FITZ ROY TO GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 11, per ship Hamlet.)

My Lord,

Government House, 14th January, 1848.

With reference to my Despatch* "North Australia, No. 2," of 2d August 1847, I have the honor to transmit the copy of a letter which I have received from Capt. Owen Stanley of H.M. Surveying Ship "Rattlesnake," enclosing a tracing of the Harbour of Port Curtis.

Your Lordship will perceive that Capt. Stanley reports that Port Curtis forms an excellent Harbour, and in that respect fully justifies Lieutenant Colonel Barney's anticipations; and that, from the discovery by Capt. Stanley of a new passage of Entrance, it will be of very easy access to shipping of any burden that may resort to it.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

CAPTAIN OWEN STANLEY TO COLONIAL SECRETARY THOMSON.

H.M. Surrvt. Ship "Rattlesnake".

Sir,

at Port Curtis, 28th Novr., 1847.

I beg leave to inform you that I arrived here on the 8th Novr. and have made a careful Survey of the Harbour, the tracing of which I send, and hope it will give the information you require as to the nature of the place.

A great change has taken place in the position of the Shoals off the entrance, since Captain Flinders surveyed it in 1802; the Channel by which the "Lady Nelson" entered is now barely two hundred fathoms in width; but, in the course of our survey, a passage has been found further to the Southward, fully a mile wide, which, if buoyed, would render the Harbour easy of access for Ships of any size.

The anchorage in Port Curtis appears to be very good, and the only inconvenience experienced during our stay was from the strength of the tide, which at full and change runs with a velocity of from two to three miles per hour.

I am anxious, therefore, to proceed upon the other duties entrusted to me; I have not expended any time in tracing the various creeks on the Southern side of the Harbour, nor have I made any search for fresh water except in the immediate vicinity of our anchorage; some was found on the East side of Facing Island, but too far off to be available for our purposes.

The two Horses left by Colonel Barney accompanied by a foal have been repeatedly seen on Facing Island in very good condition, but are too wild a State to be caught.

No Signs of any Settlers have been seen here; and, though Native fires have been seen in considerable numbers on Curtis Island and the Main Land, we have not had as yet any communication with them.

On leaving Moreton Bay, the decked Boat in charge of Lieutenant Dayman came through the Channel between Great Sandy Island and the Main; and he reports so favourably of the anchorage at the Southern entrance that I have directed Lieutenant Yule in the*

* Note 18.
1848.
14 Jan.
Proposed further surveys.

"Bramble" to survey it, and then to proceed to Moreton Bay for the purpose of forwarding to you tracings of his work, and such other information as he may obtain relative to the movement of Settlers in that neighbourhood.

I intend sailing from this Port to-morrow, and shall proceed at once to Gould Island, and work down as far to the Southward as I can, returning to Sydney by the end of February or the beginning of March (1848).

Owen Stanley,
Captain R.N. and Surveyor.

Memo.
The tracings of Port Curtis forming one of the enclosures of Sir C. A. FitzRoy's despatch No. 14 will be forwarded with the Duplicate Despatch having been corrected and altered by Captain Stanley, R.N., since the original was made.

5 February, 1848.

Earl Grey to Sir Charles FitzRoy.
(Despatch No. 8, per ship Sir Edward Paget.)

Sir,
Downing Street, 15 January, 1848.

I have the honor to acknowledge your Despatch No. 154 of the 24th of July last, accompanied by a further representation from Mr. Robert Crawford respecting his claim to a Grant of 6,000 Acres of Land.

I am by no means disposed to re-open on any light grounds cases which have already been carefully considered by impartial Authorities on whose sense of Justice reliance can be placed. But the present instance is one of a peculiar character. When last the subject was before this Department, although there was not in the opinion of the Secretary of State sufficient evidence to shew conclusively that Mr. Crawford had acquired his land by way of Grant, yet there was so much doubt thrown on its having been an ordinary purchase, that Lord Stanley agreed to the Governor's advice that Mr. Crawford should be enabled to secure his title on very easy terms. The decision was certainly intended to be favourable towards Mr. Crawford.

But, unwilling to be called on for any payment for Land which he had so long believed his own, Mr. Crawford has renewed his Appeal. I deemed it right under these circumstances to call upon the Commissioners of Colonial Lands and Emigration for a further Report, of which a Copy is enclosed, and in which you will, I think, perceive that no pains have been spared to arrive at just conclusions upon this case.

Considering the strong evidence afforded in Mr. Crawford's favour by the form of Certificate under which he was authorized to take possession of his land, that form being one which was only used for Grantees, and above all adverting to the circumstance that, during the long period of 17 years, Mr. Crawford
himself, the persons to whom he mortgaged his land, and the
Government all appear to have acted on the impression that he
really was the Grantee, I do not feel that it would be fair, after
the protracted acquiescence of all parties in this view, to insist
upon the doubts which have since been thrown upon the origin
of his title; and I therefore hereby authorize you to recognize
and act upon Mr. Crawford's claim to a Grant of this land.
I have, &c.,
GREY.

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY
MERIVALE.

Colonial Land and Emigration Office,
Sir 5th January, 1848.

We have the honor to acknowledge your letter of the 27th
Ultimo, transmitting the Copy of a Despatch from the Governor
de New South Wales, in which is forwarded a Memorial from Mr.
Crawford relative to a claim to 6,000 Acres of Land.

From these Documents and the papers previously referred to
this Board,* We gather the following particulars.

It appears by an Official record in the Survey Office that, on
November 28th, 1825, Mr. Crawford and his brother received from
Sir Thos. Brisbane permission to purchase 3,000 acres of Land
each; Mr. Crawford entered into possession and so remained for
17 years; at the end of which period he learnt that, not having
completed his purchase, the Grant to which he would have been
entitled had been cancelled by Sir George Gipps.

Against this proceeding, Mr. Crawford appealed to the Secretary
of State, stating that Sir Thomas Brisbane had subsequently
changed the permission to purchase into a promise of a free
Grant, a statement which is confirmed by Sir Thos. Brisbane, but
of which there is no record in the Survey Office; that he con­
sequently obtained from the Survey Office, not the documents
given to proposing purchasers of Land, but the Certificate of
possession usually given to persons obtaining free Grants; that he
did not make the Deposit required from purchasers; and that he
received certain sums due to him from Government, which he
would not have received if anything had been known to be due
from him in his capacity of Land purchaser. All this is admitted.
He further stated that he had spent £5,000 on the property; and
he has twice mortgaged the property, the certificate of possession
issued by the Government Officer being taken in the Colony by
common usage as sufficient evidence of his right to a free grant.
He claimed, therefore, to be treated as entitled to such a free
Grant, and not merely as an intending Land purchaser.

Sir Geo. Gipps observed on Mr. Crawford's statement that, as
Sir Thomas Brisbane left New South Wales within three days
of the 28 November, 1825, the promise of a free grant must have
been given within three days after the permission to purchase,
and that Sir T. Brisbane would have exceeded his powers in

*Marginal note.—In C.O. Letters of 6 March, 1844; 4th April, 1844; 20 Augt.,
1845.
making a free Grant of more than 2,000 Acres. He seems on these
grounds to have doubted Mr. Crawford's statement, and to have
thought that the issue of a Certificate of possession was a mere
mistake of the Surveyor.

But, as Mr. Crawford and his Mortgagees were misled by this
mistake which has not been rectified till after the lapse of 17
years, the expenditure of a large Sum of money by Mr. Crawford
and the Mortgage of his supposed property, Sir George Gipps
though the case a hard one, and suggested (though he did not
conceive himself justified in adopting such a decision on his own
authority) that Mr. Crawford should be allowed to purchase his
Land at 5s. an Acre, the minimum price when he received the
permission to purchase.

Lord Stanley decided, on the recommendation of this Board,
that the suggestion of Sir G. Gipps should be adopted.

Mr. Crawford now prays that this decision may be relaxed. He
brings forward proof, which before he was unable to obtain, that
not only did the Survey Office issue to him a form of Certificate
only issuable to a free Grantee, but that in that capacity he was
required to sign a Bond, which purchasers were not requisite to
sign, and which is now in the Survey Office.

He states that he shall be ruined if the proposed payment is
exacted of him, and prays again that his claim to a free grant
may be allowed.

We cannot but feel some doubt whether the fresh facts adduced
by Mr. Crawford are such as to justify the reopening of a Case
which has been once closed. We have to observe, however, that
those facts are not wholly immaterial to the Settlement of the
question. For, while Lord Stanley's decision was in a great
measure based on the absence of any record in the Survey office
of Sir T. Brisbane's alleged promise, Mr. Crawford is now able
to prove that the records of that Office do bear an indirect testi­
mony to the truth of that allegation.

And, if it be not thought improper to re-open the question, We
beg to offer the following observations on the merits of the Case.

It results from the facts above stated that Mr. Crawford is in
possession of a Certificate, which is taken in the Colony as imply­
ing a promise of a free grant, and therefore as constituting a com­
plete (equitable) title to the Land he claims: that he has occupied
under it for 17 years; that on the faith of it he has expended,
and others have lent him money; and that the only proof that his
Certificate is not what it is prima facie taken to be, the Evidence
of a promised Grant arises from the absence of any record to
that effect in the Survey Office, an Office in which it is admitted
business was at the time negligently done, in which some mistakes
respecting Mr. Crawford's claims must, on any supposition, have
been committed, and which would now appear to contain, though
not direct evidence of a promise, yet proof that Mr. Crawford was
treated as holding one. We think it difficult to disregard the claim
arising on these facts.

In strictness, perhaps, this claim would be to be placed in the
position in which Mr. Crawford would have stood if Sir T.
Brisbane's intention had been carried into effect so far as legally
could be done. But, under the Regulations of 1824, then in force,
the Governor was only competent to make Mr. Crawford and
his brethren two Grants of Land of 2,500 (Not as stated by
Sir G. Gipps 2,000) Acres each. To these, therefore, Mr. Crawford would be now entitled, and also to the right of purchasing the remaining 880 Acres at 5s. an acre, the price of Land when the permission to purchase of 28th November, 1825, was given him. We think, however, that, if Mr. Crawford is to be admitted at all to the benefit of the Governor's promise, it would be inconvenient to take advantage of an excess of power committed 23 years ago and unobserved for more than 17, in order to qualify that concession; And we would, therefore, submit for Lord Grey's consideration whether the Governor might not properly be empowered to make Mr. Crawford grants of the Land claimed by him, subject of course to the conditions imposed by the Regulations of November, 1824, so far as they are still enforced upon persons taking or holding Land under these Regulations.

We have, &c.,

T. W. C. Murdock.
Frederic Rogers.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 15, per ship Hamlet; acknowledged by earl Grey, 22nd September, 1848.)

My Lord, Government House, 15th January, 1848.

In reply to Your Lordship's despatch No. 131 of 17th April, 1847, desiring me to report whether the increase of Salary recommended by my Despatch No. 58 of 6th November, 1846, to be granted to the Sub Treasurer at Port Phillip, would, if sanctioned, give birth to corresponding claims on the part of other Officers of this Government, I have the honor to transmit for Your Lordship's consideration a copy of a letter from the Superintendent of Port Phillip, with whom I communicated on the subject, stating his opinion that the proposed increase has neither led nor will lead to a similar claim on the part of any other Government Officer in that District, nor do I imagine that it will do so in the Middle District.

I have, &c.,

Chs. A. Fitz Roy.

[Enclosure.]

[Enclosure.]

[Enclosure.]

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 16, per ship Hamlet.)

My Lord, Government House, 16th January, 1848.

I have had the honor to receive Your Lordship's despatch No. 190 of 12th July, 1847, enclosing a letter from Mrs. Margaret Martin, containing an application for information respecting the fate of her son, who came out to this Colony as an Emigrant in the year 1842.
1848.  
16 Jan.  
Report re P. Martin.

Report re P. Martin.

Having referred to the Emigration Agent on this subject, that Officer has reported to me that a man named Patrick Martin, a native of King's County, Ireland, accompanied by his wife, Margaret Martin, a native of the County of Fermanagh, arrived in New South Wales by the ship "Ann Milne" in 1842, but, as it appears from the records of the Immigration Office that they left the ship without engagement, no further information can be obtained respecting them.

I have, &c,

CHS. A. FITZ ROY.

17 Jan.

Despatch acknowledged.

Exemption from quit rents granted.

EARL GREY TO SIR CHARLES FITZ ROY.  
(Despatch No. 9, per ship Sir Edward Paget.)

Earl Grey to Sir Charles Fitz Roy.  
(Despatch No. 9, per ship Sir Edward Paget.)

Downing Street, 17 January, 1848.  

Sir,

I have to acknowledge the receipt of your Despatch No. 122 of the 16th of June last, enclosing a Memorial from Miss M. B. Reddall, who, under the circumstances there described, prays to be discharged from the payment of certain Quit Rents.

Having referred these papers to the Land and Emigration Commissioners, I now transmit to you a Copy of their Report.

I entirely concur in their view of the case, and desire that you will give effect to it in favour of the Memorialist.

I have, &c,

GREY.

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY MERIVALE.

Land and Emigration Commissioners to Under Secretary Merivale.

Colonial Land and Emigration Office.

Sir,  

We have the honor to acknowledge your Letter of the 27th Ultimo, transmitting a Despatch from the Governor of New South Wales in which is forwarded a Memorial from Miss Mary Reddall praying to be discharged from the payment of certain Quit Rents.

In the year 1829, the insufficiency of the provisions made for the Clergy of New South Wales was brought under the notice of the Secretary of State, who refused to increase their Salaries, but directed the Governor to make Grants of Land to their Sons of 1,920 and to their daughters of 1,280 acres each. It was for some time questioned whether Quit Rents ought to be reserved on these Grants. But it was finally determined in the Colony that they ought. The intended value, however, of the gift may be gathered from what took place when Free Grants to Clergymen were discontinued, at which time compensation was made to those entitled to expect them at the current rate of 5s. an acre, amounting on a Grant of 1,280 acres to £320.
In 1831, Miss Reddall, daughter of a deceased Clergyman, received a Grant of Land of this Amount subject to a quit rent of 2d. an acre, which was to become first payable in seven years after the date of the grant. i.e. in 1838. She stated that the selection of the Land, which she was naturally obliged to leave to others, was so unfortunate that she has never been able to pay her Quit Rent (amounting apparently to £10 13s. 4d. a year) that she cannot do so without selling the Land, and that the Arrears (which must now be about £96) will shortly exceed the whole value of the Land.

The Governor does not expressly state whether her allegations are correct. But, observing that family misfortunes render her a peculiar object of compassion, and that the case is so isolated as not to form an inconvenient precedent, he recommends that her prayer should be granted. We conclude, therefore, that her statements are not materially incorrect.

Miss Reddall has of course no claim of strict justice against the government. The unfortunate selection of her Land was made on her own responsibility, and it is obvious that, if rent is allowed to remain in arrear for a sufficient time, it will amount up to the value of the land itself. But it is to be considered that Miss Reddall's Grant was not properly speaking gratuitous, but was given on the supposition that it was worth about £320 in part remuneration for her Father's services, and that the injudicious selection, by which she has failed to receive this benefit from it, arises not unnaturally from the Regulations which imposed the necessity of making such a selection on a person, unfitted by Sex and probably by Education from making it profitably.

We think, therefore, that, under these circumstances, it would be harsh to enforce upon Miss Reddall the payment of a Government Rent, which would reduce the advantage ceded to her so far below its intended Amount. And we would recommend that the Governor should be authorized to relieve that Lady from payment of the whole, or any part of these Rents (arrears inclusive), provided that the value of the property when so discharged shall not exceed £320.

If the gross value of her Land shall exceed that sum, we think that as to the surplus her case will be sufficiently provided for by the very liberal terms of commutation recently offered by Sir C. Fitzroy to the Holders of Land subject to Quit Rents. But we conjecture, from her statements and the Governor's silence, that no such excess will be found to exist.

We have, &c.,

T. W. C. MURDOCK.
FREDK. ROGERS.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 10, per ship Sir Edward Paget.)

Sir,

Downing Street, 17 January, 1848.

With reference to my Despatch No. 269 of the 4th Ultimo, I transmit to you herewith Copies of a further Correspondence with Sir Thomas Mitchell, the Surveyor General to
1848.
17 Jan.

Request by Sir Thomas Mitchell for extension of leave of absence.

Sir Thomas Mitchell to Earl Grey.

My Lord, London, 8th January, 1848.

From the favourable manner in which my application for Leave was received by the Governor of New South Wales, and the readiness with which it was granted, I did not anticipate those difficulties which Your Lordship appears to have felt in extending or even sanctioning that leave.

My preparations for returning to the Colony are not, therefore, in that state of forwardness, which enabled me by the utmost exertions to complete my arrangements until the present time.

However grateful I feel to Your Lordship for having sanctioned the original Leave of absence, with the difficulty which you appear to have felt in granting that indulgence, I am still induced to hope that I may be excused for the interval that may elapse beyond the period of my original Leave by Your Lordship's granting me an extension of two months, so that I might be fully prepared for embarkation by the end of next month.

I have, &c.

T. L. Mitchell.

[Enclosure No. 1.]

Enclosure No. 1.

Sir

Your Government, from which you will perceive that I have consented to permit, under the circumstances of the case, that he should remain in this Country until the 1st of March next.

I have, &c.

Grey.

[Enclosure No. 2.]

Under Secretary Hawes to Sir Thomas Mitchell.

Sir, Downing Street, 17th January, 1848.

I am directed by Earl Grey to acknowledge the receipt of your letter of the 8th Inst., in which you represent the difficulty you have experienced in completing your arrangements so as to enable you to return to New South Wales within the term of your present Leave; and, under the circumstances which you have stated, Lord Grey consents to permit your remaining in this Country until the 1st of March next.

At the same time, his Lordship directs me to state that no delay beyond that period can on any consideration be permitted, and that he is still unable to approve of the original grant to you of Leave of absence.

I have, &c.

T. L. Mitchell.

[Enclosure No. 2.]

Enclosure No. 2.

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 17, per ship Hamlet; acknowledged by Earl Grey, 29th July, 1848.)

My Lord,

My Lord, Government House, 17th January, 1848.

I take the liberty of referring Your Lordship's attention to the Despatch, forwarded by my Predecessor in the year 1844 and numbered 124, transmitting a Memorial from Mr. Stewart Alexander Donaldson, the Executor to the Estate of the late William Edward Riley, Esquire, formerly residing in this
FITZ ROY TO GREY.

1848. 17 Jan.

Colony, claiming, upon the grounds therein set forth, exemption in part from the Quit rents chargeable on certain lands authorised for that gentleman.

Further enquiry having been made by the Colonial Treasurer upon the subject, I do myself the honor to point out to Your Lordship that no reply has been received by this Government to the despatch above referred to.

I have, &c.,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 18, per ship Hamlet; acknowledged by Earl Grey, 11th August, 1848.)

My Lord,

Government House, 18th January, 1848.

At the request of Mr. William Bland, an Elective Member of the Legislative Council of this Colony, I have the honor to enclose copy of a letter which he has addressed to me commenting on the Report of the Select Committee of the Council on the Minimum upset price of Land.

I also enclose a copy of the Report alluded to, which was brought up during the last Session of the Council, and which has only recently been printed.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

MR. W. BLAND TO SIR CHARLES FITZ ROY.

Sir, 18 Jan.

Sydney, 21st December, 1847.

I cannot, even unwell as I am, refrain from addressing Your Excellency on the subject of the Report of the Select Committee of the Legislative Council, appointed on "the 23rd of July, 1847, to enquire into, and report upon what ought to be the minimum upset price or prices of land in the various Counties and Districts of New South Wales," laid before the public in the course of last week.*

Could I venture to hope that the Home Government would deign to consider its colonial possessions, more particularly its Australian Colonies, as worthy of the thought and careful study; as the pinsions by which our Parent Country may elevate herself, and maintain her position immeasurably eminent among the surrounding nations; as the means of increasing her internal commerce, if I may so term it, the private wealth of her subjects, and, as consequent upon it, her national revenues, or public income to any desirable extent; as the natural heritage of her surplus population; as the means of converting that portion of her population, now becoming daily the victims of pauperism, squallid misery, disaffection, famine, disease and death, into the elements of wealth and Contentment, the means of creating employment for themselves and for others, not only here but at

*Footnote in original.—The Report was published in the "Atlas" of the 23rd October, when I read it for the first time, and this Letter was for the most part written during the ensuing week, when it was unavoidably laid aside in consequence of a severe relapse of illness.
Necessity for reply to report on upset price of land.

General criticism of report.

Statistics in report.

1848.
13 Jan.

Home; could I venture to hope that the Home Government could spare time from present apparently more urgent objects of consideration for that of its Colonial interests, I should have nothing to dread by a little delay, and I would then gladly postpone those remarks which I am about to make until returning health and strength might enable me to lay them before your Excellency in a more fitting form. But that happy state of things I utterly despair of, at any rate at present; and therefore, however unequal I feel myself to do justice to this important subject, yet I will make the attempt, although in doing so I shall be compelled to confine myself merely to pointing out what appear to me a few vital flaws in the Report of the Select Committee, but which are sufficient to demonstrate with what caution it ought to be received, either in whole or in part, as a document to be acted upon. Not so much because there are any direct conclusions, if any direct conclusions are arrived at in the Report, from which there would be much to apprehend if acted upon, as simply because the adoption of any of the conclusions, whether direct or indirect, would most probably distract the attention at Home from those evils, so intimately connected with the present subject, not merely in its bearings on this Colony in particular and the Colonists, but still more seriously, both now and in perspective, upon the Home Government and the Parent Country.

I now beg to proceed at once to the Report, on which I will commence with a few general observations; and, first, it is gravely erroneous in its most material statistics, or, what is of no less importance, in their application; secondly, it is devoid of any attempt at the solution of that problem the solution of which ought to have been, as professed, its first object; while, thirdly, it still indirectly or collaterally adheres to the delusion of applying the proceeds from the Waste Lands of the Colony to the Importation of Labour. No attempt being anywhere made to demonstrate the immense advantage that would accrue to England from her undertaking that function herself, solely at her own expense; and the utter impossibility of this Colony or any Colony performing that portion of her public duties for her. Again, it not only, as before stated, does not attempt to solve that question, the solution of which from its title ought to have been its main object; but, further, it has not even attempted to take one step towards the suggestion, much less the establishment of any principle on which that question could be solved. Now as to the statistics. The first paragraph of the report contains a table of sums realised from the sale of Crown lands, between 1837 and 1846, at 5s., 12s., 20s. and upwards of 20s. an acre; to this is added the amount of population, which in 1837 was 85,000, in 1846, 196,000; and whence it appears, especially in proportion to the amount of population at the two respective periods, that an immense decrease took place in the said sums, viz., from £121,962 12s. 5d. in 1837, when the price was 5s. an acre, to £27,700 8s. 7d. in 1846, when the minimum price was £1.

But the question here occurs, if the price alone, as asserted in the Report, regulated the amount of sale, how came the sum realised in 1840, when the price had been not only raised from 5s. to 12s. an acre, but the latter price had been established upwards of 12 months, to amount to £324,072 3s. 4d., almost three times the sum realised in 1837, when the price was only 5s.?
Perhaps it would not be difficult to solve this apparent paradox by referring to various elements of calculation which are entirely omitted in the Report: thus, for instance, the gambling spirit encouraged by the local Government of that time by their extensive loans to the Colonial Banks at a rate of interest (latterly as high as 4 per cent.), which did not allow those establishments to let such loans lie unemployed, the consequent unlimited amount of discounts done in the Banks, and hence the apparent excessive superfluity of specie, with its consequent abuse and its temporary fall in value; added to this the gradually increasing land mania, which like every other similar mania "vires acquirit eundo" at least until the sustenance which supports it is exhausted; that sustenance then soon after this period was suddenly withdrawn by the withdrawal of the Government loans to the Banks, during a panic of the local Government, and the consequent immense and sudden contractions in the Bank discounts, very ill replaced as they were, by the issues of the Trust Company, the Loan Company, and the Scotch Company.*

I now come to another serious fallacy. "Sir George Gipps," the Report states, "had referred the decrease in the sale of Crown Lands to the general Insolvency of the Colony, and not to the high minimum price. If-so," the Report proceeds, "we may expect to find the same paralysing influence extended to all markets as well as the land market. The comparison of 1837 with 1846 will completely show the fallacy of this suggestion. In 1837, the value of Exports from this Colony was £760,000. In 1846, the value was £1,481,000, or nearly double. In 1837, the ships entered inwards were 400, of the burden of 80,000 Tons. In 1846, the ships entered inwards were 767, of the burden of 141,000 Tons. In 1837, the proceeds of sales by auction were £321,000; in 1846, £414,000. In 1837, the coin in the Treasury, Military chest and Banks, was £427,000; in 1846 £827,000." In reply to these statistics, as above applied, I will only observe that, however correct the figures may be, they are utterly useless for any practical purpose. As to the observations of Sir George Gipps, I must say that, although many things conduced no doubt to decrease the land sales besides the Insolvency of the Colony, as, for instance, the withdrawal of cheap labour, and the sudden demand for the whole of the pecuniary resources of the Colony, not only to meet the enormous expense of importing labour of other description, and of importing bread and other articles of subsistence for its use, but of providing wages for its employment; yet still the opinion of Sir George Gipps, as far as it went, was correct; and, even without any elucidation, a far better reason than the one assigned in the Report for the decrease of the sums realised by the sale of Crown Lands in the disastrous period from 1842 to 1844 inclusive.† The next fallacy is as follows: "In 1837, the value of exports from the Colony was £760,000. In 1846, the value was

* Footnote in original.—At high, and in some of these establishments, most extortionate rates of interest.
† Footnote in original.—From 1837 to 1843, this Colony had disbursed as follows—about £1,000,000 for the importation of what was called labour, and about £2,000,000 for bread stuffs, etc., for the subsistence of the so called labour so imported; i.e., this Colony had exported £2,200,000 in about five years, when the population did not average above 100,000 souls, or upwards of 24 a head at the precise time when its principal sources of financial supply (the saving on convict labour, and the expenditure of the Impl. Govmt. just stated) were being dried up and a vast additional pecuniary demand was being created!!
1848, £1,481,000, or nearly double." Here the honorable and learned Chairman makes the same error that Napoleon did in calculating the commercial resources of England, in omitting her internal trade, inasmuch as he ought to have added to our resources, whether financial or of a kindred character, about the period alluded to, the cheap or gratuitous labour of about 30,000 assigned convicts, worth about £20 a head, £600,000, and the sum of £400,000 annually expended in the Colony by the Imperial Govt. for the support of her penal establishments; making with her export trade the sum of £1,761,000, which, in proportion merely to population at the two different periods 1837 and 1846, was in round numbers equal to about £3,522,000. The report proceeds: "In 1837, the ships entered inwards were 400 of the burden of 80,000 tons. In 1846, the ships entered inwards were 767 of the burden of 141,000 tons." Now in order to show that our export trade had been regularly progressive, that there had been no decrease likely to interfere with our purchase of land as our present principle staple (wool) ought to double itself every three years, the return for 1846 or 1847 ought to be,—Ships 3,200, tons 320,000. In 1837, the Report states the proceeds of sales by auction were £321,000; in 1846, £414,000. What light this isolated fact throws upon the state of the country at those two periods, it is impossible to imagine, particularly when we are acquainted with a few of those facts which are connected with it; for instance, that, in 1837, the auctioneers' charges were for the most part 5 per cent. ; that now for the most part they do not exceed 1, while the Government charges or orphan dues at both periods were the same. Besides, if the amount of sales by auction is to be admitted as a test of our regularly progressive improvement, the present amount to bear a due proportion to that of 1837 ought to be, on the principle above explained, about £2,568,000, instead of £414,000. The Report concludes its elaborate series of statistics with the following, viz.: In 1837, the coin in the Treasury, Military Chest and Banks was £427,000; in 1846, £827,000. But what light can this naked fact, if correct, throw upon the pecuniary resources of the Colony at the two different periods referred to, when it is notorious that, in the brief period of five years (between 1837 and 1843), when, according to the above statistics, the Colony must be considered as possessed of only half the present amount of coin, it contrived to export £2,200,000 Sterling; and that, in the carrying out of an operation by which its population was almost simultaneously about doubled, and whence, of course, arose an immediate demand for about a twofold amount of circulating medium, if merely to maintain a balance between the financial demand and supply, a balance which was as far as possible no doubt preserved, if only for the purpose of meeting the demand for wages, etc. But how? Partly by vast loans, though at exorbitant rates of interest, contracted principally with the new companies before mentioned; partly, in conformity with the views of Sir George Gipps, by the all but total discontinuance of the purchase of Land. Besides, in order to render this last article of the financial statistics of the Report something more than an appearance, the hon. and learned Chairman ought to have observed that, while in the year 1837 the coin at least in the Banks belonged almost solely to the Colonists, for which they were receiving interest, in the year 1846 nearly the whole of this amount belonged
to foreigners, and for which the Colonists were paying interest; and that, while in the former instance it gave life and vigour to the Colony, in the latter it has long continued to operate as one of its most exhausting and deadly drains.

