap. 76, all Acts reserved for Her Majesty's pleasure thereon can only be allowed by Her Majesty after the same has been laid before Her Majesty in Council.

Private Act. "An Act to amend an Act for facilitating proceedings by and against a certain Banking Company called 'The Union Bank of Australia,' and for other purposes therein mentioned."

The object of this Act, which was introduced in the usual way by Petition from the parties interested, is to facilitate the operations of the Bank as well as of the Public having claims against the same. It contains the usual reservations required in all private Bills; and a clause* has been inserted in it suspending its operation until it shall have received the Royal approbation and the notification of such approbation shall have been published in the Colony.

Private Act. "An Act to appoint John Alexander to be the Redfern estate Trustee of certain Indentures of lease and release by way of Settlement, bearing date respectively the second and third days of August, one thousand, eight hundred and forty two, and for other purposes therein mentioned."

The object of this Act is to revive certain Trusts which had become extinct from the death of one of the Trustees and the refusal of another to act. In the original form in which the Bill was passed by the Council, it was considered objectionable by the Crown Law Officers, for whose opinion it was referred in the usual course, and who thereupon suggested certain amendments, which I accordingly embodied in a Measure, of which I

* Marginal note.—Sec. 12.
HISTORICAL RECORDS OF AUSTRALIA.

1847.
16 Dec.
Redfern estate trust act.

Absence of opposition in council to government.

enclose a Copy; and, in conformity with the powers conferred upon me by the 30th clause of the Constitutional Act, I proposed the same for the adoption of the Council, who agreed to the whole of the said amendments, as will appear by their Message in reply, of which I also enclose a copy. This Act being now rendered conformable to the Royal Instructions, I am not aware of any objection to its receiving the Royal allowance. It contains the usual clause suspending its operation until the signification of Her Majesty's pleasure shall have been published in the Colony.

Having entered so fully into the details of the foregoing Acts, it does not occur to me that Your Lordship will require any further information respecting them, or that it is necessary that I should occupy your Lordship's time with any lengthened review of the proceedings of the Session in which they were passed. I shall conclude, therefore, by merely observing that the Session was chiefly marked by an entire absence of that factious opposition and personal hostility to the Government, which characterized the Sessions of the years 1844, 1845 and the first Session of the year 1846. On the contrary, the Government throughout the last Session had a fair practical majority to support and carry every measure introduced by it. I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

MESSRS. PLUNKETT AND MANNING TO COLONIAL SECRETARY THOMSON.

Sir,

Attorney General's Office, 11th June, 1847.

In reply to your letter, dated yesterday, transmitting to us by direction of His Excellency the Governor the accompanying Bill passed by the Legislative Council on the 2nd instant, and presented to His Excellency for the Royal Assent, intitled, "A Bill to continue for a limited time an Act intituled an Act to regulate for a limited time the exportation of Gunpowder and Warlike Stores from the Colony of New South Wales," and requesting that we will carefully peruse this Bill with the view of ascertaining whether its provisions be in conformity with the law of England, the Constitutional Act 5 and 6 Victoria C. 76, and the Royal Instructions issued in pursuance of the same, and whether in our opinion there is any objection to the Governor giving his assent to this Bill.

We have the honor to report that in our opinion there is no objection to the Governor giving his assent to this Bill, and that no amendments appear to us to be necessary to give legal effect to the intentions of the Legislative Council and to render the Bill in other respects unobjectionable. We have, &c.

J. H. PLUNKETT, Attorney General.

[There were opinions, similar to the opinion in enclosure No. 1, but on other acts.]

[Enclosure No. 2.]

[These were copies of the acts of council.]
Fitz Roy to Grey.

[Enclosure No. 3.]

[This was message, No. 31, dated 24th August, 1847, from Sir Charles Fitz Roy to the legislative council, which will be found in the "Votes and Proceedings" of the council.]

[Enclosure No. 4.]

Message from the Legislative Council to His Excellency the Governor, in answer to certain amendments proposed by His Excellency to be made in a Bill presented to His Excellency for Her Majesty's assent, intituled, "An Act to appoint John Alexander to be the Trustee of certain Indentures of Lease and Release, by way of settlement, bearing date respectively the second and third days of August, one thousand, eight hundred and forty two, and for other purposes therein mentioned."

Agreeably to the provisions of the 30th clause of the Act for the Government of New South Wales, 5th and 6th Victoria, chap. 76, the Legislative Council have taken into consideration certain amendments proposed to the Council to be made in the said Bill by His Excellency the Governor in His Message No. 31 of the 24th instant, and, having agreed to the whole of the said amendments, beg to present the said Bill to His Excellency for Her Majesty's assent, with the whole of the said amendments so agreed to.

Charles Nicholson, Speaker.

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 242, per ship Pinyard Park; acknowledged by Earl Grey, 30th June, 1848.)

My Lord, Government House, 16th December, 1847.

With reference to my Despatch, No. 241 of this date, transmitting authenticated transcripts of the Acts passed by the Legislative Council during its last Session, I now proceed, in pursuance of the intimation therein given, to make a special report upon the Act, 11 Vict., No. 11, intituled "An Act for the establishment, and regulation by Trustees, of a General Cemetery near to the City of Sydney to be called 'the Necropolis.'"

For your Lordship's information on this subject, I have the honor to enclose herewith a summary, which has been prepared in the Colonial Secretary's Office, of all the proceedings in reference to this matter which has been taken by the Local Government from the year 1844 up to the period of the final passing of the Act, and my signification of the Royal assent to it on behalf of Her Majesty. I have deemed it necessary to trouble Your Lordship with these details in consequence of a remonstrance, which I have received from the Lord Bishop of Australia, which Your Lordship will find embodied in the enclosed letter addressed...
1847.
16 Dec.

Protest by bishop against act.

Petition to legislative council against bill.

Amendments to bill.

Illegality alleged by bishop.

Legal opinion re bill.

1847.
16 Dec.

Protest by bishop against act.

Petition to legislative council against bill.

Amendments to bill.

Illegality alleged by bishop.

Legal opinion re bill.

to you by His Lordship, and also in the letter addressed to myself requesting its transmission, of which I enclose a Copy herewith. I need scarcely assure your Lordship that, in the adoption of this measure, nothing was further from my intention than to offend in the remotest degree the opinions or even the prejudices of the Lord Bishop of Australia, or in any way to abridge the rights conferred upon him or upon the Church to which he belongs by His late Majesty's Letters Patent erecting the Diocese of Australia.

It will, indeed, be perceived that in this matter I have merely completed a proceeding which was commenced by my predecessor so long ago as the year 1844; and, although in its several stages, the utmost publicity was given to it from the circumstance of its forming the subject of the published Votes and proceedings of the Legislative Council, no opposition was made to it from any quarter until some time after the Bill had been read a second time in the House, when a Petition from the Lord Bishop of Australia and seven Clergymen of the Church of England was presented to the Council. Amongst the papers annexed to the enclosed summary will be found a copy of the Petition in question.

In consequence of this representation, the Colonial Secretary introduced several amendments into the Bill in order to render it, without departing from its main principles, as unobjectionable as possible to the Lord Bishop and the Clergy of the Church of England, and these amendments were, with one exception, adopted by the Council, namely, one having reference to the power of the Clergymen of different denominations to prevent inscriptions being placed on tombs, to which they might see reason on religious grounds to object. This amendment the Council refused to pass, preferring to leave the matter in the hands of the Trustees.

It may not be superfluous to mention that, except from the Lord Bishop and Clergy of the Church of England, no objection to the Act was officially made either before the Council or to the Government.

As the Lord Bishop, in the letter to Your Lordship, and which was not sent to me for transmission until I had signified the Royal assent to the Act, rests chiefly on technical grounds of its illegality, I think it right to refer your Lordship to the copy of the opinion of the Crown Law Officers of this Government upon the Bill, which was transmitted in my Despatch above referred to. In that opinion, it is distinctly stated that there were no legal grounds on which it would be necessary for me to withhold the Royal assent to it; but, if the objection raised by the Lord Bishop
had previously reached me, I would of course have brought it under the special notice of the Crown Law Officers.

Upon the most mature consideration, I am unable to concur in his Lordship's objection, nor can I see any reasonable ground why Her Majesty should be advised to withhold her allowance from the Act. For your Lordship's further information, I subjoin a short abstract of its general provisions. The first Clause provides that upon the Governor appointing Trustees, not fewer than three in number, they shall be authorised to hold such lands as may be granted to them by the Crown. The second Clause exempts any land so granted from the operation of the Act of Council, 6 Geo. IV, No. 21, which requires every burial ground to be distant at least one mile from any town. The third Clause gives power to the Governor to remove any Trustee and to appoint to any vacancy thereby occasioned or by death or resignation. The fourth clause gives power to the Trustees to lay out and embellish the burial ground in the manner they may deem appropriate for the purpose. The fifth clause empowers the Trustees to make Rules and Regulations for carrying out the general objects of the Cemetery, and for prosecuting persons injuring any Monuments or Shrubberies belonging to the same; but they are expressly prohibited from interfering in any way with the performance of any religious ceremony according to the usage of the Communion, to which the deceased may have belonged, or with the original distribution of the land made by the Grant amongst the separate religious denominations; and any rite or ceremony is expressly prohibited from being performed in any part of the Cemetery set apart for any particular denomination except according to the usage thereof and by a duly recognised Minister of the same. By the Sixth clause, the Ministers of any denomination, for which any part of the Cemetery may be set apart, are expressly secured in free access to the same and in the exercise of their spiritual functions therein without hindrance of the Trustees or any other person. By the seventh clause, the Trustees are empowered to make charges, subject to the Governor's approval, for digging any Vault or erecting a Tombstone or Monument, and to prevent the erection of any that may appear to them to be inappropriate or unbecoming. The proviso to this clause permits the Trustees to cause the body of any poor person to be buried free of any charge. The Eighth Clause gives power to the Trustees to take down and remove any Monument erected contrary to the Regulations they have established. The ninth clause provides for the punishment of persons injuring any Monuments, etc. The tenth clause empowers the Trustees to
permit the erection of a chapel in any part of the Cemetery set apart for any denomination for the performance of the religious ceremonies in the burial of the dead according to its usage. The remaining clauses are merely for more effectually carrying out the general objects of the measure, and do not appear to require to be more particularly referred to in this place.

I think Your Lordship will perceive that every reasonable precaution has been taken not only for preventing any undue interference with the rites and ceremonies of any denomination, but for the free exercise of them in the parts appropriated to each according to its own usage. And, although the Trustees will be empowered to hold the whole of the land to be granted for the purposes of the General Cemetery, distinct portions of it will be set apart and exclusively reserved for each denomination. In the present case, the proportions have been carefully adjusted to the numbers of each denomination in the City of Sydney as shown by the Census of 1846; and I can only add that, should the measure eventually, as I trust it will, receive Her Majesty's gracious allowance and confirmation, it will be my anxious desire to appoint as the Trustees of the General Cemetery persons who, from their character and position in the community, may appear to be those who will be most acceptable to the different denominations for whose use it is intended.

I have, &c.,

Chs. A. Fitz Roy.

[Enclosure No. 1.]

[Δ] Statement on Cemetery.

The crowded state of the Burial Grounds allotted to various denominations in the neighbourhood of Sydney, which have now been used for about 26 years, was beginning to press upon the notice of the Government and the Public, when, in 1844, Sir George Gipps had his attention drawn to the subject by applications which reached him for the appropriation of portions of the so-called "Old Burial Ground"* in the City of Sydney, which has been closed since 1821.

The first of these applications was from the Council of the City of Sydney, not long incorporated, for the site for a Town Hall. A second was from the Bishop of Australia for the site for a School House, a portion being already used as the site for a temporary church; and there were other propositions, which do not need to be here particularised.

Sir George Gipps was disposed favourably to entertain these applications, contingent however on the passing of a Bill by the Legislature, which he deemed necessary for the following reasons:—

1st. It was doubted whether, after the site had been so long dedicated to the public, the Government could legally convey the land for other purposes without the sanction of an act of Council;

* Note 10.
2nd. The land could only be thus appropriated after the remains of the dead had been previously removed with due solemnity, more especially as a numerously signed Petition had been addressed to the Governor, deprecating the appropriation of the Burial Ground to any merely secular purpose; and,

3rd. The sites, which the Government deemed eligible for the proposed General Cemetery, were all situated at a less distance from the City than what was required by the local enactment, 6th Geo. IV, No. 21. It was for these reasons that Sir George Gipps had recourse to the Legislature, and these were the only points contemplated by Him in the Bill eventually laid before the House. That Bill was introduced on 23rd December, 1844, shortly before the close of the Session, with the intention, I believe, that it might be fully before the public during the recess. It was again formally initiated during the session of 1845, by Message dated the 7th August of that year; and, on the 13th of the same month, after being read a first time, was referred to a Select Committee. The Report of the Committee was brought up on the 22nd October, 1845, and, on the 31st of the same month, it was sent up to the Governor with an address from the whole House.

The Committee were opposed to the removal of the remains of the dead from the Old Burial Ground, for the reasons detailed in their Report, and likewise objected to the proposed site of the future Cemetery, namely a portion of Grose Farm on the road to Parramatta. They, however, favoured the repeal of the provision, already alluded to, which forbade the interment of Bodies at a less distance than one mile from any Town, and, after suggesting other sites instead of Grose Farm (one of which was the so-called Sydney Common), they advised that the locality eventually fixed on should be placed in the hands of Trustees, and that an Act should be passed to enable such Trustees to hold Land for the purpose. Early in the ensuing year, Sir George Gipps resumed the subject. In pursuance of his minute of 15th February, 1846, instructions were given to the Deputy Surveyor General and the Colonial Architect jointly to select and mark out for approval a piece of ground (not less than twenty acres) in a situation, which had in a general way been personally selected by Sir George Gipps in company with the Colonial Secretary and the Officers above named. Separate instructions were at the same time given to the Colonial Architect to prepare an Estimate of the expense of enclosing the Ground with a Stone Wall, eight feet high, and of subdividing it into different portions by walls, six feet high. These Divisions were to be allotted to the different Religious Denominations following, viz.:

1 Church of England; 2 Presbyterian; 3 Wesleyan; 4 Roman Catholic; 5 Other Christians; 6 Jews.

And it was intended that the areas of the several subdivisions should be proportioned to the Numbers of each such Denominations residing in Sydney.

On the 11th March following, Captain Perry submitted his views on the arrangements necessary for the purpose, and, after perusing that Report, Sir George Gipps was pleased to appoint a board consisting of—1. The Colonial Secretary, 2. The Deputy Surveyor-General, 3. The Colonial Architect, to take into consideration and report on the best means of enclosing and subdividing the Cemetery.
1847.
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Summary of proceedings for creating general cemetery at Sydney.

On the 19th February, 1847, the Board submitted their Report, and shortly after a copy of that Report, which had received the approval of His Excellency the present Governor, and also a copy of the Report of the Select Committee of the Legislative Council, were transmitted to the Crown Law Officers, with instructions to prepare a Bill to enable Trustees to hold the Land for the purposes stated in the Report of the Board, and in the proportions therein detailed, which had been arrived at by reference to the numbers of each Denomination as stated in the census of the Colony then recently published.

The Bill prepared in pursuance of these Instructions was introduced into the Legislative Council by His Excellency's Message, No. 7, of the 26th May, 1847. It was read a first time on the 2nd June and a second time on the 9th June, on which latter day the Council resolved itself into a Committee of the whole for the consideration of that measure. It was again considered in Committee of the whole on the 30th June, on which occasion a Petition was read against the Bill from the Bishop of Australia, and certain of the Clergy of the Diocese; again on the 7th July, on 15th July, and, finally on 28th July, it was reported to the House with amendments. A copy of the Bill as amended in Committee is enclosed.

The third reading was moved on 5th August and an amendment that the Bill be read that day six months was negatived by a majority of 20 to 2. It was thereupon passed in its present form and afterwards assented to (24th August, 1847).

During the progress of this measure through the Council, the Executive Government had proceeded with the enclosing of the Ground, etc.

Tenders for the erection of the wall were called for on 15th March, the Colonial Architect and the Deputy Surveyor General having been instructed on 8th March, 1847, to take the necessary steps appertaining to their respective Departments. The Deputy Surveyor General reported that he had caused the Land to be properly surveyed and marked out, as well the entire Cemetery as each of the sub-divisions, and the proper descriptions for the Deeds were forwarded accordingly.

And it appears from the Colonial Architect's report that a considerable portion of the enclosing Wall had been erected.

As concluding the history of this matter, so far as it has yet been proceeded with, it should be stated that the sum of £2,557 has been voted on the Estimate for 1847 for enclosing the proposed Cemetery with a Stone Wall 8 feet high, and subdividing the same.

The entire Estimate made by the Board amounted to the sum of £2,557, which, however, included the cost of making the necessary approaches to and about the Cemetery and an ornamental Reserve in its vicinity.

28th Decr.

[B] [This was a copy of the "General Cemetery" bill.]

[C] [This was the report of the select committee on the "General Cemetery" bill, which will be found in the "Votes and Proceedings" of the legislative council.]
FITZ ROY TO GREY.

[1847.

16 Dec.

[185x649]FITZ ROY TO GREY.

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

May it please Your Excellency,

We, Her Majesty's most dutiful and loyal subjects, the Members of the Legislative Council of New South Wales in council assembled, beg respectfully to transmit to Your Excellency a Copy of the Report of the Select Committee upon the General Cemetery Bill with the Evidence taken by that Committee, and request that Your Excellency will be pleased to adopt measures for carrying into effect the recommendations of the Committee.

Legislative Council Chamber. ALEXR. McLEAY, Speaker.

Sydney, 31st October, 1845.


NEW Burial Ground on a part of the old Sydney Common to the South East of the City.

The Colonial Secretary will give instructions to the Deputy Surveyor General and Colonial Architect jointly to select and mark out for approval a piece of ground not less than 20 acres in the situation, which was in a general way approved on the 9th Inst., when I visited the ground in company with those officers and the Colonial Secretary himself.

He will give separate directions to the Colonial Architect to prepare an Estimate for enclosing the ground with a stone wall 8 feet high, and for sub-dividing into six different portions by walls six feet high.

The portions thus sub-divided it is proposed to allot to the following religious Denominations:—

1st, Church of England; 2nd, Presbyterian; 3rd, Wesleyan; 4th Roman Catholic; 5th, all other Christian Denominations; 6th, Jews.

The areas of the four first Sub-divisions are to be as nearly as possible proportional to the numbers of each Denomination supposed now to exist in the City of Sydney. The fifth and sixth division to be together equal to the smallest of the first four.

15th Feb., 1846. G.G.

The Plans and Estimates to be ready by the 1st of May or sooner if possible. G.G.

[F] Dep. Surveyor-General Perry to Colonial Secretary Thomson.

Surveyor General's Office,

Sir, Sydney, 11th March, 1846.

With reference to your letter of the 17th ultimo, No. 46/73, conveying the Governor's direction to select and mark out on the Old Sydney Common, in the situation generally approved by His Excellency on the spot, a piece of ground not less than 20 acres for the purpose of a Burial Ground, I have the honor to acquaint you for His Excellency's information that, having revisited the ground in company with Mr. Darke, and carefully examined its details, I have caused to be marked in an irregular figure twenty
acres of ground, which comprises nearly the whole of the basin lying between the old Botany Road and the road Eastward of the boundary of Sydney. The irregular figure is adopted as being the only one that accommodates itself to the peculiar contour of the ground, the lines defining the boundaries of the twenty acres running immediately under the crests of the surrounding hills, and excluding the small lagoon to the Westward. Adverting generally to the conversation which passed in the conference with His Excellency on the spot, I do myself the honor to offer for consideration some suggestions as to the mode which appears to me suitable for carrying out the contemplated arrangements for the purpose in view. On a very close examination of the ground, I am led to the opinion that the whole of the sand is a drifted accumulation, caused by the action of the prevailing winds upon the loose and dry sands in the neighbourhood, and that consequently the enclosing it by a wall of brick or stone would lead to inconvenience similar to that which has been experienced at Newcastle, and the work itself would be one of difficulty owing to the want of a firm foundation. To obviate these inconveniences, I would propose a mode far less expensive, and which promises to be efficacious, viz., that of surrounding the area either by a military ditch, breastwork or internal glacis, and with an inclined palisading outwards, to prevent the ingress of cattle, or by a broad belt of plantation between simple palisading. I would further propose, in the event of the first plan being adopted, that the external slope of the ditch should be planted to a considerable distance back as far even as the crests of the range with trees and shrubs best suited to a sandy soil, and that the internal slope and the crest of the glacis be finished by a turf revetment, within which should be a belt of plantation of deciduous trees of a nutritious nature so that the fall of the leaves might contribute in some measure to the tenacity of the ground.

To effect these objects, it will be necessary to reserve all the ground between the area of the burial ground and the exterior slope of the hills, which should be secured by a three rail fence. I would also beg leave to suggest that a plantation of willows and other ornamental trees be made around the small lagoon towards which broad and deep canals should be cut through the lowest part of the valley, and their banks levelled and planted with ornamental trees. Should His Excellency approve of these suggestions which may be carried into complete effect during the approaching season, it will be requisite to employ a working party accustomed to the use of the spade and under the constant superintendence of some competent person from the Botanical Garden. But, upon the whole question, it appears to me that the most important point for consideration is whether the surface around the enclosure should be disturbed at all until first secured by broad bands of turfing between which the plantations might be made; and in the event of this plan being adopted, I would suggest that the turf should be conveyed to the spot where it is required to be laid upon dish formed sledges, instead of wheel carriages, and I apprehend that by such mode the enclosure may be made with much less labour and expense than would be incurred by the erection of an ordinary stone wall. As in the one case it would be a question of mere prison or military labour, the latter of which may be estimated at three pence per day per man, whereas, in the
case of a wall of masonry, there would be an immense amount of mechanics' labour which cannot be estimated at less than four shillings per diem per man, besides the labour of digging for foundations and assisting the mechanics, and which after all may not answer the purpose contemplated.

I have, &c.,

S. A. Perry.

[Report of a Board, appointed by His Excellency the Governor to take into consideration, and report on the best means of enclosing and sub-dividing the Burial Ground on the old Sydney Common.

The Board, having had under their consideration the various documents relating to the appropriation of certain lands in the neighbourhood of Sydney for the purpose of forming a general Cemetery, together with His Excellency's Minute thereon, dated the 15th February, 1846, proceeded to the ground referred to in the notification of their appointment, and, after a very careful examination of its various features, procured a survey of a rectangular portion of that which had been inspected, and in a general way approved by His Excellency on the 9th February, 1846. This portion is in its natural character, secluded from the streets, roads and avenues in the immediate neighbourhood, being a basin formed by an abrupt range of hills, presenting by their connexion the figure of a horse, narrow at the opening, which is to the Westward, and about a quarter of a mile South of the boundary stone at the corner of Cleveland Street.

The whole of the basin comprises an area of twenty three Acres, and, the parallelogram being traced near the crest on three of its sides, the fourth opening towards the continuation of Dowling Street, admits of every part of the exterior being accessible for entrances by convenient roads. The Board, therefore, recommend that the whole area, with the exception of the several entrances to the sub-divisions to be allotted to the respective denominations, should be enclosed by a stone wall eight feet high.

With respect to the sub-division of this area, so as to be as nearly as possible proportional to the numbers of each denomination supposed now to exist in the City of Sydney, it appears that, according to the last published Census of the population of Sydney (1846), the numbers were as follows, vizt.:

- Of the Church of England, 24,306; Roman Catholics, 14,700;
- Presbyterians, 5,009; Wesleyans, 2,289; all other Denominations, to be subdivided as may hereafter be determined, 3,314.

The proportions will therefore be as follows, nearly:

24,306 Church of England, 10 acres; 14,700 Roman Catholics, 6½ acres; 5,000 Presbyterians, 2¼ acres; 2,289 Wesleyans, 1½ acres; 3,314 all other denominations, 2½ acres; 23 acres.

And the Board recommend that these sub-divisions should be distinctly marked out on the ground by boundary stones, so as plainly to indicate the portion allotted to each denomination.

Between the Western boundary of the twenty three Acres proposed to be immediately appropriated as the Burial Ground and the continuation of Dowling Street, there are about seven Acres...
of ground, for the most part low, and containing a small lagoon, formed by a drainage of the adjacent hills; these seven Acres the Board recommend should be reserved and enclosed with a substantial three rail fence, and that the whole area so appropriated and reserved should be surrounded by a road half a chain wide, which should be formed, coated with hard and tenacious material such as argillaceous ironstone, and protected by a three rail fence.

The expense of erecting the wall eight feet high, surrounding the twenty three acres, and marking the subdivisions by boundary stones, will be, according to the Colonial Architect's estimate, about Two thousand pounds. The expense of fencing the additional reserve, and the Road around the whole area, will be about fifty seven pounds.