It is strange also when on this subject that the Report should have been silent on the fact that, notwithstanding the apparent smallness of amount in the Treasury, Military Chest and Banks collectively, at the period adverted to, the Military Chest alone disbursed annually upwards of £400,000 for the support of the Imperial Penal Establishments in this Colony; the whole of which immense sum was received by and circulated among the Colonists.

I shall not dilate any further upon the statistics of the Report, although the subject is anything but that easy, plain matter which the Report seems to assume.

If I have sufficient to shew that the statistics, at least as applied in the Report, are worse than useless, I have done perhaps all that could be done in the narrow limit to which it is necessary I should confine myself, and all that at present is required. The omission in the Report "to inquire into and report upon what ought to be the minimum upset price or prices of land, etc."

The sole question originally proposed for its consideration, though doubtless a somewhat strange omission, is one of its best features; inasmuch as such omission is not likely to mislead or be the cause of any other kind of injury, while it betokens something like a misgiving as to the facility of dealing summarily, and as it were extemporaneously, with this subject. I regret I cannot deal as lightly with its adhesion to the old, and now so often exploded error of applying the land fund of the colony to the importation of what is termed "labour."

But I will return to this subject of appropriation presently, when speaking, as I propose to do, on what ought to be the price or prices of the Crown Lands of the Colony, with which it has always appeared to me that it ought to be intimately perhaps indissolubly connected.

More than half of this elaborate Report is occupied with the Act of the Imperial Parliament, 10 Vic., c. 10, and the Land orders issued under it, with which for the most part I fully concur.

Having gone through the principal subjects actually considered in the Report, I shall now confine myself to that which it proposed to itself for enquiry into, but which it has left untouched. "an enquiry into what ought to be the minimum upset price or prices of land, etc.", and to which I shall add the most desirable mode of appropriating the funds derivable therefrom with regard to the best interests both of the Parent Country and this Colony.

In fixing the price or prices of land, we should always bear in mind—1st. That, in this as in other matters, extremes meet, or controlling are either identical or very closely analogous in their results. Thus an extremely low price, such as that glanced at or indirectly recommended in the Report, is the parent of monopoly and extortion. 2. The next consideration might be the means of the purchasers, and the motives to purchase. 3. That as a general rule, if the statement of squatters and of some other parties

*Footnote in original.—Labourers so called, who in large proportion almost immediately become employers of labour, so that the number of employers in proportion to that of the labourers is now quintuple or sextuple what it was when the late system of immigration commenced!!
1848.
18 Jan.
Considerations controlling price of land.

Opinion re upset price of land;
and re expenditure of revenue from land sales.

Concerned be correct, that it requires from 3 to 6 acres of land for the support of one sheep, and of course a still greater proportion for horned cattle and horses, the price of land ought on no consideration to be reduced so as to render it available for grazing, particularly while there remained open to the squatter such unlimited extent of waste lands, fully adequate to meet all the demands of his very temporary and transitory pursuits. 4. That the value of the waste lands of any country depends much on the facility or difficulty of access to them, their salubrity, and the degree of security for life and property which they are likely to afford, the facilities afforded for the rearing of families, and the provision made for the comfort, civilization, and general welfare of purchasers.

Hence, as mentioned by Lord Durham, “while land in the United States, contiguous to the boundary line between that Country and Canada, of inferior quality to that on the frontier of the latter country, sold readily at 5s. and was converted at once into thriving townships, that on the Canadian border was not saleable at 2s. 6d., or indeed, even in moderate quantities at any price.” If the above be an obvious truism, how futile against the £1 an acre price are such naked assertions as the following, viz. “At the Cape of Good Hope, land can be obtained for £, in Canada for $, and, as it appears recently in the United States, for $ of the sum demanded for a like quantity (of land) here.” The same remark applies to a preceding statement respecting the “moorlands of England and the bogs of Ireland,” unaccompanied as it is with those explanations of the motives or inducements for sale and purchase which alone could render a statement of such facts intelligible. 5. The average rate of rents, as in the case of the sale of lands the property of individuals, may also, if used with extensive caution, be adopted as another test for determining what ought to be the upset price or prices of land in any given locality.

Referring to the above several principles, I do not hesitate to assert that, provided a facility of access to his land be furnished to the purchaser, and it is not imperative that the portion of land sold should exceed 50 or 100 acres on the banks of some river, or in some district suited for agriculture, or fitted for the homestead of some estate or squattage, £1 an acre is by no means too high an upset price; while, in the vicinity of Towns, the upset price for building purposes would have to be determined by what might be supposed to be a very low rate of proximate intrinsic value.

Having stated what appear to me to be the principles on which the upset price of the waste lands of this Colony might be based, and the price or prices which at present might be adopted, I will now state in what manner, both with regard to the best interests of this Colony and of the Parent Country, the proceeds from such sales ought to be appropriated; and this I do not hesitate to assert ought to be wholly for the benefit of this Colony in the construction of public roads or other similar works of prime importance and necessity. I adhere to this conclusion because any other it appears to me would be beset with fallacies more or less injurious, and would, if acted upon, terminate in a renewal, in a greater or less degree according to the modification of the plan adopted for carrying it out, of all those ruinous results both to this Colony and to the Parent Country, which were experienced so lately from such
FITZ ROY TO GREY.

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In order the better to illustrate this subject, I will detail as briefly as possible the principal circumstances of the late immigration movement to this Colony at the expense of the Colony, and some matters connected with it, and I will then endeavour to detail the steps that ought in my opinion to have been adopted by the Parent Country and this Colony respectively in reference to that undertaking. The system of emigration alluded to commenced in 1837 or 1838, and closed in 1842 or 1843, extending over a period of (5) five years. At its commencement, this Colony was without doubt, for its population, infinitely the wealthiest, most prosperous, rapidly progressive and important dependancy of the British Crown.

The population during the above period might average 100,000 Souls, and the Colony exported £1,000,000 Sterling for the importation of about 60,000 immigrants, and about £1,200,000 principally for bread stuffs for their support, exclusive of having to provide for the average amount of imported manufactures and other goods, at the same time that she had to meet a new internal demand of at least £1,000,000 annually for wages, partly for the immigrants lately arrived, partly for those persons who lately were assigned convicts and serving without wages, but who were becoming free daily by servitude or by pardon. Thus it appears that this Colony during the above period of five years continued to export capital at the rate of upwards of £4 a head for every person in the Colony, for Immigration purposes alone, of which not one shilling could ever return, at the same time that she had the vast additional internal outlay cast upon her which has been just explained, exclusive of her usual routine demands upon her to cover the cost of her ordinary amount of imports.

No additional proof is required of our solid prosperity at the time this fatal operation was commenced; nor need we look for any other cause for that notorious and frightful ruin in which at the expiration the Colony became involved herself, and in which she unavoidably involved more or less all others, with few exceptions, with whom she was connected.

Hence, even now her comparatively crippled condition, the ruinous amount of interest which she is obliged to pay to foreign usurers or capitalists for capital borrowed to replace that which had been exported, and the large amount of debts due to British merchants (about £1,000,000 Sterling) which has been sponged out by our frightfully long list of Insolvencies.

Let us now imagine that a contrary plan had been adopted. Let us imagine that even a portion, say £300,000 out of the £1,000,000 expended in immigration, had been disbursed on internal improvements, e.g. the construction of a main road from Sydney to Goulburn, as the commencement of a Great Southern Road. What would have been the results? 1st. The sum of £300,000 before mentioned would have been spent and circulated in the Colony, instead of being abstracted from it. 2nd. A somewhat larger sum exported for bread stuffs would have also been retained, while the 14 or 15 thousand immigrants, which were imported with the £300,000, would have been well replaced by an adequate amount of convict labour imported from Van Diemen's Land, to the great relief (as it would appear from the complaints on this subject) of that Colony, and the incalculable benefit of this. 3. This Colony would long since have been possessed of what it is still so much in
want, some safe and easy access to the Southern interior, by which not only those almost illimitable regions would have been rendered more readily available, but also the principal and best grain and hay districts would have been at once opened to the Capital.

4. The whole line of road from Sydney to Goulburn, about 120 miles, would have been furnished by means of embankments that would have been formed on the construction of such a road, with a continuous series of tanks, in which the surplus rains of our wet seasons would have been treasured up against the periods of drought.

5. The whole of the waste as well as other lands on each side of the road for an extent of some miles would have been at once rendered readily saleable at least at £1 per acre, and that to the extent of fully paying the entire expenses of constructing the road, a road readily convertible, if required at any time, into a rail road.

6. The whole of the above advantages, which would have tended greatly to economise labor, would have been in perpetuity for the benefit of the Colony, and would have formed a convenient stepping stone for the adoption of other improvements. Among other great benefits which the community would have received from this measure, Sydney would no doubt have been relieved by it of some thousands of her present surplus inhabitants; who, instead of being the mere consumers of farm produce, would have become producers, and would thus have rendered unnecessary the present immense importation of grain, etc., a matter of still greater moment than at present during those periods when we become, as of late, a point of copious immigration. In fact those very individuals, who are now drawing their moneys from the Savings Bank to purchase their wretched tiny allotments in the immediate vicinity of Sydney, or rather in Sydney itself, would have become purchasers of small farms on each side of the road to Goulburn; finding they would have secured to them both an abundance of water and easy transit for their supplies and produce to and from their lands. If such would have been the fruits of the above plan in its limited extent, what would they have been, had the plan been extended; had no colonial capital been abstracted from the Colony, at least for the importation of our late supply of immigrants, and those moneys had been employed at once on the same principle of internal improvements? I need scarcely urge that, notwithstanding the abolition of transportation with assignment had been adopted, impolitic and injurious as I conceive that measure to have been, if viewed merely as the discontinuance of the most humane, reformatory, and economical mode of punishment that ever was devised, still the almost unparalleled prosperity of this Colony would scarcely have been disturbed, our debts to England would every shilling have been paid, or rather would properly speaking have never been incurred, and we should have been in a position to receive, feed, and give employment or a happy home to any amount of immigrants that might come to us, whilst the immensely increased market which we should have opened to English manufacturers would have afforded employment and food to thousands of British operatives, to the vast and perpetually increasing relief of all classes in the parent Country.

But the question now arises, in what way, or by what means, were the Australian Colonies to be adequately furnished with British emigrants?
There are two obvious modes which may be brought into opera-
tion either separately or conjointly. The first of these was pointed
out in my letter of 31st May, 1839, par. 43, 44, 45, addressed to
Mr. C. Buller, under the direct sanction of the Patriotic Associa-
tion and a recent public meeting of the inhabitants, and which
is printed in the appendix to the highly talented Report on Trans-
portation of my honorable and learned colleague, Mr. Wentworth,
of the last session of our Legislative Council, by which it is pro-
tected to defray the whole of the expenses of Emigration to the
Australian Colonies out of the savings on Transportation with
assignment, as practised in this Colony. The other plan, which
I am about to propose, is, whether Transportation with assignment
be renewed or not, the entire expense of Emigration be defrayed
either by the parishes from which the pauper surplus population
is sent or by the parishes and the Imperial Government con-
jointly, as may be agreed upon.

The great gain that would arise to the parishes, even if the
entire expense were defrayed by themselves, is clear, inasmuch as
if it amply paid the Imperial Government, to rid themselves of their
convicts by sending them to these Colonies at their own sole
expense, notwithstanding the heavy subsequent annual outlay on
their penal establishments in these Colonies, and which were ren-
dered alone necessary by that system; how infinitely more advan-
tageous it would be to the parishes at Home to rid themselves of
their surplus labourers by sending them to these Colonies, even at
their own sole expense, when it is considered that this operation,
while it would rid them of such labourers and their descendants
for ever, would not be connected (as in the case of the Imperial
Government in respect to their convicts) with any subsequent
liability or expense of any kind; while such a system instead of
creating fresh competition against the labourer at home and
assisting to throw him out of employment, as must be too often the
case with those who emigrate to the Canadas or the United States,
or being at least the means of aggravating a foreign and rival
power—every immigrant to these Colonies would unavoidably be
a producer of exports and a consumer of British manufactures,
both of which would afford employment to his Countrymen at
home, and assist to form a power that long would be the
appropriate balance to the vast commercial and territorial en-
croachments of the United States, on the opposite shores of the
Pacific.

One remark I would beg with all deference to offer in this place.
Should the British Government think proper to adopt the views
developed in this paper, and in doing so create a series of Colonies
in the Australian hemisphere worthy of our country and these vast
and splendid possessions, let them at the same time be prepared to
grant to such Colonies the freest possible political institutions,
without one taint or stain of feudal barbarism, calculated not merely
to meet but, if possible, to anticipate the growing enlightenment
of the age; and thus would our Parent Country not merely
create, but attach to herself a new empire, a vast addition, but
at the same time an integral part of herself, secured to her not
merely by the ties of blood and of language, but the still stronger
bonds of a sense of national gratitude and of indissoluble self
interest.
I will now beg to conclude this letter, with many apologies for the length and its imperfections, which, I trust, will be viewed with some degree of indulgence as connected with my present state of health, by which I am prevented from correcting, more particularly from giving it that degree of condensation which I have no doubt it requires. I must however, in candour, add that, but for that very state of health which has precluded me from all other occupations, I doubt much whether, under my present numerous engagements, this letter could have been written.

Begging that Your Excellency may be pleased to transmit the enclosed copy of this communication to the Right Honorable the Secretary of State for the Colonies.

W. Bland.

[Enclosure No. 2.]

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

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 19, per ship Hamlet.)

My Lord,

Government House, 19th January, 1848.

I have had the honor to receive your Lordship's Despatch No. 146 of 30th April, 1847, desiring me to take an opportunity of offering to Mr. Sidney Stephen any public employment which may become vacant at Port Phillip, for which he may be properly qualified; and, in reply, I have the honor to acquaint Your Lordship that, having communicated your Lordship's instructions to the Superintendent of that District, that Officer has informed me that he knows of no vacancy at the present time; but that, should one occur, he will not fail to attend to Your Lordship's wishes on the subject.

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 12, per ship Sir Edward Paget.)

Sir,

Downing Street, 20 January, 1848.

With reference to your Despatch No. 143 of the 13th of July last on the case of Mr. David Maziere, I have the honor to acquaint you that I referred this case to the Commissioners of Colonial Land and Emigration, of whose Report I enclose a copy for your information.

Although I regret the inconvenience which Mr. Maziere has experienced, I agree with the Commissioners in their conclusions that he has not established a sufficient claim to compensation at the public expense. The only ground, on which such a claim could rest, would be that Mr. Maziere made his
purchase at a Sheriff's Sale. If he had acquired the land in any other manner, he clearly would have had no claim to indemnity against the consequences of either omitting to enter a caveat at the proper time against another person's receiving the Grant of the Land, or of neglecting to assert his rights by the legal means available for that purpose. But the circumstance of having bought at the Sheriff's sale evidently cannot be admitted to discharge a private individual from the necessity of exercising due vigilance and activity in maintaining his rights of property. I regret, therefore, that I feel precluded from sanctioning a Grant of compensation to Mr. Maziere.

I have, &c,

GREY.

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY MERIVALE.

Colonial Land and Emigration Office, 8th January, 1848.

Sir,

We have the honor to acknowledge your letter of the 30th Ultimo, transmitting a Copy of a Despatch from the Governor of New South Wales, in which he forwards a Memorial from Mr. David Maziere, praying for compensation for certain Lands.

The facts of the case are (with one omission) clearly set forth in the printed Report of the Attorney and Solicitor General, and are as follows:—

In May, 1824, Michael O'Brien received a promise from the Governor of 500 acres of Land and was let into possession. On the 17th September, 1831, a Government notice was inserted in the Sydney Gazette, stating that a Grant of this Land would issue to the promisee unless a Caveat were entered within a month. No such Caveat was entered, and the Grant was made out to O'Brien in the usual course.

But meantime O'Brien had been convicted of Felony and transported to Norfolk Island, and also, in the interval between the advertisement of the Government notice and the issue of the Grant, the Sheriff, acting under an execution against O'Brien, had sold all that person's interest in the Land to Mr. Maziere. Shortly after the date of the Grant, Mr. Maziere received from the Sheriff a formal conveyance of what he had bought, and ultimately requested and obtained possession of the Deed of Grant itself.

He spent a considerable sum of money on the Land and remained in possession of it for 10 years, when it was again sold under an execution to James Kay for £75, who, in consideration of his esteem and regard for Mr. Maziere's wife, conveyed it to her and her Children separately from Mr. Maziere. Mr. Maziere continued in possession for two years longer, when O'Brien, who had returned from transportation, commenced an action of ejectment against him. This, from over confidence in his own case, Mr. Maziere did not think proper to defend. Judgment accordingly passed against him by default, and he was turned out of his Land.
1848.
20 Jan.

Report on estate, as distinct from any claim in equity, had passed by the Crown Grant to O'Brien, and remained in him, Mr. Maziere having only bought from the Sheriff what O'Brien had then to sell, viz., a right to a Grant and not the Land itself. Mr. Maziere does not appear either before or after this action to have taken any steps to try his claim in equity.

Since O'Brien has been in possession, he has mortgaged the Land for £300 and sold the equity of Redemption for £15. And James Kay and Mrs. Maziere's Trustees have either executed or agreed to execute a conveyance of their interest to O'Brien, in consideration of his abandoning all claim to mesne profits, thus vesting all Maziere's original interest (whatever that may be) in that person. These transactions have extinguished all possibility of enforcing in law or Equity any claim of Mr. Maziere or his family.

The singular hardship, which this gentleman has suffered by being deprived through a legal technicality of Land which he had purchased and improved, is obvious. And, after having taken various methods of bringing forward his case in the Colony (where it appears to have attracted much attention), the Memorialist prays the Secretary of State that the Colonial Government may be directed to make him such compensation for his loss as upon due enquiry shall be found reasonable and just, a prayer which, under the peculiar circumstances of the case, the Governor supports.

He grounds his prayer upon these considerations, that the Grant to O'Brien, while at Norfolk Island, was made in violation of a Government Regulation which prohibits any grants of Land to Convicts; that this could only have been done inadvertently; that, if it had not been done, his own disasters could never have happened; and that these disasters have thus arisen from the inadvertency of the Government, which is therefore bound to compensate him for his losses.

We cannot concur with the Governor in thinking that Mr. Maziere's claims can be allowed either on the ground alleged by him, or on any other appearing on the present papers. We conceive that, in cases like the present, the inadvertent transgression of its own Rules is a matter for which the Government is responsible to those only for whose benefit such Rules are laid down, and in respect of the evils which they were intended to remedy. But it is obvious that the prohibition of granting Lands to Convicts was never intended to be subservient to the security of purchasers; and therefore such a purchaser has no right to complain of losing an incidental benefit which might have resulted to him from its enforcement. If the usual Notice of an intention to issue O'Brien's Grant had been omitted, or if a caveat entered by Mr. Maziere against such a Grant had been overlooked or disregarded, then Government would of course have been responsible to that gentleman for the consequences of its neglect. But nothing of this kind has happened. The Government have done all that, as between itself and Mr. Maziere, it was bound to do; and the misfortunes, which have befallen that gentleman, have arisen from his neglect to avail himself of the opportunities, which the Law afforded him for securing himself against such chances as those
which have happened. Mr. Maziere failed to enter a Caveat at the proper time against the Grant to O'Brien, or that Grant would never have issued; he omitted to defend his rights in Court when, with the advantage of possession on his side, it is possible he might have done so effectually, and he has never attempted to enforce (while it was still possible to do so) that equitable title which we apprehend he (or his wife's Trustees) must have possessed.

It is doubtless true that, if the Government had dealt with the Grant to O'Brien according to its own ordinary rules, Mr. Maziere would have been saved from the consequences of his own omission; but this can scarcely be thought sufficient ground for a claim for compensation.

On these grounds, we are obliged to state that, while we fully acknowledge the hardship of Mr. Maziere's case, we cannot distinguish it from many others, in which a slight neglect of the precautions, required by the state of the Laws, has led to the most disastrous results. Much as we may deplore these consequences of a venial omission, we cannot consider the Government responsible for them, or recommend with Sir C. Fitzroy that Mr. Maziere should be relieved from them at the expense of the Public.

We should add that some of Mr. Maziere's friends in the Colony, assuming the Grant to O'Brien to have been invalid ab initio, have recommended that Government should now take advantage of this circumstance to quash it, and, having extinguished the interest both of O'Brien and of those claiming under him, should dispose of the Land as may appear fair to all parties. There appear to be many objections to this course even if practicable; but, as it seems to have been abandoned, and Mr. Maziere's own prayer is confined to compensation for his losses, it will probably not be thought necessary that we should lengthen our Report by entering on that subject.

We have, &c.

THOS. C. MURDOCH.
FREDERICK ROGERS.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 20, per ship Hamlet; acknowledged by earl Grey, 21st June, 1848.)

My Lord, Government House, 20th January, 1848.

With reference to Your Lordship's Despatch No. 98 of the 26th February, 1847, which I took an early opportunity of laying before the Legislative Council of this Colony during the late Session, I have the honor to enclose, for Your Lordship's information, a printed copy of the Report* on the proposed Railways in New South Wales made by Lieut. Thomas Woore of the Royal Navy, who was employed by the Committee appointed by a Public meeting of the inhabitants to survey the line of Country, with a view to the construction of a Railway between Sydney and Goulburn, traversing the Counties of Cumberland, Camden and Argyle, and connecting the principal Townships therein.

* Note 19.
196 HISTORICAL RECORDS OF AUSTRALIA.

I take this opportunity of reporting to Your Lordship that, with the advice of my Executive Council, I authorized the grant of £500 from the Crown Land Revenue in aid of the Survey on condition that an equal sum should be raised by private subscription, and that proper vouchers should be rendered that the whole amount had been expended on the object proposed.

The reasons, which led the Executive Council to advise the grant of the abovenamed sum from the Crown Land Revenue, were founded on the terms of Lord Stanley's Despatch of the 15th Sept., 1842, which, in reference to the 18th clause of the Land Sales Act, 5 and 6 Vict., Cap. 36, mentions, among the items of Expenditure legitimately falling upon that Revenue, the expense incurred in opening main lines of Communication which would render more easily available the unsold Lands of the Crown.

I have, &c.,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 21, per ship Hamlet; acknowledged by earl Grey, 22nd June, 1848.)

My Lord,

Government House, 21st January, 1848.

I have the honor to transmit the copy of a letter addressed to me by Lady Forbes, the Widow of Sir Francis Forbes, formerly Chief Justice of this Colony, in which I am requested to forward to Your Lordship the accompanying letter, asking Your Lordship to present to the Queen a Memorial, praying that Her Majesty will be graciously pleased to direct that some permanent provision may be made for the Memorialist, in consideration of the long and arduous services of her late husband, which may render her independent of the Pension which she at present receives from this Colony, and which she holds, as your Lordship is doubtless aware, on the precarious tenure of an annual vote of the Legislative Council.

In forwarding this Memorial, I can assure your Lordship that I have every desire to recommend it for your favourable consideration. I believe that the circumstances set forth in it are strictly in accordance with the truth; and I can with equal truth state that Lady Forbes is a gentlewoman of most excellent and exemplary character, and I should therefore be most happy if I could point out a way through which she could be relieved from her present painful and humiliating position; but I am aware of none unless Your Lordship should be pleased to review the former decision of Lord Stanley, conveyed to my predecessor in his Lordship's Despatch No. 69 of the 30th June, 1845,
FITZ ROY TO GREY.

and direct that Lady Forbes' pension (which of course would involve a similar proceeding with respect to Lady Dowling's pension) should be defrayed as a charge upon the annual amount of £3,000 placed at the disposal of the Crown as a provision for Pensions from the Revenues of the Colony by Schedule B of the Constitutional Act 5 and 6 Victoria, Cap. 76. This, however, is a course that I cannot venture to advise in the face of the reasons offered against it by Lord Stanley, although I am apprehensive that any further application to the Council, to vote these Pensions for the lives of the two ladies, to whom they are now granted by annual vote, would be unsuccessful.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

DAME AMELIA SOPHIA FORBES TO SIR CHARLES FITZ ROY.

Sir,

Sydney, 18th Jan., 1848.

I beg to assure it is with very painful feelings I intrude on Your Excellency's time and thoughts; but, having been induced to avail myself of Mr. Therry's return to England to forward a duplicate of the enclosed Memorial and letter to Lord Grey, I fear, although the delay in communicating with Your Excellency was occasioned by a sense of delicacy on my part, if longer postponed it may appear disrespectful; with this explanation I have the honor to enclose herewith a letter addressed to the Right Honorable the Secretary of State for the Colonies, requesting His Lordship to present to Her Most Gracious Majesty the Queen the humble Memorial which accompanies it, praying that Her Majesty will be pleased to direct that some permanent provision may be made for me, as the Widow of the late Sir Francis Forbes, who served Her Majesty in highly important and responsible offices for the long period of Twenty Seven years, the last twenty two of which as Chief Justice of Newfoundland and of New South Wales. The circumstances, under which I make this appeal, are so fully set forth in the accompanying letter and Memorial that I deem it unnecessary to trouble Your Excellency with a repetition of them here. May I request that Your Excellency will be pleased to forward them by the earliest convenient opportunity, accompanied by such favourable observations as the justice of the case may in Your Excellency's opinion merit.

Although I acknowledge with thankfulness the provision which has been sanctioned for me of £200 a year by annual vote of the Legislative Council, yet it is held on so precarious a tenure, is attended with such extremely painful discussions, which are annually renewed, and is so inadequate to maintain the position which I humbly conceive is appropriate to the Widow of one who occupied so high a Station in the Colony, that I trust I shall not be deemed to be unreasonable in seeking a more permanent and adequate allowance to meet my necessary expenses, which I have at all times endeavoured to confine within the narrowest possible limits.

I consider it due to the memory of my late husband to state that, but for circumstances entirely beyond his control, and which no
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prudence or foresight could have averted, the property, which he had intended as a provision for myself and sons, was swallowed up in the universal ruin which a few years ago prevailed to so fearful an extent in this Colony. In his particular case, the evil was greatly aggravated by the mismanagement of his property during his absence in England, whither he was constrained to repair in the vain hope of restoring that constitution which fell a sacrifice to the indefatigable zeal and unremitting attention which he ever devoted to his public duties. For Your Excellency's information, I trouble you with the accompanying transcript of letters addressed to my late husband, in which Your Excellency will perceive in what high estimation his talents, learning, assiduity, and personal character were held by the highest authorities under whom he served during his long period of public employment. I refer confidently to his Services as entitling the humble prayer of his widow to the indulgent consideration of Her Most Gracious Majesty; and I fervently trust that, under the circumstances I have humbly represented, Your Excellency will see sufficient ground to justify you in recommending it to Her Majesty's gracious allowance.  

I have, &c,

SOPHIA FORBES.

[Enclosure No. 2.]

DAME AMELIA SOPHIA FORBES TO EARL GREY.

My Lord,

Sydney, 7th January, 1848.

Some apology, I am aware, is due to your Lordship for transmitting a duplicate copy of my Memorial to the Queen before the Memorial reaches you in the ordinary course of Official communication through the Governor. As Mr. Therry, however, who takes charge of this duplicate of my Memorial, was a personal friend of Sir Francis Forbes, and as he can from personal observations and knowledge afford Your Lordship full information respecting the laborious and responsible duties which devolved upon him in this Colony, I deemed it right not to allow such a suitable occasion of transmitting the Memorial to escape me, which, if it has not already done so, will reach you in due course.

Besides Mr. Therry, Sir Thomas Brisbane and Sir Richard Bourke (now in England) can furnish ample information as to the valuable cooperation and assistance which they derived from him during the period of their respective administrations.

I will only further add that all I require and respectfully request from Your Lordship is that you will bestow a diligent attention on the claims submitted in this Memorial, and that, if you deem them worthy of recommendation from the length of my late husband's Services, from the arduous and novel duty imposed upon him in moulding the institutions of a then newly formed Colony, from the sacrifice of property and health, and ultimately his loss of life at a period but a few years beyond the prime of life, which is fairly traceable to the arduous, varied, and responsible duties of his Office.

With these remarks, which I might easily enlarge, I will not further trespass on your time than in earnestly requesting you would be pleased to submit and recommend my Memorial to the favourable and gracious consideration of Her Majesty.  

I have, &c,

AMELIA S. FORBES.
The humble Memorial of Dame Amelia Sophia Forbes, a resident at Sydney, in New South Wales, widow of Sir Francis Forbes, formerly Chief Justice of New South Wales.

To The Queen's Most Excellent Majesty:

Your Majesty's Memorialist and Petitioner approaches you with the deepest respect, entreating Your Majesty to condescend to receive favourably the following statement and representation.

Her husband was Chief Justice of Newfoundland for Seven years, during which he had to model the constitution and practice of the Supreme Court and to bring into operation, as far as possible, the laws and usages of the Parent Country. He at length quitted that Colony in the year one thousand eight hundred and twenty two, for the purpose of soliciting certain improved and more extended jurisdictions for the better administration of justice among the poorer classes.

He received the most gratifying testimonials of friendship and esteem, on that occasion, from all classes of the Inhabitants; of whom a large portion presented him with a public address, thanking him for his exertions in the service of the Crown and the Public, and especially acknowledging his great impartiality, talents and industry in the discharge of his high judicial functions.

While in London, engaged in the prosecution of the mission, which his sense of duty to the Colony had led him to undertake, he was consulted by the then heads of the Colonial Department as to the constitution of a Supreme Court and other Tribunals for the important Colony of New South Wales, for which new Institutions had become expedient. Finally he was offered by the Earl Bathurst a recommendation to the office of Chief Justice under the new system, which, it was thought, his long Colonial experience (he having been Attorney General of the Bermudas for some years before his elevation to the Bench of Newfoundland) eminently qualified him.

Having accepted the proposed office, he was engaged for several months, at a great personal sacrifice, in frequent conferences with the Secretary of State's Department, on the various details of the necessary Acts of Parliament and Charter; and he in fact prepared both of the Acts of Parliament, called the Colonial Courts Acts, for New South Wales and Newfoundland. He was allowed, in consideration of these services, to receive his new Salary from the date of his first detention; but this was the only compensation which he received.

That Salary was fixed at Two thousand pounds, without other emolument, except that, as was expressly provided in the Charter, he was to be allowed any house, rent free, which had been usually occupied under the Crown as an official residence for the Judge. But, although he found such a residence on his arrival in the Colony set apart as the Judge's house, he was, in the year One thousand eight hundred and thirty six, compelled to pay the Colonial Government Two hundred pounds a year for the use of it, a rent which he ever afterwards in fact paid.

On the arrival of Your Petitioner's husband in New South Wales (which was then full of the distractions arising, unavoidably, from a mixed population of free emigrants and transported offenders, recently or only partially freed), he found imposed on
him a weight of care and labour, not only as Chief Justice but as Member both of the Legislative and Executive Councils, for which one man's strength was not adequate. Laws had to be passed for almost everything; and these not to provide alone for the future, but to redeem the errors of the past. The greater portion of those Laws for a series of years (owing in a great degree to the inexperience of the then Law Officers) were prepared by his own hand; while he had to draw and promulgate, unaided, all the necessary Rules for putting the newly erected Supreme Court on a proper footing, suited to the exigencies of an anomalous and rapidly increasing community. Beside all this, his Judicial labours in the administration of justice, civil and criminal, were incessant.

In the course of the ensuing few years from one thousand eight hundred and twenty-nine, partial relief from these fatigues were obtained by the appointment of two other Judges; but the population and litigation increased also; and the ill health of one of his colleagues threw frequently additional labour on him. In the end, his over exerted energies and too greatly strained mind gave way. The effects of constant fatigue in a warm and peculiarly exhausting climate told fatally on his constitution. He repaired to England in One thousand eight hundred and thirty-six, broken and shattered in health, and in the following year was compelled to retire on a pension of Seven hundred pounds a year. He returned then to this Colony; but never recovered sufficient Strength to attend even to the most ordinary details of business. His property became deteriorated, and he finally died (leaving it heavily encumbered, so that it afforded no provision for his family) in the year One thousand eight hundred and forty-one.

Of the talents, learning, assiduity and unwearied zeal, which her husband ever devoted to his duties, so varied, onerous and important, your Petitioner believes that no one can speak too highly. But, as these are her words only, She entreats leave to refer to the testimonials which will be laid before Your Majesty. She ventures to hope that the Services of her husband may be thought worthy of Your Royal consideration; and that, as he died from self devotion to those duties, leaving her in a situation wholly of dependence in the distant land of his adoption, Your Majesty may be pleased to feel justified in directing that some provision (such as your bounty may deem fitting) may be made for her.

Her husband's duties left him little time for attending to pecuniary affairs, and the property, which he purchased from the Crown, with the Sheep which he placed on it to secure something for his children, he left unavoidably to the care of others. In the end, the whole was found unequal to the claims accumulated on it; and it was within a few years after his death abandoned to his creditors. Your Petitioner gave up everything to them; retaining nothing, not his plate even, or articles which she once thought her own. She has, indeed, a Pension of Two hundred pounds a year voted to her by the Colonial Legislative Council. That sum is unequal to her support at her present age in an expensive country, considering the continual ill health under which she labours, and that she has no other source to depend on. But even that amount of pension is insecure, since it rests on an annual vote only, which a moment's opposition might in any future year destroy.
FITZ ROY TO GREY.

She would not willingly seek to exaggerate her case by unnecessary references to that of others. But, having mentioned that her husband was deprived of an official residence, she would mention that the Chief Justice of the Sister Colony, appointed at the same time under a Charter containing a precisely similar provision, has always been allowed one, or rent in lieu of one, up to this day. Nor ought she to omit the fact that, while her husband's Salary was continued at its original rate only, up to his retirement, the Salaries of most of the other high Public Officers were, in the same period, considerably increased; that of the Chief Justice of Van Diemen's Land, for instance, that of the Governors of both Colonies, and that of the Colonial Secretary. These circumstances are mentioned by no means by way of complaint, but to show that in many instances the established Salaries have been considered inadequate, and thence, that the amount assigned to her husband has been comparatively small.

Your Petitioner humbly asks forgiveness for having so long trespassed on your Royal indulgence, and she solicits of Your Majesty, if it be deemed not wholly inadmissible, a compliance with her prayer; whatever the fate of this Petition, Your Petitioner assures your Majesty of her hearty prayers being offered for you; that you may have a long life, with every blessing which may enable you uninterruptedly to enjoy it.

Sydney, 8th January, 1848. AMELIA SOPHIA FORBES.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 22, per ship Hamlet; acknowledged by earl Grey, 17th August, 1848.)


Amongst the Acts passed by the Legislature of this Colony during the Session of 1846, the transcripts of which Fitz Roy accompanied my Despatch of 9th January, 1847, No. 10, were three Bills which I reserved for the signification of Her Majesty's pleasure thereon; they are numbered as in the margin.*

By Your Lordship's Despatch No. 200 of the 31st July last, I am informed that, subject to the exceptions therein mentioned, Her Majesty is pleased to confirm and allow all the Acts enumerated in the Schedule (No. 2), which was annexed to Your Lordship's Despatch. The exceptions alluded to do not include the Act No. 17, intituled, "An Act to amend the laws incorporating the Town of Melbourne"; and I am therefore to infer that this measure was intended to be approved.

I beg, however, to call your Lordship's attention to the 33d Clause of the Constitutional Act of this Colony, 5 and 6 Victoria, C. 76, which renders it necessary that Bills, which have been reserved for Her Majesty's assent, should be laid before Her Majesty in Council.

* Marginal note.—10 Victoria, No. 15, 16 and 17 (see note 20).
I am under the apprehension that the Bill alluded to may not have been formally assented to; and, bearing in mind the course which it was deemed necessary to adopt in a similar case (that of the Lien on Wool Bill referred to in my Despatch No. 39 of 17th Febry., 1847), I have refrained from notifying this Bill as approved, until I shall be favoured with Your Lordship's further instructions. I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 14, per ship Sir Edward Paget; acknowledged by Sir Charles Fitz Roy, 27th September, 1848.)

Sir, Downing Street, 25 January, 1848.

I herewith transmit to you the Copy of a Letter, which has been received from Mr. A. McMillan, containing an inquiry relative to some property which he has been led to understand was left by his deceased brother in New South Wales; and I have to request that you will cause the necessary enquiries to be made, and transmit to me whatever particulars you may be able to obtain on the subject. I have, &c.,

GREY.

[Enclosure.]

MR. A. MCMILLAN TO EARL GREY.

Metis Lower Canada East, 6th December, 1847.

I most respectfully beg leave to address you, relative to my brother William McMillan, who sailed from Leith in 1825 for Sydney, Van Diemen's Land, New South Wales. The last Account concerning him was that he died 80 Miles above Sidney. From his silence to me, his only brother, I am led to believe he is dead. The reason I have for obtruding myself on your Lordship's notice, is to request you will be pleased to cause information to be transmitted to me, whether alive or dead. I have in my possession a Letter from my Uncle, David Kilpatrick of date 14th May, 1835, informing me of his death, and sworn before William Moore, Esquire, J.P., that I am his legal Heir and representative; being unacquainted with the Measures to be adopted in order to obtain the property of my brother, I trust your Lordship will be pleased to afford me all the information on that head to enable me to obtain the effects of William McMillan, my brother. Our parents being dead, your Lordship will cause the information required to be transmitted to me at early convenience. I have, &c.,

ALEXANDER MCMILLAN.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 25, per ship Hamlet.)

My Lord, Government House, 25th January, 1848.

I have the honor to report that I have directed the sum of £300 to be paid from the General Revenue of the Colony to
FITZ ROY TO GREY.

the Deputy Commissary General, and I have to request that Your Lordship will give instructions for an equal amount to be issued to Mr. Barnard from Her Majesty's Treasury to enable him to pay the same to Mr. James M. Richardson of Cornhill, London, for Books furnished by him for the Library of the Legislative Council of this Colony.

The necessary instructions have been communicated to Mr. Barnard, and I have given directions for the Certificate to be granted by the Deputy Commissary General for the money to be also forwarded to him.

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 27, per ship Hamlet; acknowledged by earl Grey, 22nd July, 1848.)

My Lord, Government House, 27th January, 1848.

At the request of Mr. James Cooper, an inhabitant of Sydney, I have the honor to forward a letter which he has addressed to Your Lordship respecting the Waste Lands of the Colony, and which, being respectfully worded, I have not felt myself at liberty to decline to transmit to Your Lordship.

I have, &c.,

CHS. A. FITZ ROY.

MR. J. COOPER TO SIR CHARLES FITZ ROY.

Sir, Engehurst, 1st December, 1847.

I have taken the liberty to address the enclosed letter to The Right Honorable Earl Grey, Secretary of State for the Colonies, on a subject connected with the Waste Lands of this Colony, and shall feel obliged if Your Excellency will be graciously pleased to forward it, at your earliest convenience, to its destination.

I have, &c.,

JAS. COOPER.

MR. J. COOPER TO EARL GREY.

Engehurst, Sydney, New South Wales, 1 December, 1847.

My Lord,

Did I not consider that the present was a question of vital importance, I should apologize to Your Lordship for the presumption in thus addressing you, feeling satisfied that your valuable time must be sufficiently engrossed without attending to communications from private individuals. Viewing the matter therefore in this light, should I be so fortunate as to be instrumental in drawing your attention to the following subject, I shall feel amply recompensed for any little trouble this letter has given one.

My Lord, looking as I do upon the waste Lands of this Colony as vested in the Crown for the benefit of the present as well as succeeding Generations, and subscribing, as I most cordially do, to the wise policy lately pursued by Her Majesty's Government respecting them, I conceive, with submission, that there only
remains one thing to be performed, not only with a view to ensure that which I apprehend Her Majesty's Government intended, namely, the control of the waste Lands at the same time that it permitted under certain restrictions their occupation; but also to prevent, under this humane and wise policy, their positive and inevitable alienation. This, with permission, I conceive might be done in such a way as would enrich the local Government, concentrate the population of the Colony, Develop its resources, and impart happiness and prosperity to all, even to those, at present, interested in the confiscation of its Lands.

The benefits derivable from the introduction of Railways are, perhaps, not less important in a young Colony than in an old and established Empire, for, if in the latter they afford increased facilities for internal communication and thereby add to its manufacturing and commercial characters, they certainly in the former tend materially to unfold its resources and to improve, at an extraordinary degree, the Intellectual, moral and social conditions of its inhabitants.

If this be generally true, and probably it will not be controverted, How much more desirable must Railways appear to be in this particular Colony, scantily supplied with inland water communication; where the common Roads of the Colony are daily deteriorating so as to add considerably to the expense of transit to an only market, Sydney, whither everything for Home use as well as for exportation has to be brought as the Grand Emporium for both Trades, as the only one where produce can be converted into Cash to any extent, with a climate and soil superior to many, and perhaps inferior to none on the whole face of the habitable Globe, a climate which embraces every variety of temperature necessary for the production of not only the absolute wants, but the comforts and luxuries of civilized life, renders it useless to man principally from the want of internal communication. The constant fluctuations in the money price of all colonial produce, at one time so low as to be insufficient to defray the costs of production, and at another so high as to press heavily upon consumers, the evils attending which are too manifest to require elucidation, incontestably prove this fact.

I am aware that it has been urged that the small numerical amount, added to the dispersed nature of our population, is such as to render the success of Railways as a Speculation rather problematical; and that the ordinary Roads, perhaps extraordinary would be a better term as significant of their present condition, for some time to come are likely to be best adapted to our wants. That this idea should exist is not to me so much a matter of surprise, as that the Colonists should be placed in a situation to remove so reasonable an impression, which perhaps will best be performed by soliciting Your Lordship's attention to the annexed Report upon the subject, of which is here termed "The Great Southern line," and to state that that Report* was published about twenty months ago by a Committee of Gentlemen, enrolling amongst its members some of the most respectable and influential persons in our community, after a careful and impartial investigation, and may, I think without the slightest hesitation, be declared to be a candid and ingenuous production.

If your Lordship should be of the same opinion and attach to the statements and recommendations of this Report the same

* Note 19.
weight and importance as do the committee, the necessity for the immediate introduction of Railways into New South Wales and the total inadequacy of the present ordinary Roads to our actual wants will be facts acknowledged in the quarter whence the required measures for initiating so great a reform in our internal communications may proceed. And, in requesting your Lordship to bear in mind one great and natural result of Railway undertakings, namely, the rapidity with which localities become peopled in their vicinity (so much so that they may figuratively be said to people themselves). I feel assured that your Lordship will therein see a consequently rapid development of our resources and a corresponding degree of prosperity, and will therefore admit that, in respect to their important connection with this Colony's progress, no comparison can be made between the present insufficient Roads and the proposed Railway lines.

But this is not all. Railways, altho' the works most necessary for our rapid and lasting prosperity, a prosperity that would be felt even at the Antipodes, require Capital and energy for their fulfilment. The question then is: How and by what means can they best be undertaken?

This Colony, I maintain without fear of contradiction, is in too infant a State and altogether too deficient in point of Labour, even were its capitalists disposed for the undertaking, to carry out such Gigantic Works: and again there seems to be an almost total want of confidence in Joint Stock Companies generally. It is not here, as in England, where a superabundance of Capital, a corresponding degree of confidence and unlimited supply of cheap labour exist. There, works of this nature are perhaps best left to the enterprise of Individuals; and I am one amongst the first to admit, under such circumstances, that it would be ungracious as well as impolitic for the Government to interfere beyond the ordinary requisites of Legislation for the public good; but the thing becomes widely different in a Colony where these essentials do not obtain; or even in a State where the subdivision of property has a tendency to keep down extraordinary individual wealth; and, with submission, it, in either of these cases, becomes politic as well as just and humane for a Government to stretch forth its paternal hand for the support and welfare of its people by performing those acts of public utility which, individually, the Colonists are incompetent to undertake.

The immense quantity of Land now lying waste in this Colony, the seed, if only wisely administered, of its future prosperity, the presumption, nay the more than presumption, the inevitable result that, if something analogous to this is not carried out by the Government, The Squatters will hold their Lands in perpetuity from the simple fact that there will be no impediment to the renewal of their leases ad infinitum; until the time will arrive, and that too at no very distant period, when they will become so powerful a body as to set all Government and good rule at defiance and thereby assert their absolute ownership; imperatively call upon the Government, as Trustee for the public at large as well as for posterity, to establish some means, ere it be too late, whereby those Lands may be preserved from spoliation; and this task will certainly become the more pleasing when it is considered that a great and lasting Boon will be conferred upon the Colony simultaneously with their institution.
1848.
27 Jan.
Advocacy of construction of railways by government.

I think Railways point out these means. In the increased value (not fictitious but real) imparted by them to our Lands, superseding, as they would, that which appears to me to be the late unwise agitation respecting their minimum price, and rendering them worth not only one pound but from One to Five Hundred pounds per acre; In the accumulating profits arising out of the construction of such ways, at the same time that the costs of transit might be kept from pressing heavily upon the public; The Colony would ultimately be in possession of funds, without having recourse to burdensome taxation, sufficient not only for the support of its Government, the education of its people and the maintenance of its poor, but be placed in a situation to give the utmost facility to that praiseworthy adoption of modern Science, the principles of Free Trade.

It does, I must confess, appear to me, and it is hoped will seem no less so to Your Lordship, to be a question much more pregnant with reason to render, by the institution of wise measures, the Lands of this Colony worth one pound per acre, than to listen to the appeals of individuals for a reduction on grounds that may fairly be said to be speculative; individuals who imagine that the Land fund must, of necessity, become so impoverished as to preclude the possibility of anything approximating to an adequate supply of Immigration by its means, providing the minimum price is not reduced to at least five shillings per acre!! It is to be fervently hoped that the opinions of such persons, opinions which I firmly believe to be detrimental to the best interests of this Colony, will not influence Her Majesty's Government; but that an effort will yet be made by it to render our Lands saleable even at a much higher price than at present; otherwise the same unhealthy speculations in Land, which obtained here in the Years 1838, '39 and '40 will in all probability again ensue with all their concomitant evils, at the same time that an irreparable injury will be inflicted upon posterity. Again permit me to test this deduction by the question of Immigration, and to ask how suicidal to our every interest must it not appear for this Colony to part with Eighty acres of its Land for the importation of one adult Labourer, who when he arrives here, is free to leave for any other part of the world where he imagines his Labour will find a more profitable market? It may be said that this is an extreme case; but experience has proved the reverse. Numbers of bounty Immigrants re-emigrated from this Colony in the year 1842 for the Western coast of South America; a few have returned to their native Country through disappointment; and many have left for the neighbouring Colonies. It is, therefore, no more than reasonable, as like signs produce like quantities, to suppose that, under similar circumstances, the same results will again obtain.

The question of private enterprise being quite chimerical here, it only remains for me to shew how the Government may be enabled to carry out this Scheme.

First with respect to Labour. By a recent alteration in our criminal Law, local punishment has been substituted for transportation. The Criminal labour of this Colony, under Military Guards, might in this way be rendered serviceable to it; a just return for the violation of its Laws, and an example sufficiently severe to deter others from crime; but, as the quantity of this kind
of Labour would in all probability be insufficient for the purposes required, a recourse to Immigration would be necessary to supply the deficiency: in which case, and to such extent only (for under the present existence of things I am satisfied that this Colony cannot afford to pay for its Immigration), so far from having any objection, I consider it would be a legitimate charge upon the Colony; common sense will point out the necessity of keeping the two classes at separate ends of the line, and always as widely apart as possible.

Secondly, as regards mere capital, there is abundance of that here, whether English or Colonial, or an admixture of both I shall not stop to enquire; but, if the converse of this were the case, there is wealth sufficient under a wise system of money and currency for the purpose required. Any amount that might be wanted by the Government for Railways could easily be obtained, if secured by Debentures upon both or either of the General or Territorial Revenues at five per Cent, which would both minister to the wants of the Government and afford the Capitalists of the Colony that which they have long been sighing for, namely, a convertible security for their redundant capital. The premium of from one to Three per cent., which the late Debentures commanded in our money market, taken in conjunction with the amount of Deposits now lying unproductive in the several Banks of the Colony, which, exclusive of the Savings Bank and the District of Port Phillip, was by the last September returns upwards of One Million and a quarter of money, will, I think, bear me out in the assertion that no difficulty whatever would be experienced by the local Government in obtaining the required capital at the rate of five per cent.

Surely a Scheme like this, so clear and vivid in its nature, and so facile in operation, requiring only the credit of the Government for its consummation, is worthy of the enlightened age in which we live, and sufficient it is hoped to justify a deviation even from old and established customs. The interests of all concerned, The Government, The Colonists and posterity, are so well cared for; The conservation of a property in Land, unequalled by any in the world (climate duly considered), which if not protected will ultimately be usurped, are reasons, one would think, sufficiently cogent to merit serious consideration on the part of a wise and beneficent Government. Let me hope that such will be the case. Satisfied as I am of the extreme importance of such a measure that it is only by some such means that the present minimum price of Land (a question coexistent with its conservation) can be maintained, and that, by continuing Railways until they approach the various Squatting Districts, the Lands comprising such Squattages can be rendered Saleable and their confiscation prevented, I should ill perform that duty which every Citizen owes to the Land of his adoption, did I not boldly and fearlessly, although from different views, join those few patriotic individuals of our Legislative Council, who have raised their voices against the wholesale spoliation of our waste Lands for the aggrandizement of a Section of our Community.

I have, &c.,

Jas. Cooper.

[Sub-enclosure.]

[This was the printed report of the general committee.]
SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 28, per ship Hamlet; acknowledged by earl Grey, 14th July, 1848.)

My Lord,

Government House, 28th January, 1848.

In my Despatch of the 26th December, 1847, No. 261, I recommended to Your Lordship an amendment of Her Majesty’s Order in Council* of the 9th March, 1847, the object of which was to confer on those Licensed occupants of Crown Lands, whose Runs or portions of whose Runs have been brought by the terms of the said Order within the class of settled Lands, the same allowance for improvements as it guaranteed to Lessees of Runs on the expiration of their Leases under the second and third conditions of the 15th section of chapter II of the Order.

I have now to bring under Your Lordship’s consideration another class of cases, to which it appears to me to be expedient and just that a similar provision should be extended.

Under the system of occupation which was in force before the issue of the Order in Council, persons have been licensed to occupy small portions of land, not as Runs for grazing purposes but for the Establishment of Inns, Stores, and other places of business for the carrying on of retail trade or for the accommodation of passengers. In many of these cases, the buildings and other improvements on the holdings are of considerable value.

From an opinion of the Law Officers of this Government, of which a copy will be found appended to the enclosed minute of proceedings of my Executive Council, it appears that such occupants, as I have described, cannot obtain Leases of their holdings under the Order in Council, and that they are thus debarred from the privileges of a preemptive right or of receiving an allowance for their improvements on the sale of the lands to other persons.

I beg, therefore, to recommend that Her Majesty’s Order in Council above referred to should receive such modification as will confer on all Licensed occupants of Crown Lands, of the description in question, the same allowance for improvements as is guaranteed to Lessees of Runs on the expiration of their Leases by the second and third conditions of the 15th Section of Chapter II of the Order in Council. The persons, who will be entitled to the benefit of this allowance, should it be conceded by Her Majesty in Council, will be not only those whose holdings are situated in the “Unsettled” and “Intermediate” Districts as now defined, but those also whose holdings are within such portions of the “Settled” Districts as before the

* Note 21.
new classification under the Order in Council were beyond the boundaries of location (as they were termed), or in other words beyond the limits within which lands were open to purchase; and it will be necessary that the terms of the Regulation should be framed accordingly.

Should the suggested modification of the Order in Council be made, I shall probably find it convenient to put up for sale all the lands, to which it will apply, within a short time after the new Rule shall have come into effect.

It may be proper to explain that it has not been deemed necessary to propose the extension of this indulgence to parties who have improved lands, which, previously to the issue of the Order in Council, were situated within the boundaries of location, because it was competent for them at any time to have applied to have the land they occupied put up for sale, and consequently to have acquired the fee simple of it before they proceeded to effect improvements; such was not, however, the case with respect to Lands beyond the boundaries of location, and this constitutes the difference in the two cases, which justifies, I consider, the indulgence proposed for the latter.

I have, &c.,


[A copy 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. 29, per ship Hamlet.)

My Lord,

Government House, 29th January, 1848.

29 Jan.

With reference to my Despatch No. 4 of the 8th instant, reporting that a sum of £39,400 had been advanced as a loan to the Commissariat by the Colonial Government, and that this would be considered as a payment for Immigration purposes, under the instructions conveyed in Your Lordship's Despatch No. 212 of the 30th August, 1847, I now do myself the honor to inform Your Lordship that an addition of £10,600 to the above amount has been made to complete a payment for this service of £50,000, and a Warrant for this amount was accordingly granted on the 17th instant in favour of the Deputy Commissary General; and, in a letter of this date, the Colonial Secretary has transmitted to the Commissioners of Land and Emigration a Certificate from Mr. Ramsay of his having received the same, in order that, under the arrangement communicated in Your Lordship's Despatch before mentioned, an equal amount may be issued to them from the British Treasury to enable them to defray the expense of sending Emigrants to this Colony.
HISTORICAL RECORDS OF AUSTRALIA.

I will report to Your Lordship the monthly payments of £10,000 to the Deputy Commissary General on account of this service as the same from time to time are made, and until the whole sum of £100,000 has been duly paid over to him.

I have, &c,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 16, per ship Sir Edward Paget.)

Sir,

Downing Street, 31 January, 1848.

I have the honor to transmit to you for your information the enclosed copy of a Letter from the Commissioners of Colonial Land and Emigration, containing an account of the steps they have hitherto taken for carrying on the renewed Emigration to New South Wales.

You will observe that at the outset there was little prospect of obtaining any considerable number of Emigrants from Great Britain owing to the abundance of employment for labour, and that the first Vessels have been necessarily filled to a great extent from Ireland; but the Commissioners state that they have largely augmented their Agency in England and Scotland, and expect to draw a due proportion of the whole number of Emigrants from those parts of the United Kingdom. They also have taken steps, as you will perceive, designed to admit of sending out a larger proportion than heretofore of Single Women.

This account of the proceedings of the Commissioners appears to me satisfactory. I have approved of their placing parties of Single Women under the charge of Matrons, wherever it appears that such a course will be attended with advantage; and I have no doubt that you will be alive to the great importance of making suitable provision for the reception of Female Emigrants of this description on their first landing in the Colony.

I have, &c,

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY MERIVALE.

Sir,

Colonial Land and Emigr. Office,

14th January, 1848.

We have the honor to acknowledge the receipt of your letter of the 3d Instant, enclosing, for our information and guidance, the copy of a Despatch which has recently been addressed by Earl Grey to the Governor of New South Wales on the means of raising additional Funds for promoting Emigration to that Colony. With reference to this Despatch, we take the opportunity
GREY TO FITZ ROY.

of explaining the measures which we have already adopted in consequence of the amount put at our disposal for the promotion of Emigration in the course of last Summer.

Lord Grey's despatch to the Governor of New South Wales on the subject was dated the 30th August, 1847. At that time, the harvest was in progress, and a great amount of Labour was still employed on Railway Works, and accordingly very little disposition was then manifested by persons in England or Scotland to avail themselves of the opportunity of obtaining a free passage to New South Wales. The first four Vessels, therefore, which we despatched and which sailed in October, November, and December, were with one exception filled chiefly from Ireland, and in one of them we sent out as many as we could collect of the Children left behind by their Parents previous to 1842, for whom we were authorized by Lord Grey, on the 23d March last, to find passages at the public Expense. The total number of Emigrants sent out in these four Vessels was 908, of whom 173 were single men and 208 single women.

But, although there was little hope in the first instance of our being able to procure any large number of English Emigrants, we at once took steps for adding considerably to the number of our Agents in England and Scotland, and for giving publicity by extensive Advertisements to the demand for Emigrants. We also issued a short notice for that purpose, of which the enclosed is a copy. We have no reason to doubt the success of these measures, and we do not, therefore, apprehend any serious difficulty in hereafter collecting a due proportion of suitable Emigrants from these parts of the United Kingdom for New South Wales, in addition to the number which may be required for South Australia.

We have accordingly made arrangements for sending out to New South Wales three more Ships in the course of the present month, which will contain a large proportion of English and Scotch Emigrants. We likewise propose to continue to send out the same number of Vessels every month, till the Emigration shall be completed. We fear that it would not be possible to proceed more rapidly, considering that an Emigration will be simultaneously going on to South Australia and the Cape of Good Hope, to the former at the rate of 12 Ships, to the latter of 6 Ships in the year, the Emigrants for which must be drawn from the same class of persons as will be required for New South Wales. Lord Grey will perceive from this outline that the number of Emigrant Ships, which we propose to despatch to Australia and the Cape in the course of the year 1848, will be not less than 54.

In Lord Grey's despatch to Sir C. Fitzroy of 30th August, 1847, His Lordship has alluded to the alleged want of proper accommodation for the reception and protection of young women on their landing from Emigrant Ships. This is a subject of great importance, and we have no doubt that Sir C. Fitzroy will have given it his early attention. It is obvious that the Emigration, which we are conducting to New South Wales, would prove an injury instead of a benefit, unless a fair proportion were maintained between the numbers of each Sex sent out. But the impossibility of sending out young unmarried females by themselves has necessarily restricted their numbers very much, and hence it has become necessary, in order to avoid increasing the disproportion between the Sexes, which heretofore has been so severely felt in...
New South Wales, to lay down a general rule that single men
should not be sent out in a greater number than single women.
But the effect of this Rule has of course been to restrict the
Emigration of young men, who are the class from which the most
useful Settlers in New South Wales would be drawn.