The expense of forming the road may be estimated at five hundred pounds, making a total of two thousand five hundred and fifty seven pounds.

The Board suggest that, as soon as the proposed arrangement shall have been sanctioned by final approval, the Surveyor General should be moved to cause to be prepared a survey and description of each of the portions of ground enumerated in the sub-divisions and with a view to the preparation of the consolidated Deed of Grant, to be made in favor of Trustees, for the uses of the several and respective religious denominations referred to in this report.

E. DEAS THOMSON,
S. A. PERRY,
MORTIMER WM. LEWIS, Col-1. Architect.

Approved:—CHS. A. FITZ ROY.

[H, I, J and K.]

[This included copies of the "Cemetery Trustees" and "Necropolis" bills of the "Necropolis" act, and of a petition to the legislative council, dated 23rd June, 1847, on the cemetery bill, which will be found in the "Votes and Proceedings" of the legislative council.]

[Enclosure No. 2.]

BISHOP OF AUSTRALIA TO EARL GREY.

My Lord, Sydney, 23rd August, 1847.

I have to offer every apology to Your Lordship for the intrusion of which I am guilty in requesting your consideration of an Act, which has been recently passed by the Legislative Council of this Colony, intituled an "Act for the Establishment and Regulation by Trustees of a General Cemetery near to the City of Sydney."

The Bill, upon which this Act is founded, having been introduced under the sanction of the Executive Government, I trust Your Lordship will gather from my known principles, and from those which I am confident prevail among the clergy and laity of the Church of England, that neither should we have opposed the Bill in its progress, nor should I now have brought the Act in question under your Lordship's notice, except in fulfilment of a duty which is paramount to every other.

It is very satisfactory to me that I have the permission of Sir Charles Fitz Roy to forward this representation to Your Lordship.
FITZ ROY TO GREY.

under charge of His Excellency, who will then be enabled to accompany it with such observations as may appear to him just and necessary.

I will omit all reference to the various grounds connected with religious feelings, which have very widely and very seriously indisposed the minds of members of the Church of England towards this measure and will confine myself to simply stating reasons, which it appears sufficient to plead, why Her Majesty's assent should be withheld from it.

First, I urge that the Act is contrary to the ecclesiastical law of England now lawfully in force, in that it abrogates the right of control and regulation which, it is admitted by all authorities and confirmed by numerous decisions, the Ordinary of every Diocese possesses ex officio, and is entitled to exercise in places of sepulture, appropriated for the interment of the dead according to the Order of the Church of England. Every such exercise of superintendence is by this Act transferred to Trustees, who are not required to be professed Members of the Church on behalf of which they are empowered to act.

In justice to myself, I request permission to submit to Your Lordship that the Letters Patent, Issued under the Great Seal of the United Kingdom in the sixth year of the reign of His late Majesty King William the Fourth for the erection of the See of Australia, expressly recognize me in the Office of Ordinary; and authorize my entering into and possessing the same without let or impediment of His said late Majesty, his Heirs or Successors.

I cannot, therefore, say less than that there may be a question whether the allowance by Her Majesty of an Act, which transfers from me altogether the exercise of rights and duties which are by law and custom attached to the Office of Ordinary, can be considered as in correspondency with the terms of the Letters Patent, which assure to me the enjoyment of that office without impediment on the part of Her Majesty: that is, as I conceive, without abridgement of its legal privileges by any Act to which Her Majesty is a consenting party.

My respectful request to Your Lordship is that the question may be proposed to the proper legal advisers of the Crown, whether an Act of Council, which ipso facto abolishes the Office of Ordinary to the extent which has been described, must not be at variance with the ecclesiastical law of England, and with the engagement contracted in the Letters Patent, the most binding security which a subject can receive from the hand of the Sovereign. That the Council are themselves conscious of this is evident; because at the very same time that they sanction this innovation upon the long-approved customs of the Church of England, they are making in another case a special reservation that their ordinances shall not affect existing interests, i.e., in the case of joint-stock Companies enjoying their Charter under the Great Seal, or an Act of the Imperial Parliament. The privileges of the Ordinary in every Diocese, it is unnecessary to remind Your Lordship, have been recognized and confirmed times out of number in both these ways.

In addition, I will only observe that this Act of Council encroaches upon the spirit if not the very letter of the Royal Instructions which have been issued at various times, from the

Protest by bishop of Australia against necropolis act.

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Protest by bishop of Australia against Sydney necropolis act.

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Protest by bishop of Australia against Sydney necropolis act.

regen of His late Majesty George the Third to the reign of Her present Majesty, fixing the terms and conditions of granting Crown lands. As interpreted by invariable usage from the foundation of the Colony until now, such Instructions, in directing that Sites should be allowed for purposes connected with the service of religion, did imply that lands set apart for the use of the Church of England should be so vested as not to infringe any right or privilege which the Members of the Church of England are lawfully entitled to. The present measure does interfere with these, as it throws many impediments in the way of the due consecration of the ground; rendering it questionable whether that solemn office can with propriety be performed at all; and opening many other questions of a painful nature which will necessarily engender dissatisfaction. The Crown, guided by its responsible advisers, has heretofore retained strictly to itself the exclusive privilege of appointing the conditions on which the alienation of Crown lands shall take place; and, on this subject, it has never till now been considered justifiable to depart from the plain meaning of the Royal Instructions. That meaning, it has never before been questioned, is that lands set apart for the service of the Church of England should be granted in the name and on behalf of Her Majesty upon terms which left the internal management of Church affairs in charge of the Church itself.

My request to Your Lordship is that for these reasons Her Majesty may not be advised to give her Royal Assent to the Act upon which I am commenting; but that Her Majesty will be graciously pleased to issue instructions that a due proportion of the land, which it has been in contemplation to grant for the purposes of a General Cemetery, be conveyed to Trustees, being members of the Church of England, for the purpose of being used as a separate place of interment according to the Order contained in the Book of Common Prayer. Or, if this application be not approved, I should then request of Your Lordship that leave may be given to members of the Church of England to purchase under the Regulations now in force a sufficient quantity of Crown land adjoining the General Cemetery, which may be consecrated as a place of burial without being subject to the restrictions imposed by the recent Act of Council. I have, &c.

W. G. AUSTRALIA.

Request for transmission of letter of protest to secretary of state.

Sir,

Bishop of Australia to Sir Charles Fitz Roy.

Sydney, 23rd August, 1847.

The Act, which has recently passed the Legislative Council “For the Establishment and Regulation by Trustees of a General Cemetery near to the City of Sydney to be called the Necropolis,” continuing to occasion dissatisfaction to many loyal and peaceable subjects of Her Majesty and Zealous Members of the Church of England, I am in duty bound to make every lawful effort to remove so well-grounded a cause of complaint.

My request to your Excellency is that I may be allowed to forward to Earl Grey under charge of Your Excellency a Letter, in which I shall set forth reasons as the ground of a request that Her Majesty may not be advised to give her Royal sanction to the Act in question.

[Enclosure No. 3.]
SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 243, per ship Pinyard Park.)

My Lord, Government House, 16th December, 1847.

I have the honor to forward herewith, for your Lordship's information, a copy of the explanatory Minute with which I submitted to the Legislative Council of this Colony, during its recently concluded Session, the Estimates of the Expenditure for the year 1848.

Your Lordship will observe that I did not place before the Council an Estimate of the expenses attendant on the collection of the Revenue derived from Duties on Spirits distilled in the Colony, as I considered myself authorised, on the principle laid down in Your Lordship's Despatch of the 24th October, 1846, No. 49, to defray those expenses without a vote of the Council.

I beg further to state that, on the receipt of your Lordship's Despatch, No. 145 of 30th April, 1847, and in deference to Your Lordship's opinion therein expressed, that it was inexpedient and unnecessary to apply to the Legislative Council for a supplementary vote in aid of the amount appropriated for the Administration of Justice under Schedule A of the Constitutional Act of the Colony, so long as a sufficient sum could be obtained for the purpose from the surplus of Schedule B of the same Act, I
1847. 16 Dec.
deemed it my duty to withdraw from the Estimates for the year 1848 the sum placed thereon to meet the amount required in addition to that provided by Schedule A for the Administration of Justice.

CHS. A. FITZ ROY. [Enclosure.]

[A copy of this minute will be found in the "Votes and Proceedings" of the legislative council.]

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 244, per ship Pinyard Park; acknowledged by earl Grey, 10th July, 1848.)

My Lord,

Government House, 17th December, 1847.

With reference to my Despatch, No. 83 of the 9th April last, enclosing a Petition from the Corporation of Melbourne to Her Most Gracious Majesty on the subject of Immigration, I have now the honor to forward a letter which has been addressed to me by the Superintendent of Port Phillip, covering a Petition from the Inhabitants of that District, urging me to bring under your Lordship's notice the claims of the District to the Expenditure of the Revenue arising from the sale of Crown Lands on Emigration purposes. I also forward a copy of a letter which I have received from Mr. La Trobe, enclosing a Petition addressed to me by the Corporation of Melbourne, praying that an abundant Immigration may be carried on from the United Kingdom to Port Phillip on the system therein proposed.

I have also the honor to forward the copy of a letter from Mr. La Trobe, covering a Memorial addressed to me by the Inhabitants of Port Phillip, and adopted at a Public Meeting held on the 6th October last, praying that the whole of the Land Revenue of the District may be employed in the introduction of labour to Port Phillip alone.

I further transmit the copy of another communication, which I have received from Mr. La Trobe, covering an Extract from the Minutes of the Town Council of Melbourne, containing a series of Resolutions on the same subject.

I have so frequently laid before Your Lordship my views regarding a renewal of Immigration to this Colony that I need not now trouble Your Lordship on the subject, further than to observe that, although Mr. La Trobe in his letter dated 20 August, 1847, earnestly recommends the claim of the Port Phillip District to the Expenditure of the Revenue arising from the sale of Crown Lands to the purposes of Immigration, and that all Emigration to the Colony may be divided between N. S. Wales proper and the District of Port Phillip in that proportion, which will give to each division the benefit of its net Land Revenue,
I feel bound to state that I fully concur in the opinion of my predecessor that, so long as the Port Phillip District forms an integral portion of the Colony of N. S. Wales, the funds derived from the sale of Lands in either District should be expended for the joint benefit of the whole Colony. I have, &c.,

CHS. A. FITZ ROY.

[Enclosures.]

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

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 245, per ship Pinyard Park.)

My Lord, Government House, 17th December, 1847.

It is my duty to bring under Your Lordship's notice the accompanying Copy of a letter, with its several enclosures, which I have received from the Superintendent of Port Phillip.

It appears that a public meeting of the inhabitants of Port Phillip was convened at Melbourne on the 21st September last, at which a series of Resolutions were passed condemnatory of the views which, I am led to understand, have been urged upon Your Lordship's attention by Mr. Cunningham, the so-called Port Phillip Delegate, on the subject of a proposed new form of Constitution.

These Resolutions were placed in the hands of His Honor the Superintendent for the purpose of being ultimately forwarded to Your Lordship by the Mayor of Melbourne.

As, however, this Government was not Officially informed of the character or contents of the documents, drawn up by Mr. Cunningham, to which reference is made in the Resolutions in question, or of the circumstances which may constitute the claim of that gentleman to the attention of Her Majesty's Government, the Mayor of Melbourne was applied to by Mr. La Trobe for further information on these points; but Your Lordship will perceive that, for the reasons assigned in his letter of the 23d November, Mr. Moore, the late Mayor, did not feel at liberty to afford the required information.

As I am not myself in a position to supply the explanation withheld by Mr. Moore, it only remains for me to place the matter before Your Lordship, in accordance with the expressed wish of the public meeting.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[A copy of this letter, dated 26th November, 1847, will be found in a volume in series III.]

* Marginal note.—Vide Enclosures to Sir G. Gipps' Despatch, No. 90 of 29 Apr., 1846.
1847.
18 Dec.

Pension authorised for J. Allott.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 275, per ship Sydney.)

Sir, Downing Street, 18 December, 1847.

In reply to your Despatch of the 15th May last, No. 105, and with reference to the Statement then made in respect of the average Amount of the Fees and Emoluments hitherto attached to the Office of Tipstaff or Crier of the Supreme Court at Sydney, I have now to convey to you the necessary authority for granting a Pension to Mr. J. Allott, who lately held that Appointment, at the rate of £73 Pounds per Annum, to be charged on the Fund set apart for Expenses specified in Schedule B, annexed to the Act of 5 and 6 Vic., Cap. 76, as proposed in the Despatch from your Predecessor under date of the 24th of May, 1846.

I am, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 276, per ship Sydney.)

Sir, Downing Street, 18th December, 1847.

Despatch acknowledged.

Inability to grant land for R.C. college.

I have to acknowledge the receipt of your Despatch, No. 146 of the 16th July last, containing your Report and that of the Executive Council upon the application which had previously been referred to you as having been made to me by Archbishop Polding, while resident in this Country, to the effect that land might be set apart for the use of the Roman Catholic Church in New South Wales, whereby he might be enabled to establish a College for Ecclesiastical Students, and thus provide a supply of duly qualified Clergymen within the Colony.

As the Archbishop will have returned to New South Wales before this Despatch reaches you, His Grace should be informed that I have received your report and the Opinion above referred to, and that, for the reasons already stated to him, which are now confirmed by that report, I can only express my regret that it is out of my power to comply with his request.

I have, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 282, per ship Sir Edward Paget.)

Sir, Downing Street, 18th December, 1847.

Decision to renew immigration to colony.

In my Despatch, No. 212 of the 30th of August last, I informed you that, in accordance with your recommendation, Her Majesty’s Government had determined immediately to recommence sending Emigrants to New South Wales, to an extent
equal to 5,000 adults, calculated according to the Passengers Act; and for the purpose of defraying the expense of doing so, I authorised you to raise £100,000 on the credit of the Crown Revenues, one half to be secured by Debentures on that Revenue in the Sydney, or Northern Division of the Colony, and the other half on the same Revenue in the Port Phillip Division.

When I wrote that Despatch I was much inclined to believe that a larger sum than you had suggested might, with great advantage to the Colony, be raised for the purpose of Emigration; and the further accounts which have since reached me as to the urgency of the want of labor in New South Wales, have removed any doubts I entertained, and have convinced me that in order effectually to supply this want the expenditure you contemplated ought to be very considerably increased. I have also been led to conclude, from the information I have received from various quarters, that the amount of money necessary to meet such increased expenditure might be raised within the Colony itself, in a manner not only unobjectionable, but which would be attended with some collateral advantages. The measure, which I would for this purpose suggest for the consideration of yourself and the Legislative Council, is the creation of a funded debt to a moderate amount. By an Act of the Colonial Legislature, authority might be given for raising in the next three or four years a capital sum of two or three hundred thousand pounds, by the sale of stock, the interest on which should be the next charge upon the Colonial Revenue after those to which it is rendered subject by the Act of Parliament constituting the existing Legislature. Such a measure I regard as likely to prove advantageous to the Colony, not merely on account of the urgent and repeated representations which have been addressed to me, as to the want of labor, but also because there seems to be good reason to believe that money might thus be raised upon very favorable terms, and that New South Wales has now reached to a stage in the increase of its wealth and population, in which the want of some such means for the secure investment of money, as are afforded by the Public Funds in this Country, is beginning to be seriously felt.

There is in every civilized Country, as there certainly is in New South Wales, much money belonging to parties to whom it is an object not merely of individual, but of general interest, to afford facilities for its secure investment. This applies particularly to the money of Charitable Societies, of Benefit Clubs, and of Savings Banks, that deposited by Suitors in the Supreme Court, or belonging to Widows, Orphans, and others incapable of managing their own affairs. The existence of a moderate Funded Debt affords the means of investing all property of this
1847.
18 Dec.

Advantage of funded debt in colony.

Arguments for and against creation of public debt.

General problems in raising of loan.

Description with a degree of convenience and security not otherwise attainable. The safety, the facility, and the promptitude with which stock forming part of such a Funded Debt can be transferred, render it also eminently adapted for commercial purposes. For the sake of these advantages, so long as faith is inviolably kept with the public creditor, a permanent debt, sanctioned by the Legislature, is likely to bear a higher value in the market, than either the obligations of individuals or securities of the description of the Debentures hitherto issued in New South Wales; in other words, money raised by the creation of a Funded Debt, would probably be obtained upon the best terms for the Colony.

I am well aware that a strong, and upon the whole, a just, objection is entertained to the practice of providing for public expenditure, not out of income, but by loans, the interest of which becomes a burden upon succeeding generations. It is no doubt a practice exceedingly liable to abuse, and one to which recourse ought only to be had with the greatest caution and forbearance; but when the object for which money is to be raised is not unproductive, but productive expenditure, the danger of abuse and of ultimate inconvenience arising from the contraction of a Public Debt is very greatly diminished; and, in the present instance, as there can be no reasonable doubt that an addition to the population of New South Wales, of the kind which is contemplated, by affording an additional supply of labor, which is so urgently wanted, would immediately increase the productive power and wealth of the community, it may be safely calculated that no oppressive burden would be thrown upon the Colony by raising for this purpose a loan to the extent I have suggested.

I should confidently expect that the Colonial Revenue, arising, as it does, mainly from duties on articles of general consumption, could not fail to be increased by the continuance of immigration to an extent more than sufficient to meet the charge which would arise for interest upon the debt.

For the reasons adverted to in the latter part of my Despatch of the 30th August, it would be of importance to the Colony, that the loan should be raised in securities bearing, as nearly as may be possible, the market rate of interest at the time they are issued. Assuming the market rate of interest at the time to be 6 per cent., it would in the first instance be precisely the same to the Colony whether five bonds of £100 were disposed of at par, bearing that rate of interest, or whether, on the contrary, six bonds, also nominally for £100 each, bearing interest at the rate of 5 per cent., were sold for £500 in money. In either case there would be paid into the Colonial Treasury a sum of £500, for
which £30 of interest would annually be payable, but there would be this very material difference, that by adopting the first of these plans, when the time arrived at which the bonds were made redeemable, either one sixth of the capital would be saved in paying them off, or if this should not be found desirable, the interest upon them might be redeemed whenever there might occur that fall in the value of money which usually takes place in the progress of society.

Such being some of the remarks of a general nature which have occurred to me, the following are the conditions upon which, on behalf of the Crown, you would be at liberty to assent to any Bill which the Legislature might pass on the present subject. First, that the sum to be raised, in addition to the loan of £100,000 already authorised to be borrowed on the faith of the Crown Revenue, should not for the present exceed £300,000, to be paid by instalments spread over a period of two or three years. Secondly, that the interest on this latter debt should be the first charge on the General Revenue, after those charges to which it is already subject by Act of Parliament. Thirdly, that the principal of the debt should not admit of being paid off until after some definite period, as for example twelve or fifteen years, and should afterwards be redeemable only at the option of the Government. Fourthly, that the proceeds of the loan should be strictly appropriated to promoting the immigration of persons of the industrious classes from the United Kingdom; and Fifthly, that bearing in mind the probability of a future separation of the Northern from the Southern Districts of the Colony, a separate account should be kept of the expenditure incurred for immigration into each, in order that the debt may eventually be divided between them in the same proportion.

Should the Legislature of New South Wales be disposed to adopt the suggestions I have now thrown out, I should recommend that Commissioners should be appointed, by an Act to be passed for that purpose, with authority to negotiate the proposed loan. For the emigration of the next year, the loan which I have already directed you to raise upon the credit of the Crown Revenue, will be sufficient to provide; it therefore would not be necessary that the first instalments of the new loan should be made payable at an earlier period than towards the close of the year 1848, and should then continue to be paid at such intervals, as might be likely to meet the payments which would from time to time become due for Emigrants sent out. It would probably be convenient if an arrangement could be made, giving the Commissioners some discretionary power as to the times when the different instalments of the loan should be called for, and the
interest upon them should commence, since it is almost impossible to foresee at what rate it may be practicable to obtain Emigrants of the description required by the Colony. Hitherto I am happy to find that the Emigrants selected and dispatched by the Colonial Land and Emigration Commissioners have given great satisfaction to the inhabitants of those Colonies to which of late years they have been sent, and the last accounts from South Australia, of the manner in which the Emigrants who had recently arrived there had at once found employment, are particularly gratifying, as shewing that the Commissioners had performed with great discretion the task of selection which has been entrusted to them. They inform me, however, that the supply of really eligible Emigrants, that is, of those of the proper age, and possessing the requisite health and knowledge of some useful description of labor, is limited, and that with the demand for Emigrants, which is now increasing, not only for the different Australian Colonies, but also for the Cape of Good Hope and New Zealand, it is doubtful whether the requisite number will be obtainable. I have instructed them to proceed to despatch Emigrant ships to New South Wales in as rapid succession as may be possible without lowering the standard of the qualifications they have hitherto required from the candidates for a free conveyance to Australia, but that they are not for the sake of obtaining a greater number to accept Emigrants of a less useful description. Considering the heavy cost to the Colonies of the conveyance of Emigrants to Australia, I am not of opinion that any should be sent but such as are really qualified to be useful laborers, either in agriculture, or in some ordinary mechanical employment.

In conclusion I have to observe that, entertaining little doubt from all the accounts which have reached me of the prevailing opinion of the inhabitants of New South Wales, that the principle of the measure will be adopted by the Legislative Council, I shall take an early opportunity of transmitting to you such further information as may appear to me to be calculated to assist that body in its deliberations on the best mode of carrying this design into effect, so as to render it productive of the largest amount of benefit to the Colony, with the least risk of abuse or inconvenience. With that view I shall request the Lords of the Treasury to favor me with the observations which the experience gained in contracting loans in this Country may suggest, as to the arrangements which it will be expedient to make in conducting an affair of the same description in New South Wales.

I have, &c.,

Grey.
My Lord, Government House, 18th December, 1847.

With reference to my Predecessor's Despatch, No. 123 of the 22d June, 1846, reporting the payment to Mr. J. Croft, acting in this Colony as Apothecary to the Convict and Military Medical Depot, of an allowance for lodging money at the rate of £108 per annum, and requesting authority to pay to Mr. Croft the sum of £124 7s. 6d., being the amount to which Sir Geo. Gipps considered him entitled for arrears.

I have the honor to inform Your Lordship that Mr. Croft has frequently waited upon me during the last six months for the purpose of enquiring whether your Lordship's sanction had been notified for the issue of the last named sum, the amount due for arrears, and I have at length consented to bring the matter again before Your Lordship fearing that it may have been overlooked.

I have also the honor to enclose the copy of a letter, which has been addressed to the Colonial Secretary of this Government by the Principal Medical Officer, covering a communication from Mr. Faithful Croft, Medical Clerk and Son of Mr. J. Croft, also applying for arrears of pay.

It appears that Mr. Faithful Croft was appointed to the situation of Medical Clerk on 18th February, 1846, which appointment was included in the usual Schedule for the Quarter ended on 31st March of that year, forwarded with Sir Geo. Gipps' Despatch, No. 92 of the 1st May, 1846; but that, in conformity with the Regulations on the subject, he was allowed to receive only 4s. 8d. per diem, being two thirds of the established pay, pending the decision of the Secretary at War, to whom, however, no special Report seems to have been made.

I also enclose the copy of a letter from the Principal Medical Officer, in which he recommended the appointment of Mr. Faithful Croft, and which, perhaps, ought to have accompanied the Quarterly Schedule; and I beg to remark that, until that appointment has been confirmed, I do not feel myself at liberty to sanction the issue of the arrears due to Mr. Faithful Croft.

I have, &c.,

CHS. A. FITZ ROY.
1847.
18 Dec.

Transmission of opinion of legislative council on military affairs.

Sir Charles Fitz Roy to Earl Grey.
(Despatch No. 247, per ship Pinyard Park; acknowledged by earl Grey, 1st June, 1848.)

My Lord.

Government House, 18th December, 1847.

Adverting to my Despatches, No. 100 of 30th April, 1847, respecting the reduction in the Military Force of this Colony, and No. 166 of 20th August last, bringing under Your Lordship’s notice the defenceless state of the Harbour of Port Jackson, and in reference to the discontent which I informed Your Lordship had been very loudly expressed by a majority of the Members of the Legislative Council, when the determination of Her Majesty’s Government to withdraw a portion of the Troops was made known; I have the honor to transmit for your Lordship’s information an Extract from a Report of a Select Committee of the Legislature in which the subject is introduced.

I have, &c.,

Chs. A. Fitz Roy.

[Enclosure.]

[This report will be found in the “Votes and Proceedings” of the legislative council.]

Sir Charles Fitz Roy to Earl Grey.
(Despatch No. 248, per ship Pinyard Park; acknowledged by earl Grey, 18th and 27th May, 1848, and 24th February, 1849.)

My Lord.

Government House, 19th December, 1847.