To palliate the difficulties connected with this subject, we under­
took, in September, 1846, the experiment of sending out unmarried
women under the care of a Matron, and the result, as far as
regards the conduct of these women, has we believe been quite
satisfactory. The advantage in point of the numbers, whom we
are enabled to send, admits of no question; the number of single
women in 7 ships preceding this arrangement having been only
141, while, in 7 Ships following it, they were 269. We should
accordingly propose, unless Lord Grey should disapprove that
course, to pursue the plan of sending out young unmarried women,
under the charge of a matron, during the Emigration of the
present year; but, if this is to be done, we would submit that the
intention should be announced without delay to Sir C. Fitzroy,
in order that no care may be wanting to provide for the proper
protection of these persons on their arrival in the Colony.

In regard to the Ports from which the Emigrant Vessels are
despatched, we have found it not only more economical, but more
advisable in other respects, to pay the cost of bringing the Emi­
grants to one or two settled places of embarkation, where the
requisite establishments for their reception and examination exist,
rather than to send the Ships round to take the people on board
at Ports nearer to their residences. All the Emigrants will, there­
fore, be despatched from London or Plymouth. But to diminish,
as much as possible, the risk of individuals encountering the
expense and trouble of removing to London or Plymouth, whom
it might afterwards be impossible to send out, we require before
we accept them that all proposing Emigrants should produce
Certificates, both of character and capacity, of their being in a
fit state of health to emigrate, and of their being free from any
disease calculated to shorten life. And, still further to prevent the
danger of infectious or contagious disease being introduced on
board the Vessels, we require, in addition to the preceding Certifi­
cates, that Emigrants before they embark should undergo a
second examination at the Port of Embarkation by an Officer
under the control of this Board. We need hardly add that in no
case is any individual allowed to proceed in whom there may be
grounds to suspect the existence of any such infectious or con­
tagious disease.

We are happy to state that we have hitherto been able to
engage Tonnage on moderate Terms. With the exception of the
"Sir Edward Parry," which was expressly chartered to take out
the children before alluded to, the average cost of passage in the
Ships already engaged (7 in number besides the "Sir E. Parry")
will be under £11 13s. 8d. per Adult. We have &c.

T. W. C. MURDOCH.

[Sub-enclosure.]

FREDERIC ROGERS.

[This was a three-page quarto circular, entitled, "Notice on Free
Emigration to Australia."]
GKEY TO FITZ ROY. 213

SIR CHARLES FITZ ROY TO EARL GREY. (Despatch No. 30, per ship Hamlet.)

My Lord,

Government House, 31st January, 1848.

I have the honor to acknowledge the receipt by the ship “Alert” of Your Lordship’s Despatches numbered in the margin.* I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY. (Despatch No. 17, per ship Emperor of China.)

Sir,

Downing Street, 1st February, 1848.

In answer to your Despatch No. 133 of the 27th June last, I have to acquaint you that, for the reasons stated in the enclosed letter to the Board of Treasury, Her Majesty’s Government do not deem it necessary that any claim should be made upon the Government of New South Wales for the value of the Treadmill, which you state to have been transferred from the late Convict Establishment at Carters Barracks in Sydney to the Colonial Gaol at Darlinghurst.

I have, &c.,

GREY.

[Enclosure.]

UNDER SECRETARY MERIVALE TO MR. C. E. TREVELIAN. Sir,

Downing Street, 4th January, 1848.

With reference to Mr. Stephen’s letter of the 30th of March last, and to subsequent correspondence on the subject of breaking up the Convict Establishment in New South Wales, and of transferring the Convicts then remaining in the hands of Government to Van Diemen’s Land. I am now directed by Earl Grey to transmit to you the copy of a Despatch from the Governor of New South Wales, in which he reports that a Treadmill, no longer required for the Convict Service, had been transferred from the Barracks, where it formerly stood, to Darlinghurst Gaol, and suggesting that it should be handed over to the local Govt. without any payment.

In a Despatch addressed by Earl Grey to Sir C. Fitzroy in May last, founded on the above mentioned correspondence, and a copy of which was forwarded to the Board of Treasury in Mr. Stephen’s letter of 15th May, it was stated that, in consideration of the number of Convictions which might be anticipated in a Society composed to so great an extent of the remains of a Convict population. Her Majesty’s Government were prepared to allow the Colony the use of the buildings belonging to the then existing Convict Establishment, which were not required for Military purposes, or likely to become so.

Lord Grey is of opinion that the same principle ought to be acted upon in the present instance; and therefore recommends that the proposal now made by the Governor of New South Wales should receive the sanction of the Lords Commissioners of the Treasury.

I have, &c.,

H. MERIVALE.

* Marginal note.—No. 213 to 231 (inclusive); Military No. 6; Circular, 25 September, 1847.
HISTORICAL RECORDS OF AUSTRALIA.

SIR CHARLES FITZROY TO EARL GREY.

(Despatch No. 31, per ship Hamlet; acknowledged by earl Grey, 31st July, 1848.)

My Lord,

Government House, 2d February, 1848.

I have the honor to transmit a Petition addressed to the Queen and signed by upwards of Three thousand, one hundred persons of respectability residing in Sydney or its immediate neighbourhood, praying that Her Majesty will be graciously pleased not to assent to any change in the Constitution of this Colony, which will not have received the previous sanction of the Colonists at large.

This Petition was framed in pursuance of Resolutions passed unanimously at a public meeting held in Sydney on the 19th ultimo, which was very numerously attended by persons of every shade of opinion on other Colonial Topics, and of great respectability and influence.

It is right that I should add that Public meetings for a similar purpose have been called very generally throughout the Colony, and that Petitions to the same effect as the one now forwarded are in progress of signature.

I have the honor to enclose a copy of the Sydney Morning Herald of the 21st ultimo, containing a full report of the proceedings of the meeting held on the 19th ultimo.

I have, &c,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

THE humble petition of the undersigned Colonists of New South Wales.

To the Queen's Most Excellent Majesty,

Respectfully sheweth:

That the publication of a Despatch, dated the 31st July, 1847, from Your Majesty's principal Secretary of State for the Colonies, indicating a change in the Constitution of this Colony, by which (among other things) the system of District Councils is to be perpetuated and the Legislative Assembly is to be placed, with respect to those District Councils, in the relation of representative and constituent, has filled us with the utmost apprehension and dismay.

That, in consequence of the dispersion of a large portion of the inhabitants of this Colony, any measure establishing municipalities, similar in principle to the District Councils attempted to be created by the Act of Parliament, 5 and 6 Vict., cap. 76, would be so repugnant to the wishes and so adverse to the interests of this community, that it is utterly impossible that it could ever be brought into effective operation.

That the change in the Constitution of this Colony, proposed in the before mentioned Despatch, would have the effect of depriving us of the elective franchise, which we maintain to be our inalienable right as British subjects.
That we cannot but be persuaded that, by delegating our right to elect our representatives, we are deprived not only of that choice to which we are entitled, but also of that constitutional control over our Legislature without which no people can be considered free.

That we are anxious to enjoy a form of Government founded as nearly as circumstances will admit upon the principles of the British Constitution, and that the making this Colony the subject of a theoretical experiment in legislation is a measure the justice or policy of which we can never admit.

That we see nothing in the erection of Port Phillip into a separate Colony to justify the extraordinary change, which is, by the before mentioned Despatch, proposed to be made in the Constitution of the Colony.

That we feel ourselves entitled to expect that no important alteration in that Constitution shall be made without the previous consent of those whose persons and property it may be intended to affect.

Your Petitioners, therefore, humbly pray that your most Gracious Majesty will not assent to any change in the Constitution of this Colony, which shall not have received the previous sanction of the Colonists at large, and your Petitioners will ever pray, etc.

[Here followed the signatures.]

[Enclosure No. 2.]

[This was a copy of the issue of the "Sydney Morning Herald," dated 21st January, 1848.]

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 19, per ship Emperor of China.)

Sir,

Downing Street, 7 February, 1848.

I have to acknowledge the receipt of your Despatch No. 134 of the 28th of June last, covering a Memorial addressed to the Moderator of the General Assembly of the Church of Scotland by the Trustees, Elders and congregation of St. Andrews Church, Parramatta, who pray that a Minister may be selected and ordained for that Church. You also transmit other enclosures in explanation of the circumstances, which have given rise to that application.

Copies of those enclosures and of the Petition have by my desire been forwarded to the Colonial Committee of the General Assembly, together with an intimation that I should be happy to sanction the Appointment of any person, whom they might recommend to me as duly qualified for the Ministerial office.

From the annexed paper, being the copy of an Extract from the Minutes of a Meeting held by them on this subject, you will perceive that the Committee have thankfully accepted this offer, and that it has been likewise agreed to vote the sum of £200, in aid of the erection of the Church at Parramatta.

I have, &c.,

GREY.
Minutes re appointment of Presbyterian clergyman.

[Enclosure.]

Excerpt from the Minutes of a Meeting of the Acting Committee of the General Assembly of the Church of Scotland’s Committee on Colonial Churches, held at Edinburgh on the 16th day of January, 1848.

Read letter from the Under Secretary of State for the Colonies, dated 6th Jan., 1848, transmitting by the direction of Earl Grey a Petition addressed to the Moderator of the General Assembly of the Church of Scotland by the Trustees, Elders and Congregation of St. Andrews Church, Parramatta, New South Wales, praying that a Minister might be selected and ordained for their Church. Also annexing a Copy of the Despatch from the Governor of the Colony, which covered the Petition, together with other enclosures, explaining the circumstances which have given rise to that application.

The letter of the Under Secretary also stated that Earl Grey would be happy to sanction the appointment of any person, whom the General Assembly might recommend to him as duly qualified for the Ministerial Office in the Church of Parramatta, and that the Clergyman so appointed would be entitled to the sum of £150 as passage allowance to New South Wales.

The Secretary was directed to offer the respectful thanks of the Committee to Earl Grey for his kindness in this matter, and to state that the Colonial Committee of the General Assembly would immediately look out for a suitable person to be recommended to his Lordship for the appointment of Presbyterian Minister of Parramatta. The Secretary was further directed to intimate to his Lordship that, on considering the Petition from the Trustees, etc., of St. Andrew’s Church, Parramatta, and also an application made by them to the Colonial Committee, it had been agreed to vote the sum of £200 Sterling to aid in the erection of the Church there.

Extracted from the Minutes of the Acting Colonial Committee of the General Assembly by W. Young, Secy. Colonial Committee.

Earl Grey to Sir Charles Fitz Roy.
(Despatch No. 20, per ship Emperor of China.)

Sir,

In the concluding passage of my Despatch of the 18th of December last, suggesting for the consideration of yourself and of the Legislative Council the expediency of creating a Public Debt of moderate amount for the encouragement of Emigration, I acquainted you that I would take a future opportunity of furnishing you with any remarks which I might be able to obtain on the practical modes of proceeding, which were found advisable in raising Public Loans in England. In pursuance of that intention, I now transmit to you some observations which
GREY TO FITZ ROY.

have been furnished by one of the Gentlemen, who possesses the longest and most extensive acquaintance with the course observed on such occasions at the British Treasury, and I hope that, if the General Plan described in my former Despatch should be adopted, the suggestions contained in the present Paper will be found useful by yourself and by the Legislature in deliberating on the practical mode of carrying that Plan into execution.

I have, &c.,
GREY.

[Enclosure.] MEMORANDUM referring to a Despatch from Earl Grey to the Governor of New South Wales of 18th December, 1847, laid before the House of Commons and printed by order of the House of 20th December, 1847.

The arrangements for the creation of a funded debt in New South Wales, contemplated by Earl Grey's Despatch, though in reality providing for the grant of Annuities chargeable upon the Colonial Revenue with power of redemption on certain conditions reserved to the Colonial Government, will be most conveniently carried into effect by Sales of a nominal amount of Stock, purporting to bear a given rate of Interest; such Stock to be inscribed in the first instance in the names of the purchasers and to be transferable by those purchasers or by any subsequent holders in any subdivided portions they may desire.

The rate of interest or Annuity to be allowed for every £100 of the Stock must be fixed by the Legislative Enactment, authorizing the raising of the Loan; and it should be insured to the purchasers for a given term of years. In the instance of the Canada guaranteed Loan, 20 years was adopted for this term; but, adverting to the progressive increase of property in New South Wales and the probability of increased competition for the species of investment, the arrangement now in question will offer, it might be sufficient in this case if the rate of interest were insured for 10 or 15 years from the creation of the Stock. Care must be taken that such specific provision is made for this interest as shall prevent any doubt as to the payment of it with undeviating punctuality being amply secured.

In determining the rate of interest, regard should be had to fixing it at such amount as will insure the Stock selling in the first instance for nearly its nominal value, and it should, therefore, bear such proportion to the current rate of interest in the Colony for money lent on good ordinary security, as may be warranted by the consideration of the greater value of the security of the Government and public Revenue of the Colony, as compared with that of individuals, and of the advantages the Stock will hold out for investment from the certain continuance of the rate of interest during the given term before adverted to, and from the facilities for its sale or transfer in any portions that may suit the convenience of the parties investing their money in it.

When a Colonial enactment shall have been passed settling and duly establishing the amount of Stock to be created; the rate of
interest it shall bear, with the fund upon which such interest
shall be chargeable, and the period of mode of paying it; the
period for which that interest shall be payable without any
option of redemption by the Government, with a power for the
Government to redeem after that period by payment at the rate of
£100 for every £100 of the nominal Stock; and likewise the mode
of disposing of the Stock in the first instance and in which it shall
afterwards be transferable, the negotiation of the Loan may be
proceeded with. This would of course be effected either by public
tender or by open Competition at public Sale after due public
notice given of the amount of stock to be disposed of, of the
period for tender or sale, the amount for which tender or bidding
may be made, and the usual conditions as regards deposit by
purchasers, period of completing their payments, and forfeiture in
the case of non-completion, and whether the negotiation be effected
by tender or by open sale, a minimum price, below which no
tender or bidding would be received, should be previously deter­
mined on the part of the Government; and, in the event of the
rejection of a tender or bidding, this minimum price should be
made public (care being taken that it does not previously trans­
pire) and option be given to purchase the Stock at it.

Altho' it has been customary, in effecting loans for the public
service in this Country, for the Government to notify the amount
it is intended to raise, and to settle the terms with the parties
willing to contract and afterwards apply for the sanction of the
Legislature, it does not appear that any such course of proceeding
would be either advisable or in any respect expedient in such cases
as that now in question.

It may be further remarked that, in order to the investment in
the proposed Colonial Stock of Savings Bank Funds and Funds of
Suitors, etc., in the Courts of Law, special enactments of the
Colonial Legislature would be required in the former case for
making good from the Colonial Treasury any deficiency of pro­
ceed of Stock on resale to pay the deposits and interest; and, in
the latter case for the substitution of Stock purchased by due
Order of the Courts for the monies so invested, whatever may be
the proceeds of the eventual sale of it.

Adverting to the limited amount of the Debt contemplated by
the Instructions contained in Earl Grey's despatch and to his
Lordship's expectations in regard to the Stock being considered
by the Colonists to afford an eligible means of investment, it does
not seem necessary that any arrangement should be suggested with
reference to the formation of a sinking fund for the future re­
demption of the Debt.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 21, per ship Emperor of China.)

Downing Street, 9th February, 1848.

Sir,

As the period usually fixed for the Session of your
Legislative Council will, probably, be at hand when this
Despatch reaches you, I wish to call your attention to the
Provisional Act, 9th Vict., No. 30, An Act to repeal an Act entitled “An Act to give a preferable Lien on Wool from Season to Season, and to make Mortgages of Sheep, Cattle and Horses valid without delivery to the Mortgagee, and to substitute for a limited time other provisions in lieu thereof.” This Act, 9 Vic., No. 30, was passed as a temporary measure only, and will expire on the 31st December, 1848.

The original Act, 7 Vic., No. 3, was passed by the Legislative Council under your Predecessor, Sir George Gipps, at a period of great depression in the staple interests of the Colony. The object of its framers was to afford additional accommodation to owners of Flocks by facilitating the borrowing of money. The Act was disallowed by Lord Stanley, for reasons which were fully set out in his Despatch of the 28th October, 1844. In the next Session 1845, the present Act was passed, avowedly as a temporary measure, to continue for a limited period the accommodation which had been given by the first Act, of which the policy was disapproved. It was on these grounds, and these only, that the second or substituted Act was allowed, and with no intention of permitting it to be rendered perpetual. I have, therefore, to recommend you now to allow it to expire, and should not approve of the passing of any fresh Act on the same principles and intended to promote similar objects.

I have already referred you to a former Despatch of Lord Stanley as containing the general views of Her Majesty’s then Government respecting the impolicy of Enactments of this description, and their opposition to the recognised principles of English Law, in which I fully concur. But there are other objections also, which observation of the recent history and present circumstances of your Colony has induced me to entertain. In ordinary times, it is evident that a deficiency of labour is the evil most commonly felt and complained of in your Community. Whatever the occasional sufferings of the Colony may have been from falling prices and insufficient pecuniary means, the general tendency of Capital is to increase more rapidly than labour, and an unnatural elevation of Wages is the necessary result. It is obvious how greatly this tendency must be increased by giving additional accommodation to borrowers. The employer of Labour, who conducts his business on his own means, must find himself exposed in the Labour Market to the competition of others trading on borrowed Capital, to his great inconvenience and to the ultimate loss of the Community in general. Measures, of the description to which I am alluding, have, therefore, all the ordinary evil consequences of undue
1848.
9 Feb.

Impolicy of lien on wool act.

encouragement to speculation, aggravated by that of enhancing the price of Labour, already too high, against those who abstain from speculation, and seek only to realise legitimate profits.

With the Despatch from your predecessor Sir George Gipps of the 23d November, 1845, No. 196, enclosing the Act which is now about to expire, was also transmitted a “Report from the Select Committee of the Legislative Council on the preferable lien on Wool Act,” printed 14th October, 1845, with the Minutes of Evidence taken by the Committee. I cannot discover in this Report or the evidence any sufficient arguments to alter my opinion as to the extreme impolicy of encouraging the occupiers of Land to increase their liabilities, by enabling them to borrow with these additional and unusual facilities. With respect to the several Laws in force in some of our West India Colonies, giving liens on Plantations to the Merchants who advance Stores, which are cited in the evidence as justifying these Acts by Analogy, it might be sufficient to say that the cases are not parallel, because the West Indian Laws in question contemplate, in general, Mortgages on real property, to which the power of taking the Crops on the part of the Mortgagee is an adjunct only, and are, therefore, not open to those objections arising from the principles of English Law which attach to Mortgages on mere chattels, and still more on future profits, such as the clip of Wool. But, even were this otherwise, the instance is one which serves as an additional argument against enactments such as I am now considering. The effects of the practice of borrowing on Mortgages, which the Legislatures of the West India Colonies have thus encouraged, have been such as to furnish rather a warning than an example. Those, who have carefully considered the system on which cultivation has been conducted in those Colonies, have very generally concurred in the opinion that one of its greatest defects has been the prevalent custom among the planters of carrying on their business by means of borrowed Capital, which has rendered them in too many cases rather the Agents of the Merchants who have furnished the advances, than the real proprietors of their own Estates. And this has been one of the greatest obstacles to that reduction in the cost of cultivation, which the circumstances of those Colonies have rendered of the first importance.

I trust that the present year, when money appears to be more than usually abundant in the Colony, will be found a very favourable period for allowing the Act to expire. I observe that the Committee reported (in October, 1845) that the Act

Experience in West Indian colonies.

Opportunity for expiration of lien on wool act.
"was not then of the same permanent necessity as at the time of its introduction "; and I have every reason to believe that the two years, which have since elapsed, have still further removed that temporary occasion for it, which was the reason of it's re-enactment, and of it's allowance by Her Majesty's Government.

I need hardly observe that the means, which have led me to the conclusion that the renewal of this Act would be inexpedient, have reference only to the real and permanent interest of the Colony, and that, if the Legislative Council should take a different view of that interest, I shall be as ready as my predecessor expressed himself to consider any additional grounds which may be urged for a further continuance of this temporary Law.

I have, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 22, per ship Emperor of China; acknowledged by Sir Charles Fitz Roy, 21st December, 1849, and 4th September, 1840.)

Sir,
Downing Street, 10 February, 1848.

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

I have, &c.,
GREY.

REVD. G. AND H. GRAY TO EARL GREY.

My Lord, 2 February, 1848.

We have respectfully to request that your Lordship will be pleased to direct enquiries to be made by the proper authorities in Australia as to the existence of Mr. Charles Gray.

The said Charles Gray left England in the year 1835 in a ship bound to Sydney, and quitted the vessel on her arrival in pursuit of employment. He was last heard of by letter dated from the Colonial Hospital, Port Macquarie, 1836. But, as repeated applications have been made in that direction, it is supposed he is either dead or passing under an assumed name. He is by trade a Silversmith 5 feet 9 inches in height, rather stout, of fair complexion, thick lips, and a remarkable crooked nose. 44 years of age, and of active habits and kindly disposition. He is believed to have married a native of Sydney. It will relieve the anxiety of his family, if your Lordship will be pleased to direct any information that may be obtained as under.

I am, &c.,
GEO. GRAY AND HORACE GRAY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch per ship Emperor of China.)

Sir,

Downing Street, 10th February, 1848.

I transmit to you, herewith, a Copy of the Annual Reports from Her Majesty's Colonies, transmitted with the Blue Book for the Year 1846, which have been presented by Her Majesty's Command to both Houses of Parliament.

I have, &c.,

GREY.

[Enclosure.]

[These reports were printed in the "Parliamentary Papers" of the house of commons.]

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 33, per ship Hudson.)

My Lord,

Government House, 10th February, 1848.

I have the honor to transmit to Your Lordship herewith, the Returns relating to Land and Emigration, required by Lord Stanley's Circular Despatch of the 22d March, 1845.

1. Return of all Land sold during the year ended on the 31st December, 1847.
2. Return of Land reserved or purchased for public uses, or granted without purchase, and miscellaneous information respecting Crown Lands for the year ended the 31st December, 1847.
3. Return relative to all lands under Lease or License or subject to Quit Rent for the year ended 31st December, 1847.
4. Return relative to Surveyors and Surveys for the year ended on 31st December, 1847.
5. Return of Emigrants who have arrived in the Colony (exclusive of the District of Port Phillip) during the year ended on 31st Decr., 1847.
6. Return of persons employed in the Emigration service and expenses of the Establishments in the Colony (exclusive of the District of Port Phillip) for the year ended on the 31st December, 1847.
7. Return of Emigrants who have arrived in the District of Port Phillip during the same period.
8. Return of persons employed in the Emigration service and expenses of the Establishments in Port Phillip for the same period.
9 and 10. Returns containing the information furnished in Nos. 5 and 7 and 6 and 8 combined, which have been prepared in the same form.
Respecting the Returns Nos. 1 and 3, it is necessary that I should remark that the information relating to Port Phillip has not yet been furnished, and that District has been necessarily omitted in those Returns; but, so soon as it shall be supplied by the Sub Treasurer, Supplementary Returns will be forwarded to Your Lordship. I have, &c.

Chs. A. Fitz Roy.

[Enclosure.]

Copies of these returns will be found in the "Parliamentary Papers" of the house of commons.

Earl Grey to Sir Charles Fitz Roy.

(Despatch No. 24, per ship Emperor of China; acknowledged by Sir Charles Fitz Roy, 11th October, 1848, and 12th November, 1849.)

Sir,

Downing Street, 11th February, 1848.

I have received your Despatch No. 107 of the 1st March, 1847, enclosing the Reports of the Commissioners of Crown Lands in N. S. Wales and of the Protector of Aborigines in the Port Phillip District for the year 1846, on the condition of the Aborigines.

I see with much regret, but without any wish to accuse of remissness or want of forethought, those to whom the management of this difficult branch of our Public Service has been entrusted, that but little progress appears to have been made towards any effectual improvement in the condition of the natives in your Colony. It is of the highest importance that we should not suffer ourselves to be discouraged by the failure of experiments hitherto tried, but should pursue with unabated zeal the execution of those measures which appear to promise the best, and seek watchfully for any opportunity which may present itself of rectifying errors and devising improvements in our policy towards this helpless portion of our fellow-subjects.

I perceive from this Despatch and its enclosures that both Mr. Latrobe and Captn. Lonsdale appear to entertain strong doubts as to the utility of the Office of Chief Protector. I collect from the Papers before me that this opinion is partly grounded on some want of zeal and efficiency exhibited by Mr. Robinson. And I understand you to express your concurrence in their views. Should this, indeed, have been your only reason, I should be unwilling to direct the abolition of an Office which, in more efficient hands, might prove, as it was originally intended, a valuable safeguard to the Natives. But you appear to leave it open for consideration, whether the Office is itself of sufficient utility to warrant its maintenance. And it is unquestionably a matter to be considered, whether,
in the execution of such peculiar and delicate duties as that of interposing between Settlers and Aborigines, and that of endeavouring to instruct the latter in the rudiments of civilization, presence of mind, sagacity, courage and discretion on the part of individual Officers are not far more valuable than any general supervision on the part of a superior can be; whether the imposition of general rules, by which the latter may conceive that he can best exercise his authority, may not have a tendency to cramp and retard the exertions of the inferior Protectors in matters rather requiring the diligent adaptation of means to special ends than uniformity of action. I am anxious, therefore, that you should fully consider this question, with the aid of such local authorities as you may deem it most advisable to consult, separating, in your consideration, any objections which may attach in your opinion to the Office itself, from such as may attach to the manner in which it may hitherto have been filled; and if the result of such examination should prove unfavourable to the continuance of the Office, you will at once abolish it. Mr. Robinson’s claims to compensation will then greatly depend upon the manner in which he may have performed his duties, as well as upon his period of service. If those duties should in reality have been performed with a remissness which has impaired the utility of his Appointment, I apprehend that his claims could not be entertained. Upon this subject, however, in the event of the abolition of the Office, I should wish to receive your opinion. If on the other hand it should be found that the Office itself is one which ought to exist, but that it has not hitherto proved so useful as it ought to be, from Mr. Robinson’s failing in the due discharge of his duties, you will inform him that, unless he shall more effectively perform them in future, he cannot be allowed to continue to hold it.

I am anxious, in the next place, to call your attention to the following passage which occurs towards the conclusion of the Chief Protector’s Report. Speaking of the Aboriginal population in the District of Port Phillip, he observes that “Another subject deeply affecting the future condition of the Aborigines is the probability that, unless suitable reserves are immediately formed for their benefit, every acre of their Native soil will shortly be so leased out and occupied as to leave them, in a legal view, no place for the sole of their feet. If the occupation of Crown Lands is to be settled by The Crown granting leases for Years, the Natives will be deprived of all legal right to hunt over their own Native Lands, and, according to the dicta of certain high legal authorities, may be forcibly excluded by the Lessee from the tract of Country so leased.”
I am not certain that I rightly understand the meaning of this suggestion for the formation of "suitable reserves" for the benefit of the natives. Among the plans which have been tried in different parts of the World for the protection of Natives in the middle of an advancing population of European Settlers, one has been that of setting apart large tracts of Land as remote as possible from the districts in actual occupation by those Settlers, on which the natives might maintain themselves according to that mode of life to which they were addicted, without interference on the part of the Colonists or of their government. But I think it has been generally agreed that this system is inapplicable to the circumstances of Australia. The necessity under which proprietors of flocks are placed of extending their occupation of Land, such as it is, over wide tracts of Country, in a manner altogether different from the slow process of Agricultural Settlement, the barren and inhospitable character of large tracts of the Australian soil, the migratory habits of the scanty Tribes in search of sustenance which the earth very sparingly affords them, all seem to render the establishment of native reserves of Land on a large scale of very doubtful utility, even if practicable. If, therefore, I am to understand in this manner the meaning of the Chief Protector, it appears to me that, without further enquiry and better evidence than is at present before me, I could not authorize or recommend the adoption of such measures on an extensive scale.

But the very difficulty of thus locating the Aboriginal Tribes absolutely apart from the Settlers renders it the more incumbent on Government to prevent them from being altogether excluded from the land under pastoral occupation. I think it essential that it should be generally understood that leases granted for this purpose give the grantees only an exclusive right of pasture for their cattle, and of cultivating such Land as they may require within the large limits thus assigned to them; but that these Leases are not intended to deprive the natives of their former right to hunt over these Districts, or to wander over them in search of subsistence, in the manner to which they have been heretofore accustomed, from the spontaneous produce of the soil, except over land actually cultivated or fenced in for that purpose.

This is a subject on which I wish you to turn your attention. The evil of occasional depredations or acts of violence between Settlers and natives in these outlying districts is one which it is vain to expect can be wholly prevented. But a distinct understanding of the extent of their mutual rights is one step at least towards the maintenance of order and mutual forbearance.

1848.
11 Feb.
Necessity for recognition of rights of aborigines.

System of small reserves for benefit of aborigines.

Experience in South Australia.

1848.
11 Feb.

between the parties. If, therefore, the limitation, which I have mentioned above on the right of exclusive occupation granted by Crown Leases, is not in your opinion fully recognized in the Colony, I think it is advisable that you should enforce it by some public declaration, or, if necessary, by passing a declaratory Enactment.

There is, however, another system of reserves of Land for the benefit of Natives, namely, that of setting apart small tracts of Land, vested in trustees specially appointed, not for their maintenance in their savage condition, but to be cultivated either by them or for their advantage by sale of produce, or for their own consumption, affording also sites of Schools, and whatever other fixed Establishments experience may recommend as most calculated to serve them.

I should have thought that the Chief Protector's observations were intended to apply to this class of Reserves, had I not believed that this system, which he appears to speak of as a desideratum, was already in operation in your Colony. I find, by reference to former Reports of Protectors of Aborigines, no fewer than seven Reserves of this description mentioned as in existence five or six years ago, generally extending over a square mile each, as Lodden, Goulburn, Melbourne, and Geelong in particular. And from other quarters I had been lately apprized that some of these at least were in operation; that Flocks were maintained also for the use of the natives, and some land cultivated for their benefit. But these are points on which the last Reports, to which I am now advertting, afford very little information. I can, therefore, only say that, as far as experience vouches, this plan of setting apart comparatively small portions of Land, to be used in the manner I have above described under the eye of the Protectors, is perhaps the most successful of the experiments, which have hitherto been tried, in the execution of the difficult but necessary duty which the existence of these Tribes within our limits throws upon us. In South Australia, it has been applied in combination with another measure, that of rendering these Reserves central depots for the distribution of Rations among natives at the season in which they cannot, without much privation and extensive wandering, procure sustenance for themselves. And, upon the whole, the success attained in the management of the natives in South Australia has been greater than in any other Colony similarly circumstanced. If the same expedient of distributing rations has not been hitherto adopted as the reserves in New South Wales (as from former accounts I imagined it has been), it is very desirable that it should be attempted.
Understood in this manner, I think it is highly important that immediate attention should be paid to the suggestion of the Chief Protector, which I have above cited. Reserves should be established where they do not exist, particularly in districts recently brought within the range of occupation; and those already set apart for this purpose should be turned to account with all speed, if they are not so at present. And you will understand that, although the directions which I give on this subject are necessarily general, I am not the less anxious to impress them on your attention. It would be impossible to go more minutely into particulars without more knowledge of existing details than I at present possess. But that both yourself and the Secretary of State may be kept instructed of the condition of the Natives and the progress of these experiments, it is necessary that the Reports of the Protectors should in every instance contain some summary, however brief, of the state of things at each reserve and station under their inspection. They should not think that they are not called upon to make any statement, where no particular change has taken place, but should exhibit periodically, and as nearly in a tabular form as the nature of the subject will allow, the actual use made of the land, the resort to it by the natives, the amount of Rations (if any) distributed among them, and any other particulars which admit of such recapitulation.

Among other practical methods of attempting to introduce improvement among the natives to which these Reserves might be rendered subservient, one in particular deserves attention, namely the formation of schools, both for adults and young people, but especially the latter, who are more open to receive and retain the impressions made upon them; these schools should be formed as much as possible on the principle of combining the arts of Industry with the elements of ordinary and Religious education.

To the omission to instruct the Natives in those Arts, I attribute, in a great degree, the general failure of the experiments in their education which have hitherto been made; although some portion of each day should be devoted to the purposes of instruction, the scholars should also be trained, as early as possible, in mechanical employments and in those of Agriculture. Such occupations, and the advantage which they would be taught to appreciate from a knowledge of them, would constitute the chief inducement to remain, as they advance in life, in a state of Civilization, and would tend to destroy that desire to return to a wild and roving life, which has generally influenced those whose education has not partaken of an
industrial character, and who have consequently had no bond in common with Civilized Society. The advantages of such a training are perceptible to a remarkable degree amongst the Natives of New Zealand; and, making every allowance for the difference of race, I still hope to see results which would more than justify the experiment in Australia. The expence attending any measures of that nature should constitute the very first charge upon the Land Revenue, a principle which Parliament has recognized in the Australian Land Sales Act. With your Despatch is transmitted a Report from Mr. Watson, formerly in the Service of the Church Missionary Society, but now presiding over the Apsley Mission at Wellington. That report concludes with an application for a grant of Land as a site for the Mission, the present site being merely leased from an individual, and the Lease being about to expire. You do not report what decision you adopted on that application.

So far as I am able to judge, Mr. Watson appears to have advanced a fair claim; but upon that subject I should wish to receive a further report from you. In the meantime, you are authorized to make any provisional arrangement, which may be necessary for preventing injury from resulting to the interests of the Mission on the expiration of the Lease of the Land, which it now occupies.

Another important subject is forcibly illustrated by the Report now before me. I refer to the difficulty of obtaining Native evidence in Judicial cases. This is a question of the first importance, but as I have already, in the Despatch No. 176 of the 25th June last, pointed out the remedy, which is within the power of the local Legislature, by altering the Law of Native Evidence, it is only necessary that I should further impress upon you the necessity of applying the most effectual remedy to the present evil.

In conclusion, I must point out that, in some of the enclosures to your Despatch, blanks have been left where figures should have been supplied, an omission which greatly impairs the value of the Reports.

I have, &c,

Grey.

SiR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 34, per ship Hudson; acknowledged by earl Grey, 27th July, 1848.)

My Lord,

Government House, 11th February, 1848.

I have the honor to acknowledge the receipt of Your Lordship’s Despatches of the 10th July, 1847, No. 188, and 2d August, 1847, No. 204, intimating that Mr. Charles Moore had
been appointed by Your Lordship to be Superintendent of the Botanic Gardens at Sydney on the Salary voted for the purpose by the Legislative Council, namely £200 a year; and that, in consideration of Mr. Moore having resigned an appointment in England and would derive no emolument from his new Office until his arrival in the Colony, and advertizing to the moderate rate of his Salary, the Colonial Agent had been authorized to furnish him with a Passage to Sydney.

In reply, I beg to report to Your Lordship that Mr. Moore arrived in Sydney on the 16th ultimo, and entered on the discharge of the duties of his appointment on the 1st instant.

I have further the honor to inform Your Lordship that, in the last Session of the Legislative Council, a sum at the rate of £300 per annum was voted for the Salary of a Director of the Botanic Garden for the present year, and that I have sanctioned this increased rate of Salary being paid to Mr. Moore, subject to the amount of the passage money, which your Lordship proposed should either be paid by a vote of Council or from the reserved moiety of the Land fund, being deducted from it.

I have the honor to add that, subject to Your Lordship's approval and to the annual revision of the Legislative Council, Mr. Moore's Salary will be continued to him at the rate of £300 a year.

I have, &c.,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 35, per ship Hudson; acknowledged by Earl Grey, 10th November, 1848.)

My Lord, Government House, 12th February, 1848.

Referring to my Despatch No. 250 of the 20th December, 1847, wherein I reported to Your Lordship that, in consequence of the breaking up of the Convict Establishment, I had given instructions for discontinuing the allowance to Clergymen of New South Wales of the sum of £500 per annum, for affording religious instruction to Convicts in remote Districts of the Colony, which was sanctioned by Lord Glenelg's Despatch, No. 154 of 12th May, 1836; I have the honor to inform Your Lordship that the Lord Bishop of Sydney having represented to me, in a letter of which I enclose a copy, that this allowance had never any connexion with the Convict Establishments which are to be broken up, I had deemed it proper to bring the matter under Your Lordship's consideration, and, pending the receipt of Your Lordship's decision, to direct that the payment of the allowance shall be continued.
The allowance is now issued as follows, leaving the annual sum of £50 unappropriated:

To the Clergymen of the Church of England .. £300 0 0
Ditto Church of Rome ... ... ... ... .. 100 0 0
Ditto of the Synod of Australia ... ... .. 50 0 0

£450 0 0

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

[Enclosure.]

BISHOP OF SYDNEY TO COLONIAL SECRETARY THOMSON.

Sir, Sydney, 7th January, 1848.

With reference to your recent communication to me, stating that, in consequence of instructions having been received for the discontinuance of the Penal Establishments the allowance heretofore paid from the Military Chest to Clergymen travelling on duty, amounting to (£300) three hundred pounds per ann., would be withdrawn at the close of last year, I have the honor to represent my persuasion that there must have been some erroneous view taken of the design with which and the authority upon which this allowance was granted. It had never any connexion with the Convict Establishments, which are now ordered to be broken up, but originated in the following circumstances. When in London in the year 1835, endeavouring to obtain some better provision for the Religious instruction of Convicts in assignment or Emancipated, and their numerous descendants settled in the country. I described them as being through the policy of the Government too generally placed out of the pale of the Church, or as utterly cut off from partaking in any of the ordinances of religion. This assertion, being publicly made, attracted the attention of the then Secretary of State for the Colonies (Lord Glenelg), by whom I was officially called on to substantiate the affirmation. The Returns and Statements furnished by me in consequence had the effect of satisfying His Lordship that there was too much foundation for my complaint as to the religious destitution prevailing over the Colony. In consequence hereof, the Secretary of State entered into communication with the Lords of the Treasury, whose authority was obtained for the appropriation of an annual Sum with a view to abate in some degree the lamentable evil which had been thus publicly exposed. Out of the amount thus allowed, the sum of Three hundred pounds per ann. was allotted by His Excellency Sir Richard Bourke as the proportion to be devoted to the service of the Church of England. I must, therefore, beg permission to submit to the consideration of His Excellency that the expression of a design to withdraw, at a moment's notice and without so much as affording me time to communicate with the Clergy who will be affected by the measure, a public allowance made for so important a purpose and under such a sanction, can have arisen only from the circumstances connected with the issue of this amount in the first instance having been lost sight of through lapse of time. His Excellency, I cannot but feel assured, will recognise the justice
and propriety of not proceeding to discontinue this allowance without at least such previous notice as may enable me to bestow due consideration upon the manner in which I should be enabled to provide in future for continuing the ministrations of the clergy over the whole circuit, which they now embrace. I request with very great deference to be informed whether this measure has been decided on by the express direction of the Secretary of State; inasmuch as, if such be the case, I should feel it my duty with His Excellency’s permission to bring all the circumstances of the case again under His Lordship’s consideration, lest the order in question, reversing the appointment of His Lordship’s predecessor in office, should have been inadvertently adopted without full information as to the ill effects that must arise if it be enforced. I cannot forbear expressing my opinion that, considering the circumstances in which this Colony originated, and the numerous population which has been raised up, descended from transported convicts, it would be more just and reasonable on the part of the English nation to establish some permanent provision for their religious instruction on a more extended scale, than thus hastily to withdraw the only and very insufficient allowance which has of late years been granted with that object. My sense of this obligation is so forcible that I should consider myself in duty bound to endeavour to have the question brought before the Houses of Parliament rather than admit without remonstrance so important a support of religion to be withdrawn. To exhibit in some degree the importance of this annual allowance to the observation of His Excellency, I do myself the honor to enclose a Return Shewing the actual number of miles travelled by the clergymen, who have for this service no other pecuniary recompense than that which may be afforded by the distribution among them of £300 per annum, proportionably to the distances which each has travelled on duty. It is proper also to observe that, for any distance not exceeding ten miles from their own home, no allowance is granted. Estimating the rate of remuneration thus extended to the clergy for their heavy extra duties, and comparing it with that which has been thought fit to establish in the case of all other persons whatsoever when travelling on the public service, His Excellency will perceive how inadequate even the present allowance is; and I owe it to the clergy to express my persuasion that there is no other body of men in this country, who more faithfully and patiently persevere in the discharge of a most laborious duty. What they receive does not in most instances suffice to meet their mere travelling expenses, including the cost of purchase and maintenance of a horse, the wearing of their apparel and the most moderate expenses at inns at which they are compelled to lodge; and, as it would be impossible that provision should be made for these charges out of the mere stipend which the clergy receive for their proper or parochial services, I am constrained to express my apprehension and firm belief that the suppression of the small allowance, which they have been accustomed to receive, must disable them from continuing to make those lengthened journeys in discharge of extra services, by which alone the scattered population of the country is supplied with any means of hearing the Gospel preached.

I have, &c.,

W. G. SYDNEY.
[Sub-enclosure.]

RETURN. Shewing the Names of the Clergymen who received the Allowance in lieu of Forage, from the Military Chest, for one year, from 1st October, 1846, to 30th September, 1847.

<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Station</th>
<th>Distance travelled.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Revd. W. Lisle</td>
<td>Kelso</td>
<td>866</td>
</tr>
<tr>
<td>2</td>
<td>Thos. Sharpe</td>
<td>Bathurst</td>
<td>736</td>
</tr>
<tr>
<td>3</td>
<td>C. Woodward</td>
<td>Port Macquarie</td>
<td>718</td>
</tr>
<tr>
<td>4</td>
<td>F. W. Addams</td>
<td>Paterson</td>
<td>1,160</td>
</tr>
<tr>
<td>5</td>
<td>J. Gunther</td>
<td>Mudgee</td>
<td>1,324</td>
</tr>
<tr>
<td>6</td>
<td>E. Smith</td>
<td>Queanbeyan</td>
<td>1,198</td>
</tr>
<tr>
<td>7</td>
<td>J. Allan</td>
<td>Braidwood</td>
<td>1,346</td>
</tr>
<tr>
<td>8</td>
<td>R. T. Bolton</td>
<td>Hexham</td>
<td>1,342</td>
</tr>
<tr>
<td>9</td>
<td>C. F. Brigstocke</td>
<td>Yass</td>
<td>1,704</td>
</tr>
<tr>
<td>10</td>
<td>E. Rogers</td>
<td>Gosford</td>
<td>1,792</td>
</tr>
<tr>
<td>11</td>
<td>F. B. Naylor (one quarter)</td>
<td>Carcoar</td>
<td>486</td>
</tr>
</tbody>
</table>

Total: 12,632 Miles.

Exclusive of Journeys of 10 miles and under.

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SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 37, per ship Hudson.)

My Lord,

Government House, 14th February, 1848.

I do myself the honor to inform Your Lordship that a Requisition has been forwarded to the Colonial Agent General for Clothing, etc., for the Mounted Police of this Colony for the year 1849, and that I have given authority for the estimated Expense of the articles, viz. £370, to be issued to the Deputy Commissary General from the Colonial Treasury, as forming a charge on the General Revenue at the disposal of the local Legislature. I have, therefore, to beg that Your Lordship will give directions for a corresponding amount to be paid to Mr. Barnard from the British Treasury to enable him to comply with the Requisition.

I have, &c.,

CHS. A. FITZ ROY.

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EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 25, per ship Emperor of China.)

Sir

Downing Street, 15 February, 1848.

I have received your Despatch No. 170 of the 24th of August last, enclosing a copy of a Letter from the Chief Justice of New South Wales, in which he calls attention to the question, previously brought by him under the consideration of Her Majesty's Government, of the necessity of making some legal provision for establishing and regulating Appeals from the Supreme Court of the Colony to Her Majesty in Council.
I had already given my attention to the subject, and I have been in communication with Lord President of the Council in regard to the measures to be adopted for that purpose. I anticipate no difficulty in making the necessary provisions; but I find that it will be advisable to postpone legislating on that subject until the period when Her Majesty's Government may have matured those arrangements necessary for the separation of the Port Phillip District from the Colony of New South Wales, and when the question of Appeals will be duly provided for.

I have, &c.,

SIR CHARLES FITZ ROY TO EARL GREY.

(George No. 36, per ship Hudson.)

My Lord, Government House, 15th February, 1848.

I do myself the honor to inform Your Lordship that Remittance for Requisitions have been forwarded to the Colonial Agent.

For Stationery for the use of the Departments of this Government, forming a charge on the General Revenue at the disposal of the Legislative Council, the cost being estimated at £2,000;

For Stationery for the Departments chargeable on Schedule A of the Act, 5 and 6 Victoria, ch. 76, estimated at £190;

For Stationery chargeable on Schedule B, estimated at £220;

For Stationery for Departments, chargeable on the Crown Revenue, estimated at £40; and

For Drawing materials for Departments chargeable on the Crown Revenue, estimated at £100; and that I have given the necessary authority for the estimated expense of the whole, viz.: £2,500, being issued from the Colonial Treasury to the Deputy Commissary General. I have therefore to beg that Your Lordship will give directions for an equal sum to be paid to Mr. Barnard from Her Majesty's Treasury to enable him to comply with the Requisitions.

I have, &c.,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 39, per ship Hudson.)

My Lord, Government House, 16th February, 1848.

I do myself the honor to inform Your Lordship that, in pursuance of the instructions conveyed to me in Your Despatch dated the 13th April, 1847, No. 127, I duly executed in favour of the Australian Agricultural Company a Deed of Grant under the Great Seal of the Territory, of date 20th November last, for
the lands authorised for that body in this Colony, in the form contained in the Warrant of Her Majesty transmitted in your Lordship's Despatch above referred to, and to add that the Deed has been recorded in the necessary Offices and delivered to the Company's Commissioner.

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 26, per ship Emperor of China.)

Sir,

Downing Street, 17th February, 1848.

I herewith transmit to you the Copy of a Letter from the Commissioners of Customs to the Board of Treasury, together with an original Letter of Instructions which has been addressed by the latter to Mr. R. L. Webb, as 1st Clerk to the Collector at Sydney, to whom you will cause it to be delivered. I have also to desire that you will give the necessary directions for the admission of Mr. Webb to the Office to which he has been appointed.

I have, &c.,

GREY.

MR. W. MACLEOD TO MR. J. PARKER.

Sir,

Custom House, 20th January, 1848.

The Lords of the Treasury having been pleased, by their Warrant of the 23d November last, to nominate Mr. Robert Landers Webb, late Sub Collector at Melbourne, Port Phillip, to the Situation of 1st Clerk to the Collector at Sydney, New South Wales, and with reference to the directions contained in your letter of the 4th August, 1846, that any information it may appear necessary to furnish to Governors of Colonies should be transmitted to the Lords of the Treasury.

I have it in command to transmit herewith Instructions for Mr. Webb and to signify the request of the Board that their Lordsships will cause the requisite measures to be taken for the purpose of having the same forwarded to the Governor of New South Wales in order that His Excellency may give directions for the admission of Mr. Webb to the situation to which he has been nominated.

I am, &c,

W. MACLEOD.

[Sub-enclosure.]

[A copy of these instructions is not available.]

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 27, per ship Emperor of China.)

Sir,

Downing Street, 18 February, 1848.

I have to acknowledge the receipt of your Despatch marked Separate of the 31st August last, accompanied by an address of condolence with Lady Gipps on the death of her late husband from the Mayor and Aldermen of the City of Sydney.
FITZ ROY TO GREY.

You will inform the parties from whom this Address has proceeded that I have received it with much satisfaction, and that I have caused it to be forwarded to Lady Gipps.

I have, &c.,
GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 41, per ship Hudson.)

My Lord, Government House, 18th February, 1848.

In pursuance of the request contained in Your Lordship's Despatch of the 15th June last, No. 168, I have made enquiry relating to Rosana Spence, an Emigrant to this Colony, and respecting whom information is desired by her Father, Thomas Spence; and I have now the honor to transmit to Your Lordship the copy of a letter from Mr. Miles, the Commissioner of Police, stating that the individual in question is married to Mr. W. A. Smart, a respectable Tailor of this City, and containing information respecting their circumstances.

I have also the honor to transmit a letter addressed by Rosana Spence to her Father.

I have, &c,

CHS. A. FITZ ROY.

[Enclosure.]

MR. W. A. MILES TO ————.

Sir, Police Department, Sydney, 4th Jany., 1848.

In reply to your letter of the 22nd Ulto. transmitting a copy of a Despatch from the Secretary of State, relative to Rosana Spence, who Emigrated to this Colony 28th July, 1839, from Waterford, in the ship "China."

I have the honor to State that, in compliance with the directions of His Excellency, I have made due enquiries, and seen the said Rosana Spence (now Mrs. Andrew Smart).

For the information of the father, Thomas Spence, who applied to the Secretary of State, I beg to forward the following Memoranda concerning his daughter Rosana.

She arrived in Port Jackson on the 24th Decr. (Xmas Eve), 1839.

She immediately obtained excellent Service, where she was very comfortable, and had, as she has always had, an excellent character.

That, in August, 1840, she wrote to her father from the place she was living at, Mr. How of Glenlee, but has not received any reply.

That, on the 30th Jany., 1843, she was married in Sydney to Mr. Andrew Smart, a tailor, and very respectable man now residing in Sydney Place in the said city, by whom she has three children, as per margin.*

* Marginal note—1. Mary Ann, 3 yrs. 10 moths. 2. Rosana, 1 yr. 11 mths. 3. Robert, 6 months.
1848.
18 Feb.

I have further to State that she informed me she was very happy (the husband immediately responded to the same feeling); they are both of them "teetotallers." She appears to be in excellent health and spirits, as well as in respectable and steady circumstances.

I have, &c.,

W. AUG. MILES, Commissioner of Police.

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EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 28, per ship Emperor of China; acknowledged by Sir Charles Fitz Roy, 13th November, 1849.)

Sir,
Downing Street, 19 February, 1848.

In answer to your Despatch of the 22nd of August, 1847, No. 168, forwarding some new rules of court promulgated by the Supreme Judge of New South Wales, I have to inform you, in accordance with the course recently pursued by Her Majesty's Government in similar cases, that, while the subject of general legislation respecting rules of court is under consideration by the Committee of the Legislative Council, to whom I understand that it has been referred, I shall postpone submitting these rules for the confirmation of Her Majesty.

At the same time, I am desirous of being informed whether by the Judicial interpretation put in the Colony on the provisions of the Provisional Act of 4 Vic., Cap. 22, rules of court, of which the confirmation is thus suspended, are regarded as of force during the intermediate time.

I presume that this is the case; at the same time the words of the Act might be construed so as to bear an opposite meaning, on which supposition inconvenience would result from the delay in confirming the rules, and it might be advisable to adopt a different course.

I have, &c.,

GREY.

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EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 29, per ship Emperor of China.)

Sir,
Downing Street, 21 February, 1848.

In answer to your Despatch No. 173 of the 27th of August last, stating that the leave of absence granted to Mr. Assistant Surveyor Bourke had expired, but that he had not returned to New South Wales, I have only to refer you to my Despatch of the 23rd of June last, in which you were informed that I had accepted the resignation which that Gentleman had tendered me of his Appointment.

I have, &c.,

GREY.
SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 44, per ship Hudson.)

My Lord,

Government House, 21 February, 1848.

With reference to Your Lordship's Despatch of the 10th of August, 1846, No. 14, enclosing copies of a letter from the Assistant Secretary to the Treasury and of a Report of the Commissioners of Audit on the subject of a Contingent Account kept by the Treasury of this Colony, I have the honor herewith to transmit the following Certificates, which have been furnished by the Auditor General in obedience to Your Lordship's instructions, viz.:

1. A Certificate that, in stating and examining the said Contingent Account in the Audit Office in this Colony, it was carefully checked by comparison with the Duplicate sets of the General Public Accounts of the Colonial Treasurer.

2. A Certificate that the balances of the said Contingent Account, on 31st August, 1844, amounting to £875 Os. 9½d. have all been transferred to and credited in the General Account as shown in the Certificate.

I have, &c,

CHS. A. FITZ ROY.

[Enclosures.

Copies of these certificates are not available.]

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 45, per ship Hudson; acknowledged by earl Grey, 23rd July, 1848.)

My Lord,

Government House, 22d February, 1848.

I have the honor to transmit to Your Lordship a copy of a letter dated 19th inst. from Mr. H. H. Browne, Water Police Magistrate in this Colony, suggesting that a communication should be made to the Police authorities in London with a view to their taking any steps, which they may consider proper with respect to the money or valuables supposed to have been sent to England on board the ship "Hamlet," which recently sailed from Sydney, by John Geo. Stracey, who had taken his passage in that Vessel, but, in consequence of a Warrant having been forwarded from Van Dieman's Land, was apprehended and returned to that Colony for trial for fraud.

Of the depositions taken on the capture of Stracey, I also transmit a copy; and I beg to suggest that, should it meet your Lordship's approval, Mr. Browne's letter and the depositions may be communicated to the proper Police authorities.

I have, &c,

CHS. A. FITZ ROY.

[Enclosures.

Copies of these papers are not available.]
1848.
24 Feb.

Despatch acknowledged re request for compensation for retrenched officers.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 30, per ship Emperor of China.)

Sir, Downing Street, 24th February, 1848.

I have received your Despatch No. 178 of the 9th of September, in which you submit a further explanation of the circumstances, under which you had recommended to the favourable consideration of Her Majesty's Government An Address presented to you by the Legislative Council, requesting you to place on the Estimates certain sums for the purpose of compensating the holders of Offices, which were abolished in the years 1843 and 1844.

In reply, I have to refer to Sir George Gipps' Despatch No. 140 of the 9th July, 1844. That Despatch entered fully into the general bearing of the question; and I do not find in your present communication any sufficient grounds assigned for a departure from the course adopted by Lord Stanley on the recommendation of Sir George Gipps.

With respect to the Despatch* of Lord Goderich to which you refer, it applied to the reduction of what are considered permanent Offices; but you will perceive that Sir George Gipps stated that he was ready to accept from the Legislative Council the means of compensating those persons, who held offices which are so considered; but that he did not consider the case of the Police Magistrates to fall within that description.

I have, &c.,
GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 47, per ship Hudson.)

My Lord, Government House, 24th February, 1848.

Adverting to Your Lordship's Despatch of the 26th May, 1847, No. 155, directing that an annual deduction should be made from the Salary of Mr. G. M. Slade, Clerk of Petty Sessions at Moreton Bay, for the benefit of Mr. Geo. Moger of Bath, and to my Despatch No. 230 of 20th November last, reporting the circumstances under which I had directed that the stoppage should commence from the 1st October, 1847, instead of from 28th April, 1847, as ordered by Your Lordship, I now do myself the honor to state that the first quarterly deduction of £12 10s. has been made from Mr. Slade's Salary, and that I have ordered that sum to be paid from the Colonial Treasury to the Depy. Commy. General with a view to an equal amount

* Marginal note.—No. 27, 29 Sept., 1831.
FITZ ROY TO GREY.

I have the honor to add that the usual Certificate from the Depy. Commy. General on his receiving the money will be forwarded to Mr. Barnard. I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

Sir, Downing Street, 25th February, 1848.

I have to acknowledge the receipt of your Despatch No. 165 of the 19th August last, enclosing a letter from the Chief Justice of New South Wales in explanation of his reasons for objecting to take rank below the Bishop of Australia, or to accede to the proposed alteration in the Table of Precedence of the Public Officers of the Colony, whereby he would be placed in an inferior position to that which he now occupies.

After the objections thus raised by Sir A. Stephen, I do not think it would be desirable to propose the enactment of any local law to alter the present Charter of Justice on this point. With respect to the further question raised in the Chief Justice's letter as to whether the Puisne Judges ought not in future to rank above the Executive Council, I have to inform you that I see no present reason for disturbing the existing arrangement in regard to the position held by those Judges. I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

Government House, 25th February, 1848.

I have the honor to transmit to Your Lordship the accompanying Copy of a letter, which has been received from Mr. Thomas Icely, a Settler in this Colony, claiming, under the circumstances therein set forth, a remission of the Quit Rents payable on a certain additional Grant of 4,000 acres of Land made to him in New South Wales, and to state that the subject was brought under the consideration of the Executive Council, which advised that the same should be submitted for Your Lordship's decision.

It appears that, whilst in London in the year 1825, Mr. Icely addressed a letter to Earl Bathurst of date 23d June, 1825, representing the large amount of Capital he had already invested in this Colony, and that it was his intention of again
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1848. 25 Feb. Returning to it with further Stock, upon which ground he preferred a claim to an addition to the 2,000 acres of land already granted to him.

By the Despatch of Mr. Under Secretary Hay, addressed to Sir Ralph Darling of date 2d November, 1827, Mr. Hay conveyed an expression of the opinion of the then Secretary of State, Mr. Huskisson, that Mr. Icely might safely be allowed an extension of his grant under the Quit Rent system to 6,000 acres. From circumstances which it does not appear necessary to enter upon, it seems that Mr. Icely did not immediately obtain the land in question; and the matter formed the subject of Mr. Under Secretary Hay's Despatch to Sir Ralph Darling, written by the direction of Sir Geo. Murray, dated 5th October, 1830, upon receipt of which Mr. Icely was placed in possession of the additional 4,000 acres, subject to the payment of the usual Quit Rent.

It appears that, in November, 1824, a paper was prepared in the Office of the Secretary of State, for the information of persons proceeding to New South Wales and Van Diemen's Land as settlers, which was styled the summary of the Rules laid down by His Majesty's Government for regulating the Grants of land in those Colonies. This document, which was placed in the hands of several persons who emigrated to the Colony about that time, contained the following paragraph: "In the redemption of his quit rent, the Grantee will have credit for one fifth part of the sums, which he may have saved to His Majesty's Government by the employment and maintenance of Convicts, and, for the purpose of making this allowance, it will be calculated that the Government has saved £16 for each convict, employed by the Grantee and wholly maintained at his expense on his land for one whole year."