On the 18th June last, I had the honor to receive Your Lordship’s Despatch, No. 85 of the 17th January, 1847, enclosing the copy of a letter which had been addressed to Your Lordship’s predecessor by Mr. Roger Therry, one of the Judges of the Supreme Court of this Colony, soliciting leave of absence for eighteen months to enable him to return to England on urgent private affairs, and desiring me to apprise Mr. Therry that he might accept that indulgence only on the condition that the remuneration of his substitute be entirely deducted from his own Salary, unless the Legislative Council should see fit to devote a sum in aid of that charge.

Having immediately communicated to Mr. Justice Therry a copy of Your Lordship’s Despatch, I received a letter from that gentleman of which I enclose a copy, stating that he had made arrangements for availing himself of the leave sanctioned by your Lordship; but that, before carrying them into effect, he would wish to be assured that the Government could, without inconvenience to the Public Service, be enabled to find a substitute.
I am aware that there are many objections to the appointment of a Barrister temporarily to fill the Office of Judge upon half the Salary attached to that Office; but, having consulted the Attorney General, I considered that the same objections could not be urged against the selection of a Barrister to act as Solicitor General; and, having ascertained that Mr. Manning, who now holds that appointment, would be willing to assume the Judicial Office upon the understanding that he should receive the full amount of Mr. Therry's salary during his absence, and that he should revert to his present position on the return to the Colony of that gentleman, I proceeded to select a competent Barrister, who would undertake the duties of Solicitor General upon half salary; and, with the advice of the Attorney General, I offered the appointment to Mr. William Foster, the Senior Member of the Colonial Bar, and a gentleman of high repute in his profession, and which he readily accepted. I may add that, when the Solicitor Generalship became vacant in 1844, it was offered by my Predecessor to Mr. Foster, who then declined it, because, being at that time a Member of the Legislative Council, he considered himself pledged to his Constituents not to hold Office.

The remaining half of the Salary of the Solicitor General, viz., £400 per annum, not drawn by Mr. Foster, I have guaranteed to Mr. Therry, who has expressed a hope that, during his absence from the Colony, he may be allowed to receive £350 per annum from the surplus on Schedule B, should that Schedule admit of a surplus to defray it, in order to make up the amount received by him while on leave to half his present Salary of Puisne Judge.

I have, however, distinctly intimated to Mr. Therry that I do not feel at liberty to hold out any pledge to him of his receiving, while in England, more than the moiety of the Solicitor General's salary abovementioned, viz., £400, and that it remained with Her Majesty's Government to sanction or withhold the £350, for which he puts in his claim.

I have explained, in a Confidential Despatch of this date, my reasons for considering it inexpedient to apply to the Legislative Council for a vote in favor of Mr. Therry; but I would beg to point out that, should Your Lordship see no objection, there will be no difficulty in charging the extra expense of £350 per annum on the surplus of Schedule B of the Constitutional Act of the Colony, which would thus enable Mr. Therry to take advantage of the indulgence granted to him, after an uninterrupted service of eighteen years, on the same terms as regards Salary, which the Regulations on the subject awarded to Civil Officers who obtain leave of absence.
It only remains for me to report that Mr. Therry will embark on or about the 10th proximo in the ship "Agincourt," and that he will take charge of the duplicate of this despatch.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

MR. JUSTICE THERRY TO COLONIAL SECRETARY THOMSON.

Sir,

Supreme Court, 12th October, 1847.

I beg to apprise you that I have made arrangements for availing myself of the leave of absence, granted to me by The Secretary of State, and that it is my present intention to proceed to England in the Month of February next year.

Before, however, I can be satisfied that I can carry these arrangements into effect, it will be requisite for me to be assured that the Government can, without inconvenience to the public service, be enabled to find a Substitute. I have reason to believe that the Solicitor General would not be disinclined to assume the Judicial Office during my leave of absence. In that event, it will become requisite on the part of Government to provide, for the time, a substitute for Mr. Manning in the office of Solicitor General.

On the subject of salary, I apprehend there may be a difficulty in strictly complying with the suggestion of the Secretary of State "that the remuneration of my substitute should be entirely deducted from my own Salary." as the same difficulty of procuring an efficient substitute except by allowing him to receive his full salary exists now as on former occasions of Judges of the Supreme Court being absent on leave.

The same difficulty, however, I apprehend, will not be found to prevail with respect to the Office of Solicitor General and as a very eligible member of the Bar may, I believe, be found to perform the duty "pro tem" at half salary, I submit that the other moiety might be made available as a contribution towards my half salary during my proposed absence. There will still remain a sum of £350 a year to complete the allowance of half Salary and on this point I can only venture to express a hope and request that the Governor will be pleased to recommend to the Secretary of State that this complement towards the completion of my half Salary be defrayed out of the Schedules under His Excellency's control, if these Schedules admit of a surplus to defray it. The circumstance of an uninterrupted public Service of Eighteen Years, with the frequent recorded approbation of the Governors during the period that service was performed, will furnish, I trust, a sufficient reason to induce His Excellency to recommend to the Secretary of State that I should not be the first and only public officer, to whom during that period leave of absence has been granted, who should be excepted from the "regulations of H.M Government which directs that Public officers on leave of absence shall enjoy half their Salaries."

I have, &c.,

R. THEBEY.
SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch marked "Confidential," per ship Pinyard Park.)

My Lord, Government House, 19th December, 1847.

With reference to my public Despatch of this date, No. 248, reporting the terms on which leave of absence had been granted to Mr. Justice Therry, I now deem it my duty to bring under your Lordship's notice certain circumstances connected with his case, which appear to me to entitle him to the favorable consideration of Her Majesty's Government in deciding upon his claim to receive the additional allowance of £350 to make up the complement of his half salary during the period of his absence from the Colony.

In Your Lordship's Despatch, No. 85 of the 17th of January last, you observe that the compensation to the acting Judge must be deducted from Mr. Therry's Salary, unless the Legislative Council should make provision for his half salary. I have, however, deemed it proper to abstain from bringing the subject before the Legislative Council for the following reasons:

It is probably known to Your Lordship that Mr. Therry, whilst holding the Office of Attorney General during Mr. Plunkett's absence, occupied an Elective Seat in the Council. This occurred at the time when, during the Administration of my Predecessor, the collisions between the local Government and the Council were of a very frequent and violent character. I have strong reasons for believing that the energetic defence of Sir Geo. Gipps' policy and measures, which Mr. Therry afforded, acquired for him the personal hostility of the opposition Members of the Council, who took an active part in the Debate of that period. It would, therefore, have been alike hopeless in the result as unjust to Mr. Therry to have submitted his claim to the decision of a Tribunal personally hostile to him, more especially as there is a fund at the disposal of Her Majesty's Government, which can be made available for the purpose, viz., the Surplus on Schedule B; and I accordingly take the liberty of pointing out to Your Lordship the manner in which Mr. Justice Therry's claims to the benefit of the ordinary Regulations in cases of leave of absence may be met.

I have, &c,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 277, per ship Sydney.)

Sir, Downing Street, 20 December, 1847.

I have to acknowledge the receipt of your Despatch, No. 131 of the 25th June last, and to desire that you will convey
to Mr. Callaghan the expression of my thanks for the Copies, which have been forwarded to the Colonial Agent for the use of this Department, of the 2d Supplement to his Acts and Ordinances of the Governor and Council of New South Wales, and Acts of Parliament enacted for and applied to the Colony, with Notes and Index.

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 278, per ship Sydney.)

Sir, Downing Street, 20 December, 1847.

I have received your Despatch, No. 125 of the 25th June last, enclosing a pamphlet published in Sydney by Mr. R. Lowe, a Member of the Legislative Council, and entitled "The impending Crisis, An Address to the Colonists of New South Wales on the proposed Land Orders."

You will inform Mr. Lowe that I have read his remarks, but that I am unable to concur in the views he has expressed in regard to this question. The grounds upon which I have adopted an opposite opinion to his own on the subject will be found in my Dispatches relating to the system of Leasing Land in the Colony, which have all been printed, and to those Documents I should wish Mr. Lowe to be referred.

I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 249, per ship Pinyard Park; acknowledged by Earl Grey, 26th July, 1848, and 10th February, 1849.)

My Lord,

Government House, 20th December, 1847.

I do myself the honor to inform Your Lordship that, having laid before my Executive Council a letter from the Bishop of Australia recommending that leave of absence for two years with half salary be granted to the Reverend Dr. Steele, who has been about ten years engaged in the service of the Church of this Diocese, I have signified to His Lordship that the Council saw no reason why Dr. Steele should not obtain leave of absence on the terms proposed; but that the Regulations would not admit of its being granted by this Government for a longer period than eighteen months.

I have accordingly granted leave to Dr. Steele for eighteen months with half salary; and I beg to state that there will be no objection on the part of this Government to an extension of the term to two years, should Your Lordship be disposed to sanction it.

I have, &c.,

CHS. A. FITZ ROY,
SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 250, per ship Pinyard Park.)

My Lord,

Government House, 20th December, 1847.

I have the honor to report to Your Lordship that, as the Convicts remaining in New South Wales are, under your Lordship's instructions, about to be transferred to Van Diemen's Land, I have directed that the allowances hitherto paid to Clergymen from Convict funds, under the authority conveyed in Lord Glenelg's Despatch of the 12th May, 1836, No. 154, for the performance of religious duties to Convicts in remote Districts of the Colony, shall cease with the current year.

I have, &c.

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 253, per ship Pinyard Park.)

My Lord,

Government House, 21st December, 1847.

With reference to Your Lordship's Despatch, No. 137 of the 24th April, 1847, notifying me that the Ship "Joseph Somes" had been chartered for the conveyance to Port Phillip of 250 Male Exiles from the Milbank, Parkhurst and Pentonville Prisons, I have the honor to enclose copies of three letters, which reports re landed at Geelong.

It appears that, on the 29th September, five days after the arrival of the "Joseph Somes," not one of the Exiles remained on the hands of the Government, and that no death occurred during the Voyage out, although one of the men named John Little, shipped from Pentonville Prison, was landed at Hobart Town in declining health.

I have, &c.

CHS. A. FITZ ROY.

[Enclosures.]

[Copies of these letters, dated 27th September and 2nd and 11th October, 1847, will be found in a volume in series III.]

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 280, per ship Sydney.)

Sir,

Downing Street, 22d December, 1847.

In your predecessor's Despatch, No. 74 of the 31st March, 1846, were enclosed certain proposals by Mr. Merewether, the
Agent for Immigration at Sydney, for the purpose of being considered by the Land and Emigration Commissioners whenever any new Contracts might be entered into for the conveyance of Emigrants on bounty to New South Wales.

As the period for doing so has now recommenced, the Commissioners have informed me that they considered it might be satisfactory to you to receive some detailed explanation on the adoption or rejection of the said proposals. At their request, therefore, I now transmit to you a Copy of a paper prepared by them, wherein Mr. Merewether's suggestions are examined in the order in which they occur in the Memorandum sent home by Sir G. Gipps; and a Copy of which is now returned.

You will observe that several of those suggestions have been virtually adopted by the Commissioners, but that there are practical reasons why the others cannot be carried into effect.

I have, &c.,

[Enclosures.]

[Copies of these papers are not available.]

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 255, per ship Pinyard Park.)

My Lord,

Government House, 22d December, 1847.

I have the honor to acknowledge the receipt of Your Lordship's despatch, No. 187 of the 9th July, 1847, communicating to me Her Majesty's Gracious allowance of Conditional Pardons in favor of certain Convicts, who had been recommended for the same by my Despatch, No. 25 of the 30th January, 1847, and pointing out the proper form which should in future be observed under the provisions of the Act of Parliament, 6 Vict., c. 7, in submitting the names of individuals for this indulgence.

In reply, I deem it necessary to apprise Your Lordship that, in the course which I adopted, I strictly followed the precedent, which had been established by my Predecessors, and which had been invariably pursued ever since the passing of the Act in question, without any objection having been previously raised against it.

In my Despatch referred to, it was pointed out that the persons named in the List, which accompanied it, were recommended for the indulgence expressly noted on the face of it, and the List was as usual authenticated by the signature of the Colonial Secretary to this Government, being at the same time accompanied
by each of the original applications, with the Police History of
the applicant and my decision thereon, recorded in my own hand
and signed with my initials in token of my approval.

I was under the impression, therefore, that no more formal pro-
ceeding was necessary to carry out the intention of the Legis-
lature but, as Your Lordship appears to entertain a different
opinion and to consider that the course established by my prede-
cessor, and followed by myself, was incorrect, I will take care in
future that Lists of persons recommended for Pardons under the
Act referred to are duly authenticated by my own signature as
Governor of the Colony, who, under its provisions, is authorised
to submit them for Her Majesty's Gracious allowance.

In explanation of the large number of Convicts recommended
for Conditional Pardons by my Despatch, No. 25 of the 30th
January last, I would beg to point out that, in consequence of the
relaxation of the Convict Regulations reported by Sir Geo. Gipps' Despatch, No. 133 of 28th June, 1846, and approved by Your
Lordship in Your Despatch, No. 112 of 23d March, 1847, the
applications of Convicts for that indulgence have been much
more numerous since my assumption of this Government than
during the administration of my predecessor.

I would beg further to bring to Your Lordship's notice that,
in my Despatch, No. 25 of the 30th January last, I requested
to be furnished with authority to withhold a Conditional Pardon
from a Convict, who might have misconducted himself between
the date of the transmission to England of the recommendation
in his favor and the receipt in the Colony of an authority for his
Pardon.

It was intimated by Lord Stanley in his Despatch, No. 135 of
the 28 November, 1845, that this permission should in all future
cases be inserted in the Despatch conveying Her Majesty's Com-
mands for the issue of Conditional Pardons; but this reservation
has only been made in one instance, viz., by Mr. Gladstone in his
Despatch, No. 15 of 14th January, 1846, and no notice of my
request is taken in Your Lordship's Despatch now before me.

I have, &c.,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 256, per ship Pinyard Park.)

My Lord,
Government House, 23d December, 1847.

I have the honor to acknowledge the receipt of Your Lord-
ship's Despatch, No. 193 of the 23d July last, calling my atten-
tion to the instructions which were given to me by Your Lord-
ship's predecessor on the 28th March, 1846, for the remittance to
1847.
23 Dec.

Remittance for fees on commission as governor.

the Chief Clerk of the Colonial Department of the sum of £43 12s. 24d., being the amount of Fees payable upon my Commission as Governor of New South Wales, which it was not in the power of the Government to excuse, and desiring that the sum in question might be remitted as soon as may be practicable.

Having already, in my Despatch, No. 97 of the 27th April, 1847, forwarded through Your Lordship to Mr. Smith a Bill of Exchange drawn upon the Court of Directors of the Bank of Australasia for the amount above specified, I can only now renew my apologies for the delay which occurred, and the cause of which I therein explained.

I have, &c.,

CHS. A. FITZ ROY.

Despatch acknowledged.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 257, per ship Pinyard Park.)

My Lord,

Government House, 23d December, 1847.

I have the honor to acknowledge the receipt of Your Lordship's Circular Despatch of the 19th of April last, enclosing six Copies of the last Colonization Circular, which has been issued by the Commissioners of Colonial Lands and Emigration, and directing me 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 this Colony, and to return one of the copies in its amended state.

In compliance with Your Lordship's desire, I transmit herewith a Copy of the Circular in which the information, so far as it is applicable to this Colony, has been corrected and brought down to the latest period; but I beg to state that the Agent for Emigration has reported to me that, in pursuance of a request contained in a letter addressed to him by the Secretary to the Land and Emigration Commissioners, he has already forwarded to that Officer the requisite corrections in the same manner as he had done in preceding years.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[This circular was a small quarto pamphlet containing twenty-two pages.]

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 281, per ship Sydney.)

24 Dec.

Sir,

Downing Street, 24 December, 1847.

I have received your Despatch, marked Separate of the 29th of July last, transmitting an Address of condolence with
FITZ ROY TO GREY.

Lady Gipps on the death of Sir George Gipps from the District Council of Paramatta.

You will inform the Council from which that Address proceeded, that I have forwarded it to Lady Gipps, and that I received it with much satisfaction, as shewing that the eminent Services of Sir George Gipps, which he rendered to the Colony of New South Wales, while administering its Affairs with so much ability, are appreciated by so many of its most respectable Inhabitants.

I have, &c.,

Grey.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 258, per ship Pinyard Park.)

My Lord,

Government House, 24th December, 1847.

With reference to that portion of my despatch, No. 241 of the 16th instant advertising to the Act* passed during the last Session of the Legislative Council, intituled, "An Act to amend an act, intituled, 'An Act to amend and consolidate the Laws between Masters and Servants in New South Wales,'" I have the honor to enclose the copy of a letter which has been addressed to the Colonial Secretary of this Government by the Attorney General, transmitting for my information copies of Statements introduced by Boyd—made before him by the Masters and certain Passengers of two Colonial Vessels, respecting the Natives of the South Sea Islands recently brought into this Colony at the instance of Mr. Benjamin Boyd.

This investigation was instituted by the Attorney General in consequence of a rumour, which had obtained credit in Sydney, that those persons had been taken away from their native Islands against their will, which, however, has been proved to be incorrect; and I therefore forward these statements merely for Your Lordship's information, and as a proof of the great demand for labour in this Colony.

It is right that I should add that this speculation on the part of Mr. Boyd has turned out a complete failure, and is not likely to be followed by others of the same nature; and that Mr. Boyd is gradually removing these people from the Colony, not more than 50 or 60 of whom now remain.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[A copy of this letter is not available.]

* Marginal note.—11 Vict., No. 9.
120  

HISTORICAL RECORDS OF AUSTRALIA.

SIR CHARLES FITZ ROY to EARL GREY.
(Despatch No. 259, per ship Pinyard Park.)

My Lord,
Government House, 24th December, 1847.

I have the honor to acknowledge the receipt of Your Lordship's Despatch, No. 164 of the 4th June last, intimating that Your Lordship saw no reason to disapprove of the creation of the Water Police Court in Sydney, or of the arrangements which followed that measure, but referring me again to the remarks contained in Your Lordship's Despatch, No. 126 of the 13th of April last, in regard to the mode of dealing with Addresses from the Council, containing applications to me to originate Estimates for particular charges.

In reply, I beg to point out to Your Lordship that at the time I consented to place the sum of £400 on the Estimates for the establishment of the Water Police Court, I was not in possession of Your Lordship's instructions with respect to Addresses from the Council of this nature, which it will of course for the future be my duty to adhere to.

I have, &c.,

CHS. A. FITZ ROY.

26 Dec.

Despatch acknowledged.

SIR CHARLES FITZ ROY to EARL GREY.
(Despatch No. 260, per ship Pinyard Park.)

My Lord,
Government House, 26th December, 1847.

I have the honor to acknowledge the receipt of Your Lordship's Despatch, No. 201 of the 1st July last, signifying to me Her Majesty's pleasure respecting an Act and two reserved Bills of the second Session of the Legislature of this Colony for the year 1846.

While I trust I may be permitted to express my satisfaction at finding myself justified in the conviction that the Act No. 12 of that Session (the annual Appropriation Act) did not contain any appropriation by the Local Legislature of any part of the Civil List Fund, I venture to point out to Your Lordship that the grant in this Act of a sum of £1,000 "to cover an allowance to the Hon. Francis Scott, at the rate of £500 per annum for the years 1845 and 1846," merely placed this sum at the disposal of the Government for the payment of this Salary in the event of the reserved Bill No. 15, for the appointment of Mr. Scott as Agent for the Colony, receiving the Royal allowance. Her Majesty's assent having been withheld, of course no payment has been or will be made to Mr. Scott; and Your Lordship will perceive, on reference to the reply which I returned to the Address...
CHS. A. FITZ ROY.
[Enclosures.]

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

SIR CHARLES FITZ ROY TO EARL GREY.

(My Lord, Government House, 26th December, 1847.)

I do myself the honor to forward herewith a Memorial addressed to Your Lordship by Mr. John Dobie and three other Licensed occupants of Crown Lands on the Clarence River. I also forward a copy of the letter from Mr. Dobie in which the Memorial was transmitted to me.

Adverting to the claim in chapter I of Her Majesty’s Order in Council* of the 9th March, 1847, which places in the Settled Districts of the Colony all lands within the distance of two miles from either bank of the Clarence River from a point not less than fifty miles from the sea in a straight line, the Memorialists represent that under that provision considerable portions of their Runs, including their Homesteads, have been brought within the class of Settled lands, and that they are in consequence excluded.

* Note 7.
Request for modification of order-in-council.

Modification recommended.

Temporary suspension of sales of land.

in respect to such portions of their Runs, from the privileges of a Lease for a term of years, the right of preemption, and an allowance for improvements on the sale of the lands. In order to obtain for themselves these privileges, the Memorialists pray for an alteration of the Order in Council, limiting the settled lands on the banks of the Clarence to the navigable part of the River, and placing that portion of the now Settled lands, which lies above the head of the navigation, in the Class of Intermediate lands.

This request of the Memorialists I am not prepared to support; but I fully concur in the opinion expressed by my Executive Council in the Minute, of which I enclose a copy, that their case is one of considerable hardship in so far as they are precluded from receiving any allowance for their improvements in the event of their Homesteads being offered for sale. I beg, therefore, to submit to Your Lordship's favorable consideration the suggestion made by my Executive Council in the same Minute, that the Order in Council should be so modified as to give to the Memorialists and to any other persons similarly circumstanced the privilege of receiving the same allowance for improvements as will be made under the second and third conditions of the 18th Section of ch. II of that Order to such Lessees of Intermediate or unsettled lands, as may not avail themselves of their prescriptive right on the expiration of their leases.

Until favored with a reply from Your Lordship communicating the decision of Her Majesty's Government on this application, I shall withhold from sale all improved lands, which have been hitherto occupied under what may be termed Squattage tenure, but which are now brought within the class of Settled lands by the provisions of the Order in Council.

I have, &c.,

[Enclosures.] CHS. A. FITZ ROY.

[Copies of these papers are not available.]

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch marked "Military. No. 10," per ship Sir Edward Paget.)

Sir,

Downing Street, 27th of December, 1847.

I have to acknowledge the receipt of your despatch, No. 132, of the 26th of June last, reporting that you had called upon the Deputy Commissary General for New South Wales to defray from the Military Chest of that Colony the cost of the insertion in the Government Gazette of Reports of Soldiers, who had deserted from their Regiments; and I have to acquaint you that
FITZ ROY TO GREY.

I do not agree in the view which you have taken of this question, and that I feel it incumbent upon me to instruct you to relieve the Military Chest from the necessity of paying charges of that description.

I have, &c.,

Grey.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 262, per ship Pinyard Park; acknowledged by Earl Grey, 14th July, 1848.)

My Lord, Government House, 27th December, 1847.

In my Despatch of the 6th December instant, No. 238, reporting the measures taken by me respecting the Proclamation of New Counties with a view to their being brought within the class of "Intermediate" Lands under ch. I, s. 3 of Her Majesty's Order in Council of the 9th March, 1847, I enclosed amongst other Minutes of my Executive Council a Minute* adverting to applications† of similar purport from Messrs. Rutledge and Atkinson, two large landed proprietors in the neighbourhood of Port Fairy in the District of Port Phillip.

The first of two requests, made by these gentlemen in the applications referred to, is that a County should be proclaimed comprising the land in the neighbourhood of Port Fairy. This request will be satisfied by the Proclamation of the proposed County of "Villiers," should it be authorised by Her Majesty's Government.

The second request is that the Land, lying within the distance of Ten miles from the Town of Belfast at Port Fairy, may be declared a Settled District in the same manner as the land adjoining Portland and other Towns has been declared by the Order in Council of the 9th March, 1847. This matter being distinct from the New Counties question, and of great importance to the parties interested, I have thought it right to address Your Lordship separately upon it.

Considering their extensive purchases of Crown Lands in the neighbourhood of Belfast, my Executive Council have recorded their opinion that this request on the part of Messrs. Atkinson and Rutledge is a reasonable one and have advised that, pending the decision of Her Majesty's Government upon it, the land within the distance of Ten miles from Belfast shall be temporarily reserved from Lease, under the powers vested in the Governor by the ninth section of ch. II of the Order in Council. Concurring in my Council's views, I shall adopt their advice, and shall not for the present lease the lands in question.

* Marginal note.—Minutes of 29th Novr., 1847, concluding paragraph.
† Marginal note.—Papers 13 and 14 appended to Council proceedings enclosed in Despatch No. 238 of 6th Decr., 1847.
I enclose a Return showing the lands which have been sold by the Crown in the neighbourhood of Port Fairy, from which Your Lordship will perceive that Mr. Atkinson has bought 8,194 acres in that locality at a cost of £8,632, and Mr. Rutledge 6,367 acres at a cost of £6,367.

It is right that I should inform Your Lordship that the Town of Belfast is not a Government Township, but one that has been laid out by Mr. Atkinson upon part of his special Survey at Port Fairy.