In His Majesty's Instructions for disposing of the Crown Land of this Colony, which were received by Governor Darling in the year 1826, the above provision was included; but, in the Regulations issued in the Colony under those instructions, it was omitted by the advice of the Executive Council, as it was considered to be inapplicable to the then circumstances of the Colony.

By a Despatch dated the 2d April, 1828, the Secretary of State signified his approval of the course taken by this Government respecting the provision in question, and authorised its suspension.

Between the date of the Despatch in which His Majesty's instructions were sent to Governor Darling and the date on which the Secretary of State was apprised of the suppression in the Colony of the clause in question, the Despatch, before
adverted to, of Mr. Under Secretary Hay, written by authority of Mr. Secretary Huskisson, was addressed to Sir Ralph Darling, directing the allowance to Mr. Icely of "such further quantity of land on the Quit Rent system as would, together with that which he had already received, give him 6,000 acres in the whole." The Land granted under this instruction, amounting to 4,000 acres, is that on which Mr. Icely now claims the remission of the Quit Rent.

It appeared to the Council that the admissibility of this claim must depend on the decision of the question whether the Rule, authorising an allowance on account of the maintenance of Convicts in the redemption of Quit Rents, must be considered as having been a part of the "Quit Rent system" in the Secretary of State's contemplation, when he sanctioned Mr. Icely's Grant, as in that case the Government would perhaps be bound to give Mr. Icely the benefit of the Rule, notwithstanding its not having been adopted in the Regulations issued in the Colony.

I accordingly do myself the honor to request Your Lordship's instructions in the matter, it being of course understood that, if the claim is to be entertained, proof will be required that Mr. Icely has saved the Government by the maintenance of Convicts whatever sums may be remitted to him according to the scale laid down by the Regulations, of which an Extract is given.

I have, &c.

[Enclosure.]  

CHS. A. FITZ ROY.

MR. T. ICELY TO COLONIAL SECRETARY THOMSON.

Sir,  
Sydney, 25th September, 1847.

I have the honor to acknowledge receipt of your letter of the 12th ultimo in reply to mine of the 26th October, on the subject of the regulations of the 9th October last for the payment and redemption of Quit Rents due upon Lands under Grant from the Crown, and communicating to me that his Excellency the Governor had brought the subject of my letter under the notice of the Executive Council, who were of opinion that, as his Excellency had submitted the Regulations in question for the consideration of Her Majesty's Government, His Excellency could not in the meantime entertain any request for a modification of them.

I should not have again troubled you on this subject until His Excellency had received a reply to his despatch to the Secretary of State; but, as the present Regulations will expire on the 9th proximo, it is necessary that I should lose no time in bringing to your notice, with a view to a final settlement of my Quit Rents, the circumstances under which I received, by order of the Secretary of State, two additional Grants of Land, viz. 560 and 3,440 acres, and which, as I conceive, entitle me to a remission of the Quit Rents under the Regulations then in force, viz., those of the 6th April, 1826.
By the 16th clause of those Regulations, the Grantees were, in
the redemption of their Quit Rents, to be allowed credit for the
fifth part of the sums saved to Government by the employment and
maintenance of convicts calculated at the rate of £16 for each con-
vict so maintained for a whole year. When in England in 1825, I
represented to the Secretary of State the large amount of Capital,
namely, upwards of £30,000 which I had invested in the purchase
of Stock, and in other pursuits in this Colony, and applied to
His Lordship for an additional Grant commensurate to the
capital thus embarked.

His Lordship was pleased to entertain my application favour­
able, and to authorize an additional Grant to be made to me
accordingly; but, from circumstances which I will now explain, I
was not put in possession of the Land as a Grant until sometime
subsequently. On my return to Sydney, I made application to the
Local Government for the extension of the Grant which I had
thus been ordered to receive, and upon the faith of which I had
made large purchases of valuable Stock in England, which I
brought out with me to the Colony.

An investigation took place before the Land Board as to the
amount of Capital I had embarked in agricultural and pastoral
pursuits in this Colony, and the whole case having been brought
before the Executive Council by Sir Ralph Darling, I was in­
formed by a letter from the Colonial Secretary, dated the 11th
January, 1827, that His Excellency was willing to extend my
original Grant of 2,000 to 2,560 acres, which was the largest
quantity of Land that could be granted to any one individual, and
that I might be permitted to purchase 9,600 acres under the then
existing Regulations, namely, those of the 6th April, 1826, which
would have entitled me to a return of the purchase money, as well
as a Remission of the Quit Rent on the additional Grant of 560
acres, which in pursuance of this authority I subsequently selected.

Failing to receive the quantity of Land to which I conceived
myself entitled under the order of the Secretary of State, I
returned home; and, having explained the difficulty I had ex­
perienced in the Colony in obtaining the same, an order was sent
out to Governor Darling by Sir George Murray, directing him to
carry out the previous instructions of Earl Bathurst, and to put
me in possession of a further Grant of Land of 3,440 acres to
make up my additional Grant of 4,000 acres, which, as stated in
the Colonial Secretary's letter to me of the 18th March, 1831, I
ought to have received in the year 1827 or 1828.

Had I done so, it is obvious that I would have been entitled to
a remission of the Quit Rents for the maintenance of Convicts in
terms of the Regulation then in force; and the immediate object of
my present application to you is to request that you will bring
under the Governor's consideration my claim to a remission of the
Quit Rent on the Land in question, on the grounds herein set
forth. On receiving His Excellency's decision on the subject, I
shall be prepared to furnish a list of the Convicts I maintained,
and of the periods they remained in my service, or such other
proof as His Excellency may deem necessary to satisfy the per­
formance of this condition of the Regulations in question.

Pending His Excellency's decision in this case, I trust I may not
be debarred from the benefit of the Regulations of the 9th October,
1846, should they immediately expire. I have, &c,

THOMAS ICELY.
My Lord, Government House, 26th February, 1848.

I have the honor to transmit herewith, for your Lordship's information, the following documents, viz.:

1. Abstract of the Revenue of the Colony of New South Wales, exclusively of the District of Port Phillip, in the years ended 31st December, 1846 and 1847, respectively, showing the increase or decrease under each head thereof.

2. A similar Abstract with respect to the District of Port Phillip.

It will be seen from these Abstracts that the total amount of General Revenue, General as well as Territorial, received in both Districts of the Colony for the year 1847, was £403,082 1s. 5d. Your Lordship will also perceive with satisfaction that in both Districts there has been an increase on the total amount of Revenue collected in the year 1847, as compared with that of the previous year, amounting in the Sydney District to £8,221 0s. 1d., and in the Port Phillip District to £41,674 10s. 1d., or an aggregate increase of £49,895 10s. 2d.

The amount of General or Ordinary Revenue collected in the Sydney District in the year 1847 was £208,374 9s. 1d., showing a deficiency under this head of £4,360 14s. 10d. on the previous year. This may be accounted for by the expiration of the Act authorising Assessment on Stock beyond the boundaries, and the alteration of the law relating to Wharfage rates. Under the former Act, £9,938 15s. 10d. appears to have been collected in the year 1846 beyond that received in 1847; and the deficiency under the altered law in the latter case is £2,935 18s. 11d.

In the amount of Customs Revenue, there is a very considerable increase in all the items excepting the duties on Tobacco, in which there is a deficiency of £1,298 0s. 1d.

On Spirits imported, the increase is £4,924 12s. 6d., and on the ad valorem duties on foreign goods £5,093 14s. 4d.

It is evident from this that but for the expiration of the Assessment Act and the reduction of the Wharfage Rates, there would have been a considerable increase in the total amount of the General Revenue for 1847; and, as, by the Act of Council 11 Vict., No. 18, half the former rates of Assessment on Stock beyond the Settled districts has been reimposed, the produce of the General Revenue will to that extent at least be restored in the present year.
The Territorial Revenue for 1847 for the Sydney District amounted to £56,413 8s. 5d., being an increase of £12,581 14s. 11d. on the previous year. The chief items of increase are £1,904 17s. 1d. for the proceeds of sales of Land and Town Allotments; £7,442 19s. 5d. for Quit Rents; and £3,897 for Licenses to occupy Crown Lands beyond the boundaries.

The General or Ordinary Revenue for Port Phillip for 1847 amounted to £68,143 18s. 4d., being an increase on the previous year of £7,061 17s. 9d. The only two items, on which there is any considerable decrease, are the Wharfage rates and Assessment on Stock beyond the boundaries, amounting in the former case to £1,135 13s. 8d., and in the latter to £6,784 8s. 7d. This has arisen from the same cause which, I have explained, operated to produce a similar result in the Middle district. In nearly all the other items, the increase is very considerable. On Imported Spirits £6,506 19s. 4d.; on Tobacco £2,455 14s. 6d.; and on the ad valorem duties on foreign goods £1,266 4s. 11d.; On the Post Office collections £1,177 15s. 6d.; and on Licenses to retail fermented and spirituous liquors £1,154 8s. 4d.

The Territorial Revenue for Port Phillip for 1847 was £70,150 5s. 7d., being an increase of £34,612 12s. 4d. on the amount collected during the previous year. The chief items of increase are £33,674 18s. lid. for proceeds of the sale of Land and Town Allotments, and £1,620 for Licenses to occupy Crown Lands beyond the Settled districts.

I trust that Your Lordship will see reason to consider from the foregoing statement that the Revenues of this Colony are in a thriving and wholesome state. I have, &c.,

CHS. A. FITZ ROY.

[Enclosures.]

[Copies of these abstracts were published in the "Government Gazette."]

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 33, per ship Emperor of China.)

Sir,

Downing Street, 27 February, 1848.

I have had under my consideration your Despatches Nos. 2 and 3 of the 2d of August last, bringing under my notice the claims to compensation of several Officers, who were appointed to the Establishment of the late Settlement in North Australia.

2. The peculiar circumstances which have attended the proposed formation of the Settlement, and the subsequent recall
of all those who had been despatched for that purpose, have appeared to me to justify a deviation in this case from the scale, by which Gratuities on the breaking up of Establishments are usually regulated.

3. Acquiescing, therefore, in your recommendation in favour of those persons, I have now to convey to you the necessary authority for issuing to each of them a Gratitude, amounting to one year's Salary from the date of their return to Sydney; and, in communicating to them this decision, you will express my great regret at the disappointment which they have experienced. You will likewise avail yourself of the earliest opportunity which may occur of again employing them in the public Service; and this instruction is to be understood as more especially applicable in regard to Mr. Billyard, whose Memorial you enclose, and who is, I believe, the only one of the above mentioned officers who went to Australia from this Country, expressly for the sake of such employment. Some adequate provision will, I trust, be found for this Gentleman with less difficulty than you appear to anticipate.

4. He is in all probability possessed of the necessary qualifications for the office of Stipendiary Magistrate. And, if this be so, he should be appointed to the first vacant situation of that description, which may present itself, unless any other vacancy which he is qualified to fill should first occur in the public Service of the Colony.

5. In your Despatch No. 2 you have transmitted a report upon North Australia from Colonel Barney, respecting a Site selected by him for an intended Colony on which he pronounces a favourable opinion. If these advantages are correctly described, and if farther experience should confirm the views which he entertains on the subject, I think enough will appear to warrant the adoption of measures for the undertaking and regulation of a Settlement in that Quarter by private enterprise, in the same manner as was done in the case of Port Phillip. Like Port Phillip, it would be in the first instance a dependency of the Colony of New South Wales. But it would be necessary that the expense incurred in its formation and management should be defrayed by the Sale of Land, together with any Grants which the Legislature of New South Wales might think proper to make for those purposes. But it must be distinctly understood that in my opinion Parliament cannot properly be applied to for any Grant for the establishment of a new Settlement in that part of New Holland.

I have, &c.,

Grey.

* Note 22.
Despatch acknowledged re rules for occupation of pastoral lands.

Classification of lands by order-in-council.

Proposals by R. K. Dawson re survey.

Problem of boundaries of runs.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 34, per ship Emperor of China.)

Downing Street, 27 February, 1848.

Sir,

I have to acknowledge the receipt of your Despatch No. 137 of the 5th July last, accompanied by a copy of the Proceedings of the Executive Council with respect to the rules originally proposed to be established by Order of Her Majesty in Council for the occupation of Land for pastoral purposes in New South Wales.

You will already have learned, from the Order in Council which was transmitted in my Despatch No. 123 of the 30th of March last, that the doubt which was entertained by the Executive Council whether the Queen could legally delegate to the Governor the power of classifying the lands of the Colony had been anticipated, and that this classification has been effected by the Order in Council without the proposed delegation.

With respect to the delay and expense apprehended by the Executive Council in the Surveys requisite for carrying Her Majesty's Order in Council into effect, and to the evidence tendered them on this point by the Deputy Surveyor General, I herewith transmit for your information a copy of a letter from Captain Dawson, R.E., containing a detailed statement of his views, which at the request of the Emigration Commissioners he has addressed to them on the subject.

I would also call your attention to a Report upon running Surveys by the same Officer (contained amongst the documents printed by the Committee of the House of Commons on South Australia in 1841), a copy of which is now annexed.

It will be seen that Capt. Dawson is of opinion that by following out the principles laid down in his letter of the 3rd of February, the expense of Survey may, for all practical purposes, be reduced considerably below the Estimate given by Captain Perry, whose calculation proceeds upon a larger and more costly scale. And I would here remark that, however desirable may be an accurate scientific Map of the whole territory, it is to be borne in mind that, with a view to the present object, all that is necessary for the public interest is to ascertain the demarkation between the different classes, into which the lands of the Crown are divided by Her Majesty's Order in Council, which I have no doubt may be accomplished at a very moderate expense.

With regard to the establishment of a clear division between adjacent runs, I have to remark that this is an object rather of importance to the holders of these runs than to the public; and
it may, I think, be fairly assumed that the boundaries are already defined with sufficient exactness for practical purposes, since not only have no accounts reached me of any very serious disputes between conterminous occupants, but likewise it would appear from the local Newspapers that proceedings are brought and sustained for Trespass, a fact which implies that the limits of the property must be tolerably well ascertained.

If, however, a more accurate survey than has hitherto sufficed for defining the boundaries of different runs is considered necessary by the holders for the security of their property in them for the terms of their leases, it is obvious that the expense of such surveys must be defrayed by themselves, since there are no grounds upon which the public revenue would be made liable for the cost of a survey only required in consequence of the additional value given to their runs by the more favourable terms now to be allowed to the holders without requiring from them any increase of rent.

I have, &c,

Grey.

[Enclosure.]

CAPTAIN DAWSON TO LAND AND EMIGRATION COMMISSIONERS.

Gentlemen,

Somerset House, 3 February, 1848.

Having read the papers which you referred to me, relative to setting out the Boundaries of the Squating Districts or Runs in New South Wales, I have the honor to report to you that I concur in opinion with Mr. Perry that the most satisfactory mode of procedure would be by regular Trigonometrical and chain Survey; but, as I have no personal knowledge of the Country, I cannot venture in opposition to an Officer of Mr. Perry’s experience and acknowledged ability to give any opinion as to the probable expense of such a Survey.

It appears to me, however, that the description of Survey contemplated by Mr. Perry is probably of a more detailed and perfect kind, than the necessity of the immediate object requires; that he in fact contemplates an extension in detail of the Trigonometrical Survey, now in progress in New South Wales; and that such a Survey, though undoubtedly most valuable for general purposes if the circumstances of the Colony require it, would be more tedious and more expensive than you would probably think necessary or desirable under existing circumstances for the particular object in question.

Looking to the immense extent of the tract of Country, over which the Runs are spread, measuring about 1,100 miles in length by 200 in breadth, and containing an area equal to four times the surface of England and Wales, it must be evident that any Geodetic operation of such extent would be attended with very considerable expense; and it should therefore appear desirable to confine attention as strictly as possible to the particular object in view, vizt.

The determination of the locality of the Several Runs, and the representation of them upon a general Map, so as to guard against
serious overlaps in the outset, and to admit of extension in fuller
detail at some future time. The Runs are stated to contain an
average of about 20 Square Miles each.

The total number of Runs appears to be about 1,100, or, on an
average, one in every 200 Square Miles; and

The number of acres in cultivation in each Run or station
appears to be about 12 or less than a thousandth part of the area
of the whole Run.

It is scarcely probable, therefore, that numerous or serious cases
of disputed boundary can for several years occur touching the ex­
ternal boundaries of the Runs; and still less is it to be expected
that any such disputes will arise touching the cultivated and more
valuable portions, which must be supposed in most cases to be
centrally placed and not on the confines of the Runs, except when
Rivers form the Boundary, which case is expressly provided for
by the Regulations of the Surveyor General's Department, so as
not to admit of the possibility of disputes.

The regulations as to the divisions of the lands in New South
Wales prescribe, as a general rule, that each lot "must be
rectangular."

A Compact rectangular block of 20 Square Miles would measure
about 5 Miles by 4, the external limits of which would everywhere
be at least 2 Miles distant from the Homestead; and any differ­
ences touching the limits of purely pastoral lands at such a
distance from the Homestead should appear to admit of an easy
adjudication, though the description of the boundaries were given
in very general terms with reference to the natural lines of the
ground, or to the arbitrary straight lines in the direction of the
Cardinal points of the Compass.

The regulations above referred to further require that "in every
case two sides at least of the lot must be directed to the Cardinal
points of the Compass."

Therefore, where the Country is flat and not intersected by
Rivers, it might be sufficient in the first instance to describe the
limits of the Run as extending so many Miles or chains to the
North, South, East or West of the Homestead, and as being
bounded on all sides by straight lines in the direction of the
Cardinal points of the Compass, without stopping to mark any
points in the external boundary upon the ground.

And where Rivers, ridges or other natural lines admit of being
used for the boundary, such natural lines might be described with
reference to their distance, North, South, East and West of the
Homestead, as well as by their local names; and the extent of the
Run, with reference to those natural lines, and to the two or more
arbitrary straight lines, might also be verbally defined (for
present purposes at least) without setting up any visible bound
marks upon the ground.

All that should appear to be required in either case from the
Survey Department would be to establish the exact locality of the
Homesteads; and, these being laid down in position upon the
General Map with the limits claimed and assigned by the respec­
tive owners, overlaps (if any occurred) would immediately be
detected in the Surveyor General's office, and might readily be
adjusted without going again upon the ground.

For this purpose, a purely Trigonometrical Survey would suffice;
it should be carried on by triangles of the largest practicable size
over the intermediate and unsettled lands, where no Runs occur,
GREY TO FITZ ROY.

and, in the immediate neighbourhood of the Runs, the additional detail should be no more than was found to be essentially requisite for determining the position of the Homestead.

In no case as it appears to me, should it be deemed necessary or desirable (and certainly not for the first leases) to resort to chain measurements upon the ground, which of necessity are attended with great expense; and, if such measurements be avoided and the locality only of the Homesteads be fixed by a Trigonometrical Survey, and their limits by a verbal description having reference only to the natural lines of the Country, and to arbitrary straight Lines in the direction of the Cardinal points, the expense of the Survey will be brought within the narrowest bounds that the nature of the case appears to me to admit of.

The means also will be secured of combining the Survey with the existing territorial Survey of the Colony and of defining with greater precision the boundaries of the Runs, when circumstances arise to require it.

I have, &c.

ROBT. K. DAWSON,
Cap. Rl. Engrs.

SIR CHARLES FITZ ROY TO EARL GREY.

My Lord,

Government House, 27th February, 1848.

I have the honor to forward herewith to Your Lordship an account of sums received and payments made by the Honble. Campbell Drummond Riddell, Esquire, Colonial Treasurer of New South Wales, for the services and purposes specified in the Schedules A, B and C, annexed to the Act, 5 and 6 Victoria, Cap. 76, from the 1st January to the 31st December, 1847, both days inclusive.

This return is called for by the instructions of the Lords Commissioners of Her Majesty's Treasury, dated 25th February, 1843, which were enclosed in Lord Stanley's Despatch, No. 34 of the 9th March following.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[A copy of this account is not available.]

EARL GREY TO SIR CHARLES FITZ ROY.

Sir,

Downing Street, 28th February, 1848.

I transmit to you herewith a Copy of a Report from the Colonial Land and Emigration Commissioners, in which it is suggested that, with a view of keeping up the supply of Labour required, a free passage to New South Wales should be offered to certain Classes of Orphans of both Sexes in Ireland between the ages of 14 and 18.
Although I have not yet received any official communication of the assent of the Irish Government to the conditions of the proposal, I have no reason to doubt that it will be given; and I have therefore to desire that immediate measures may be taken to prepare for the reception of the intended Emigrants. With this view, such a Committee as is suggested by the Commissioners should be formed, on which I hope that the prelates of both the Churches of England and of Rome will consent to serve, and also some of the leading Clergymen of the other denominations.

The first object of such Committee when formed should be to obtain a List of the most respectable persons in different parts of the Colony to whom these Orphans may be apprenticed as Servants. In making the selection amongst the Applicants for Apprentices (who will probably be numerous), the preference should be given to those who will be able to offer to these young persons the greatest advantages in the way of instructions in the occupations, which in after life will be most useful to them, and also in regard to their being placed within reach of the superintendence of some Clergyman of their own religion. The terms upon which they are to be apprenticed must be fully explained; and it will be one of the duties of the proposed Committee to act as Guardians to the Orphans, and, in case of their Masters failing to discharge their duty towards them, to take measures for cancelling the Indentures.

The enclosed Report from the Commissioners will point out to you the advantages which they anticipate to the Colony from this species of Immigration. They are thus enabled to obtain a quicker supply of eligible Emigrants than would otherwise have been practicable; while, by sending out a proportion of unmarried females, they are enabled to select good and useful labourers who from being unmarried would otherwise have been ineligible, and, at the same time under the arrangement proposed, the casual expenses attending the outfit, superintendence and instruction of intended Emigrants will be defrayed from the Funds of this Country. I have, &c,

GREY.

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY MERIVALE.

Colonial Land and Emigration Office.

Sir,

We have the honor to acknowledge your letter of the 1st Instant, in which you inform us that Lord Grey is prepared to sanction the proposal of Governor Robe to expend on Emigration the moiety of the South Australian Land Fund, not specially appropriated to that purpose, and that His Lordship is of opinion
that this Expenditure should not be extended over a period of two years, but that the despatch of Emigrants should be commenced and carried on as expeditiously as possible.

We shall not fail to use our best endeavours to carry out Lord Grey's wishes; and with that view we should propose to increase the number of Ships to be despatched in the course of the present year to New South Wales, South Australia and the Cape of Good Hope from 54 to 72 sending them from England at the rate of 6 in each month.

If our endeavours are as successful as we anticipate, we shall thus despatch upwards of 14,000 Emigrants from this Country in the course of the ensuing year. And continuing to regulate the numbers of Emigrants obtained from Great Britain and Ireland by the relative Population of those Countries, we should hope to send to the Colonies about 10,000 British and upwards of 4,000 Irish Emigrants.

In order, however, to succeed in obtaining so large a number of Emigrants, it will be necessary to have recourse to some additional measures beyond those which we have hitherto employed; and we have in accordance with Lord Grey's directions inquired whether an eligible Class of Irish Emigrants might not be obtained from among the Orphans now maintained in the Irish Workhouses, of whom many are approaching the age of adolescence.

We have the honor to report that the result of our inquiries leads us to hope that this will turn out to be the case. We are inclined to think that males of this Class approaching the age of 18, who from no fault of their own have been bred in a Workhouse, receiving such Education as is there given, and, submitting to the restrictions imposed in it, might prove by no means inferior to the ordinary Irish Labourer.

But we should anticipate a more decided benefit, from the adoption of this Plan in respect of female Orphans. Lord Grey is well aware of the necessity, which exists for preserving the proportion of the Sexes in any large Emigration to a new Country. Single men willing to emigrate are to be found in abundance. But we learn from the reiterated complaints of our Selecting Agents that the difficulty of procuring Single Females of an eligible character is one of the greatest embarrassments against which they have to struggle. It is said, however, that a large number of well conducted young women are to be found among these Orphans. The Emigration of these persons will be of material service by placing us at liberty to accept from other sources a corresponding number of Single Men, whom we might otherwise have been compelled to reject.

We have therefore drawn up a Paper, which, with such modifications as Lord Grey may deem fit, might we think be transmitted to the Irish Government, with a request that they would take the proper means of communicating it to the Guardians of the different Parishes from which Emigrants may be expected.

It is, we think, obvious that the character of this Emigration consisting entirely of young persons will necessitate a closer moral and Religious Superintendence than has hitherto been thought expedient or even practicable in Emigrant Ships. And it has been suggested to us with this view that a Teacher should be attached to each Ship. It will be observed that in the enclosed memorandum we have adopted this suggestion; but we would
submit that, considering the peculiar character of the Emigration which renders this expense necessary, it could not with propriety be charged against the Colony, and should therefore be defrayed from British Funds. Nor (we may here add) do we think it unfair that the Parishes, which will be relieved from the necessity of supporting these Emigrants, should have the expense of forwarding them to the Port of Embarkation. This suggestion likewise we have therefore embodied in the Paper which we submit for Lord Grey's approval.

We apprehend that, under the local Act, Will. IV, No. 3, the Governor would have the power of apprenticing these young persons as proposed in the 7th Clause of the accompanying paper.

We have, &c.,

T. W. C. MURDOCK.

Frede. Rogers.

SUB-ENCLOSURE.

PROPOSALS for Emigration.

1. Her Majesty's Land and Emigration Commissioners, having been instructed by the Secretary of State to make arrangements for a considerable Emigration from Great Britain and Ireland to New South Wales and South Australia during the present year, and having been informed that an eligible class of Irish Emigrants may be found among the Orphan Children now supported at the Public Expence in Ireland, will be prepared to offer to such of these persons, as may on inquiry be approved, and as may be willing to Emigrate, free Passages to the above Colonies. None will be accepted who are less than 14, or more than 18 years of age, and the nearest to 18 will be taken in preference.

2. In order that the person in question may understand the nature of the advantages thus offered to them, it is necessary to state that the Colony of New South Wales is divided into the Northern, Middle or Sydney, and Southern or Port Phillip Districts. It is to the two latter Districts that Emigrants are in the first instance conveyed.

The climate both of New South Wales and of South Australia is remarkably healthy and suited to European Constitutions. The soil is good and produces in abundance Wheat, Maize, Barley, Oats and Potatoes. Provisions are much cheaper than in this country. Clothing may be purchased at a cost but little in advance of the retail prices here; and the rates of wages at the date of the last advices were in all cases much above those given for the same description of labour in this Country. Besides the Money Wages, labourers in the Country are generally provided with a Dwelling, and the following allowance of provisions by their Employers, 10 lbs. of Meat, 10 lbs. of Flour, 1 lb. of Sugar, and 3 oz. of Tea per week.

3. The voyage to these Colonies generally occupies about 100 days, and during that time the Emigrants will be fed according to the annexed Scale at the Public expence, subject of course to future modifications if experience should show them to be for the benefit of the Emigrant.

The Males and Females are intended to be conveyed in separate Ships; Teachers will be appointed to them, and means will be taken to provide for the Instruction of the Emigrants in conformity with their respective Creeds. The Books furnished to the Vessels will consist exclusively of those authorized by the National Board of Education. In those of the Ships which carry Female Orphans, there will be a trustworthy Matron to take charge of the Emigrants under the direction of the Surgeon, who will be entrusted with the general management of every Ship.

4. The Emigrant Ships will be despatched every month during the present year from Plymouth, to which place the Emigrants must be conveyed at the expence of the Board of Guardians. Emigrant Ships can be despatched from Plymouth only, because it is only at Plymouth (with the exception of London) that the Commissioners have an Emigrant Depot which will enable them to collect the Emigrants previous to embarkation; and Officers under their control, who can ascertain by inspection that the Emigrants are all in a fit state of health to embark, that their persons are clean, and their clothes clean and sufficient. The calamities which would result from the introduction of any infectious or contagious complaints on board one of these vessels render this arrangement indispensable.

5. It will be necessary that each Emigrant should be provided with the following Articles, which compose the lowest outfit that can be admitted.

For Males—Six shirts; Six pair Stockings; Two pairs Shoes; Two complete suits of exterior clothing, one of which must be made of some warm material.

For Females—Six Shifts; Two flannel Petticoats; Six pair Stockings; Two Do. Shoes; Two Gowns, one of which must be made of some warm material.

* Marginal note.—Shoes or Slippers are more convenient for use on board than Boots.
As a general rule it may be stated that the more abundant the Stock of Clothing, the better for health and Comfort during the voyage, as, at whatever season of the year it may be made, the Emigrants have to pass through very hot and very cold weather, and should therefore be prepared for both.

6. The Governor will be directed on the arrival of the Emigrants in the Colony to make such arrangements in regard to their Employment, as may be most to their benefit, according to their age and circumstances.

7. Every pains will be taken to find the Emigrants respectable Employers. When their age and circumstances render it fitting, they will be bound Apprentices under Law which are in force in the Colonies. It will be stipulated that fair wages shall be paid by the Employers, according to the current rate prevailing in the District, and, after deducting such portion as may be required to pay for clothes and other current expenses, the remainder of their Wages will be reserved to be given to them at the expiration of the Contract, or, in the case of Females, at their marriage, provided it be approved by the Government or by the Committee appointed to act in its behalf.