Should Her Majesty's Government see fit to form a Settled District about Belfast, I trust that the adoption of some provision, such as that recommended in my Despatch of the 26th instant, No. 261, will secure to the present Licensed occupants of the Crown Lands, which will thus be brought within the Settled Class, an allowance, on the sale of the lands, for any improvements which they may have effected thereon.

I have, &c.,

CHS. A. FITZ ROY.

[A copy of this minute will be found in a volume in series II.]

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 263, per ship Pinyard Park: acknowledged by earl Grey, 14th July, 1848.)

My Lord,

Government House, 28th December, 1847.

In reference to my Despatch, No. 262 of the 27th instant, I now have the honor to transmit herewith a copy of a communication from the Superintendent of Port Phillip, in which he expresses his concurrence in the recommendation of my Executive Council that the land, lying within the distance of ten miles from the Town of Belfast, should be declared to come within the Class of Settled lands, and also suggests that the lands lying within the same distance from the neighbouring Government Township of Warnambool should in like manner be declared to come within the class of Settled lands. In illustration of this subject, I further have the honor to enclose herewith a Tracing showing the relative positions of the Townships of Belfast and Warnambool, and the Lands sold and measured for sale in that locality, previously to the publication of Her Majesty's Order in Council of the 9th of March, 1847, respecting the occupation of Crown Lands in this Colony. It is only further necessary for me to state that, concurring entirely with the Superintendent of Port Phillip in his opinion that it would be
FITZ ROY TO GREY.

Desirable to add the lands within ten miles from Warnambool to the Settled Districts; I shall reserve those lands from Lease until the receipt of your Lordship's decision on the subject. I have, &c.,

[Enclosure.]

CHS. A. FITZ ROY.

[A copy of this letter, dated 21st December, 1847, will be found in a volume in series III.]

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 264, per ship Pinyard Park; acknowledged by Earl Grey, 1st June, 1848.)

My Lord,

Government House, 28th December, 1847.

I have the honor to enclose a Copy of a letter which has been addressed to the Colonial Secretary of this Government by Lieutenant Colonel Barney, late of the Royal Engineers, applying for the usual Certificate to admit of his receiving the amount of remission in the purchase of land in this Colony as a retired Officer.

As, in accordance with the Regulations, this application should have been preferred within twelve months of the date of the permission granted to Colonel Barney for the sale of his Commission, namely, the 19th May, 1846, I called upon Colonel Barney to explain his reasons for the delay which has occurred, and a copy of his letter in explanation I have the honor to enclose.

I have informed Colonel Barney that, although I do not feel myself at liberty to sanction the remission upon my own authority, I would forward a copy of his application to Your Lordship; and that, under the circumstances detailed in his letter of the 6th ultimo, I would recommend it to Your Lordship's favorable consideration.

I also forward a copy of a letter, which I have received from the Ordnance Office containing a statement of Col. Barney's services.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosures.]

[Copies of these papers are not available.]

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 265, per ship Pinyard Park; acknowledged by Earl Grey, 28th July, 1848.)

My Lord,

Government House, 29th December, 1847.

I have the honor to forward to Your Lordship the copy of a letter from Mr. Riddell, the Colonial Treasurer,
recommending that a Pension equal to the full amount of his salary be allowed to Manuel del Prado, the Messenger attached to his Department, and also a Medical Certificate in respect to the state of health of this individual.

Del Prado is shown by Mr. Riddell to have been employed in the Public service of this Colony from the year 1824 up to the present time and, during this period, he has been employed as Messenger at the Colonial Treasury for nearly twenty years, receiving a Salary of 2s. 6d. a day since 1st November, 1832.

Although I cannot, under the Superannuation Act, accede to Mr. Riddell's request that Del Prado should be allowed a Pension equal to his full Salary, I beg to recommend for Your Lordship's favorable consideration that a Pension be granted to him of Is. 3d. a day, being half the amount of the pay which he was in receipt of.

I beg also to state to Your Lordship that, under the representation of Mr. Riddell that the individual in question is from the state of his health incapacitated for the performance of any duty, being bedridden, I have consented to allow, pending Your Lordship's decision, the pension at the above rate to be issued from the 10th October last and have sanctioned the appointment of another Messenger in his place.

The Pension, if granted, will of course form a charge on Schedule B of the Act of Parliament, 5 and 6 Vict., cap. 76.

I have, &c.

[Enclosure.]

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

Colonial Treasury,
Sydney, 9th November, 1847.

In reply to your letter of the 9th Ultimo, No. 241, calling for a Statement of the case of Manuel del Prado, late a Messenger in my Department, for transmission to England with the view of a Pension being allowed him.

I have the honor to state that, by reference to the Accounts kept in the Auditor General's Department, it is found that the name of Manuel del Prado is included in the Pay Abstract of the Sydney Police for the quarter ended the 30th September, 1824, and is continued on the Sydney Police Abstract to the 30th of November, 1825.

On the 1st of December, 1825, his name appears in Abstract as Constable stationed at the Colonial Treasury at Forty pounds per annum, and is continued to the 31st of December, 1826.

On the 1st of January, 1827, he was appointed Messenger to the Colonial Treasury, at two shillings and three pence per diem.

Thus, Sir, this individual has been upwards of Twenty three years in the Service of Government, and nearly Twenty two years attached to this Department. During the whole of this period, I am not aware that the slightest blemish can be attached to his character as a Servant of the public.
I have already sent you a Medical Certificate from Dr. Wallace, shewing his present state of health, and the origin of the complaint which deprives him of the use of his limbs, and I sincerely hope that His Excellency the Governor will be pleased to recommend this very deserving individual may be allowed to retire on full pay; but, if not, that such a Pension may be allowed to him as shall ensure him a certain degree of comfort and independence for the remainder of his life.

C. D. RIDDELL.

[Sub-enclosure.]

MEDICAL CERTIFICATE.

This is to certify that I have known Manuel del Prado, The Treasury Messenger, for Medical upwards of Fifteen years, during which period I have repeatedly attended him professionally. He is now and has been for many years past almost helpless and bedridden from a paralytic State of the lower extremities; and I have a distinct recollection that his illness in the first instance was mainly attributable to his constant exposure to cold in the open passage of the Old Treasury Office.

Sydney, 9th October, 1847. F. L. WALLACE, M.D.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 266, per ship Pinyard Park.)

My Lord, Government House, 29th December, 1847.

In pursuance of the Instructions contained in Your Lordship's Despatch, No. 130 of the 14th April last, that I would cause inquiry to be made respecting one John Heany, who went to Port Phillip in the year 1839 or 1840, I do myself the honor to state that I called on the Superintendent of that District for information on this matter, and that Mr. La Trobe has reported that he has caused what enquiry lay in his power to be made, and inserted an advertisement in the local Government Gazette, which was copied into the local Prints, requesting information respecting the present position and abode of Heany, but that as yet he has received no intelligence respecting him.

I have, &c.,
CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 267, per ship Pinyard Park.)

My Lord, Government House, 30th December, 1847.

I have had the honor to receive Your Lordship's Despatch, No. 136 of the 24th April, 1847, forwarding an application from Mrs. Alice Connors for information respecting the fate of Her Brother Charles O'Connors, who is stated to have emigrated to this Colony about the year 1823.

In reply, I have the honor to enclose the copy of a letter from Dr. Archibald Little, in whose service Charles O'Connors was
employed as a Stockman about eleven or twelve years ago, together with a copy of a letter from the Curator of Intestates' Estates, which contain all the information I have been able to obtain relative to the individual in question.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

MR. A. LITTLE TO COLONIAL SECRETARY THOMSON.

Sir,
Cressfield, Upper Hunter, 16th November, 1847.

I have the honor to acknowledge the receipt of your letter of the 23rd Sept. and also that of the 5th Inst., requesting information respecting the man named in the margin;* I believe he held a Conditional Pardon, and somewhere about 1835 or 1836 he was employed by my Brother and myself as a Stockman for one year, after which period he lived in a Hut upon Captn. Dumaresq's Estate up to the time of his death, which took place on the 12th Octr., 1843.

I find, upon consulting the Records of the Bench of Magistrates at Scone, that his death took place under rather peculiar circumstances, which induced the then Police Magistrate and Coroner of the District, J. A. Robertson, Esq., to hold an inquest upon the body, when it came out in evidence that the poor man had become insane a short time before his death and had inflicted or accidentally received some external injuries.

A Post mortem examination was made by Dr. Haig, who states in his depositions that he found various appearances of disease in the Brain, which fully accounted for his death, and the enquiry terminated by a decision that he had died from natural causes.

A letter appears to have been written on the 15th Oct., '43, by Mr. Robertson to the Registrar of the Supreme Court, enquiring what was to be done with the Property left by the deceased which consisted of a few head of Cattle and Horses. A sale seems to have taken place, and a balance of £15 10s. 6d. paid to the Master in Equity, from whom there is a letter upon the subject, dated 28th Nov., 1843, and acknowledging the receipt of the above sum from Mr. Robertson. I have no means of ascertaining here whether there is any balance remaining in the Master's hands after defraying funeral charges and paying sundry small debts.

I have, &c.,

ARCHD. LITTLE.

[Enclosure No. 2.]

MR. S. F. MILFORD TO COLONIAL SECRETARY THOMSON.

Sir,
Supreme Court, Sydney, 6th Decr., 1847.

In answer to your letter requesting a report as to the disposal of the property of Charles Connor deceased, intestate, received by me, I beg leave to enclose a copy of the Account kept in this office relating to that Estate.

I have, &c.,

SAML. FREDK. MILFORD,
Curator of Intestate Estates.

* Marginal note.—Charles O'Connors.
### Statement of Accounts

**Statement of Accounts in the Estate of C. O'Connors.**

<table>
<thead>
<tr>
<th>Date</th>
<th>Entry</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oct. 19</td>
<td>To paid postage of letter from Scone reporting death of C. O'Connors</td>
<td>£ 0.00</td>
</tr>
<tr>
<td></td>
<td>To paid do. Same enclosing Affidavit</td>
<td>£ 0.00</td>
</tr>
<tr>
<td></td>
<td>To paid do. From Scone</td>
<td>£ 0.00</td>
</tr>
<tr>
<td>Nov. 15</td>
<td>To paid do. From Union Bank, Sydney</td>
<td>£ 0.00</td>
</tr>
<tr>
<td></td>
<td>To paid do. Same enclosing Affidavit</td>
<td>£ 0.00</td>
</tr>
<tr>
<td></td>
<td>To paid for order of Court dated 30th Oct., 1843</td>
<td>£ 0.00</td>
</tr>
<tr>
<td></td>
<td>To paid Master's Comm. @ 5% per cent. on £23 13s. 6d.</td>
<td>£ 0.00</td>
</tr>
<tr>
<td></td>
<td>To paid Corrie for Funeral Expenses, etc.</td>
<td>£ 0.00</td>
</tr>
<tr>
<td></td>
<td>To paid Auctioneer's Comm. @ 5% per cent. on £23 13s. 6d.</td>
<td>£ 0.00</td>
</tr>
<tr>
<td></td>
<td>To paid postage of letter to Scone, with Enclosures</td>
<td>£ 0.00</td>
</tr>
<tr>
<td></td>
<td>Balance to credit of new Act.</td>
<td>£ 23.13</td>
</tr>
<tr>
<td>Feb. 13</td>
<td>To paid into Savings Bank</td>
<td>£ 12.84</td>
</tr>
<tr>
<td>March 1</td>
<td>To paid W. C. Burrows under a Judge's Order</td>
<td>£ 3.10</td>
</tr>
<tr>
<td>July 30</td>
<td>To paid fee for Judge's Order to pay money</td>
<td>£ 0.50</td>
</tr>
<tr>
<td></td>
<td>To paid Dividend of 3/6 in the x to the following, viz.</td>
<td>£ 9.24</td>
</tr>
<tr>
<td></td>
<td>Coxe on claim of £23 13s. 6d.</td>
<td>£ 0.03</td>
</tr>
<tr>
<td></td>
<td>Fullen 20 10s. 6d.</td>
<td>£ 0.50</td>
</tr>
<tr>
<td></td>
<td>Bancroft 3 11s. 6d.</td>
<td>£ 0.05</td>
</tr>
<tr>
<td></td>
<td>Gray 3 13s. 6d.</td>
<td>£ 0.13</td>
</tr>
<tr>
<td></td>
<td>Northev 3 10s. 5d.</td>
<td>£ 0.13</td>
</tr>
<tr>
<td></td>
<td>Burrows 1 0s. 7d.</td>
<td>£ 0.02</td>
</tr>
</tbody>
</table>

**By Cash received from J. A. Robertson, Esq., Police Magistrate, Scone, as amount of proceeds of sale of effects of deceased**

<table>
<thead>
<tr>
<th>Date</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nov. 15</td>
<td>£ 23.13</td>
</tr>
<tr>
<td>Jan. 30</td>
<td>£ 12.84</td>
</tr>
<tr>
<td>July 30</td>
<td>£ 9.74</td>
</tr>
</tbody>
</table>

**By Balance brought down**

<table>
<thead>
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<th>Date</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Feb. 13</td>
<td>£ 12.84</td>
</tr>
<tr>
<td>July 30</td>
<td>£ 9.74</td>
</tr>
</tbody>
</table>

**By amount drawn out of Savings Bank**

<table>
<thead>
<tr>
<th>Date</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Feb. 20</td>
<td>£ 3.10</td>
</tr>
</tbody>
</table>

**By amount of my draft on Savings Bank for distribution of dividend of 3/6 in the Pound to 6 creditors**

<table>
<thead>
<tr>
<th>Date</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 30</td>
<td>£ 9.74</td>
</tr>
</tbody>
</table>
My Lord,

Government House, 31st December, 1847.

I have had the honor to receive your Lordship's Despatch, No. 162 of the 3d June, 1847, directing me to acquaint Mr. Dunlop that his services as Superintendent of the Observatory at Parramatta would not be required after the 31st March, 1848.

Having, already, in my Despatch, No. 176 of 30th August last, reported the resignation of Mr. Dunlop, it only remains for me to add that I have given directions for carrying into effect Your Lordship's instructions respecting the breaking up of the establishment of the Meteorological Records when the persons employed shall cease to be Convicts.

I have, &c.,

CHS. A. FITZ ROY.

---

My Lord,

Government House, 31st December, 1847.

With reference to my Despatch, No. 270 of 21st October last, reporting that Dr. Leichhardt had been compelled to return to Sydney, but that it was his intention to make another attempt to reach Swan River over land, as soon as the necessary arrangements could be made,

I have the honor to inform Your Lordship that Dr. Leichhardt waited upon me about a month past for the purpose of requesting that I would authorize him to hold out to the persons, who might accompany him, a hope that, in the event of their accomplishing the object of the Expedition, some pecuniary gratuity would be awarded to them by the Government on their return to Sydney; but, as I considered that a compliance with this request might render the Government in a certain degree liable for the safety of the persons who might be thereby tempted to join the Expedition, I declined to accede to it.

I have, however, authorized the grant to Dr. Leichhardt of 30 Bullocks from the Government Herd at Moreton Bay in aid of his Expedition, there having as yet been no eligible opportunity of disposing of the Cattle comprising it, and the value not being more than from sixteen shillings to a pound a head.

I have, &c.,

CHS. A. FITZ ROY.

* Note 11.
**Despatches Omitted.**

The following despatches, written in the year 1818, have been omitted:—

<table>
<thead>
<tr>
<th>Dated</th>
<th>Despatches numbered</th>
<th>Transmitting</th>
</tr>
</thead>
<tbody>
<tr>
<td>20th January</td>
<td>11</td>
<td>authority for absolute pardon for</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Anne Greenfield, late Monnick.</td>
</tr>
<tr>
<td>21st January</td>
<td>13</td>
<td>approval of one hundred and fifty-four conditional pardons.</td>
</tr>
<tr>
<td>29th January</td>
<td>15</td>
<td>report re property of John Tawell, executed for murder, to widow and family.</td>
</tr>
<tr>
<td>5th February</td>
<td>18</td>
<td>request for report re property of James Patterson, transport.</td>
</tr>
<tr>
<td>10th February</td>
<td>23</td>
<td>do re Thomas Turner, &quot;exile.&quot;</td>
</tr>
<tr>
<td>25th February</td>
<td>32</td>
<td>do re Joseph Stride, expiree.</td>
</tr>
<tr>
<td>29th February</td>
<td>36</td>
<td>authority for conditional pardons for two hundred and seventy convicts.</td>
</tr>
<tr>
<td>10th March</td>
<td>41</td>
<td>do for absolute pardon for Bernard Murray.</td>
</tr>
<tr>
<td>16th March</td>
<td>47</td>
<td>instructions for report re George Green, convict.</td>
</tr>
<tr>
<td>17th March</td>
<td>48</td>
<td>refusal of further indulgence for H. Rudge, convict.</td>
</tr>
<tr>
<td>24th March</td>
<td>50</td>
<td>authority for free pardon for John Edwards.</td>
</tr>
<tr>
<td>28th March</td>
<td>60</td>
<td>instructions for report re Elizabeth Parker, convict.</td>
</tr>
<tr>
<td>28th March</td>
<td>62</td>
<td>authority for conditional pardons for three convicts.</td>
</tr>
<tr>
<td>4th April</td>
<td>63</td>
<td>do for absolute pardon for John Lane.</td>
</tr>
<tr>
<td>13th April</td>
<td>67</td>
<td>do for report re John Clarke, convict.</td>
</tr>
<tr>
<td>21st April</td>
<td>78</td>
<td>approval of one hundred and ninety-seven conditional pardons.</td>
</tr>
<tr>
<td>29th April</td>
<td>74</td>
<td>do for one hundred and seventy-nine conditional pardons.</td>
</tr>
<tr>
<td>12th May</td>
<td>76</td>
<td>refusal of free passage for sons of Catherine Harrifin, expiree.</td>
</tr>
<tr>
<td>20th May</td>
<td>86</td>
<td>request for report re John Bottom, expiree.</td>
</tr>
<tr>
<td>30th June</td>
<td>105</td>
<td>do re property left by William Russell, transport.</td>
</tr>
<tr>
<td>30th June</td>
<td>104</td>
<td>approval of three hundred and sixty-one conditional pardons.</td>
</tr>
<tr>
<td>17th July</td>
<td>117</td>
<td>do for one hundred and twenty-eight conditional pardons.</td>
</tr>
<tr>
<td>23rd July</td>
<td>116</td>
<td>report re non-discovery of property of —, Tracey, convict.</td>
</tr>
<tr>
<td>24th July</td>
<td>120</td>
<td>approval of gratuity for Noel Pratten, convict.</td>
</tr>
<tr>
<td>27th July</td>
<td>127</td>
<td>do for three hundred and two conditional pardons.</td>
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<tr>
<td>29th July</td>
<td>130</td>
<td>request for report re William Barker, convict.</td>
</tr>
<tr>
<td>12th August</td>
<td>139</td>
<td>authority for conditional pardon for Elizabeth Wood.</td>
</tr>
<tr>
<td>17th August</td>
<td>145</td>
<td>approval of seventy-nine conditional pardons.</td>
</tr>
<tr>
<td>16th September</td>
<td>162</td>
<td>authority for conditional pardon for George Steale, convict.</td>
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<tr>
<td>18th September</td>
<td>164</td>
<td>do for remission in purchase of land for James Cox, emancipist.</td>
</tr>
<tr>
<td>21st September</td>
<td>168</td>
<td>request for report re John Varnham, convict.</td>
</tr>
<tr>
<td>25th September</td>
<td>171</td>
<td>do re property left by Peter FitzGibbon, convict.</td>
</tr>
<tr>
<td>16th October</td>
<td>177</td>
<td>approval of eighty-eight conditional pardons.</td>
</tr>
<tr>
<td>31st October</td>
<td>185</td>
<td>request for report re Archibald Bolam, convict.</td>
</tr>
<tr>
<td>2nd November</td>
<td>187</td>
<td>do re James Ellis, convict.</td>
</tr>
<tr>
<td>3rd November</td>
<td>188</td>
<td>approval of seventy-eight conditional pardons.</td>
</tr>
<tr>
<td>24th November</td>
<td>200</td>
<td>request re passages granted to wife and daughter of Thomas Coffee.</td>
</tr>
<tr>
<td>28th November</td>
<td>208</td>
<td>approval of one hundred conditional pardons.</td>
</tr>
<tr>
<td>30th November</td>
<td>212</td>
<td>papers re maintenance of wives and families of convicts, sent to colony.</td>
</tr>
<tr>
<td>4th December</td>
<td>214</td>
<td>assignment list for two hundred and thirty-six convicts per ship Harbans.</td>
</tr>
<tr>
<td>12th December</td>
<td>218</td>
<td>refusal of absolute pardon for Patrick Clifford.</td>
</tr>
<tr>
<td>19th December</td>
<td>222</td>
<td>report re free passage granted to Bridget Finnimore and children as family of convict.</td>
</tr>
<tr>
<td>22nd December</td>
<td>226</td>
<td>do re Mary Mannon and children.</td>
</tr>
<tr>
<td>24th December</td>
<td>230</td>
<td>approval of free passages for families of John Brown and Michael Smith, emancipists.</td>
</tr>
</tbody>
</table>

*Note 12.
The following despatches, written in the year 1848, have been omitted:

<table>
<thead>
<tr>
<th>Dated</th>
<th>Despatches numbered</th>
<th>Transmitting</th>
</tr>
</thead>
<tbody>
<tr>
<td>10th January</td>
<td>8 applications for passages for families of convicts.</td>
<td></td>
</tr>
<tr>
<td>10th January</td>
<td>9 report re application of Bridget Finnimore for passage to join emancipist husband.</td>
<td></td>
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<tr>
<td>23rd January</td>
<td>23 recommendations for one hundred and twenty-eight pardons.</td>
<td></td>
</tr>
<tr>
<td>24th January</td>
<td>24 report re Henry Phanton, convict.</td>
<td></td>
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<tr>
<td>26th January</td>
<td>36 half-yearly return of steamboats.</td>
<td></td>
</tr>
<tr>
<td>15th February</td>
<td>38 list of persons to whom permission had been granted to import foreign labourers.</td>
<td></td>
</tr>
<tr>
<td>17th February</td>
<td>40 report re Patrick Sheehan, convict.</td>
<td></td>
</tr>
<tr>
<td>19th February</td>
<td>42 do re Daniel Wright, &quot;exile.&quot;</td>
<td></td>
</tr>
<tr>
<td>30th February</td>
<td>43 do re claim to property of Patrick McArdle, convict.</td>
<td></td>
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<tr>
<td>23rd February</td>
<td>46 do re Woodley Boddy, convict.</td>
<td></td>
</tr>
<tr>
<td>29th February</td>
<td>53 recommendations for seventy-two pardons.</td>
<td></td>
</tr>
<tr>
<td>29th February</td>
<td>54 do for passages for families of convicts.</td>
<td></td>
</tr>
<tr>
<td>31st March</td>
<td>55 quarterly return of wages, price of food, etc.</td>
<td></td>
</tr>
<tr>
<td>24th March</td>
<td>66 convict returns for year 1847.</td>
<td></td>
</tr>
<tr>
<td>25th March</td>
<td>69 report re proposed free passages for James Cox and Bryan Rowen, transportees.</td>
<td></td>
</tr>
<tr>
<td>29th March</td>
<td>74 applications for passages for families of convicts.</td>
<td></td>
</tr>
<tr>
<td>30th March</td>
<td>77 list of persons to whom permission had been granted to import foreign labourers.</td>
<td></td>
</tr>
<tr>
<td>29th April</td>
<td>98 recommendations for seventy-eight pardons.</td>
<td></td>
</tr>
<tr>
<td>2nd May</td>
<td>102 reply to inquiry re Patrick Sheehan, convict.</td>
<td></td>
</tr>
<tr>
<td>3rd May</td>
<td>103 list of persons to whom permission had been granted to import foreign labourers.</td>
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<tr>
<td>8th May</td>
<td>108 quarterly return of wages, price of food, etc.</td>
<td></td>
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<tr>
<td>9th May</td>
<td>109 report re Thomas Coffee, expire.</td>
<td></td>
</tr>
<tr>
<td>18th May</td>
<td>118 recommendations for one hundred and five pardons.</td>
<td></td>
</tr>
<tr>
<td>19th May</td>
<td>119 quarterly schedule of appointments and special payments by dep. commissary-general.</td>
<td></td>
</tr>
<tr>
<td>21st May</td>
<td>121 rules of court.</td>
<td></td>
</tr>
<tr>
<td>23rd May</td>
<td>122 applications for passages for families of convicts.</td>
<td></td>
</tr>
<tr>
<td>26th May</td>
<td>123 report re Charles Ashby, convict.</td>
<td></td>
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<tr>
<td>5th June</td>
<td>136 do re free pardon proposed for George Smith.</td>
<td></td>
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<tr>
<td>11th June</td>
<td>135 reasons for recommendation of Patrick Clifford for absolute pardon.</td>
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<tr>
<td>23rd June</td>
<td>141 report re William Stretch, convict.</td>
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<tr>
<td>24th June</td>
<td>147 recommendations for eighty-seven pardons.</td>
<td></td>
</tr>
<tr>
<td>25th July</td>
<td>148 applications for passages for families of convicts.</td>
<td></td>
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<tr>
<td>26th July</td>
<td>163 do do do</td>
<td></td>
</tr>
<tr>
<td>27th July</td>
<td>164 recommendations for eighty-eight pardons.</td>
<td></td>
</tr>
<tr>
<td>28th July</td>
<td>167 list of persons to whom permission had been granted to import foreign labourers.</td>
<td></td>
</tr>
<tr>
<td>4th August</td>
<td>174 half-yearly return of steamboats.</td>
<td></td>
</tr>
<tr>
<td>14th August</td>
<td>183 quarterly schedule of appointments and special payments by dep. commissary-general.</td>
<td></td>
</tr>
<tr>
<td>15th August</td>
<td>184 copies of Votes and Proceedings of legislative council.</td>
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<tr>
<td>16th August</td>
<td>185 applications for passages for families of convicts.</td>
<td></td>
</tr>
<tr>
<td>17th August</td>
<td>186 recommendations for ninety-one conditional pardons.</td>
<td></td>
</tr>
<tr>
<td>21st August</td>
<td>190 report re inability to forward copy of pardon of Richard Kilman.</td>
<td></td>
</tr>
<tr>
<td>23rd August</td>
<td>193 report re Richard Godfrey, convict.</td>
<td></td>
</tr>
<tr>
<td>24th August</td>
<td>194 do re Samuel Dow, convict.</td>
<td></td>
</tr>
<tr>
<td>25th August</td>
<td>195 do re Joseph Stride, convict.</td>
<td></td>
</tr>
<tr>
<td>26th August</td>
<td>196 do re Elizabeth Parker, convict.</td>
<td></td>
</tr>
<tr>
<td>28th August</td>
<td>197 do re George Green, convict.</td>
<td></td>
</tr>
<tr>
<td>29th August</td>
<td>199 quarterly return of wages, price of food, etc.</td>
<td></td>
</tr>
<tr>
<td>15th September</td>
<td>202 applications for seventy-one conditional pardons.</td>
<td></td>
</tr>
<tr>
<td>20th September</td>
<td>203 report re grant of absolute pardon to John Lane.</td>
<td></td>
</tr>
<tr>
<td>24th September</td>
<td>207 do re Charles Ashby, convict.</td>
<td></td>
</tr>
<tr>
<td>25th September</td>
<td>208 do do do</td>
<td></td>
</tr>
<tr>
<td>26th September</td>
<td>209 report re withholding of conditional pardon from Joseph Denby.</td>
<td></td>
</tr>
<tr>
<td>29th September</td>
<td>214 estimate for repairs to convict buildings.</td>
<td></td>
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</tbody>
</table>

*Note 12.
The following despatches, written in the year 1848, have been omitted—continued.

<table>
<thead>
<tr>
<th>Date</th>
<th>Numbered</th>
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</tr>
</thead>
<tbody>
<tr>
<td>30th September</td>
<td>216</td>
<td>report re Thomas Turner, &quot;exile.&quot;</td>
</tr>
<tr>
<td>12th October</td>
<td>222</td>
<td>quarterly schedule of appointments and special payments by dep. commissary-general.</td>
</tr>
<tr>
<td>13th October</td>
<td>228</td>
<td>rule of court for district of Port Phillip.</td>
</tr>
<tr>
<td>23rd October</td>
<td>230</td>
<td>applications for passages for families of convicts.</td>
</tr>
<tr>
<td>24th October</td>
<td>234</td>
<td>do for seventy-six conditional pardons.</td>
</tr>
<tr>
<td>25th October</td>
<td>236</td>
<td>certificate of death of William Stretch or Johnstone, convict.</td>
</tr>
<tr>
<td>17th November</td>
<td>245</td>
<td>applications for seventy-three conditional pardons.</td>
</tr>
<tr>
<td>18th November</td>
<td>246</td>
<td>recommendation of absolute pardon for George Brown.</td>
</tr>
<tr>
<td>20th November</td>
<td>247</td>
<td>applications for passages for families of convicts.</td>
</tr>
<tr>
<td>25th November</td>
<td>252</td>
<td>report re James Patterson, convict.</td>
</tr>
<tr>
<td>25th November</td>
<td>254</td>
<td>do re John Clarke, convict.</td>
</tr>
<tr>
<td>11th December</td>
<td>264</td>
<td>quarterly return of wages, price of food, etc.</td>
</tr>
<tr>
<td>14th December</td>
<td>267</td>
<td>rule of court for district of Port Phillip.</td>
</tr>
<tr>
<td>15th December</td>
<td>268</td>
<td>applications for passages for families of convicts.</td>
</tr>
<tr>
<td>16th December</td>
<td>269</td>
<td>do for one hundred and seventeen conditional pardons.</td>
</tr>
<tr>
<td>22nd December</td>
<td>275</td>
<td>report re Richard Godfrey, convict.</td>
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<tr>
<td>23rd December</td>
<td>276</td>
<td>do re John Bolton, convict.</td>
</tr>
<tr>
<td>23rd December</td>
<td>277</td>
<td>do re Angus Ben Kennedy, convict.</td>
</tr>
</tbody>
</table>

**EARL GREY TO SIR CHARLES FITZ ROY.**

(Despatch No. 1, per ship Sir Edward Paget.)

Sir,

Downing Street, 1 January, 1848.

I have to acknowledge the receipt of your Despatch No. 102 of the 12th of May last, enclosing a Memorial from Mr. W. Brooks, in which he renewed his claim to an additional Grant of Land in New South Wales.

You will inform the Memorialist that I have attentively considered the statement set forth in this Petition, but that I regret that I am unable to discover in it any grounds for altering the decision conveyed to Sir George Gipps in my Predecessor's Despatch of the 12th February, 1844.

I have, &c.,

GREY.

**EARL GREY TO SIR CHARLES FITZ ROY.**

(Despatch No. 2, per ship Sir Edward Paget.)

Sir,

Downing Street, 1 January, 1848.

I have to acknowledge the receipt of your Despatch No. 106 of the 16th May last, together with the report which accompanied it from the Port Officer of Van Diemen's Land relating to the Lighthouse proposed to be erected on King's Island, and recommending that no steps should be taken by the local Government for its erection, until the opinion of the Board of Admiralty should have been made known respecting the objections which have been raised in the Colony on the subject.
I have accordingly caused copies of your Despatch and its enclosures to be sent to the Lords Commissioners of the Admiralty; and I now transmit for your information and guidance a Copy of their reply. From this, it will be seen that, although the views formerly expressed by their Lordships in regard to the selection of King's Island, as the site of the Lighthouse, remains unaltered, yet that, for the reasons stated in their Letter, they will no longer press their former objections to such a Site.

I have, &c.,

GREY.

[Enclosure.]

MR. H. G. WARD TO UNDER SECRETARY MERIVALE.*

Sir, Admiralty, 13th December, 1847.

Having laid before My Lords Commissioners of the Admiralty your letter of the 26th Ultimo, transmitting a Copy of a Despatch from the Governor of New South Wales, accompanied by a Report from the Port Officer of Van Dieman's Land, upon the subject of the Light House, proposed to be erected on King's Island, and recommending that no step be taken by the Colonial Government in this matter until the opinion of the Board of Admiralty is made known with respect to the objections which have been raised; I am commanded by their Lordships to acquaint you, for the information of Earl Grey, that a similar statement was forwarded to this Department in Mr. Stephen's letter of the 20th July, 1846, and again on the 11th of May last; but the answer returned to both was to the effect that the opinion of My Lords as to the propriety of having a Light on the North point of King's Island was unchanged; but, as the Light House on Cape Otway is in progress, and as it will be a much more essential guide to the entrance of Bass' Straits than the disputed Light on King's Island, and as there appears to be a decided reluctance to proceed with the latter, My Lords will abstain from pressing their objections any further, and have only to express their hope that the experiment may succeed. To place the Light on New Years Island would be in every way injudicious. The Harbinger Rock would be a better position; but that was not proposed, on account of the difficulty in that Country of constructing a building on such a very narrow basis, and over which the sea breaks.

I have, &c.,

H. G. WARD.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 3, per ship Sir Edward Paget.)

Sir,

Downing Street, 1 January, 1848.

I have to acknowledge your Despatch of the 23d July, 1847, enclosing a Letter to you from Sir Alfred Stephen, Chief Justice of the Colony of New South Wales, respecting the case of the prisoner, Francis Morley. It appears that this Prisoner was convicted for Murder at a Criminal Session; but that the sentence of death passed upon him has been

* Note 13.
commuted to Transportation for life in consequence of certain doubts entertained on the Bench. It appears from the proceedings at the Trial and before the Supreme Court, of which your Despatch also covers a Copy, that Mr. Justice Therry had reserved for the opinion of the Supreme Court a point arising out of a supposed variance between the Indictment and the Evidence; and that, on the question being argued before the Supreme Court, the Chief Justice concurred with Mr. Justice Therry, but Mr. Justice Dickenson entertained a different view of the Law. Under these circumstances, the Chief Justice on behalf of the Court suggests that reference might be made (if I saw no objection) to the Judges, and, if such reference should in my opinion be impracticable or inexpedient, begs the favour of my obtaining for the guidance of the Court the opinions of the Law Officers of The Crown.

You will communicate to the Judges that I have fully considered the request which they have thus preferred. I am not aware of any manner in which the opinion of the Judges of the Superior Courts here could be taken on this question. It is true that, by 3 and 4th Wm. IV, C. 41, Sec. 4, reference as they desire might, probably, be made to the Judicial Committee of the Privy Council. But, after giving my best consideration to the subject, I am disposed to think that it would be inexpedient to take the opinion either of that Body, or of the Law Advisers on the present question. I think that references of this kind should be rare, and that they are scarcely advisable, for reasons which you and the Judges will easily appreciate, unless in cases where it is desired to obtain some decision applicable to many cases, or some general rule which may serve to promote the very useful object of keeping the practice of the Courts of our Colonies in which English Law prevails in accordance with that of the Mother Country. But the point involved in the present case does not seem to me of such a nature. It appears rather to be an insulated question, such as is constantly occurring in Criminal jurisprudence, and on which the opinions of the Judges at home are frequently divided, as indeed appears to be the case in this instance. Possibly it may not arise again. Should it arise in England, it will probably receive final decision; and the report of that decision will furnish the Judges with the guidance for which they ask. In the meantime, I have every confidence in the ability of the Judges of the Supreme Court to administer the Law, and by no means expect that their learning and experience will guarantee them from occasional differences of opinion, any more than their brethren in the Courts of the Mother Country.
HISTORICAL RECORDS OF AUSTRALIA.

1848.

1 Jan.

I have felt it my duty thus to explain, somewhat at length, my reasons for declining to accede to a request proceeding from a body to whose suggestions I am, at all times, anxious to pay serious attention.

I have, &c,

GREY.

2 Jan.

Despatch acknowledged.

Decisions in case of P. Stewart.

EARL GREY TO SIR CHARLES FITZROY.

(Despatch No. 4, per ship Sir Edward Paget.)

Sir, Downing Street, 2 January, 1848.

A Copy of your Despatch No. 116 of the 26th of May last, together with the Minutes, which accompanied it, of the proceedings of the Executive Council in regard to the suspension of Mr. P. Stewart, 2d Clerk in the Customs Department at Sydney, and other correspondence, were transmitted by my desire for the consideration of the Lords Commissioners of the Treasury.

I now transmit for your information and guidance a Copy of their Lordships' reply, with Copies of a Report from the Commissioners of Customs and of its enclosures on this subject. It will there be seen that the charges of dissipation and immorality preferred against Mr. Stewart are not considered to have been satisfactorily established; that the period, during which he was suspended from Office with loss of Salary, has been thought a sufficient punishment for his misconduct in absenting himself from his duties; and that the Lords of the Treasury approve of the course which was adopted by the Commissioners (since your Despatch was written) in their having directed Mr. Stewart to proceed to Melbourne, for the purpose of assuming the duties of 1st Clerk to the Collector in that Town, to which Appointment it appears he had been previously nominated.

I have, &c,

GREY.

[Enclosure.]

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

Sir,

Treasury Chambers, 21st December, 1847.

With reference to the Despatch from the Governor of New South Wales and other Documents relating to the suspension of Mr. Peter Stewart, Second Clerk in the Customs Department at Sydney, forwarded to this Board in Your letter of the 26th Ultimo, I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit to you the enclosed copy of a Report from the Commissioners of Customs, dated the 9th Instant, together with copies of Statements from the Reverend Doctors Fullarton and McGarvie, relating to that subject; and I am to request that you will lay the same before Earl Grey and state to his Lordship that my Lords have not seen reason for dissenting
from the suggestion of the Commissioners in regard to the opinion expressed by the Executive Council as to the sufficiency of Mr. Stewart's punishment for the breach of regulation of which he had been guilty, or respecting his being permitted to resume the duties of the Office, to which he had been nominated at Melbourne. I am at the same time to request that you will observe to Lord Grey that the adoption of the alternative suggested by Governor Sir C. Fitzroy, upon such grounds as are adverted to in his Despatch, would obviously be most objectionable.

I am, &c.,

C. E. Trevelyan.

[Sub-enclosure No. 1.]

Report by Commissioners of Customs.

May it please Your Lordships,

Your Lordships having referred to Us the annexed letter from Mr. Merivale, transmitting by desire of Earl Grey a copy of a Despatch from the Governor of New South Wales, accompanied by the minutes of the proceedings of the Executive Council, in regard to the suspension of Mr. Peter Stewart, second clerk in the Customs Department at Sydney, together with copies of the correspondence to which those Minutes relate;

We report:—

That, having had under consideration the Papers that accompanied Mr. Merivale's letter, We beg leave to express our concurrence in the opinion of the Executive Council of New South Wales that suspension of office from the 1st March to the 27th April, 1847, with loss of Salary, will be a sufficient punishment for the misconduct of which Mr. Stewart had been guilty in having irregularly absented himself from his duty upon the occasion in question; and We also concur in opinion with the Executive Council that under the circumstances it is not desirable that Mr. Stewart should be again employed at Sydney. With reference however to that part of the annexed Despatch of the Governor of New South Wales, wherein His Excellence observes that, from what came out in evidence before the Council, it would appear that Mr. Stewart, at no time a very efficient Officer, had latterly given himself to such dissipated habits as would render his employment anywhere unadvisable; but, as he had served for many years in the Customs Department, H.E. suggests that it might be more beneficial for the Public Service, if he were permitted, to retire from it, upon such allowance as he would be entitled to if he had retired under other circumstances.

It may be proper to state that shortly after Your Lordships had been pleased in the year 1845 to approve of the proposition contained in our Report of the 31st December, 1844, No. 1,896, and to nominate Mr. Peter Stewart (who at that time held the office of Second Clerk to the Collector at Sydney) to fill the situation of First Clerk to the Collector at Melbourne, Port Phillip, We received a communication from the Collector of this Revenue at Sydney, New South Wales, dated 5th January, 1846, copy of which is annexed to the Appendix, Folio 35, preferring charges of dissipation and various acts of immorality against Mr. Stewart, and transmitting among other documents in support of his accusation against Mr. Stewart, statements from the Revd. Doctors Fullarton and McGarvie, of Sydney, dated the 28th and 31st of December, 1844, copies of which are also annexed to the Appendix, Folios 49, 50 and 51.

That, upon a careful consideration of this communication, We caused copies of all the Papers to be transmitted to Mr. Barnes, Collector of Van Diemen's Land, who had been directed by Us to proceed upon special service to New South Wales for his enquiry and report, and we directed him to exercise his discretion in withholding or delivering to Mr. Stewart his appointment papers, should the result of the enquiry into his (Mr. Stewart's) conduct be, in his opinion, such as not to disqualify him for the office of the First Clerk at Melbourne.

That, in the month of April last, we received a Report from Mr. Barnes, dated 21st of October, 1846, detailing the result of his enquiries into the charges, which had been preferred against Mr. Stewart; that, after a most careful consideration of Mr. Barnes' report and the documents which accompanied it, we came to the conclusion that the charges, which had been preferred against Mr. Stewart, had not been proved, and We therefore directed him on the 29th April last to proceed to Melbourne for the purpose of taking up his appointment as First Clerk to the Collector, Mr. Barnes having, under all the circumstances, deemed it to be the better course to await our further orders upon the subject, instead of delivering to Mr. Stewart his appointment papers.

With reference to the two annexed communications from the Revd. Drs. Fullarton and McGarvie, dated 29th and 31st December, 1844, hereinbefore referred to, and which, Mr. Barnes in his general Report to Us very properly observes, were
1848. unquestionably the most important communications which had been forwarded to Us by the Collector to substantiate his charges against Mr. Stewart. It may be proper to state that, upon these Reverend Gentlemen being called upon by Mr. Barnes to make good their charges, they not only retracted the allegations contained in their communications of 28th and 31st December, 1844, but expressed themselves in terms of approbation of Mr. Stewart's conduct, as well as of the conduct of Mrs. Melntyre his Housekeeper, with whom it had been alleged by them, in their communication of December, 1844, before referred to, that he (Mr. Stewart) had been living on terms of improper intimacy; and We have only to request your Lordship's attention to the copies of the annexed statements from the Reverend Drs. Fullarton and McGarvie, dated 24th and 25th August, 1846, marked A and B, retracting their former charges against Mr. Stewart as affording to Your Lordships the best evidence as to the reliance that should be placed upon the charges which had been preferred against Mr. Stewart by the Collector at Sydney.

With respect to that part of the Collector's statement annexed to the Appendix paper, No. 2, Folio 32, wherein he alleges that Mr. Barnes had stated that he (Mr. Barnes) had considered it unnecessary to call evidence, or go into the case, being satisfied as to the correctness of the statements which had been made, We beg to state that the Collector's statement in this respect is not correct; Mr. Barnes did go into the case and transmitted to us, as already observed, much material documentary evidence as bearing thereon, observing however at the same time that the particulars of the case were of so conflicting and contradictory a nature, that it was impossible for him to arrive at the truth or falsehood of the charges, which had been preferred by the Collector against Mr. Stewart; and he therefore submitted them for our consideration and decision.

Under all the foregoing circumstances, and as Mr. Stewart has no doubt, ere this, proceeded to Melbourne for the purpose of taking up his appointment, whereby the wishes of the Executive Council of New South Wales, in regard to his removal from Sydney, will be fully attained. We cannot recommend that he should be superannuated and the public burthened with his retiring allowance.

THOS. F. FREMANTLE.
J. P. DICKENSON.
W. RICHMOND.

Custom House, 9th December, 1847.

[Appendix A.]

REVD. DR. FULLARTON TO MR. P. STEWART.


In reference to a Note which I wrote about 18 months since in reply to a letter addressed to me by Colonel Gibbs, and in which I requested me to state what I knew of your character, I beg leave now to state that, if my recollection be correct, I said to him that I had been informed that you and Mrs. Melntyre lived in concubinage and were acting disreputably. But I have since discovered that Mr. Cochrane and Mr. Samuel Hawthorne, whose statements led me to think unfavourably of Your character, were not worthy of credit. I am now aware that avowed enmity existed between you and Samuel Hawthorne, when he gave me the information, and that Mr. Cochrane associated much with persons hostile to Mrs. Melntyre. I have lately conversed with the Revd. Dr. McGarvie, under whose pastoral superintendence you have been since you ceased to attend our Church, and he assured me that he inquired respecting Your conduct and investigated the reports which were prejudicial to your character, and found that none of them could be substantiated. I regret, therefore, that I made any statement which could give you pain, or be injurious to your welfare; but I assure you that, when I applied to Col. Gibbs, I believed the reports to which I then referred.

I have, &c.,
JAMES FULLARTON, LL.D., Minister of the Scots Church, Pitt-street, Sydney.

[Appendix B.]

REVD. DR. MCGARVIE TO MR. P. STEWART.


In reference to Your request respecting a document furnished by me about 18 months ago, I have to state that at that time I had not been long acquainted with you; that you had recently become connected with my Church, and had once communicated with my Congregation; that I was not aware of any rumours affecting yourself or Mrs. Melntyre, but that I was afterwards surprised to hear that such reports had prevailed; and that, before engaging in the Lord's supper on a future occasion, I should make due enquiry. I have done so, and have not found any of the reports substantiated, and, so far as I can judge, they seem to me to be unfounded.
and malicious. Your attendance and that of Mrs. McIntyre at Church is constant and exemplary, and the latter has proved herself to be active and useful in promoting the educational interests of the young connected with our Schools.

I am also desirous of informing you that the Revd. Dr. Fullarton was the Gentleman who mentioned to me that the reports referred to existed, and they have been repeated by others; but, on conferring with him this day, he states that the same rumours were brought to him by other persons. Hoping that this will be satisfactory,

I have, &c.,

JOHN McGARVIE.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 5, per ship Sir Edward Paget.)

Sir,
Downing Street, 2 January, 1848.

I have to acknowledge the receipt of your Despatch No. 144 of the 14th July last, submitting for The Queen's approval or disallowance certain Rules which had been promulgated respectively by the Judges of the Supreme Court of New South Wales, and by the Resident Judge at Port Phillip.

On this subject, it is only necessary to refer you to my Suspension Despatch of the 13th October last, in which you were apprised of my intention to defer submitting to Her Majesty the Rules of Court, then under acknowledgment, until I should have been informed of the result of the discussion which on a previous occasion you had stated would take place in the matter by the Legislative Council.

I shall adopt the same course in regard to the Rules now before me, and I shall hope to receive your promised report with the least practicable delay.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 6, per ship Sir Edward Paget.)

Sir,
Downing Street, 2 January, 1848.

I communicated to the Lords Commissioners of the Treasury a Copy of your Despatch No. 95 of the 21st April last, together with the application which accompanied it from Captain Long Innes, who solicits an allowance at the rate of £100 per Annum for the Services performed by him in the capacity of Visiting Justice of the Convict Establishment at Cockatoo Island, the said allowance to commence from the 1st of August, 1842, the date of his appointment to that situation.

Their Lordships have now expressed their acquiescence in my opinion that it would be establishing an inconvenient precedent to pay retrospectively a Salary for the duties performed by Captain Innes during the last 5 years, when no expense for such an object was sanctioned at the time that those duties
were undertaken by him. Adverting, however, to the directions you have received for the removal to Van Diemen's Land of the Convicts under penal discipline in New South Wales, the Lords Commissioners have consented to allow Capn. Innes to receive an Allowance, at the rate of £150 per annum, from the commencement of the year 1847 until the directions in question shall have been carried into effect.

I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 1, per ship Agincourt.)

My Lord,

Government House, 3d January, 1848.

I have the honor to acknowledge the receipt, by the ship "Louisa" on the 5th ultimo, of Your Lordship's Despatches enumerated in the margin,* and also by the ship "Kelso" this day of Your Lordship's further Despatches noted in the margin.** I have, &c.,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 2, per ship Agincourt; acknowledged by earl Grey, 2nd June, 1848.)

My Lord,

Government House, 4th January, 1848.

I have the honor to acknowledge the receipt of Your Lordship's Despatch No. 181 of 30th June, 1847, commenting in severe terms of censure upon the measures which, with the advice of my Executive Council, I adopted respecting the Quit Rent due to the Crown on lands granted under former Regulations, as published in the Government Notice of 9th October, 1846.

Your Lordship further expresses to me Her Majesty's displeasure at the unauthorised measures, which I had adopted, and intimates that the repetition of a similar disobedience of express Instructions would render it necessary for Your Lordship immediately to recall me from my Government.

It can scarcely be supposed that a decision couched in terms of such extreme severity should be received by me without feelings of the most painful character, especially when I reflect that, in the long period which I have had the honor to administer a Colonial Government† in Her Majesty's name, I have not only enjoyed the confidence but the general approbation of Your

* Marginal note.—Per "Louisa," Nos. 182 to 203 (both inclusive). military, No. 5; Circular, dated 8 and 24 July, 1847; Note of 27 July, 1847. Per "Kelso," No. 204 to 212 (both inclusive).
† Note 14.
Lordship's predecessors* in office. I feel, therefore, the more sensibly the rebuke which your Lordship has thought proper to pass upon me in reference to this matter; and I must on this account trouble Your Lordship with a full explanation of the reasons and motives, which induced me to grant the concessions to which Your Lordship has seen such strong reason to object.

It is first requisite that I should inform Your Lordship that, at an interview with which I was honored by Mr. Secretary Gladstone a few days before I left England, and at which Lord Lyttleton and Mr. Stephen were also present, among other subjects connected with New South Wales that of the Quit rents was discussed; and I then understood that it was desired by Her Majesty's Government to relinquish these claims upon any terms short of an absolute sacrifice or surrender of the rights of the Crown. With nothing further than these verbal instructions on the subject I should have embarked for this Government, had I not myself requested to be furnished with some written statement announcing the views of Her Majesty's Government.