8. The Governors of New South Wales and South Australia will be directed to appoint a Committee in each Colony, at which they will request the co-operation in New South Wales of the Bishop of Australia and the Roman Catholic Archbishop of Sydney, and in South Australia of the Bishop of Adelaide and the Roman Catholic Bishop, to see that the stipulations are duly observed by the Employers.

9. The Boards of Guardians will determine whether, in order to obtain these advantages, they will provide the outfit and conveyance to the Port of Embarkation on behalf of the Orphans in their respective Workhouses; and, on their communicating their decision to do so to the Poor Law Commissioners, an Officer will be deputed by the Emigration Commissioners to visit the Workhouses in order to ascertain whether they contain any suitable Candidates for Emigration of the above class.

10. This emigration will be watched with the utmost interest by all who are concerned in the Colonies, to which it is to be directed; and, upon the manner in which it is conducted, will depend the power of the Government to encourage its continuance. The Colonists are desirous of adding to their Body, not the idle and the worthless, but those whose education and moral Religious training afford a reasonable guarantee that they will become active and useful members of a Society, which is in a state of healthy progress; and it will therefore be imperative on the Colonial and the Emigration Commissioners to select those young persons only whose Education has been attended to, and of whose conduct they receive a satisfactory Report from the competent Authorities.

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 51, per ship Hudson.)

My Lord,

Government House, 28th February, 1848.

I have the honor to inform Your Lordship that the Board, appointed to superintend the Schools proposed to be established in this Colony on Lord Stanley's system* of National Education, and for the support of which in the present year the Legislative Council voted a sum of Two thousand pounds in their last Session, having suggested that a portion of that amount to the extent of Three hundred pounds should be expended in procuring from the National Society of Ireland such School Books as are in daily use in that Institution, this sum has been paid into the Military Chest in order that the Colonial Agent may obtain an equal amount from the British Treasury to enable him to make payment for the Books according to the instructions transmitted to him by the Secretary of this Government; and I beg to request that Your Lordship will be pleased to authorise the payment to be made to Mr. Barnard accordingly.

I have, &c.,

Chs. A. Fitz Roy.

* Note 23.
Sir Charles Fitz Roy to Earl Grey.
(Despatch No. 52, per ship Hudson.)

My Lord,
Government House, 28th February, 1848.

I have already had the honor to report to Your Lordship, in my Despatch No. 29 of 29th ultimo, the payment into the Military Chest of this Colony of the sum of Fifty thousand pounds, in order that an equal amount might be issued from the British Treasury to the Land and Immigration Commissioners to defray the expenses of sending Immigrants to New South Wales under the arrangements notified to me in a Despatch No. 212 of 30th August, 1847; and I now beg to state that, in obedience to the instructions conveyed in that Despatch, a further sum of Ten thousand pounds has been paid on this account from the Coll. Treasury to the Deputy Commissary General. I have therefore to request that Your Lordship will cause instructions to be given for the issue of a like sum to the Commissioners from the British Treasury.

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

Sir Charles Fitz Roy to Earl Grey.
(Despatch No. 56, per ship Hudson.)

My Lord,
Government House, 2d March, 1848.

I have the honor to forward herewith a Return made under the Act of Parliament, 9 Geo. IV, Cap. 83, and Act of the Legislative Council of New South Wales, 11 Vict., No. 24, of all monies received, paid and invested in the New South Wales Savings' Bank in respect of the Estates of deceased persons entrusted to the Curator of Intestates' Estates from the 1st January to the 31st December, 1847, inclusive.

To this Return is annexed a Schedule of the sums of money paid into the Savings' Bank, arising from the sum of £2,000 received from the Sureties of John Edye Manning, Esq., the late Registrar of the Supreme Court.

I enclose a similar Return of sums placed in the hands of the Curator of Intestates' Estates for the District of Port Phillip.

For more easy reference, I transmit a few printed copies of each of these Returns.

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

[Enclosures.]

[Copies of these returns have been omitted.]
Earl Grey to Sir Charles Fitz Roy.

(Despatch No. 37, per ship Emperor of China.)

Sir,

Downing Street, 4 March, 1848.

I have to acknowledge the receipt of your Despatch, No. 108 of the 18th May last, enclosing a Memorial from Mr. G. Brooks, who, on the alleged ground of incapacity on account of illness for the performance of further duty as Colonial Surgeon, prays for a retiring allowance.

On this subject the Lords Commissioners of the Treasury, to whom Mr. Brooks' application was referred, have apprised me that the arrangements, adopted in the year 1835 for the employment of Officers selected from the Army Medical half-pay List to take charge of the Convict Medical Establishments in the Australian Settlements, did not in any respect imply that other parties, who might be employed on those establishments, should be entitled to retiring allowances at rates corresponding with Military half pay. In considering the present case, therefore, their Lordships state that they have had reference to the rules, which have generally been observed in cases of ordinary retirement from the Convict or Colonial Service, and that they are accordingly prepared to sanction the issue to Mr. Brooks of a retired allowance at the rate of £132 per annum, to be provided for from the Parliamentary Grants for Convict Services.

I have, &c.,

Grey.

Earl Grey to Sir Charles Fitz Roy.

(Despatch marked "Military, No. 11," per ship Emperor of China.)

Sir,

Downing Street, 4th March, 1848.

I have to acknowledge the receipt of your Despatch, No. 166 of the 20th of August last, with the copy therein enclosed of a Report from the Commanding Royal Engineer in Port Jackson, New South Wales, relating to the defences of Port Jackson.

I cannot coincide in the opinion, which you inform me exists in New South Wales, that the circumstance that Halifax and Quebec have been fortified at the cost of this Country, affords a precedent for an application being made to Parliament for a Vote for the protection of Sydney. The situation of those places, by which they are so much more exposed to attack than any of the Australian Cities, affords a sufficient reason for the expense incurred for their defence. You will inform the Legislative Council that, while the right of the Australian Colonies to look for their fair share of that protection which it is the object of Her Majesty's Naval and Military Forces to extend to all parts of the British Empire, is fully recognized by
Her Majesty's Servants, they are of opinion that these Colonies have now made so much progress in wealth and Population that their Inhabitants may reasonably be expected to bear also a part of the heavy charges, which, with a view to that protection, are imposed upon their fellow subjects residing in the United Kingdom; and that the smallest contribution towards these charges, which ought now to be required from the Colonists, is that of providing any additional means of local defence which may be required. I can therefore hold out no expectation whatever to the Legislative Council of New South Wales that Her Majesty's Government will be able to render any assistance towards the erection of the works which have been suggested at Sydney, unless they think proper to vote the requisite funds for their construction, and on that condition Her Majesty's Government will be happy to direct the Board of Ordnance to appoint Officers to plan and execute the Works.

With regard to the want of an Artillery force in New South Wales, adverted to by the Commanding Royal Engineer, I have to observe that, as a force of this description would only be required in the very improbable event of an attempted invasion, this danger might be met at a very moderate expense by forming in Sydney a Volunteer Artillery Corps. If some of the principal Gentlemen would exert themselves in forming such a Corps, I should approve of your granting them Commissions. It has been found in this Country that, without interfering materially with their ordinary avocations, the workmen employed in Our Dockyards can, by devoting to this object a few hours in the Week, be trained so as to form a very effective force both of Artillery and of Infantry.

Similar Corps might be formed at Sydney and Melbourne, composed of the labouring population of these Towns and Officered by the Inhabitants of higher station. The only expense, for which the Legislative Council would be called upon to provide, would be that of Uniforms for the Men, and pay during the hours of training. I send you herewith, in order to assist you in the consideration of the question whether a measure of the nature above adverted to might not be adopted with advantage, a copy of the Regulations respecting the Dock-Yard Battalion.

I cannot conclude this Despatch without expressing my confidence that the Inhabitants of New South Wales have too much of the spirit, which has always distinguished the British Nation to be slow in coming forward to answer to this invitation, to organise themselves for their own defence.

I have, &c.,
Grey.
The following is an outline of the system followed in organizing the brigades of the Royal Dockyard Corps.

1. Each Brigade is divided into three descriptions of force, viz. Artillery Battalion, Boat Battalion, and Infantry Battalion (and in some Brigades a Sapper Company has been added). The relative strength of these vary according to circumstances, the average proportion being 4 Companies of Infantry to 3 of Artillery and 2 of the Boat Battalion.

The Infantry Battalions are divided into 4 Companies, each consisting of 3 Sergeants, 3 Corporals, 96 Privates.

These Companies are again subdivided, so that each Battalion may be worked with 8 small Companies of 48 Rank and File.

These are again subdivided into three Sections of a non-Commissioned Officer and 16 Privates; each section forming the crew of 2 Garrison Battery Guns, the whole Company working 12 guns.

All the Infantry will be trained to the Garrison Battery Guns and will be taught such Infantry Movements as are necessary (making them as few and simple as possible).

The Artillery Battalions vary very much in their strength; in some Brigades there are only 2 Companies of Artillery, in others, 4, and in one (Portsmouth) 6. But every Company consists of 3 Sergeants, 3 Corporals, 96 Privates.

Subdivided into 6 Sections of 16 men and a Non-Commissioned Officer, each section working 1 Field Piece or 2 Garrison Battery Guns.

Where the strength of the Brigade has allowed a Sapper Company to be formed, it consists of 100 to 150 men.

The Boat Battalions vary in strength from 2 to 4 Companies. Each Company consists of 4 Sergeants, 4 Corporals, 104 Privates, divided into 4 subdivisions of 26 and 8 Sections of 13, each section under a non-Commissioned Officer, forming the Crew of a Ship's Gun.

They will be trained to work every kind of Ship Gun, and to the various duties for which Boats may be required, such as transporting Troops and Guns, laying out anchors and warps, towing and working the Floating Fire Engines, Etc., and they will also learn the Sword exercise.

The strength of the Companies of the Artillery and Boat Battalions should always be kept complete, as it requires 16 men for each Field piece and 13 for each Ship's Gun.

But, as sections of 14 are sufficient for working 2 Garrison Battery Guns, the Infantry Companies might be reduced to 84 Privates without altering the arrangement for each section working 2 Battery guns.

The Infantry and Artillery are to be armed with Carbines when they can be provided for them; at present the Infantry have Musquets and the Artillery are to have short Ship Muskets.

The men of the Boat Battalions have each a Sword, and an Arm Chest containing 6 Musquets will be placed in each Boat.

The Battalions are commanded by a Lieutt. Colonel or a Major, according to the position the Officer holds in the Yard. Each Company has a Captain and one or two Lieutenants according to the number of Officers in the yard, whose position entitles them to that rank.
The Staff consists of 1 Adjutant for each Brigade.

The Adjutants have been selected from the non-commissioned Officers of the highest character in the Royal Marines, and who have been promoted by Order in Council to the rank of 2nd Lieutt. of Marines.

1 Sergeant Major for each Battalion.

1 Quarter Master Sergeant for each Brigade.

2 Drill Sergeants for each Company.

The Sergeant Majors, Quarter Master Sergeants and Drill Sergeants have been selected from the Guards and Royal Artillery, the Royal Marines, and Royal Marine Artillery.

A Gunner's Mate is allowed as a Drill Sergeant to each Company of the Boat Battalions.

The Adjutants, in addition to their Staff Pay, receive (including an allowance for fuel, lodgings and Servant) £109 12s. per annum. Sergeant Major, 3s. per day; Quarter Master Sergeant, 2s. 8d. per day; Drill Sergeant, 2s. 4d. per day.

Each Brigade is allowed a Band of a Master and 20 Privates; each Battalion has a Bugle Major, and each Company 1 Bugler. The Band Master and Bugle Major are paid 1s. 4d. for each Drill, and the Privates 1s. They are allowed this on 4 days a week during the Drill Months and 1 day a week during the winter Months for practice.

During the ensuing season, they are to be allowed 2 Drills a week, from the 1st of May to the 31st of August. The non-commissioned Officers being drilled in April in addition.

The Clothing provided by the Admiralty for this Force consists of the following Articles of good make and quality.

1 Undress for Drill vizt.

14s. 9d. 1 Forage Cap; 1 pr. of Duck trowsers; 1 Waist Belt and Plate with frog and Cap Pouch; 1 pr. of Blue Cloth Trowsers.

2. For Full Dress or Field exercise.

£2 6s. 1d. 1 Chaco and tuft with ornaments: 1 Blue Cloth Frockcoat Complete, Scarlet Collar and Cuffs, with pair of scarlet worsted shoulder straps: 1 pr. of Blue Cloth Trowsers.

It is calculated that the Belts will wear 12 or 14 years; the Clothing about 5 years, if worn only when on duty, which would be at the rate of about 12s. per man per annum for 2 Suits of Clothing and accoutrements to each private.

The officers are composed of the Admirals or Captains Superintendent at each Port, As Commandant, and of the other Officers holding civil appointments in the Yard, who receive no additional Pay for their Military Services and have also voluntarily perfected themselves in the exercise of the Battery Guns. The non-commissioned Officers are composed of the Foremen, Inspectors of Trades, and the Superior Classes of Artizans, and are drilled from the 1st of April to the 1st of September.

Should there be any intention on the part of Her Majesty's Government of adopting the System in our Dockyards abroad, some change in the organization would probably be necessary to meet the different circumstances of the case.
For instance, should it be applied to a Fortress like Malta, where Field Guns would not be so necessary, it would probably be better to organize the whole as the Infantry Battalions of the Dockyard Corps, so that they might be able to act as Infantry, or to Man the Guns of the Fortress.

If, on the other hand, it was a place where Field Guns might be required, at least half the Force should be Artillery.

After deducting those men who would be best suited for forming one or two Boat Companies, should they be thought necessary.

As the Senior Officers of Foreign Yards are one step lower in Rank than those at home (a Master Builder abroad being only in the position of assistant Builder at home), it would not be necessary to give any of them higher rank than that of Major.

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**EARL GREY TO SIR CHARLES FITZ ROY.**

(Despatch marked "Military, Separate and Confidential," per ship Emperor of China.)

Sir, Downing Street, 4th of March, 1848.

In my Despatch of this day's date, No. 11 Military, I have endeavoured to point out to you the advantages to be gained from the formation of a Volunteer Artillery Corps in New South Wales, and have signified my approval of your granting Commissions in such Corps, should it be formed; and I now think it right further to observe to you, in this confidential form, that, by a judicious distribution of Commissions in Corps of this kind, which would of course carry with them a certain rank and consideration in the Colonial Society, the just influence of the Government may be extended, and a spirit of loyalty encouraged. You will take care not to sanction the formation of any such Corps, unless they are placed entirely under the control of the Governor, and the appointment of Officers vested exclusively in him.

I have, &c.,

GREY.

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**EARL GREY TO SIR CHARLES FITZ ROY.**

(Despatch No. 38, per ship Emperor of China.)

Sir, Downing Street, 7 March, 1848.

I have received your Despatch No. 191 of 25th September last, forwarding at the request of the Legislative Council an Address from that Body, recording their opinion against renewal of the system of Transportation and Assignment.

At the date of that Address you had not had time to receive and consequently could not put the Council in possession of my Despatch No. 213 of the 3d September, 1847, explanatory of the extent to which Her Majesty's Government would be able to...
meet the conditions which had been suggested as those under which alone persons, who had been convicted of offences in England, ought to be sent to New South Wales. I do not know whether or not that Despatch may have any effect on the opinion expressed by the Council; but, until an answer to it can be received, I may state that, in consequence of the sentiments announced in their present Address, no change will be made in the existing arrangements regarding Transportation so far as regards New South Wales.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZROY.

(Despatch No. 39, per ship Emperor of China.)

Sir, Downing Street, 8 March, 1848.

I have the honor to acknowledge your Despatch No. 188 of the 22d of September last, accompanied by a Letter from the Speaker of the Legislative Council, alluding to an intention to raise a Subscription for Mrs. Chisholm, and expressing a hope that Government would make a contribution to it as an acknowledgment of her exertions in favour of Immigrants into New South Wales.

Almost at the same time with your Despatch I received a Letter from Mrs. Chisholm expressive of her wish, with every sentiment of Gratitude to the Friends who had originated the proposal, to decline any pecuniary aid. I enclose a copy of the Letter as well as of the reply returned to it, by which you will perceive that whether or not the General Rules of the Public Service would have rendered it possible to make a pecuniary grant to Mrs. Chisholm under the circumstances, I am confident that there would be no case in which it would have been better merited, and that I am fully sensible of this last proof, which that Letter has given of the disinterested spirit, by which she has been actuated in her exertions for the assistance of Immigrants and for the general encouragement of Emigration.

I have, &c.,

GREY.

MRS. CHISHOLM TO UNDER SECRETARY HAWES.

Sir, 38 King Street, Covent Garden, 1st March, 1848.

I beg leave to take the liberty of calling your attention, for the information of Earl Grey, to the circumstance of my having this day received letters from influential parties in Sydney, informing me that a Public Meeting of my friends in the Colony had taken place for the purpose of co-operating with me in my efforts to promote the re-union of families, and of ensuring me
against any loss in my exertions in the cause of Emigration, and that, with this view, a deputation of Gentlemen waited on His Excellency the Governor to request that a Sum of money, as an acknowledgment of my Services, should be awarded to me from the Public Funds, and which requisition Sir Charles Fitzroy was pleased to say would be submitted for the consideration of the Home Government.

While I feel deeply grateful for this effort of my Colonial friends, and duly appreciate the motives, as well as the considerate intention of the local Government, I am desirous of declining this pecuniary aid in the most respectful manner, and should therefore feel indebted to the Earl Grey, if he would do me the favour not to submit the application in question for the consideration of Her Majesty’s Government.

I have, &c,

CAROLINE CHISHOLM.

[Enclosure No. 2.]

UNDER SECRETARY MERIVALE TO MRS. CHISHOLM.

Madam, Downing Street, 8th March, 1848.

I am directed by Earl Grey to acknowledge the receipt of your letter of the 1st Instant, mentioning that you have been informed of an intention to apply to the Government for a Grant from the Public Funds in acknowledgment of your services, and stating that, while you feel deeply grateful for this effort of your Friends in the Colony, you are desirous respectfully to decline the proposed pecuniary aid, and do not wish the question to be submitted to Her Majesty’s Government.

I am desired by Earl Grey to state that, in the sentiments thus conveyed by you, His Lordship recognizes the same disinterested spirit which has marked the whole of your benevolent exertions in favour of your Humble fellow subjects upon their arrival in New South Wales, and that, whilst in deference to your wishes he will abstain from enquiring whether the course proposed by the gentlemen, who had assembled in New South Wales, would have admitted of adoption, your present communication only supplies additional proof how well merited would have been such an acknowledgment, if it had been compatible with your own desire, and with the general rules and Precedents adhered to in the Public Service.

I am, &c,

H. MERIVALE.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 40, per ship Emperor of China.)

Sir, Downing Street, 9 March, 1848.

I have to acknowledge the receipt of your Despatch No. 196 of the 2d of October last, reporting that you had on that day prorogued the Session of the Legislative Council, and enclosing a Copy of the Speech which you had addressed to the Members of the Council on that occasion. I have, &c,

GREY.
HISTORICAL RECORDS OF AUSTRALIA.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 42, per ship Emperor of China: acknowledged by Sir Charles Fitz Roy, 31st July, 1849.)

Sir,
Downing Street, 11 March, 1848.

The enclosed is a Copy of a Letter, which I have received from Captain Wm. Russell, lately belonging to the 28th Regiment, who appeals to me for employment in the Public Service in New South Wales, on the ground of a promise to that effect, together with Letters to the Governor of the Colony, which he states were given him by Lord Glenelg while Secretary of State for this Department, and subsequently by his Lordship's two Successors in Office.

I have to request you will inform Captain Russell that the only record to be found of these Letters is of one from Lord Glenelg to Sir George Gipps, which would appear to have been merely an ordinary Letter of introduction, but which he seems to have mistaken for a promise of employment.

You will add that I am unable to interfere in his favour, and that I must leave his claims to employment to your own consideration.

I have, &c,
GREY.

[Enclosure.]

CAPTAIN RUSSELL TO EARL GREY.

Sydney, Australia, 28th October, 1847.

As I am aware that Your Lordship's time is too valuable to be unnecessarily occupied, I shall be as brief as possible in the communication I venture to make to your Lordship. So far back as June, 1838, I was taken to the Colonial Office by an old and kind friend, Mr. Villiers Stuart, the Member for Waterford, and there introduced to Lord Glenelg with a view to getting Civil employment out here. On his Lordship asking me "what my views were," I replied that I was desirous of obtaining the appointment of police Magistrate or Commissioner of Crown Lands in Australia, when Lord Glenelg at once replied "that he did not appoint to them, having left the nomination with the Governor; but that, if I would fix the time for going out, and call on him, that he would give me a letter to Sir George Gipps, which would have the same effect as tho' he did appoint me." These were his Lordship's precise words, and in August, 1838, Mr. Stuart obtained for me the promised Letter; tho' circumstances connected with law obliged me to remain in England until 1840, and Lords Normanby and John Russell had successively succeeded to the Colonial Office before I left home. The same kind friend had, however, obtained a Letter each from Lord Normanby and Lord John Russell, confirming that promise made in his presence by Lord Glenelg; and I had a personal assurance from Lord Edward Howard, then private Secretary, that I was on Lord John Russell's private List for Civil employment in Australia. Soon after my arrival in the
GREY TO FITZ ROY.

Colony, I delivered the three Letters to Sir George Gipps; but His Excellency, tho' holding out fair promises, did not give me the appointment.

To our present Governor, who is esteemed and respected by all Classes, I have made no application; but, as I see Gentlemen receive appointments who have come out later than I have, I feel it a duty to appeal to your Lordship for the fulfilment of the promise made by Lord Glenelg, and confirmed by the Letters of his two Successors. I beg to enclose to Your Lordship a Note from Lord Edward Howard on the subject, as well as a Letter from the present Commander of the Troops in Wales (Coll. Love) in order to put your Lordship in possession of my character as an Officer in Her Majesty's Service.

I have, &c.,

WM. RUSSELL, late Captn., 28 Regt.

[Sub-enclosure No. 1.]

LORD EDWARD HOWARD TO CAPTAIN RUSSELL.

Lord Ed. Howard presents his compliments to Capt. Russell, and is desired by Lord John Russell to inform him that his name is upon the list of candidates for appointments in New South Wales.

From the great number of applications for official employment, however, L. J. R. cannot be understood to hold out hopes of any present employment in those Colonies. Should an opportunity occur, he will, however, be happy to take Captn. Russell's Claims into consideration.

Lord E. R. believes Captn. Russell to be fully aware that the appointments to Stipendiary Magistracy's are in the gift of Sir George Gipps.

Downing Street, 23 July, 1840.

[Sub-enclosure No. 2.]

COLONEL LOVE TO CAPTAIN RUSSELL.

My Dear Russell,

It is with very sincere pleasure that I accept the office of communicating farewell letter with you on the present occasion, and requesting from myself and brother Officers your acceptance of the accompanying present, as a small token of the very sincere esteem and regard entertained for you, founded as it is upon an acquaintance of many years standing.

It is unnecessary, I trust, to assure you of the very great regret we all feel at your removal from amongst us, altho' we trust as a means of promotion it will be ultimately for your benefit; and that you will feel assured that, in whatever part of the world your future destiny may call you, you will carry with you the most sincere and best wishes of your friends, for the health and prosperity of yourself and family.

Believe me, &c.,

J. LOVE, Lt. Col. Comg. 73 Regt.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 43, per ship Emperor of China.)

Sir,

I have to request you will convey to the Reverend R. Mansfield the expression of my thanks for the Copy of a work recently published by him, and forwarded to me at his desire in your Despatch No. 210 of the 20th of October last, entitled "An Analytical view of the Census of New South Wales for the year 1846."

I have, &c.,

GREY.

* Note 1.
EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 44, per ship Emperor of China.)

Sir, Downing Street, 12 March, 1848.

In answer to your Despatch No. 203 of the 13th October last, transmitting for Her Majesty’s confirmation certain Rules of Court promulgated by the Resident Judge at Port Phillip, I have only to refer you to my Despatch No. 28 of the 19th Ultimo on the subject of the confirmation of such rules.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 45, per ship Emperor of China.)

Sir, Downing Street, 12 March, 1848.

I have received your Despatch No. 192 of the 26th September last, together with Copies of two Reports from Mr. Assistant Surveyor Burnett, shewing the result of an Expedition undertaken by him for the purpose of tracing the source of the River “Boyne,” and reporting the discovery of two other Rivers. Copies of these papers have been forwarded by my desire to the Geographical Society, and I have further to acquaint you that I approve of your having determined to mark your sense of the value of Mr. Burnett’s Services on this occasion by giving his name to one of the Rivers so discovered.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(A circular despatch, per ship Emperor of China.)

Sir, Downing Street, 13th March, 1848.

The important question of the discipline and construction of Prisons having for some years past engaged the attention of the Government and Magistracy of this Country, and great improvements having been effected, it appears desirable to communicate to you such information upon these subjects as may assist in promoting a sound system of penal discipline in the Colonies, and in establishing (as far as may be consistent with local circumstances) some greater uniformity in the administration of Criminal Law than now exists. Although it is not to be expected that Legislative Enactments, or Rules and Regulations framed to meet the circumstances of the Mother Country, can be adopted without alteration under the great variety of local conditions which prevail in the Colonies, yet they contain certain general principles on practical matters which cannot fail to be of material assistance.
The merits of three distinct systems of discipline have been under discussion of late years, both in Great Britain and Abroad.

1st. A system based upon a classification of Prisoners.

2nd. A system of Association by day, under a rule of silence, with separate sleeping cells for night, termed the "silent system."

3rd. A system of Individual separation by day and by night, termed the "separate system."

With respect to classification, in which prisoners, when divided into classes, were left more or less in unrestricted communication, the following observations occur in the Reports of Committees of the House of Commons and the House of Lords on the subject.

In the Report of 1832, the Committee of the House of Commons, only nine years after the passing of the Act of 4th of George the Fourth, the following remark is made on the subject of classification:—"It is hardly necessary to observe that any classification, with the inadequate means provided by the Gaol Act, must be inefficacious. That, in the case of the untried, it must associate the most hardened with those who may be guiltless, and that even an innocent man can hardly escape contamination." The Committee also remark generally on the subject of discipline, that "a House of Correction consistent with its name should offer the prospect of diminishing the amount of crime, either by the severity of its discipline or by reforming the morals of those committed to it. In both these essential particulars, many of our Prisons are lamentably deficient. They hold out scarcely any terrors to the Criminal, while, from the inefficiency of the control exercised over him, and the impossibility of separating the most hardened mafactor from those who for the first time find themselves the inmates of a Gaol, they tend to demoralize rather than to correct all who are committed within their walls."

The Committee of the House of Lords, of which the Duke of Richmond was Chairman, in their Report, presented in 1836, observe, "That the greatest mischief is proved, by the whole tenor of the evidence, to follow from the intercourse which is still permitted in many Prisons. The comparatively innocent are seduced, the unwary are entrapped, and the tendency to crime in offenders, not entirely hardened, is confirmed by the language, the suggestions, and the example of more depraved and systematic criminals. Every motive, therefore, of humanity as regards the individual prisoner, and of policy as regards the
good of society in general, requires that the most efficient regulations should be established, in order to save all prisoners, and especially the untried, from the frightful contamination, resulting from unrestricted intercourse."

2. The silent system, in a great measure, prevents the evils of contamination; but the discipline can only be effectually maintained by the unceasing vigilance of a large body of Officers, and by numerous punishments for infraction of Prison Rules.

This, of itself, is a serious objection to the plan, as the imprisonment, contemplated by the sentence, is aggravated by the infliction of fresh penalties.

A feeling of continual irritation is thus kept up, both by the observance of the rule, and by the punishment for its violation. Persons confined in a Prison should, if possible, be reduced to a quiet and submissive state, whereby they may at leisure reflect on the evil of the course they have pursued, and some chance be afforded of their reformation. Instead of this, prisoners, confined in society and debarred from communication, are invited, as it were, to a perpetual battle with authority, and go out of a Prison, provoked rather than subdued by the punishment they have undergone.

For these reasons and others, the prevalent opinion among those conversant with the subject in Great Britain is that the silent system, if fully carried into effect, is attended with much evil. That there are, in fact, very few Prisons where the vigilance and activity of the Governor of the Prison have been such as to make the system really effective, and, in all such cases, while noise and uproar are repressed, contamination is not prevented.

3. With regard to the system of Separate Confinement, considered as a reformatory punishment, it is to be noticed that, in carrying this system into effect, great care must be taken not to confound separate with solitary imprisonment.

Under the sentence of solitary imprisonment, the punishment practically inflicted was, in general, that of confinement in a gloomy small cell, without occupation or instruction, and often with a diet of bread and water only. Under the name of separate confinement, on the contrary, what the offender undergoes is confinement in an airy, light, well-warmed, and ventilated cell, with moral and religious instruction, regular employment, and the daily visits of the Governor, Chaplain, and Officers of the Prison, as well as those engaged in the instruction of the Prisoner.
As the administration of discipline is in a great measure dependent on the construction of Prisons, I would direct attention to the Reports and Plans on the subject which are here transmitted.