Mr. Gladstone's despatch No. 2 of the 7th March, 1846, was accordingly addressed to me, and was received on board Her Majesty's ship "Carysfort" on the day I embarked. I conceived, therefore, that this Despatch was written more for my general guidance and for the purpose of strengthening my hands than with any intention of strictly binding me to the letter of the instructions, which it contained; and accordingly, finding on my arrival in the Colony the extreme discontent that prevailed with respect to the Quit rents, I considered myself at liberty to use my discretion in framing such a measure as would tend to allay that discontent, while at the same time it made, as I considered, no undue surrender of the rights of the Crown.

I find, by a statement furnished to me by the Auditor General, that the total amount of Quit Rent, due at the time the Regulations of 9th October, 1846, were established, was about £69,000. In a great many cases the accumulated amount of the arrears exceeded the value of the land on which it was chargeable; and, if the Government had attempted to enforce its collection, it could only have done so to the utter ruin of many of the oldest and most respectable inhabitants of the Colony; nor could this, of course, have been done under such circumstances without raising up a spirit of discontent and hostility to the Government, which, I can have no hesitation in saying, would have been attended with the most disastrous consequences to the future loyalty and well being of a Colony.

* Marginal note.—Lord Glenelg; Lord Normanby; Lord J. Russell; Lord Stanley; Mr. Gladstone.
daily becoming of more consequence as a Dependency of the British Crown. It became necessary, therefore, to devise some measure which, as expressly contemplated by Mr. Secretary Gladstone, would relieve the holders of land on this tenure from the ruin which a strict enforcement of the claims of the Crown would have entailed upon them. It was under these circumstances that I had recourse to the advice of my Executive Council, the Members* of which, from their long experience in the Colony, were so well calculated to afford me valuable assistance in the matter. It was also fortunate that they were all, with the exception of Sir M. O'Connell and he only in a very partial degree, entirely disinterested parties, in as much as they either had never been indebted for Quit Rent, or had already redeemed what was due by them under former Regulations of the Government and on payment of the full amount of arrears.

I am well aware that, although I acted in this matter by the advice of my Executive Council, I did not thereby relieve myself from the responsibility to Her Majesty's Government for the concessions, which were made; but I would respectfully ask your Lordship whether gentlemen of the high standing and character of those composing my Executive Council would have deliberately advised any greater surrender of the rights of the Crown than they conceived to be absolutely necessary to meet the real justice of the case, and to avert consequences which would be ill repaid by the mere exaction of the pecuniary claims of the Crown. It was only after numerous meetings and much discussion that the terms of the Regulations were finally determined upon; and I have no reason to suppose that, after the additional opportunity for reflection which has been afforded since their promulgation, any of the Members have seen fit to alter the opinion first expressed, or to consider that any less favourable terms would have answered the purpose intended.

The hardship of the enforcement of the payment of Quit Rent was at the present time considerably enhanced in the public estimation from the fact of the charge having been remitted in many other of the Colonial Possessions; and a contrast has continually been drawn between the measures adopted there and in this Colony; and it is right also that I should apprise Your Lordship that the very liberal concessions, that were in contemplation at the time the Regulations of 1846 were issued and have since been made by Her Majesty's Order in Council of 9th March, 1847, have tended in no inconsiderable degree to

* Marginal note.—Sir M. O'Connell; The Lord Bishop of Australia; The Colonial Secretary; the Colonial Treasurer.
Fitz Roy to Grey.

increase the discontent which previously existed in the minds of the Debtors to the Crown on account of Quit Rents. They naturally contrast the payments which they are respectively required to make for the use of the land; and they are dissatisfied that, whilst the Squatter pays only at the rate of about 1/5th of a penny per acre, the holder of the land chargeable with Quit Rent is required to pay at the rate of 2d. per acre. I am well aware that the latter will in time acquire the fee simple of the land without further charge; but nevertheless it is difficult to make the debtors for Quit rent sensible of this distinction.

I will now endeavour to explain the general principle upon which the Regulations of 1846 were framed. They assumed that a payment for Twenty years, which was the period fixed by the Grants as that for which the holder would be entitled to redeem the charge, should be taken as a payment in full for all arrears as well as any future payment. When it is considered that Mr. Gladstone expressly stated that, in addition to any arrears due, he would consent to a redemption by a payment equal to ten years' Quit rent, it will be admitted that the Regulations were so far accordant in spirit if not in letter with the principle laid down in his instructions to me.

I was equally desirous with the Members of my Executive Council that, in any system which might be adopted, it should provide for the complete extinction of the debt, and that every payment on this account should tend therefore to this object. As a further inducement to extinguish the debt at once, the scale for prompt payment was adopted; and in this I must candidly acknowledge, as I did in my Despatch No. 1 of the 1st of January, 1847, that I exceeded the written instruction which was given to me, although I conceived I was justified in adopting it by the verbal instructions which I received at the interview to which I have already alluded. I have, however, the satisfaction to state that the liberal terms thus afforded by the Government have not been taken advantage of nearly to the extent which might have been expected. By a Return from the Auditor General, I find that the total amount paid for redemption under the Regulations in question was only about £15,000. From this, however, there must be deducted the sum of about £900, which has been returned to parties who paid an excess beyond the period of Twenty years. The effect of this measure will be so far beneficial as it will give a seasonable addition to the means necessary to meet the payment of £100,000 which Your Lordship informs me will have to be provided for the introduction of the 5,000 Emigrants about to be sent to the
1848.
4 Jan.

Effect of redemption payments on revenue.

Expiration of period for redemption.

Legal opinion re date for final payment of quit rent.

Colonies in pursuance of my Requisition of 30th January, 1847; and, although the terms of payment were no doubt liberal to the Debtor, the Colony will be no less benefited by the importation of the labour at so much earlier a period than otherwise could have taken place, for it is obvious that an additional number to this extent at least can now be sent out. I am glad to say also that the operation of this part of the measure has not been such as to extinguish the Revenue to the extent that might have been expected. I find by information received from the Auditor General that the annual amount of Quit rent, at the time the Regulations of 1846 were established, was about £12,000 per annum, and that in round numbers it still amounts to £8,000.

As the period, during which the redemption was allowed on the terms referred to, expired on the 9th October last, there will be no further cause for the diminution of the annual collections, except by the gradual Extinction of the debt by annual payments for the full period of twenty years.

It is now necessary that I should advert to that part of Your Lordship’s Despatch, which enquires respecting the measures adopted for carrying into effect the collections under the Regulations of 9th October, 1846. As soon as they were promulgated, an instruction was given to the Colonial Treasurer to proceed with their collection; but, as it appears that he entertained some doubt as to the interpretation of the Regulations, and whether he would be justified by the terms in which they were couched in demanding the Quit Rent for the then current year and enforcing its payment if refused, he submitted a case to the Crown Law Officers for their opinion, and who accordingly stated that it was not competent to the Crown to enforce the payment before the termination of twelve months from the date of the Regulations. On being informed of this opinion, and it not being considered satisfactory or in accordance with the intentions of the framers of the Regulations or of the express language they contained, namely, “that all persons, who had not paid up twenty years’ Quit rent, would be required to do so by yearly instalments of the annual amount due in each case, commencing in this present year,”* the matter was referred back to the Law Officers that they might have an opportunity of reviewing their opinion upon the point submitted to them. As, however, they saw no reason to alter the opinion they had already given, the Government had no alternative but to abide by it; and consequently, with the exception of the amount which I have already stated had been paid by way of redemption, no payments were made for the sums

* Marginal note.—1846.
FITZ ROY TO GREY.

1848.

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4 Jan.

Currently due. For Your Lordship's information, I beg to enclose herewith a copy of the correspondence which took place on this subject with the Colonial Treasurer and Crown Law Officers.

Immediately on the expiration of the twelve months, a further notice was published, intimating that no claims for return of sums paid beyond the amount of Twenty years' Quit Rent would be entertained after the 31st December, 1847; and, calling upon all persons indebted for arrears of Quit Rent to make good their payments without delay, as instructions had been given to the Colonial Treasurer to take the necessary measures for the collection and enforcement of them.

From this statement, Your Lordship will perceive that no delay has taken place in the collection of the annual rate, which it was possible for the Government to avoid, and that, irrespective of the instructions conveyed in Your Despatch now under reply, the most active measures had been adopted for the purpose.

Having now, My Lord, entered fully into the principal bearings of this subject, I trust I shall stand excused if I express a hope that the explanation, which I have afforded, will relieve me from the heavy censure that has been passed upon me in Her Majesty's name, and which, while I bow to it with submission, I cannot but believe would not have been inflicted on me, had the real facts of the case been known to Your Lordship, or had I possessed even a share of that confidence which it has been my good fortune to enjoy under Your Lordship's predecessors, and which, I would respectfully urge, I have done nothing to forfeit.

I have, &c,

CHS. A. FITZ ROY.

[Enclosures.]

[Copies of these papers are not available.]

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 3, per ship Agincourt; acknowledged by Earl Grey, 31st July, 1848.)

My Lord, Government House, 6th January, 1848.

Your Lordship's Despatch, No. 203 of the 31st July last on the subject of the erection of the Port Phillip District into a separate Colony and informing me of the changes proposed by Her Majesty's Government in the Constitution of the Australian Colonies generally, reached me at a moment when a severe domestic affliction rendered me incapable of attending to

Note 15.
my public duties. I, however, lost no time in directing that it
should be submitted to my Executive Council; and it was
accordingly laid before that Board at a meeting at which in my
absence Sir Maurice O'Connell presided; and, by the advice of
the Council, the Despatch was printed for the information of
the Public in the Government Gazette, as the best means of
complying with Your Lordship's desire to elicit the opinions
of the community relative to the measures contemplated by Her
Majesty's Government, the Legislature not being in Session.

I am sure Your Lordship would under my present circum­
stances excuse my offering any lengthened remarks upon these
measures, even if I had been called upon by Your Lordship to
do so; but it is right that I should inform Your Lordship that,
from what I know of the general feeling throughout the Colony
on the subject of District Councils, the proposal to make these
institutions bear to the House of Assembly the relation of
Constituents and Representatives will be very unpalatable to the
Colonists, and will not fail to create great opposition and dis­
content.

I also deem it my duty to put Your Lordship in possession
of two Reports drawn up at my request some time since by Mr.
La Trobe and Mr. Deas Thomson, the latter of which gives a
complete history of the working of the District Councils of the
Colony from their first institution to the present moment; and I
know of no persons in the Colony whose sound practical under­
standings and long experience entitle their opinions to greater
weight than these two gentlemen.

The change to the old form of Colonial Constitution by the
division of the Legislature into two separate Chambers will
not, I apprehend, be ill received by those persons in the Colony
who understand the subject and will give it fair consideration;
at all events, I can have no hesitation in stating my own
opinion, founded on long practical experience, that it will be a
decided improvement upon the present form of Legislation in
this Colony.

I further beg to transmit to Your Lordship the Copy of a
letter addressed to me by the Mayor of Sydney, as Chairman
of a Public meeting which was held in Sydney on the 5th
instant, which I have just received, requesting me to use my
influence with Your Lordship to prevent the introduction of
the proposed measure, until the Colonists shall have had an
opportunity of appealing to Her Majesty and both Houses of
Parliament.

I have, &c,

Chs. A. Fitz Roy.
FITZ ROY TO GREY.

[Enclosure No. 1.]

STATEMENT relating to District Councils.

(Ques. 1.) The practical effect of the application of the system of District Councils, authorised by the Imperial Act, 5 and 6 Vict. Cap. 76, to the Port Phillip District has been to retard rather than facilitate the advancement of that portion of the Colony and the progress of its internal improvements.

It took, so to say, the power of effecting local improvements and the performance of certain functions out of the hands of those who might in the abstract be considered best acquainted with the wants of the community and with the fittest means of meeting them; while it seemingly would relieve the General Revenue of the Colony from the burden of wholly bearing the necessary expenditure. But in its practical working it has totally failed in effecting the objects aimed at.

(Ques. 2 and 3.) District Councils were established in the Counties or Districts of Bourke and Grant. These have now been in existence for four years; yet it is not in my power to point out a single instance or particular in either case, in which the object of their establishment has been attained. There has not been one road made or repaired under their Charter, not one school established, not one public building erected, and not one farthing raised or applied to the support of a District Police or to the administration of Justice. If you except some unimportant preparatory surveys and the execution of certain preparatory estimates, nothing whatsoever has been done.

To issue the Charter and name properly qualified persons to form the District Council in the first instance was the duty of the Governor and no very difficult matter. Neither was the first internal organization of the Council, when so established, difficult. Rules were laid down and Bye Laws passed and salaried Officers appointed in due form; and, when the period arrived when the Government nominees were to give place to Members chosen by the Electors, there was, in the first instance no difficulty whatsoever in finding persons both ready and willing to undertake the charge. But, when the time came when the machine, thus prepared and framed, should set to work to perform its real and ultimate functions, it was found totally incompetent to do so.

I cannot attribute this result to any indisposition to work or any want of management in the two District Councils in question. Although the people generally may have viewed the scheme from the outset with a degree of repugnance and suspicion, as they will every project which threatens taxation; still in the minds of many, both in and out of the Councils, there existed a prejudice in its favour and a sincere desire to see it carried into effect.

The District Council of Grant particularly exerted itself to the utmost to do so, but with no other result than that after four years of existence it has, with all its zeal, effected nothing to the public advantage; and only brought embarrassment and ridicule upon all connected with it. Its liabilities, if I recollect aright, do not fall much short of £700.

The District Council of Bourke, having proceeded with more caution in appointing salaried Officers while the ultimate working of the taxation part of the system lay under reasonable doubt, is
less deeply involved; but still sufficiently so to render the position of the Gentlemen, who from their official connection with it are in law responsible for its debts, a very unpleasant one.

Meanwhile the Executive Government finds itself forced on the one hand to furnish wholly from the General Revenue, with the approval of the Legislative Council, that provision for the maintenance of Police and Schools within the several Districts which it was the express object of the Imperial Act to relieve it of, in part at least; and on the other to decline entering upon the performance of other functions, which the Law provides must be performed by the District Council, or to undertake the direction and meet the expense of works of internal improvement however called for, which under the same law must be effected by the Council and at the cost of the community.

It would seem, from the correspondence upon this subject, that, while the Governor finds it impossible to reconcile the law and the actual circumstances of the Colony, He is neither in a position to advise nor assist: That He not only cannot assist the Council by coming forward to extricate them by entirely setting aside the Law, or by reconciling the opposing interests of the Crown and the District Council within the Counties, sufficiently to enable them to extricate themselves; but that He has the ungracious task committed to Him, in the event of the non-election of Members to fill up vacancies, of forcing Gentlemen, who may be considered properly qualified, to enter the Council and become, whether they will or no, participants in the embarrassment and discredit that beset the institution.

(Ques. 4.) The plain fact appears to be that, though you may make an institution suit the condition of a Colony, you cannot force a Colony to suit a given institution; and that the system of District Councils was neither properly devised nor suited to the present state and circumstances of the Port Phillip District. The population is not sufficiently large. With exception of Melbourne, it is not for the present found sufficiently concentrated or equally distributed over the surface; our acquaintance with the physical details of the country even is too slight; the value of property too fluctuating and too undeterminate; the distinction between points of general and of local interest not sufficiently recognized. Where every thing has to be done, the character and relative value of different public improvements and the order in which they ought to be undertaken are points not easily decided. The sold and the unsold Crown Land, and the latter still forming the great bulk of the areas nominally under the jurisdiction of the Councils, are found to interlock on every side; and, wherever this is the case, it will be difficult to hit upon a mode of reconciling the interests of the public with the rights of the Crown: and lastly the Country does not possess for the present the class of men which in older Countries and Communities may be found possessing both the ability, the leisure and the will to make the public business their own.

The Port Phillip District, however advanced, is in this respect young yet.

(Ques. 5.) The facts, I have stated, however briefly descriptive of the practical working of the system in the District, no one can dispute; and I believe that the opinion, I have given of its
inapplicability to the present circumstances of the community which it was intended to benefit and advance in prosperity, is very generally that of the sober and practically minded inhabitants.

I trust that this portion of the Imperial Act, if no other, will be repealed; and that the power will be left to the Executive and Legislative Authorities of the Colony to introduce, as the times and circumstances of the Colony permit or render advisable, such measures of local self-government as may be clearly applicable to it and practicable in execution.

I would further hope that the present District Councils will be placed in a position to terminate their duties by paying the just claims preferred against them.

28th Sepr., 1846.

C. J. La Trobe.

[Enclosure No. 2.]

STATEMENT relating to the District Councils of New South Wales.

In conformity with the desire of His Excellency the Governor, I have the honor to subjoin some observations on the practical working of that portion of the Constitutional Act of the Colony, 5th and 6th Vict., Cap. 76, which relates to the establishment of District Councils.

2. Soon after the Act in question came into force (namely in 1843), the late Governor, Sir George Gipps, proceeded to exercise the power, thereby vested in Him, of issuing Charters for the Establishment of District Councils in the whole of the Nineteen Counties (and the reputed County of Macquarie) within the limits of Location; and also in the reputed Counties of Bourke and Grant in the District of Port Phillip.

3. As a general Rule, the Boundaries of their jurisdiction were chosen not from those of the Counties, but of the several Police Districts, as being more suited to the convenience of the inhabitants; and in a few instances, where the population was scattered and few in number, two Police Districts were, for this purpose, thrown into one.

4. The whole number of Districts, for which Charters were issued, was twenty Eight, namely:

1. Maitland. 11. Queanbeyan.
2. Windsor. 12. Merton and Muswell Brook.
7. Queanbeyan. 17. Merton and Muswell Brook.
8. Campbell Town, Camden and Narellan and Picton.
13. Braidwood and Broulee. 22. Grant (Port Phillip).
18. Campbell Town, Camden and Narellan and Picton. 27. Cassilis, and
20. Mudgee and Wellington.
22. Grant (Port Phillip).
23. Liverpool.
24. Woollombi and Macdonald.
27. Cassilis, and

5. The District of Campbell Town, Camden and Narellan and Picton (originally comprising three Police Districts) was subsequently divided by Act of Council* into two Districts under the

* Marginal note.—7 Vict., No. 15.
1848.
6 Jan.

Warden and councillors appointed.

Legal approval of charters.

Petitions against district councils.

Estimates for police and schools for year 1844 voted by legislative council.

Defeat of bill to reduce qualifications of district councillors.

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HISTORICAL RECORDS OF AUSTRALIA.

respective denominations of Campbell Town and Appin, and Camden and Narellan and Picton, thus making the entire number of District Councils twenty-nine.

6. To each of these, a Warden was appointed, and the Councillors were selected from the most influential and respectable persons, resident in each District.

7. The form of Charter was carefully drawn up, and, before any of them were issued, was submitted for the approval and revision of the late Solicitor General, now Mr. Justice a'Beckett, Resident Judge at Port Phillip.

8. Soon after the issue of the Charters, numerous Petitions were adopted on the subject of the powers granted to these Bodies. During the Session of 1843, no less than fifteen were presented to the Legislative Council, by far the greater number of which prayed either a suspension of the functions of the District Councils until better times, or the total abrogation of the Clause of the Constitutional Act, having reference to their establishment.

9. On the 10th October, 1843, an Address to the Governor was adopted by the Legislative Council communicating a resolution to the effect that, in the present state of the Colony, it is highly expedient, if not impossible, to cast any portion of the Police Expenditure on the Country Districts; that this expenditure, therefore, for the year 1844 should be defrayed as hitherto out of the General Revenue; “and earnestly assuring His Excellency that the pressure of the times enforced the above Resolution on the Council,” and “praying that His Excellency would therefore take such measures as might be requisite, for giving effect to the same, without injury to the public service.” To this Address, the Governor replied by Message, on the 12th October, stating in substance that, for the reasons assigned by the Council, He was willing to share with them the responsibility of postponing, for a year, the requirements of the 47th Clause of the Act of Parliament, and inviting the Council, therefore, to appropriate, out of the General Revenue, a Sum sufficient to defray the expenses of an efficient Police in the rural Districts, without calling on those Districts in the year 1844 for the contributions which, under the Act of Parliament, ought to be required from them. The Estimates for the whole of the Police and School Expenditure were accordingly voted for the service of 1844 out of the General Revenue.

10. Considerable difficulty having been experienced in finding persons to serve as District Councillors, who were possessed of the requisite qualification according to the provisions of the Imperial Act, a Bill was introduced into the Legislative Council by the Government on the 22nd November, 1843, reducing the qualification from a freehold Estate of the value of £2,000 on the whole, or £100 per annum, to a real or personal Estate of £500 on the whole, or the being rated for the purposes of the District Council on property of the annual value of £50. This bill having been read a first time, it was, upon a Division of 11 to 5, ordered to be read a Second time on Thursday, the 7th December, but, having been again postponed to Friday, the 8th of the same Month, it was ultimately thrown out by a Motion for the previous question, in which there was a majority of 8 to 5 against the same.

11. It having been found impracticable, without the aid of the Legislature, to give proper effect to the powers, etc., granted to the District Councils by the Charters under the Imperial Act, a
Bill was introduced into the Legislative Council by the Government, in the Session of 1844, intituled, "A Bill to make further provision respecting the constitution of District Councils in the Colony of New South Wales." On the 25th July, 1844, on the motion "that this Bill be printed and read a second time on Thursday, August the 1st," it was moved as an amendment "that the Bill be read a Second time that day Six Months." A further amendment was moved, in the Debate which ensued thereon, to the effect "that, in the opinion of this Council, the District Councils are totally unsuited to the circumstances of the Colony, the Country Districts being unable to meet the additional taxation which would necessarily be required in carrying out the various objects, contemplated by their Institution, and the cost of the Machinery requisite to bring them into operation being of itself an obstacle fatal to their success; and that therefore the Second Reading of the Bill be postponed to that day Six Months." Upon a Division, the latter amendment was carried by a Majority of 14 to 7, only one elective Member voting in the Minority.

12. During the same Session, it appears that no less than thirteen Petitions were presented to the Council, having reference to District Councils, some of them objecting to the power of taxation granted to these Bodies and others praying for some alteration either in the Boundaries of the Districts, or in the constitution of the Councils.

13. In the course of the Debate which took place on the amendment of the 25th July, 1844, the principal objections urged against the District Councils were that the Districts would be unable to meet the demands, which would in consequence be made upon them, especially those of Police and Gaols; that the expense of the Machinery alone was a serious objection, and that there was no sufficient population in the Country Districts to enable the Inhabitants to manage their local Affairs.

14. On the same day, a Bill, which had been introduced into the Council by the Government on the 18th of the same Month, intituled, "A Bill to settle the proportions in which Money shall be raised in each District in the Colony of New South Wales by Assessments, for the purpose of defraying half the expense of maintaining a Police Force," was also thrown out by a majority of 11 to 4, the Minority consisting entirely of Non-Elective Members.

15. It seemed indeed to be the fixed determination of the Council to lend no assistance to the Government in bringing into successful operation this part of the Constitution of the Colony. The result has been that, as a general proposition, it has remained, as regards the peculiar functions delegated to the District Councils, wholly inoperative.

16. On the 9th August, 1844, the Council voted an address to the Governor, transmitting to His Excellency a Copy of the above Resolution, and stating "that it had been passed after a full consideration of the numerous Petitions that had been presented to the House, and under a full persuasion that the District Councils, as at present constituted, could not be carried out without much hardship and Oppression."

The Council also begged to remind His Excellency that they were prevented by the Act of the Imperial Parliament, 5 and 6 Vict., Cap. 76, from amending the Constitution of the District Councils in the most important points prayed for, particularly in
regard to the Police Clauses, which the Council and the Colonists generally considered the most obnoxious. The Council further requested His Excellency to make such a representation to Her Majesty's Government as would procure a repeal of those Clauses of the Imperial Act which relate to District Councils; and that the incorporation of Towns and Districts should be left to the Governor and Legislative Council of the Colony. The Council concluded by requesting that "until the Governor received instructions from Her Majesty's Government, he would place on the Estimates of expenditure such Sums, as His Excellency might think necessary to make provision for such objects, as it was intended should be provided for by the District Councils, had they been brought into operation." To this Address, the Governor replied by Message, on the 20th August, 1844, to the effect "that the Council, having rejected the Bills which He caused to be presented to them for the purpose of carrying into effect the Enactments of Parliament in regard to the Police of the Colony, he would accept such Sums as the Council might place at his disposal for the maintenance of the Police Force during the Year 1845, though He must disclaim any share in the responsibility, which this infraction of the Constitution might involve."

17. The Estimates for the whole expenditure for Police and Schools during the Year 1845 were accordingly again voted from the General Revenue.

18. In the Session of 1845, an address was voted by the Council to the Governor on the 24th September of that year, communicating the following Resolution, namely, "That, as no answer had been received by the Council to the Address which was voted on the 9th August, 1844, in reference to District Councils, His Excellency the Governor be requested to recommend to the Council that the expense of the Police and Schools of the Colony, during the year 1846, be defrayed on the same principle as was adopted for the current year." To this address, the Governor replied by Message on the 30th September, 1845, acceding to the proposal of the Council. The necessary provision was accordingly made in the Appropriation Act for these Services.

19. During the Session of 1845, there appears to have been only one Petition presented to the Council on the subject of District Councils, being that from the Electors and Ratepayers of Grant, Port Phillip, praying "that measures should be adopted for suspending the operations of the District Council of Grant, and to provide for the liquidation of the expenses already incurred." The absence of other Petitions may be accounted for, from the fact that with certain exceptions, which will be noticed in the Sequel, the functions of the several District Councillors throughout the Colony had fallen into complete abeyance. The Petition referred to arose apparently from a contemplated Collection of the Assessment Rates by the District Council of Grant.

20. In the Debates which took place in Council in 1845, the same arguments were advanced against the District Councils, as in the previous Session; and it was further urged that it was a Subject, which should properly be left to the Local Legislature, who, from a superior knowledge of the circumstances of the Colony, would be able to devise a system better suited to the Wants and the wishes of the Community, and one which at the same time
FITZ ROY TO GREY.

would be acceptable to Her Majesty's Government; that the
Clauses of the Imperial Act, relative to the enforcement of
the Assessment for Police purposes, were peculiarly obnoxious to
the Colonists generally; That, from the great disproportion of the
alienated to the unalienated Lands (averaging 2 acre of the
former to 6 of the latter) any system of taxation for the purpose
of Roads would bear peculiarly hard upon the Landed pro-
prieters, who would thus be compelled to pay for such Roads as
passed through the Crown Lands, by which their value would be
proportionately enhanced at the expense of those who had paid for
their Lands, without however any contribution being made for the
purpose from the public Funds; That the System had never been
attempted in the Counties of England, and, if unsuited to them, it
was doubly so to the thinly peopled pastures of Australia; That
although there was a power to make an Assessment under the
Act, there was none to levy it when made; And there was a fixed
determination, by every means in the power of the Council, by
raising substantial as well as technical objections, to prevent the
successful working of the Bodies.

21. In the Session of 1846, the necessary Sums were placed on
the Estimates for the support of Police and Schools, without
waiting for any application to this effect from the Legislative
Council, a course which it will, it is conceived, be necessary to
continue, until the final decision on the question be received from
Her Majesty's Government.

22. As already stated, the whole of the District Councils
throughout the Colony, with the exception hereafter noticed, hav-
ing been in a state of abeyance, it does not appear that any pro-
ceeding, in reference to them, took place in the Legislative Council
during that Session.

23. Such is a brief account of the Legislative Proceedings on the
subject of these Institutions, since their first Establishment to the
present time.

24. It may not be altogether irrelevant now to enquire how far
the establishment of Municipal institutions in the Country Dis-
tricts has been favourably received by the Inhabitants. If we may
judge by the result of the elections in the different Districts, the
possession of this privilege is looked upon, at least in a great many
of them, with much indifference, an indifference which appears
to have annually increased since their first establishment. The
following summary, shewing the number of Members elected and
nominated by the Governor in default of Election to fill the annual
vacancies of one third under the Charter, will sufficiently illustrate
the truth of this conclusion, namely:

1844—Elected, 67; Nominated, 0: 67.
1845—Elected, 51; Nominated, 14: 65.
1846—Elected, 35; Nominated, 32: 67.

Thus, during the three Years in question, there were 156
persons elected, and 46 nominated by the Governor.

It is also undoubted that, of those elected, a considerable pro-
portion did not consist of the persons most eligible for so im-
portant a trust, a great disinclination being understood to prevail
amongst many highly respectable persons to accept the office.

25. It appears that (with the Solitary exception of the Sum of
£170, raised by the District Council of Grant) in none of the
Districts was any Revenue whatever raised by Assessment.

1848.
6 Jan.

Arguments in legislative council; against dis-

Failure of district councils to levy

levy assessments.
several, debts have been incurred in payment of the Salaries of the Officers appointed by the Council; but the refusal of the Legislative Council to grant the additional facilities necessary to enable these Bodies to levy the Assessments when made, and the strong opinions expressed in Debate of the risk, which would attend their enforcement, seem to have entirely paralysed the endeavours of the several Councils to exercise their legitimate powers.

26. Almost the only exception to the total inactivity, which has characterised these Bodies, is to be found in the District Council of Parramatta. But even here the necessary expenditure is not met by Assessment in the manner contemplated by the Imperial Act, but by the Sums received for Tolls on the public Roads in the District, which are levied and collected by the Government, and then handed over to the District Council to be expended exclusively in the repair of the Roads. There is every reason to believe that the Sums so granted have been spent for the purpose in a very judicious and economical manner. The same arrangement was proposed to the District Council of Windsor, but not acted on. It should also be mentioned here that the District Councils of Sydney and of Grant for some time evinced considerable activity, but, for the reasons already alluded to, they also are now in abeyance.

27. It has been clearly shewn that the Legislative Council would lend no assistance to the Executive Government in giving effect to this part of the Constitution of the Colony, and notwithstanding the power granted to the Governor and Executive Council, under the 48th Clause of the Constitutional Act, as amended by the 5th Section of the 7th and 8th Vict., Cap. 74, to declare the property on which an assessment might be levied for purposes of Police, this power must remain wholly inoperative unless the Legislative Council shall previously declare by a Bill the proportions in which each District shall contribute the half of the expense of Police to be raised by Assessment by the District Councils. It has not, therefore, been possible, even if it had been expedient for the Governor and Executive Council, to exercise this power in the absence of a Bill of the nature in question.

28. From the foregoing statement, it will be gathered:

1st. That District Councils have from the causes mentioned entirely failed to answer the object contemplated in their establishment.

2ndly. That there is at present only one in active operation; and this one is sustained only by contributions from the Government and not by assessments raised under the powers granted to it under the Act.

3rdly. That these Institutions, in their present form, are not adapted to the state of Society in this Colony.

4thly. That, so far as the Legislative Council or the public at large is concerned, they are not regarded in any favourable light.

29. Such are the general conclusions, at which I am forced to arrive from a full consideration of all the circumstances I have detailed. I am by no means prepared to say, however, that, with considerable modification, they may not be adapted to the peculiar circumstances of the Colony; but this can only be done by leaving all legislation on the subject to the local Legislature. No doubt,
as has been experienced in other Colonies, there may be an indisposition on the part of the Supreme Legislature to grant to any other Bodies concurrent powers of taxation; but, for mere local purposes, it is scarcely to be apprehended that this would be refused, especially when it would have the effect of relieving the General Treasury from heavy burdens, which it can ill afford to bear.

30. I am aware of the convenience of ascertaining the real wants of any particular District of an adequate Police Force from the willingness of the Inhabitants to contribute a portion of the expense; but, nevertheless, I am doubtful of in the present scattered state of the population, whether the whole expense of the Police should not continue to be borne on the general Revenue, more especially so long as it is expedient that the management of it should remain in the hands of the Executive Government.

31. With respect to Schools, there appears to me to be great objections to make them wholly dependant upon the support that the District Councils may be willing to grant to them. It is the peculiar province of the Government and the Legislature to watch over the Education of the People; and it may therefore be scarcely safe that it should be left contingent upon the narrow views of economy, which may influence merely local Bodies in raising the necessary funds for the purpose. There is this great objection also to leave this important service to be provided for by the several District Councils, namely, that a different system of Education may be introduced into each, instead of one general and comprehensive plan, suited to the Colony at large. No doubt this might be regulated by an Act of Council, applicable to the whole; but there would still be this objection that, if unpalatable to any particular District, the Council thereof might frustrate the intentions of the General Legislature by refusing to raise for the purpose the necessary funds.

32. I would propose also that the great Lines of thoroughfare throughout the Colony should be entirely withdrawn from the control of the District Councils. These must be considered of general, not merely of local interest. On the other hand, Parish Roads and Bye Roads, leading from one part of a District to another, and in which the public at large have no concern, should be left to the management of the District Councils.

There are many other local works and Buildings, such as are contemplated by the present Constitutional Act, which should also be confided to them.

Colonial Secretary's Office, E. DEAS THOMSON.
Sydney, 27th March, 1847.

[Sub-enclosure No. 1.]
(This was a printed form of the charter establishing each district council.)

[Sub-enclosures A and B.]
(These were copies of the "Votes and Proceedings" of the legislative council, dated 10th and 13th October, 1847.)

[Sub-enclosures C, D and E.]
(These were copies of the bills to define the qualifications of members of the district councils; to make provision respecting the constitution of the councils; and to settle the contributions for the maintenance of the police.)
1848.
6 Jan.
[Sub-enclosures F, G, H, J, and K.]

[These were extracts from the "Votes and Proceedings" of the legislative council,
dated 9th and 10th August, 1848; 21st September, 1848; 1st October, 1848; and 2nd
August, 1848.]

[Enclosure No. 3.]

MR. J. F. JOSEPHSON TO SIR CHARLES FITZ ROY.

Sir,

The publication of the Despatch, announcing the intention
of Lord Grey to introduce a Bill for the purpose of giving a Con­
stitution to this Colony of an entirely novel character, has excited
feelings of the deepest alarm among the Colonists of all Classes,
more particularly as it would appear to be His Lordship's intention
to proceed with the measure without waiting for further informa­
tion from the Colony.

A Meeting of highly respectable Colonists was held yesterday,
at which I had the honor to preside, and at which a Committee
was formed to prepare Resolutions and make other arrangements
for holding a General Meeting of Colonists to Petition and remon­
strate against the proposed measure; and, as in a measure of such
importance it is necessary that great care should be used, some
time will probably elapse before the document will be ready for
transmission to Her Majesty's Government. I am desired by the
Committee to bring these circumstances under Your Excellency's
notice with the hope that you may use your influence with the
Right Honorable the Secretary of State to prevent the introduction
of the proposed measure, until the Colonists shall have had an
opportunity of appealing to Her Majesty and both Houses of
Parliament.

As I believe the Mail for London will close this Evening or
To-morrow, I have been requested by the Committee to transmit
this letter to Your Excellency personally instead of through the
Colonial Secretary. I have, &c,

J. F. JOSEPHSON. Mayor,
Chairman of the Committee.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 4, per ship Agincourt.)

My Lord,

Government House, 8th January, 1848.

The Deputy Commissary General in this Colony having
made application to me for a loan from the Colonial Treasury
in consequence of the demands upon the Commissariat having
increased beyond his anticipations, I do myself the honor to
inform your Lordship that, in compliance with the request of
that Officer, a sum of £39,400 has been advanced to him on the
same conditions as the loans sanctioned during the Government
of my predecessor, viz., that, if the whole or any portion of the
money, which is lent for six months without interest, should
be wanted in the course of that time for any purpose of the
Colonial Government, the amount required must be immediately
repaid, although it may even be necessary on the part of the
Deputy Commissary General for this purpose to sell Treasury
Bills at a discount.

Previously to the issue of this loan, it was suggested to the
Deputy Commissary General that the most advisable mode of
raising the money required would be by the disposal of Bills
on the Lords Commissioners of Her Majesty’s Treasury, which,
it was then understood, he might do above par; but, as that
Officer stated that, although the rate of Exchange was nominally
high, the demand for Bills was so limited that he should fail
in replenishing the Military Chest if he depended upon that
source alone. In the emergency which had arisen, the loan was
issued as he desired.

Of the correspondence which passed on this subject between
the Colonial Secretary of this Government and the Deputy
Commissary General, I transmit a copy for Your Lordship’s
information; and it will be observed, by the letter addressed
to Mr. Ramsay by the Colonial Secretary on the 25th November
last, that I felt it my duty to advert to what seemed to me an
unmerited reflection made by him on the Auditor General of
this Colony, in consequence of his having pointed out for my
consideration the means by which an advance from the Colonial
Treasury might be rendered unnecessary, and the exigencies of
the public service provided for at the same time in a more
advantageous manner.

Although, on its becoming known that money had been sent
for from New Zealand (which was the occasion of the increased
demand), the rate of exchange may have altered, or even
though it may have been only nominally high and the demand
for Bills limited, as remarked by the Deputy Commissary
General, it was quite within the scope of the duties of the
Auditor General, when referred to as he usually is in all finan­
cial matters in which the Colony is concerned, to offer the
suggestion which he did, and in which I considered he was
fully warranted by the state of the Exchange, as it was under­
stood to be, if not at the moment of his writing, almost imme­
diately before it.

Your Lordship will observe that the sum applied for by the
Deputy Commissary General was £40,000; but, as a portion of
the Silver (£600) issued from the Colonial Vault was objected
to by him, the loan was reduced by this amount, which was
returned to the Colonial Treasurer who had received the Coin
from the Banks for the purpose of having it exchanged for other
silver to be placed in the Treasury. I have, &c,

CHS. A. FITZ ROY.
HISTORICAL RECORDS OF AUSTRALIA.

[Enclosure No. 1.]

DEP. COMMISSARY-GENERAL RAMSAY TO COLONIAL SECRETARY THOMSON.

Confidential.

Commissariat Office, Sydney, 19th November, 1847.

Sir,

The demands upon the Commissariat Chest having increased beyond my anticipations, I am under the necessity of requesting you will be pleased to move His Excellency the Governor to sanction, as on a former occasion, a loan of Forty thousand pounds to meet the exigencies of the Service. Repayment to be made by Treasury Bills or in Coin on the arrival of Specie from England.

I have, &c,

T. W. RAMSAY, D.C.G.

[Enclosure No. 2.]

MR. W. ELYARD, JR., TO DEP. COMMISSARY-GENERAL RAMSAY.

Colonial Secretary's Office, Sydney, 23rd November, 1847.

Sir,

I do myself the honor to acknowledge the receipt of your letter of the 19th Instant, stating that demands upon the Commissariat Chest have increased beyond your anticipations, and requesting that the Governor will sanction, as on a former occasion, a loan of £40,000 from the Colonial Treasury to meet the exigencies of the Service.

In reply, I am directed by His Excellency to inform you that He is not aware of any objection to a compliance with your request upon the same conditions as those specified in my letter to you of 1st May, 1846; but His Excellency desires me to say, He is informed you can sell Bills on the Treasury at the present moment at ½ or 2 per cent. above par; and that this is pointed out by the Auditor General as the most expedient mode of raising the sum required.

I have, &c,

for the Colonial Secretary,

W. ELYARD, Junr.

[Enclosure No. 3.]

DEP. COMMISSARY-GENERAL RAMSAY TO COLONIAL SECRETARY THOMSON.

Commissariat Office, Sydney, 23rd November, 1847.

Sir,

I have the honor to acknowledge the receipt of your letter of this date in reply to mine of the 19th instant upon the subject of the Loan to the Commissariat Chest; and adhering to the latter part to express my regret and surprise that any one should have presumed to misinform the Governor in respect to my means of negotiating.

The rate of Exchange is now nominally high, but the demand for Bills is so limited that I should entirely fail in replenishing the Chest, were I to depend upon that source alone in the present emergency.

Supposing I was to negotiate at a low rate it would have little effect in increasing the sale of Treasury Bills; nevertheless I should be quite prepared to grant Bills for the whole amount now required for Her Majesty's service, could I obtain it at 2 or even 1½ per cent. below par.
With every feeling of respect for the Auditor General, I cannot allow much weight to the opinion of that Officer on this point, as he happens to be a Director of the very Bank whose tender for a sum of money in exchange for Treasury Bills was recently rejected, the money not being at that time much required, and the unexpected demand from New Zealand having since been received.

Under these circumstances, I trust His Excellency will reconsider my communication and afford the assistance so urgently required.

I have, &c.,

T. W. RAMSAY, D.C.G.

[Enclosure No. 4.]

MR. W. ELYARD, JR., TO DEP. COMMISSARY-GENERAL RAMSAY.

Colonial Secretary’s Office,
Sydney, 25th November, 1847.

I do myself the honor to acknowledge the receipt of your letter of the 23rd Instant, in reply to my communication of the 19th of this month, on the subject of a Loan which you desire to obtain from the Colonial Treasury for the Service of the Commissariat.

Having submitted the same to the Governor, I am directed by His Excellency to inform you that the sum of Forty thousand pounds will be lent you out of the Crown Revenue on your giving a receipt for the money subject to the following conditions, viz.,

That the money be lent without Interest and for the period of six months; but that, if in the course of these six months, the whole or any portion of it be wanted for any purpose of the Colonial Government, the amount required must be immediately repaid, though it may be necessary on your part to sell Treasury Bills at a Discount. The Auditor General has accordingly been instructed to prepare a Warrant for the amount, which will be paid to you by the Colonial Treasurer on your signing a Document to the above effect.

His Excellency desires me, however, to state, with reference to the last part of your letter, that He feels bound not to pass over without comment the reflection therein attempted to be cast by you on the report made on your application by the Auditor General, which His Excellency considers to be equally unmerited and uncalled for.

I have, &c.,

for the Colonial Secretary,
W. ELYARD, JR.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 5. per ship Agincourt; acknowledged by earl Grey, 8th July, 1848.)

My Lord,

Government House, 8th January, 1848.

I have the honor to acknowledge the receipt of Your Lordship’s Despatch No. 212 of 30th August, 1847, intimating to me the measures which Your Lordship had directed to be taken for sending out to this Colony 5,000 Statute Adults, in conformity with the request contained in my Despatch No. 19 of the 30th January, 1847.
I perceive that Your Lordship has not found it practicable, without a serious disadvantage as regards the terms of payment, to adopt the suggestion, which I made in conformity with a recommendation of a Select Committee of the Legislative Council, that, in order to secure the prompt distribution of the Emigrants on their arrival, the ships engaged in this service should be required, if necessary, to proceed to any of the minor Ports of the Colony. I have the satisfaction to state that, in the present urgent demand for labour, I anticipate no difficulty whatever in immediately obtaining eligible engagements for the whole of the Emigrants now to be sent out without having recourse to that expedient; but, should any difficulty in this respect unexpectedly occur, I will take care to adopt prompt and effectual means of averting it by employing the Steamers and Coasters which are daily proceeding to the different out ports.

It will be my duty also, as directed by Your Lordship, to adopt such further means as may be conducive to the proper protection of the single female emigrants who may arrive; and the Immigration Board will accordingly be instructed to make any suggestions which their practical knowledge of the subject may enable them to offer.

I agree with Your Lordship that a proper selection of Emigrants is more likely to be ensured under the direction of the Land and Emigration Commissioners than under the former Bounty system. I duly observe that no Board is to sit in order to inquire as to the fitness of the Emigrants for a bounty or free passage, but that the ship owner is to be paid for every passenger whom he conveys.

With respect to the pecuniary arrangements necessary to meet the payments to the extent of £100,000 for the 5,000 Statute Adults now to be sent out, if so large a sum should be required under the cheap rate which it may be expected their passages may be obtained, it is only necessary that I should refer Your Lordship to my Despatches No. 240 of 14th December last and No. 4 of this date.

By the former, it will be perceived that there is already at the credit of the Territorial Revenue more than sufficient to defray the whole contemplated expense; and, by the latter, that the Territorial Revenue of this Colony is already in advance of the Military Chest for the service of New Zealand to the extent of £39,400; and care will be taken that the monthly payments of £10,000 which Your Lordship directs shall be made to the Deputy Commissary General until the required sum of £100,000 has been duly paid over to the Military Chest.
I avail myself of this opportunity of expressing a hope that the favourable state of the Territorial Revenue, as fully explained in my Despatch of the 14th ulto., will induce your Lordship to authorise the continuance of Emigration to this Colony during the present and the succeeding year at the rate of at least 5,000 Statute Adults per annum. I can have no hesitation in stating it to be my confident belief that an emigration at that rate will fall very far short of the demand for labour in the Colony.

It will be my duty to keep your Lordship from time to time informed of the effect, which may be produced upon the labour market by the Immigration which may take place, and of the funds which will become applicable to this service. As an important feature in respect to the latter, it is to be borne in mind that, the whole of the outstanding Land and Emigration Debentures having been already paid off, and the Emigration already authorised being provided for by Cash already in the Colonial Treasury, the Territorial Revenue will be available as a perfectly unencumbered security for raising any additional funds necessary to meet payments for this service beyond its estimated produce which, Your Lordship will perceive from my Despatch No. 240 above referred to, will yield by the 31st December, 1848, £70,000, in addition to the £100,000 now ordered to be paid over to the Military Chest.

I have not entered here into any question as to the apportionment of the Expense between the Sydney and Port Phillip Districts, but under whatsoever principle the division of their respective revenues may be eventually made, I can have no doubt that the cost of the Emigration now recommended to be undertaken, if conducted in equal portions to each District, can be amply provided for out of the produce of their respective Territorial Revenues, or if necessary by Loans raised upon their security; and in this manner a satisfactory adjustment can therefore at any time be made between the two Districts.

I have, &c.,

Chs. A. Fitz Roy.
1848.
8 Jan.

Objections to grant of fines and penalties to colonial treasury in Sydney coal delivery act.

Bill proposed re fines reserved to colonial treasury.

162 HISTORICAL RECORDS OF AUSTRALIA.

Your Lordship points out that the Act No. 2 amends the Act* for regulating the sale and delivery of Coal in Sydney, imposing certain penalties to be recovered as therein provided; and that in Your Despatch No. 11 of the 6th August, 1846, you objected to the terms of the last mentioned Act on the ground that it reserved these penalties to the Colonial Treasury and not to the Queen. Your Lordship further remarks that, unless the Act No. 8 of the 9th Vict. shall have been amended so as to grant such Fines to Her Majesty in conformity with the suggestion contained in that Despatch, it will be necessary, under the 32d Clause of the Constitutional Act, that an Order in Council should be passed for disallowing it; and that, until you are apprised of the result of your recommendation, Her Majesty's decision on the Act No. 2 will also be suspended.

In consequence of Your Lordship's Despatch of the 6th August, 1846, No. 11, "A Bill to amend certain Acts of the Governor and Legislative Council of the Colony of New South Wales," being those in which the fines were reserved to the Colonial Treasury, was prepared for the purpose of being laid before the Council in the last Session; but, from some inadvertence, or rather I believe from some misapprehension on the subject which cannot I regret be now explained, but which probably arose from the circumstance of another Act (11 Vict. No. 29 relating to the appropriation of fines and penalties in certain cases) being under the consideration of the Council, this Bill was not brought forward. It will, however, be introduced early in the ensuing Session; and, as the Legislature has already affirmed the principle, by which it is your Lordship's opinion it should be guided in the appropriation of fines, etc., in the Acts passed by it during the last year, there is therefore no reason to apprehend that any opposition will be offered to the Bill to amend the Acts, in which penalties are made payable to the Colonial Treasury and not to the Queen; and it is hoped that your Lordship will not see any necessity for advising Her Majesty to disallow the Act No. 8 of the 9th Victoria (for regulating the sale and delivery of Coal in Sydney), or for withholding Her assent to the Act No. 2 of the 10th Victoria for amending that Act.

I have, &c.,

CHS. A. FITZ ROY.

* Marginal note.—9 Vict., No. 8.
Fitz Roy to Grey.

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 7, per ship Agincourt; acknowledged by Earl Grey, 17th May, 1848.)

My Lord,

Government House, 8th January, 1848.

Upon my assumption of the Government of this Colony, I found that my predecessor had been for some time in correspondence with the Lieut. Governor of South Australia on the subject of defining properly, on the ground, the boundary line between that Colony and New South Wales. The necessity for such a measure was brought under Lord Stanley’s notice by the Governor of South Australia in a Despatch dated in September, 1844, a copy of which was referred for the report of Sir George Gipps in Lord Stanley’s Despatch of the 28th May, 1845, No. 50, replied to by Sir George Gipps’ Despatch of 29th April, 1846, No. 91.

Although concurring in the expediency of adopting if possible well marked natural features as the line of demarcation between this Colony and South Australia, the respective Governments were not agreed as to what those features should be. The leading feature of the boundary proposed for adoption by Governor Grey, was the River Glenelg, which debouches very near where the 141st degree of East Longitude (the legal boundary of South Australia) cuts the sea; whilst the Surveyor General of this Colony and the Superintendent of Port Phillip favoured the adoption of the River Murray.

I find that my predecessor, after deliberating the matter with his Executive Council, came to the conclusion that the natural boundaries recommended by Governor Grey were not distinct or perfect enough to justify so large a concession of country on the part of N. S. Wales as this adoption would require. The course of the Murray, on the other hand, was not open to any objection on the score of indistinctness; but its adoption would deprive South Australia of a large tract of sea board Country, and would leave the capital of that Colony within forty miles of its frontier. Being thus unable to recommend either of the proposed boundaries, the Council advised an adherence to the 141st Degree of East Longitude.

With a view, therefore, to have that line actually marked on the ground, the correspondence was resumed between Governor Robe and myself. I need not trouble Your Lordship with the detail of that correspondence; it may suffice to say that it was ultimately arranged that a due North and South line should be run from a point on the Sea Coast to the River Murray,
sufficiently indicated on the ground at greater or less intervals, according to the character of the country traversed, by marked tree lines, surface lines, or piles of stones. The point where the 141st degree cuts the sea Coast had been determined by Mr. Surveyor Tyers, and also by Capt. Stokes, R.N., by different modes of computation. The conclusions, they arrived at, differed only by a few seconds of longitude; and it was mutually arranged that the actual points of commencement should be the mean of these results. It was further agreed that the Survey of the line should be entrusted to an Officer detached for the purpose from the Survey Department of this Colony, accompanied by a person nominated by the Government of South Australia, the cost of the undertaking to be equally borne by both Colonies.

The work was accordingly commenced in the early part of last year by Mr. Surveyor Wade, who successfully conducted it as far as the 36th degree of Latitude, being a total distance from the sea of upwards of 123 miles. Here he was unfortunately compelled to abandon the further marking of the line until another opportunity, in consequence of the impossibility of obtaining supplies for his Party.

Although it is to be regretted that the Survey has thus been left incomplete, the object for which it was undertaken has nevertheless, for all practical purposes, been effected, as there is reason to suppose that the Scrub,* in which the Survey has for the present terminated, extends to the Murray.

I have now the honor to add that the line thus marked has been formally adopted by the Government of South Australia as the Eastern boundary of that Province. I enclose a copy of Governor Robe's Proclamation on this subject, to which is subjoined a detailed schedule of the Boundary line marked on the ground.

I am not without hope that the information thus afforded may be found available by Your Lordship in the determination of the boundaries of N. S. Wales, South Australia and Western Australia, to which reference is made in Your Lordship's Despatch of the 31st July last, No. 203.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[This was a copy of the issue of the "South Australian Gazette," dated 16th December, 1847.]

* Note 16.
FITZ ROY TO GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 7, per ship Sir Edward Paget.)

Sir,

Downing Street, 9 January, 1848.

I have received your Despatch No. 130 of the 24th of June last, with a Copy of a Letter from Mr. Justice A'Beckett, the Resident Judge at Port Phillip, stating the circumstances under which he claims to be relieved from the repayment to the Colonial Treasury of a sum of £100 advanced to him in the year 1846, in order to defray the expenses of his removal to Port Phillip, whither he was proceeding to assume the provisional appointment of Judge. The Allowance was granted on the clear understanding that it should be refunded if he was confirmed in his Office, but that it should be open to him to make any representation which he might think proper against the repayment.

I have fully considered that representation, and I can perceive no grounds for acceding to your recommendation in favour of Mr. A'Beckett's Application. I have, &c.

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch marked "Confidential," per ship Hamlet.)

My Lord,

Government House, 9th January, 1848.

I have the honor to forward herewith the annual List of Candidates for Office or advancement in Office in this Colony, as called for by the 8th paragraph of the "Regulations relative to appointments to Public Offices in the Colonies," enclosed in Lord Stanley's Circular Despatch, dated 15th June, 1842.

This List is divided according to the form adopted by my predecessor into four Classes:

1. Is a List of persons already in Office, but considered worthy of advancement either in their own or in any other Department.

2. Is a List of persons resident in the Colony, who have been specially recommended to me for employment by Your Lordship or by previous Secretaries of State for the Colonies.

3. Is a List of persons resident in the Colony who, either from my own knowledge of them or from the way in which they have been introduced to me, I consider eligible for employment.

4. Is a List of persons who, having been displaced from Office for no fault of their own, are Candidates for reappointment.

I have, &c.

CHS. A. FITZ ROY.
### Class No. 1

<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Merewether, F. L. S</td>
<td>Clerk to Executive Council and Immigration Agent, well qualified for the office of Colonial Secy, or any other appointment in the Colony higher than those he now holds.</td>
</tr>
<tr>
<td>2</td>
<td>Innes, Jos. Long</td>
<td>Visiting Magistrate, Gaol and Cockatoo Island and Tarban Creek, and one of the unpaid Pol. Magistrates of Sydney, well qualified for the appointment of Head of Police or Paid Pol. Magistrate.</td>
</tr>
<tr>
<td>3</td>
<td>Elyard, William</td>
<td>Chief Clerk, Colonial Secretary's Office.</td>
</tr>
<tr>
<td>4</td>
<td>Vallack, William</td>
<td>Clerks in Colonial Secretary's Office.</td>
</tr>
<tr>
<td>5</td>
<td>Fitzpatrick, Michael</td>
<td>Clerk in Colonial Secretary's Office, attached to the Private Secretary's Office.</td>
</tr>
<tr>
<td>6</td>
<td>Greville, Charles</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Townsend, John</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Barton, King</td>
<td></td>
</tr>
</tbody>
</table>

I have not thought it necessary to include in the above List the names of the higher officers of the Government; nor do I mean to imply that the generality of the Public Officers of the Colony are not qualified for Promotion.

### Class No. 2

<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Date</th>
<th>By whom introduced</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Newall, Thos.</td>
<td>20 December, 1845</td>
<td>Mr. O. W. Hope</td>
</tr>
<tr>
<td>2</td>
<td>Whittey, Henry</td>
<td>20 January, 1846</td>
<td>Right Honorable W. E. Gladstone</td>
</tr>
<tr>
<td>3</td>
<td>Jeffreys, Arthur</td>
<td>22 January</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Dick,</td>
<td>4 February</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Turner, G. G.</td>
<td>17 April</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Miller, T. D.</td>
<td>1 May</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Nagel, Chs.</td>
<td>23 May</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Lockhart, Chs.</td>
<td>4 June</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>D'Urbain, J. H.</td>
<td>17 June</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>St. John, G. F.</td>
<td>31 July</td>
<td>Rt. Honble. Earl Grey</td>
</tr>
<tr>
<td>11</td>
<td>Willoby, Wm.</td>
<td>29 August</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Smith, C. F. H.</td>
<td>August</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>MacCrag, A. M.</td>
<td>29 October</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Clarke, G. T.</td>
<td>27 November</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Vernon, T.</td>
<td>January, 1847</td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>Mackerie, Wm.</td>
<td>February</td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>Newman, R. W.</td>
<td>March</td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>Simpson, Chs.</td>
<td>9 June</td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>Stephen, Sydney</td>
<td>30 April</td>
<td>By Despatch No. 146.</td>
</tr>
<tr>
<td>20</td>
<td>Venour, F. H. B.</td>
<td>July</td>
<td></td>
</tr>
</tbody>
</table>
Residents in the Colony, who are considered eligible for employment, although not specially introduced by Her Majesty's Secretary of State.

Class No. 3.

<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Allan, A. B. M.</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Allmann, J. J</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Jardine, John</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Jones, W. F.</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>MacLeay, William</td>
<td>Grandson of late Col. Secy.</td>
</tr>
<tr>
<td>6</td>
<td>Dowling, W.</td>
<td>Nephew of late C. Justice.</td>
</tr>
<tr>
<td>7</td>
<td>Bidwill, J. C.</td>
<td>Acting Colonial Botanist.</td>
</tr>
<tr>
<td>8</td>
<td>Gibbes, Edmond</td>
<td>Son of Collector of Customs.</td>
</tr>
</tbody>
</table>

Candidates for employment or re-appointment in consequence of having been displaced either by reduction or appointments from England.

Class No. 4.

<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Johnstone, Edward</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Faunce, Thomas</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Cook, J. H.</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Crummer, J. H.</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Plunkett, Patrick</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Hardy, John R.</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Furlong,</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Holden, Alfred</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Fenwick, N. A.</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>French, Acheson</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Gray, W. N.</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Dowling, Jas.</td>
<td>Late Chairman, Qr. Sessions, North Australia.</td>
</tr>
<tr>
<td>14</td>
<td>Brown, W. A.</td>
<td>Late Crown Prosecutor, do</td>
</tr>
</tbody>
</table>

Government House, Sydney, 9 January, 1848.

Sir Charles Fitz Roy to Earl Grey.

(Despatch marked "Confidential," per ship Hamlet.)

My Lord, Government House, 10th January, 1848.

With reference and in reply to Your Lordship's Circular Despatch of the 9th February, 1847, directing me to furnish in a Confidential shape such information as I may possess respecting the present character of each of the principal Newspapers published in this Colony, and among what Class and to what extent it circulates, I have now the honor to transmit a List of the whole of the Newspapers published in the Sydney and Port Phillip Districts, to which I have appended such remarks from Mr. La Trobe and myself as will afford your Lordship the information you require.
I have only to add, with reference to the principles upon which these Papers are conducted and published, that I believe there is not one of them that would refuse admission to any Article, however personal or offensive it might be, for the insertion of which a sufficient pecuniary inducement was offered, together with such guarantee as might be required against the result of any legal proceedings that might in consequence be instituted against it.

Should there be any papers on the List (not now forwarded to the Colonial Department), which Your Lordship would desire to be furnished, I shall take care to have them duly transmitted.

I have, &c.,

CHS. A. Fitz Roy.

[Enclosure No. 1.]

List of Newspapers* published in New South Wales.

1. Sydney Morning Herald, published in Sydney daily. Two copies forwarded to the Secretary of State. Circulation about 3,000. This Paper is very generally read; and, as it contains most of the Advertisements published in the Colony, it is well supported by the Commercial and Trading classes as well as by the Settlers in the Country. It's leading articles do not appear to be governed by any fixed rules or principles, but, like those of all other Papers in New South Wales, more by the bearing which any particular measure or question may have on the interests of those it represents, or by the personal feelings or connexions of the writers or conductors; but it is generally considered a respectably conducted Paper; and, although its writings are not always read with attention, it is a publication of considerable influence, and, as possessing the best information, of much utility. In reference to Religion, it is a supporter of the views of the Church of England, and some of the Clergy, or their personal friends, appear in some cases to exercise considerable influence over it. It contains generally the best reports of the debates in the Legislative Council, and upon the whole this branch of its management is perhaps as fair as that of most publications in any Country, alt ho' more attention is no doubt frequently given to speakers, whose opinions it advocates, or whose views, from personal consideration towards the individual or association with him in the daily business of life, it upholds. It is perhaps here that the Government, which is neither systematically supported nor opposed, is scarcely on all occasions done full' justice to in the remarks made by its officers in explanation or support of its measures, alt ho' generally there is no great reason to complain.

2. Australian. Formerly published three times, then twice and now once a week (Friday) in Sydney. Two copies forwarded to the Secretary of State. It is a Paper on the decline, and not, it is believed, of extensive circulation or possessing any influence in the community. It has no fixed principles, and avowedly inserts any article and advocates any cause for which it may be sufficiently well paid. It is at present supposed to be in the hands of Mr. Benjamin Boyd.

*Note 17.
3. **Sydney Chronicle.** Published in Sydney three times a week (Tuesday, Thursday, and Saturday); two copies forwarded to the Secretary of State. This Paper was established and is under the direction of the Roman Catholic community. It is, however, now more liberal in its views than formerly, and appears to be a well-conducted Paper, exercising no doubt considerable influence amongst the persons whose particular views it advocates. Its views on some public questions also differ from those of other Papers; on the Squatting question, for instance, it considers that the system is too favourable for the large Graziers, and that the interests of the small Proprietors are not sufficiently provided for. The reason for this is that the Roman Catholics, altho' numerous and many of them wealthy, consist for the most part of the humbler classes of society; and it is their interests and opinions which engage the chief attention of the Sydney Chronicle, in conjunction with those of the Clergy. Its circulation is considerable but confined chiefly to the body it represents.

4. **The Sentinel.** Published weekly on Thursday in Sydney,—not forwarded to the Secretary of State. It professes to uphold the doctrines of the Church of England, but is generally a Paper of small weight and circulation, I believe.

5. **Atlas.** Published in Sydney once a week (on Saturday),—not sent to the Secretary of State. This Paper is occasionally written with considerable talent, but it is given to offensive reflections on persons, who may, from any cause, be obnoxious to its contributors; and, altho' less scurrilous in its attacks on private character than formerly, it appears to be on the decline in influence. Its opinions are free; but its attacks on the Bishop of Sydney, which are constant, would seem to indicate far more of personal feeling than of difference of opinion on public matters with those they oppose. Its circulation is considerable, I believe, in the Country Districts amongst the Squatters.

6. **Bell's Life in Sydney.** Published weekly in Sydney (on Saturday),—not forwarded to the Secretary of State. This Paper professes to represent the sporting part of the community, and to record the proceedings on the Turf, etc. It has a considerable circulation, and is generally to be found in the Public Houses.

7. **Bell's Life in Australia.** Published weekly in Sydney (on Saturday),—not forwarded to the Secretary of State. Similar to the last, but an inferior publication.

8. **Heads of the People.** Published once a week in Sydney (on Saturday),—not forwarded to the Secretary of State. This is a publication professing to describe public characters; but the selection, altho' amusing, is sometimes rather singular.

9. **Age.** Published weekly in Sydney (on Saturday),—not sent to the Secretary of State. This is a small Paper, compiled, apparently, from other publications, and sold to the humbler classes, who frequent the Market etc. on Saturday evening.

10. **Shipping Gazette.** Published in Sydney weekly (on Saturday),—not sent to the Secretary of State. This is confined to shipping news.

11. **The Gleaner.** Published weekly (on Saturday),—not sent to the Secretary of State. This is merely what it purports to be: It seems to have no particular character itself; the circulation must be small.
170 HISTORICAL RECORDS OF AUSTRALIA.

1848.
10 Jan.
Report on newspapers.

12. Maitland Mercury. Published twice a week at Maitland, Hunter's River (on Wednesday and Saturday). This gives the local news of the District as well as that of the Colony generally: not sent to the Secretary of State.

13. Moreton Bay Courier. Published once a week at Moreton Bay (on Saturday same as the above).

Port Phillip.

1. Port Phillip Patriot. Published in Melbourne daily. Two copies sent to the Secretary of State.
2. Port Phillip Herald. Published in Melbourne twice a week (Tuesday and Thursday). Two copies forwarded to the Secretary of State.
3. Port Phillip Gazette. Published in Melbourne three times a week (Monday, Wednesday and Saturday),—not forwarded to the Secretary of State.
4. Melbourne Argus. Published in Melbourne twice a week (Tuesday and Friday),—not forwarded to the Secretary of State.
5. Geelong Advertiser. Published at Geelong twice a week (Wednesday and Saturday),—not forwarded.
6. Portland Gazette. Published at Portland once a week (on Friday),—not forwarded.
7. Portland Guardian. Published at Portland twice a week (Tuesday and Saturday),—not forwarded.
8. Corio Chronicle. Published twice a week (Monday and Thursday),—not forwarded.
9. Albion. Published once a week in Melbourne (Saturday),—not forwarded.

[Enclosure No. 2.]

MR. C. J. LA TROBE TO COLONIAL SECRETARY THOMSON.

Melbourne, Port Phillip, 20th January, 1848.

Sir,

In obedience to the instructions conveyed to me in your letter of the twenty-fourth of December, marked "Confidential," I beg leave to forward to you the information called for as to the general character, etc., of each of the principal Newspapers in the Port Phillip District, for the satisfaction of the Secretary of State.

There are at present five newspapers published in the Town of Melbourne.

1st. The Port Phillip Patriot and Morning Advertiser dates from 1838, is now issued daily, and is supposed to have a circulation of 600 copies in town and Country. It seems to possess no fixed principle or distinguishing feature under present management, and is supported by no particular class: it advocates the introduction of Exile labour, and, in common with every other paper in the District, Immigration and financial and Political Separation from New South Wales. Under its present conductor as under former management, it systematically deals in abuse and gross misrepresentation of persons and facts.

2nd. The Port Phillip Gazette and Settlers' Journal dates from 1840, is issued three times a week, and is supposed to have a limited circulation of about 350 copies among no particular class
of readers, principally in the town. It seems to possess no distinctive principles or characters. It supports the introduction of Exile labour.

3rd. The Port Phillip Herald, dates from 1840, is published twice a week and is pretty generally circulated in Town and Country to the extent of about 800 copies. The Conductor professes to be attached to the Church of England and its principles; but, after having once violently opposed, now advocates the Roman Catholic interests. The Port Phillip Herald, nevertheless, although without talent or fixed principles, is upon the whole more decently conducted, and is admitted into houses where other local papers are excluded. It has latterly opposed the introduction of Exile labour.

4th. The Melbourne Argus dates from 1846, and is published twice a week; its circulation may be about 400 copies, chiefly in town, amongst the Presbyterians and Orange parties. The violent and disgraceful party spirit that has sprung up in Melbourne, although it may not have originated with the Editor of this paper, has nevertheless mainly been kept alive by his publications; and the general tone of the "Argus" under his management is quite as discreditable as that which distinguished the Patriot newspaper, formerly, when under his control. The "Argus" violently deprecates the introduction of prison labour in any form.

5th. The Albion dates from 1847, and is published once a week; it has a circulation of about 50 copies, chiefly amongst the Middle Classes, with no character; it is merely an offset of the "Argus." Geelong.

6th. The Geelong Advertiser was first published in 1841, and issues twice a week, having a circulation of about 300 copies chiefly in the Geelong and Western District. It has always advocated the interests of the "Squatters," and particularly the claim of the Town and Harbour of Geelong; it is favourable to the introduction of Exile labour.

On the whole, it has been remarked to contain more useful matter, and to be more creditably and decently conducted than any other paper in this District.

7th. The Corio Chronicle and Western District Advertiser dates from 1847, is issued twice a week, and circulates about 100 copies chiefly in Geelong; has no character whatever.

Portland.

8th. The Portland Guardian and Normanby General Advertiser dates from 1844, is published twice a week, and supposed to have a circulation of about 200 copies, chiefly in Portland and its District. It professes to advocate local interests, but is of a very low character. It has, I believe, supported the introduction of Exile labour.

9th. The Portland Gazette and Belfast Advertiser dates from 1843, is a Weekly publication, with a circulation of about 300 copies, and limited chiefly to Portland and its District. It supports the introduction of Exile labour, but is of a very low character.

To the above information I have only to add that the general style, tone, and character of the Port Phillip press has been hitherto as discreditable to the District, as the little influence which it may have exercised at home or abroad has been decidedly
1848. 10 Jan.

Report by C. J. La Trobe on newspapers published in Port Phillip district.

injurious. Not one of the conductors hitherto, whatever might be his individual, moral, or social position in the community, has been possessed of sufficient standing or character to render any but the most transient correspondence or connexion with them either safe or creditable, or to give assurance that the power, which the possession of a set of Types confers, would not be knowingly abused by his own acts or as far as he could control by his assistants or contributors. In plain words, ignorance, disregard of truth and a reckless and studied spirit of misrepresentation, often amounting to the most malevolent libel, have been hitherto more or less the distinguishing characteristics of all the principal papers of Port Phillip, whether under their present or past management. No certain dependence can be placed upon the Statements they contain, or safe deductions drawn from their contents. Still more hazardous would it be to infer that the opinions or views or statements they promulgate, were in the majority of cases an index of "public opinion." In fact it may be doubted whether, except on one or two points of undeniable general interest, "public opinion" properly so called either exists, or, if it exists, can be expressed in a community circumstances as that of Port Phillip.

That such a press meets with support and encouragement at all may be considered a stigma upon the character and principles of the Inhabitants: but money is plentiful in the pockets of the Middle Classes, by which the newspapers are mainly supported; and, in the absence of any better mode of acquiring information or entertainment, a confessedly bad newspaper seems to be considered by the scattered population better than none. I may still observe that a Government, which has no sure and legitimate means, direct or indirect, of stating facts, or allowing the truth as regards its motives or actions to become known, lies under undeniable disadvantage; and that I for my part have been fully aware of this. But I early became persuaded that such disadvantage had better be borne, than that a remedy should be sought for in a connexion direct or indirect with the newspapers of this District, whilst so constituted and conducted; and that it were better that the Government and its Officers should possess in the local press, as it has done at all times and on all occasions with but little exception, an open and reckless opponent than an unprincipled and uncertain Ally.

I have, &c.,

C. J. LATROBE.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 10, per ship Hamlet.)

My Lord, Government House, 11th January, 1848.

Adverting to my Despatch No. 204 of the 14th October last, and, in pursuance of the instructions contained in Lord Stanley's Despatch No. 16 of 14th October, 1841, I have the honor to transmit six Duplicates of the additional permissions which I have granted, as shewn in the annexed List, to the parties named therein, to import Immigrants from the Continent of Europe under the terms of the Notice of 7th April, 1847, issued by this Government. I have, &c.,

Chs. A. FITZ Roy.
Sir Charles Fitz Roy to Earl Grey.
(Despatch No. 11, per ship Hamlet; acknowledged by Earl Grey, 27th July, 1848.)

My Lord, Government House, 11th January, 1848.

I have the honor to transmit to Your Lordship the copy of a letter from the Superintendent of Port Phillip, reporting that he has nominated Mr. Thomas Barry Alexander to be Coast Waiter at Port Fairy in the room of Mr. John Chastel deceased, and Mr. W. Jackson Thomas to be extra Clerk in the Custom House at Melbourne in the place of Mr. Alexander; and I have to state to Your Lordship that I have sanctioned the arrangement made by Mr. La Trobe subject to the confirmation of the Board of Customs. I have, &c,

Chs. A. Fitz Roy.

[Enclosure.]

[A copy of this letter, dated 10th December, 1847, will be found in a volume in series III.]

Sir Charles Fitz Roy to Earl Grey.
(Despatch No. 12, per ship Hamlet; acknowledged by Earl Grey, 17th August, 1848.)

My Lord, Government House, 12th January, 1848.

Referring to my Despatch No. 236 of the 26th November, 1847, reporting the arrangements I had sanctioned in the

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List of Persons to whom permission has been given to import Labourers from the Continent of Europe under the Notice of the 7th April, 1847.

<table>
<thead>
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<th>No.</th>
<th>Name of Applicant</th>
<th>Number and description of Labourers applied for</th>
<th>Total</th>
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<tbody>
<tr>
<td>1</td>
<td>Mr. W. H. Broughton</td>
<td>Vine Dresser</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>R. Johnston</td>
<td>Vine Dressers</td>
<td>4</td>
</tr>
<tr>
<td>3</td>
<td>Edwin Hickey</td>
<td>Vine Dresser</td>
<td>1</td>
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<tr>
<td></td>
<td></td>
<td>Wine Cooper</td>
<td>1</td>
</tr>
<tr>
<td>4</td>
<td>John Taylor</td>
<td>Vine Dressers</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Wine Cooper</td>
<td>1</td>
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<tr>
<td>5</td>
<td>J. Brown</td>
<td>Vine Dresser</td>
<td>1</td>
</tr>
<tr>
<td>6</td>
<td>Thomas Icely</td>
<td>Vine Dressers</td>
<td>4</td>
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<td>17</td>
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Department of Customs at this Port in consequence of the death of the Landing Surveyor, I have now the honor to forward a copy of a letter from the Collector of Customs, urging the claim of Mr. Richard Williams, Senior Tide Waiter at Broken Bay, for the Office of Junior Landing Waiter which has become vacant by the promotion of the other Landing Waiter, and to state to your Lordship that I have sanctioned his appointment accordingly; and that, as proposed by the Collector, I have approved of the removal of Mr. James Collier, second Treasury Tide Waiter, from Sydney, to fill the place of Mr. Williams at Broken Bay, pending in both cases the decision of the Board of Customs.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[A copy of this letter is not available.]

SIR CHARLES FITZ ROY TO EARL GREY.

(Despitch No. 13, per ship Hamlet.)

My Lord,

Government House, 13th January, 1848.

With reference to my Despatches No. 116 of 26th May, 1847, and No. 183 of 17 September, 1847, relating to the illness of Mr. Peter Stewart of Her Majesty's Customs and his transfer to Melbourne, I have the honor to report to Your Lordship that, in consequence of the enclosed Despatch which I received from the Superintendent of Port Phillip, conveying a letter from the acting Collector at Melbourne applying for an Extra Clerk on account of Mr. Stewart's indisposition, and having had reason to believe that the disease under which Mr. Stewart was labouring was Delirium tremens brought on by his dissolute and intemperate habits, I requested the Superintendent to call upon Mr. Stewart's Medical attendant for a Certificate of the nature of his illness, and I have now the honor to enclose copy of Mr. La Trobe's reply, by which Your Lordship will observe that there is but little chance of Mr. Stewart's ever being fit for the duty to which he has recently been appointed.

I have further to report that I have sanctioned the temporary appointment by Mr. La Trobe of Mr. William Sidney Gibbons as extra Clerk in the Department during Mr. Stewart's absence from his duty.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosures.]

[Copies of these letters, dated 23rd November and 3rd December, 1847, will be found in a volume in series III.]