The Act of the 2nd and 3rd of Victoria, c. 56, renders it legal to adopt the separate confinement of prisoners in the Gaols of this country, under regulations approved by the Secretary of State. It is, however, expressly provided in the Act that no cell shall be used for the separate confinement of any prisoner, which is not of such a size, and ventilated, warmed, and fitted up in such a manner as may be required by a due regard to health, and furnished with the means of enabling a prisoner to communicate at any time with an Officer of the Prison.

The different details, which are considered to fulfil these conditions, will be found in the Reports referred to.

But it is obvious that carrying into effect the punishment of separate confinement under these conditions involves very considerable expense in the construction of Prisons, and therefore can only be very gradually achieved. Wherever practicable, it appears to me that the labour of convicts themselves may be very advantageously employed in erecting the Prisons required for this purpose.

With respect to the separate system, it might be sufficient to assume that, whilst it is penal in its general character, it effectually protects a prisoner from contamination, and at the same time secures the most favourable opportunity for imparting moral and religious instruction.

The experience gained of its effects has also hitherto been favourable, and leads to the conclusion that, for periods of twelve to fifteen or perhaps even eighteen months, the principle of the discipline is capable, under proper regulations, of being applied, with a few exceptions, to all criminals.

In considering the measures to be adopted in its administration, it is obvious that it cannot be applied alike to all prisoners; and it may be convenient, omitting minor differences, to direct your attention to certain broad distinctions between the following classes, into which with a view to their treatment prisoners may be divided.

First. Prisoners under sentence or summary conviction for periods not exceeding two or three months. Secondly: Prisoners re-committed to Prison, and those of hardened, incorrigible character.

With regard to the first of those classes, separate confinement, without some additional severity, cannot be made sufficiently formidable to deter others by the force of example, nor can any
reasonable expectation be entertained that a permanent impression can be made on the character of a criminal in so short a period. Consequently, until the expense of providing a sufficient number of separate cells for all offenders can be met, this is the class which may, with least inconvenience, be subjected to a different discipline. When a sufficient number of such cells can be obtained, I am of opinion that there will be much advantage in applying this kind of imprisonment to prisoners under short sentences as well as to others, but probably in these cases it will be advisable, in order to render it more formidable, that it should be combined with severer labour, and with less generous diet than when it is applied to prisoners confined for longer terms. With regard to repeated or heinous offenders, it may be presumed, from the aggravated character of their guilt, that they require to be subjected to a discipline of greater severity than that generally enforced. Hence also, for this class of prisoners, separate confinement should be combined with hard labour, not so much with a view to reformation as to discipline. But, in following this general rule, criminals must not lightly be set down as incorrigible, and never without careful observation. When they are found to be so, they are peculiarly the subjects for this severest order of punishment, which has the additional advantage of preventing them from contaminating others while it lasts. The result, therefore, is that, with regard to both the above-mentioned classes of prisoners, it appears necessary in general to combine separate confinement with hard labour in the penal sense of the words.

But, Thirdly, the same system of separate confinement, when applied to prisoners committed for periods exceeding three months, but not belonging to the thoroughly hardened order of offenders, admits of a less degree of severity in discipline. Labour should be exacted in their case also, but with this difference, that from them it will be required as an important means of reformation; while, on those confined for short periods only, and on those whose reformation cannot be reasonably hoped, it will be inflicted so as to be in itself a severe punishment.

Fourthly. With respect to prisoners before trial, it might at first sight appear that to place them in separate cells, and thus deprive them of association with their fellows, would be to subject them to a penal infliction unnecessary for safe custody, and therefore unjust. Further consideration, however, will show that it is desirable to protect prisoners against the loss of character and the contamination which must be the consequence of indiscriminate association in a common Gaol; and that it
is, therefore, for the real interest of the prisoners themselves that they should be subject to separation from one another, which, although the vicious may feel it to be irksome, the undepraved cannot fail to prefer.

Every amelioration, consistent with safe custody and separation, should be introduced into the daily routine of the untried; the sole object in their case being to prevent contamination. In addition to the opportunities afforded to all prisoners in separate confinement for secular, moral and religious instruction, the untried may enjoy advantages in respect of intercourse with their friends, immunity from compulsory labour, and other reasonable indulgences compatible with the discipline of the Prison.

Next, with respect to the mechanical means of combining union of *hard labour with separate confinement*. In carrying into effect a sentence of hard labour, small crank machines, to which a dial is fixed for recording the evolutions, have been introduced into the cells at some Prisons with apparent success; stone-breaking in separate compartments into others; and where tread-wheels exist, partitions have been constructed so as to secure individual separation. Crank machinery similarly divided is also available for the purpose.

In cases where employment in separate cells is deemed more suitable than such labour, simple trades or occupations have been introduced; in which, by the aid of inexpensive machinery and a little instruction, prisoners have been afforded that constant employment, which is not only an essential element in industrial training, but is necessary to maintain the distinction between separate and solitary confinement.

With respect to the moral and religious instruction of prisoners, and to their being supplied with suitable books, the extent of the means to be afforded cannot well be defined.

It must be borne in mind, however, that the reformation and instruction of prisoners are essential features in the discipline.

As a general rule, it is thought advisable in England that juvenile offenders under twelve years of age should not be placed in separate confinement; that juvenile offenders between twelve and fourteen years of age should not be placed in separate confinement for periods exceeding one month; and that no juvenile offender from fourteen to sixteen years of age should be so placed for periods exceeding three months. The discipline appears also unsuited for very old prisoners.

It has been found convenient as a general rule to give each prisoner at least one hour's exercise in the open air when the weather permits, without reference to the power of the Medical Officer to give as much more as he may deem necessary.
At Pentonville Prison, which is now the most complete establishment for purposes of reformatory discipline in England, a "Garden Class" is established, which is found very useful for prisoners whose health requires more than the ordinary hour's exercise.

All juvenile prisoners should have more exercise than is given to adults, and, if possible, of a more active description.

It will be found necessary on the part of the Medical Officer to exercise discretion in exempting from the discipline of separate confinement prisoners, who are of scrofulous habit, or who are consumptive, also such as have any symptom of mental affection.

The result of English observation is thought to be that, by observing the foregoing precautions, and by the Medical Officer exercising a constant watchfulness, the great moral advantages, which result from this system of reformatory discipline, may be secured without any injury to the body or mind of a prisoner, to which he would not be subject under any other system.

To these observations on separate confinement, considered both as reformatory for some criminals, and as an adjunct to hard labour for others, it is necessary to add that our present experience does not warrant the belief that such separate confinement, with or without hard labour in the Prison, can be safely prolonged beyond eighteen months; a term of punishment obviously insufficient for criminals who have been guilty of heinous offences. It is therefore necessary to provide some other mode of punishment as auxiliary, or in succession to separate confinement. Perhaps the plan, which offers the fairest prospect of success for this purpose, is that of subjecting criminals, who have previously undergone a period of separate imprisonment, to hard labour, chiefly in the open air, and in company with each other; conversation between them not being prohibited, but officers being employed in sufficient numbers to prevent it from assuming an improper character. It has been strongly recommended that a record should be kept of the conduct of prisoners under this species of punishment, and of the quantity of work performed by them; and that both the period of their discharge, and the amount of immediate indulgence to be allowed to them, should be made to depend in a great measure upon their industry and good behaviour, as ascertained by reference to this document. And my opinion is in favour of these recommendations. It is believed that the labour of Criminals thus employed may, if well directed, be made to produce a return fully equal to the cost of their maintenance. It is also thought that a previous course of separate confinement will greatly contribute to prepare the minds of
prisoners, so as to render them more likely to derive permanent improvement from this second stage of their punishment. But, in order to maintain discipline while such work is being executed, separate cells should be near at hand, so that prisoners, who misconduct themselves, may immediately be sent back to confinement. Prisoners, undergoing this second stage of punishment, should if possible, sleep in single cells, which, for this purpose, may be built much smaller and in a less expensive manner than cells for separate confinement. Where such accommodation cannot be provided, prisoners should sleep in dormitories, lighted and carefully watched during the night by trustworthy officers. Where facilities for the purpose exist, it seems highly desirable that there should be combined in one and the same establishment the means of inflicting both separate confinement, and the kind of penal labour accompanied with less strict confinement, which has just been described. And, wherever land can be obtained at a moderate cost and in a suitable situation, it would in my opinion be advisable that a sufficient extent of it should be attached to such a penal establishment, to allow of a considerable part of the labour exacted from offenders being of an agricultural kind.

The punishment would be applicable not only to the more heinous offenders after having undergone a period of separate confinement, but likewise to the greater number of those prisoners for whose cases separate confinement is not adapted.

You will easily understand that this Despatch, and the accompanying documents, are forwarded merely with the view of furnishing assistance in regard to the subject of Prison Discipline to yourself; and, through you, to those Authorities in the Colony entrusted to your government whom it more immediately concerns. It is a subject so important, and of so much interest to those who are anxious to exert themselves in the promotion of social progress, that I have no doubt there will be many who will be glad to have documents which contain the latest results of our experience on it rendered accessible to them. But I am fully aware that, in applying these conclusions as rules for their own guidance, the Colonial Authorities will feel it necessary to take into consideration at the same time the peculiar circumstances of their own country, and the means at their disposal.

The documents, which I now forward to you, are forwarded in a similar manner to the Governors of other Colonies, and each is desired to judge for himself how far the discretions and suggestions which they contain are suitable to the means at his disposal, to the climate of his Government, the habits of its
1848.
13 March.
Custody of documents.

population, and the ordinary character of the crimes with which the Tribunals have to deal. You will be pleased to keep one copy of these documents in the Government House, for the use of yourself and of your successors, and to distribute the remainder in such a manner as you may judge advisable.

I have, &c.,
GREY.

[Enclosures.]

[ Copies of these documents are not available. ]

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 57, per ship Alert; acknowledged by earl Grey, 14th August, 1848.)

My Lord, Government House, 13th March, 1848.

Upon the occasion of the swearing in of Major General Wynyard as a Member of the Executive Council of this Colony, a question arose as to the propriety of his being addressed by the Style and Title of “His Excellency,” as Commander of the Forces and next in succession to the Government of the Colony in the event of the death or absence of the Governor. My own opinion, founded upon my recollection of what I believe to be the practice in other Colonies, and the fact that Sir Maurice O’Connell had assumed and always been addressed during the time of his Command by this style, is that General Wynyard had a right to the same honorary distinction.

In consequence, however, of some doubts on the subject which were entertained by General Wynyard himself, he declined to adopt it unless previously authorized to do so under Your Lordship’s sanction.

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

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 58, per ship Alert.)

My Lord, Government House, 14th March, 1848.

In reply to Your Lordship’s Despatch No. 152 of the 24th May last, transmitting to me, with reference to former correspondence on the same subject, a Copy of a further communication from Mr. Sievewright relative to the circumstances of his removal from the Office of Protector of Aborigines at Port Phillip, and directing me to procure a Report on the allegations contained in Mr. Sievewright’s letter of the 8th of May,

I have now the honor to transmit a copy of the Report, which I have received from Mr. La Trobe, from which and from the
FITZ ROY TO GREY.

voluminous documents annexed to it Your Lordship will perceive that Mr. Sievwright's allegations are not borne out by facts, and that his conduct while in the service of this Government fully justified his removal from it, and renders him totally unworthy of Your Lordship's further notice.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[A copy of this report, dated 31st December, 1847, will be found in a volume in series III.]

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 46, per ship Emperor of China.)

Sir,

Downing Street, 15 March, 1848.

I have received your Despatch No. 200 of the 10th October last, reporting the steps which you had taken for promulgating Her Majesty's disallowance of the Act of the Legislature of New South Wales, No. 3, 7th Victoria, 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 pointing out, at the same time, an error in the designation of that Act, existing in the Order in Council which signified the Queen's disallowance of it.

I approve the course which you adopted in this case, and I concur in the opinion, expressed by the Law Officers of your Government, that the error which you have pointed out did not affect the validity of the order.

I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 59, per ship Alert.)

My Lord,

Government House, 15th March, 1848.

I have the honor to acknowledge the receipt of Your Despatch Lordship's Despatch of date the 17th September last, No. 222, enclosing the copy of a letter from Ann Britton, soliciting information relative to the effects of her late Father William Goodenough, who is stated to have died intestate in this Colony in the year 1837.

The Curator of Intestates' Estates having been requested to furnish all the information he might possess on the subject, I have the honor, in compliance with Your Lordship's directions,
1848.
15 March.

Report re estate of W. Goodenough

Mr. S. F. Milford to Colonial Secretary Thomson.

Sir, Intestacy Office, Sydney, 10th Feb'y., 1848.

In answer to your letter of the 8th instant relating to the Estate of William Goodenough, deceased intestate, I have the honor to inform you that I have no knowledge of what has been done in the matter except as appears by the account Book of Mr. Manning, the late Registrar. By reference to it, I find that, in 1835, he had received £175 on account of the Estate, and had paid claims and expenses to the amount of £79 10s., leaving a balance of £95 9s. 2d. in his hands, and that, in 1838, he paid further expenses amounting to £9 6s. 2d.; so that, if his Widow received about £90, which appears to have been the case by Ann Britton's letter of the 8th of Sepr., 1847, the Estate has been fully administered.

I have, &c.

Saml. Fredk. Milford,
Curator of Intestate Estates.

16 March.
Transmission of copies of Votes and Proceedings.

Sir Charles Fitz Roy to Earl Grey.

(My Lord, Government House, 16th March, 1848.)

I have the honor to report to Your Lordship that I have given directions for the transmission by the present mail to the Colonial Department, through the hands of the Agent for this Colony in London, of two bound Copies of the Votes and Proceedings of the Legislative Council during the Session of 1847.

I have, &c.

CHS. A. Fitz Roy.

17 March.
Transmission of abstract of revenue and expenditure.

Sir Charles Fitz Roy to Earl Grey.

(My Lord, Government House, 17th March, 1848.)

In my Despatch No. 49 of 26th ultimo, I had the honor of transmitting to Your Lordship comparative statements of the Revenue collected in this Colony in the years 1846 and 1847, respectively.

I have now the honor to transmit for Your Lordship's further information the accompanying "Summary Abstract of the Revenue of New South Wales and of its appropriation for the year 1847."

Your Lordship will perceive that the total amount of the General or Ordinary Revenue, being that which, under the
Constitutional Act of the Colony, 5 and 6 Victoria, Cap. 76, is placed under the control of the Local Legislature, collected in the year 1847, was £276,371 0 3
To which being added the balance remaining un-expended on 31st December, 1846, viz. 85,726 3 2
Gives a total of 362,097 3 5
The total amount charged on the same Revenue in the year 1847 was 304,993 2 9
Leaving on the 31st December, 1847, a balance of 57,104 0 8

To the credit of the General Revenue applicable to payments in the year 1848.
The total amount of the Crown or Territorial Revenue collected in the year 1847 was £126,563 14 0
To which being added the balance remaining un-expended on 31st Decr., 1846, viz. 116,770 18 0
Gives a total of 243,334 12 0
The total amount charged on that revenue in 1847 was 122,114 10 10
Leaving on 31st December, 1847, a balance of 122,114 1 2 applicable to payments in the year 1848. It will be perceived that the charge on this Revenue in 1847 included the sum of £83,900 for Land and Immigration Debentures paid off, and a further sum of £5,191 4s. 4d. for interest paid thereon.
The only incumbrance on the Territorial Revenue, remaining unliquidated on 31st December, 1847, was £4,300 for certain Debentures held in the Port Phillip District, but which, having since been paid off, leaves it now wholly free from liability of every kind.
The foregoing statement has reference to the aggregate Revenue and Expenditure in both the Sidney and Port Phillip Districts, but the accompanying Abstract distinguishes the Collections and charges in each of them.
I avail myself of this opportunity to furnish your Lordship with the following summary statement of the Imports and Exports of this Colony, including the District of Port Phillip, in the years 1846 and 1847 respectively, viz.:

Total amount of Imports in 1846 £1,630,522 0 0
" 1847 1,982,023 0 0
Showing an increase of 351,501 0 0

Total Amount of Exports in 1846 £1,481,539 0 0
" 1847 1,855,394 0 0
Showing an increase of 373,855 0 0

And an Excess Imports over Exports in 1847 of £126,089 0 0
The population of the whole Colony being now about 200,000 souls, the amount of Imports for each head of the population in 1847 was £9 18s. 2d., including £6 6s. 1d. for goods the produce and manufacture of the United Kingdom, and the amount of Exports £9 5s. 7d.

Export of wool: In the great Staple article of Wool, the following is the comparative quantity and entered value exported in the last two years:

<table>
<thead>
<tr>
<th>Year</th>
<th>Quantity (lbs)</th>
<th>Value (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1846</td>
<td>16,479,520</td>
<td>1,019,985</td>
</tr>
<tr>
<td>1847</td>
<td>22,210,111</td>
<td>1,262,683</td>
</tr>
</tbody>
</table>

Showing an increase of 5,730,591 lbs. £242,698

The quantity and entered value of Tallow was:

<table>
<thead>
<tr>
<th>Year</th>
<th>Quantity (cwt)</th>
<th>Value (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1846</td>
<td>20,257</td>
<td>28,107</td>
</tr>
<tr>
<td>1847</td>
<td>69,419</td>
<td>107,586</td>
</tr>
</tbody>
</table>

Showing an increase of 49,062 cwt. £79,479

The usual abstracts of Revenue and Expenditure in detail, and also the usual Statistical Returns prepared by the Colonial Secretary for the Legislative Council are in course of preparation, and, when completed, copies will be transmitted to Your Lordship; but, in the meantime, I have thought that it would not be uninteresting to Your Lordship to receive the above summary statements as indicative of the satisfactory state of the revenue and growing resources of this important Colony.

I have, &c,

CHS. A. FITZ ROY.

[Enclosure.]

A copy of this abstract is not available.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 49, per ship Emperor of China.)

Sir,

Downing Street, 18 March, 1848.

With reference to my Despatch No. 33 of the 27th Ultimo, in which I directed the employment of those Officers, who had been connected with the first Establishment of the Colony of North Australia, I transmit to you a copy of a Letter, which I have received from Lieutenant Colonel Barney, urging his claims to reemployment under this Department.

You will acquaint Colonel Barney that I consider him to have a very strong claim to such employment; and, if any suitable Office should become vacant within your Government, I should be prepared to sanction his appointment to it.

I have, &c,

GREY.
GREY TO FITZ ROY.

[Enclosure.]

LIEUT.-COLONEL BARNEY TO EARL GREY.

Sydney, 28th September, 1847.

My Lord,

Having reason to believe that my late lamented Friend Sir George Gipps did me the honor to recommend me to your favour, together with the position in which I find myself placed arising out of the abandonment of North Australia, will I trust plead my apology for addressing you. Your Lordship may not be aware that I undertook the arduous duty of the formation of a new Settlement as a point of honor; it was not of my own seeking, my object being employment under the Government at Sydney, which I understood to have been pledged, after having carried out the affairs of the New Settlement to a certain extent, probably embracing a period of two or three years; under such view I was induced to abandon the Military Service, and now I find myself out of employment. After near forty years of active Civil and Military employment (of which thirty years have been passed in the Colonies), your Lordship will not be surprised to learn that I cannot contemplate a life of indolence without extreme dread.

I learn that a new Office, vizt., Chief Commissioner of Crown Lands, must shortly issue; and, in soliciting the appointment, I am assured that I could pledge myself to a conscientious discharge of its duties, which the thorough knowledge I possess of this Country would materially facilitate.

Had my Friend Sir George Gipps lived, I feel sure that I should not have had occasion thus to trespass on your Lordship. In placing myself entirely at your disposal, I am enabled to assure you that any Office, you may do me the honor to confer upon me, will not be displeasing to His Excellency Sir Charles Fitz Roy.

I have, &c.,

GEO. BARNEY,
late Superintendent, North Australia.

[Sub-enclosure.]

SIR GEORGE GIPPS TO LORD STANLEY.

Government House, Sydney, 22d Decr., 1842.

Lieutenant Colonel Barney of the Royal Engineers being about to return to England, I take the liberty of giving him an introduction to your Lordship. Lieutenant Colonel Barney has been nearly eight years in New South Wales, and, in addition to his Military Appointment, has held the Office of Colonial Engineer. He has also acted for some time as a Director of the Bank of Australasia. Lieutenant Colonel Barney enjoys in a high degree the respect and confidence of the people of New South Wales, and I know no person more able than himself to give your Lordship authentic information respecting the actual state of the Colony.

I have, &c.,

GEO. GIPPS.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 50, per ship Emperor of China.)

Downing Street, 18 March, 1848.

Sir,

I have received your Despatch* No. 4 of the 30th Sept. last, in which you further explain the circumstances which had led you to at once select the position of the Settlement of North Australia, without waiting for the further examination of the Country suggested by Colonel Barney.

* Note 18.
When I addressed to you the Despatch to which you now advert, I did not mean to imply any doubt that you had acted to the best of your judgment; and I was not insensible to the weight of the considerations which induced you to act without further delay.

The report of Colonel Barney, which was enclosed in your former Despatch, and in which it was distinctly stated by that Officer that the want of water was an important, if not a fatal objection to the site contemplated for the Settlement, did appear to me, in the absence of any other means of forming a judgment on the subject, to render it impossible to regard as otherwise than exceedingly hazardous the adoption of measures for occupying that position before it had been clearly ascertained that the indispensable requisite of a certain and permanent supply of water could be obtained.

I am happy, however, to acknowledge that the information, which you now convey, is sufficient to vindicate the accuracy of your judgment as to the required supply of water being attainable, and as to the natural advantages of the situation being such as to justify its having been selected for the formation of the intended Settlement.

The abandonment of the design of establishing a separate Colony for Exiles of course affords no reason against the settlement of that district from New South Wales by means of the resources of the Colony; And, as you will now be invested with the necessary authority for that purpose, you are at liberty to take such measures as you may find to be rendered necessary by the resort of Settlers to the newly discovered District.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 51, per ship Emperor of China.)

Sir,

Downing Street, 18 March, 1848.

I have to acknowledge your Dispatch of the 10th Sept., 1847, No. 179, in which you tender an explanation of those portions of your former Dispatch of the 5th November, 1846, No. 54, respecting the Estimates of expences for the administration of justice in New South Wales, which had appeared to me to call for remark. The explanation which you have given seems to me sufficient, and I am glad to be able, upon the additional information now afforded, to withdraw the censure which you consider to have been conveyed in my former Dispatch of 10th April, 1847.
You say, with reason (adopting the views which you represent to have been expressed by Sir George Gipps), that it seems impossible for the Legislative Council to exercise a right of discretion in giving or withholding a supplementary vote, without knowing how it is proposed to spend the sum already granted to the Government on the same head. And in substance, as the Council can refuse the supplementary vote altogether, it is equally in their power to annex conditions to the granting of it.

The appropriation under Schedule A covers, in point of fact, these different classes of payments. First, the specified salaries, with which, as fixed by Act of Parliament, it is obviously impossible for the Council to interfere. Secondly, the unspecified salaries, to which you rightly conceive that the faith of the Government stands pledged, insomuch that a Government would not be justified in accepting a supplement burdened with the condition of reducing them. Lastly, the minor and miscellaneous expenses of the administration of Justice. With respect to these items, it is impossible to restrict the Council from the exercise of the power, which they possess of rendering the modification of them a condition of granting a supplement. It is, indeed, a power which I conceive they may often usefully exercise by addressing the Governor against any items to which they object; and whether the Governor will, or will not, accept a supplement under such modifications, as they may thus propose, must depend on his own view of what the exigencies of the Public Service really require.

This I understand to be in substance the explanation which you now give. But I must observe to you that it materially differs from the language in your former Dispatch, which drew down the animadversion of which you complain.

According to the statement which you then made, you "considered it your duty to propose the supplement to the Council, in order to establish a principle for future guidance," there being, according to your own showing, no such pressure for money as rendered it necessary to require a supplement at all. The only principle, to which I could understand this language to refer, was that of conceding to the Legislative Council the absolute right of appropriating the Fund set apart by Parliament for the administration of Justice. To such a supposed principle, it was quite necessary to express my dissent in the strongest terms, uncertain as I was, from the tenour of your Dispatch, to what extent or under what conditions the concession had been made.

And I am bound even now to add that you leave unexplained the kind of security, which you received from the Council, that
1848.
18 March.

Necessity for maintenance of appropriations for certain salaries.

they would not require the reduction of those salaries which you rightly regard as secured by the Public Faith. You repeat that you had "an assurance" that the Council had no intention of proposing any reduction in those salaries. But in what manner this assurance was conveyed, or how you were induced to satisfy yourself with what I presume to have been only the expressed intention of some party or leaders in the Council, you have not detailed. The salaries should not be made a matter of bargain, but it should be distinctly explained that, however reluctant the Governor may be to enter into collision with his Council, he is not empowered to make any concession in regard to them, and that, if the Council refuses a supplement, unless on the condition of reducing them, the consequent prejudice to the Public interest rests with them, and not with the Executive, which is pledged to the maintenance of faith with the existing holders. At the same time, as in point of fact, the salaries were not interfered with, I am quite prepared to believe that the measures you took were those most expedient in the position in which you found yourself, however incompletely they were explained to me; and you will understand these observations as intended rather to explain the views of Her Majesty’s Government as to the future maintenance of these important appropriations, than to convey any reflection on the manner in which you have acted.

I have, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch marked "Military, No. 12," per ship Emperor of China.)

Sir,
Downing Street, 18th of March, 1848.

With reference to my despatch, No. 147 of the 4th of May last, I transmit herewith, for your information, a copy of a letter which I have caused to be addressed to the Board of Treasury, relative to the disposal of lands and buildings in New South Wales not required for military purposes.

I have, &c.,
GREY.

[Enclosure:]

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

Sir,
Downing Street, 18th of March, 1848.

Having laid before Earl Grey your letter of the 1st instant and its enclosure, I am directed to request that you will state to the Lords Commissioners of the Treasury that, subject to the arrangements which it may be found expedient to make for allowing to the Government of New South Wales the use of such
buildings belonging to the late Convict Establishment as may be wanted for the reception of colonial convicts, as contemplated in the accompanying instruction to the Governor, his Lordship is of opinion that the Barracks and Lands enumerated in the Return, which forms one of the enclosures to your letter, should be disposed of in the manner therein suggested and agreed to by the Governor and the Lieutenant General Commanding the Troops. But I am at the same time to request you will further state to the Lords Commissioners that, so far as Lord Grey can at present determine, his Lordship is of opinion that accommodation should be preserved for at least 500 or 000 Troops, but not more.

I am, &c.,
Herman Merivale.

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 62, per ship Alert; acknowledged by Earl Grey, 23rd September, 1848.)

My Lord, Government House, 18th March, 1848.

I have the honor to transmit for Your Lordship's information a copy of a Supplement to the New South Wales Government Gazette of the 21st January last, containing a Report made to this Government by Mr. Kennedy, an Officer of the Survey Department who accompanied Sir Thomas Mitchell's last Exploratory Expedition; a tracing of Mr. Kennedy's map of his route is also annexed.

A copy of Sir Thomas Mitchell's Report of this Expedition was forwarded to Your Lordship with my Despatch No. 13 of the 9th January, 1847; and I have now to state that, on the return of the expedition to Sydney, Mr. Kennedy was despatched under instructions from Sir Thomas Mitchell to endeavour to complete the object for which the Expedition was originally started, viz., the discovery of a practicable route to Port Essington, and which Sir Thomas Mitchell confidently expected would be accomplished by continuing to trace the course of the Victoria from the point at which he turned back.

The result, however, of Mr. Kennedy's researches has not justified this anticipation. The River Victoria was found, instead of continuing to pursue its Northerly course, to take a South Westerly direction, until finally lost in a sandy desert, leaving little doubt of its identity with Cooper's Creek of Captain Sturt.

Your Lordship will perceive that by the time this unforeseen termination was ascertained, Mr. Kennedy (whose instructions from Sir Thos. Mitchell, from which he did not consider himself at liberty to deviate, confined him strictly to the course of the Victoria) finding his provisions nearly exhausted and his
animals worn out with fatigue, felt compelled to return; thus
the primary object of the Expedition still remains unaccom-
plished, and the liberality of the Legislature in providing funds
for its expense has been in a great measure rendered unavailing.

Under these circumstances, and considering the obvious
importance both to the Crown and the Colony of ascertaining
the nature of the portion of New Holland intervening between
the Northernmost point on the Belyando attained by Sir
Thomas Mitchell in 1846 and the Gulf of Carpentaria, and
also of the Country forming the Promontory terminating in its
Northernmost extremity at Cape York, I propose to set on foot
a fresh Expedition having this purpose in view. And, as Mr.
Kennedy has evinced all the necessary qualifications for con-
ducting such an Expedition* to a successful termination, I pro-
pose to place it under his guidance.

I merely at the present moment submit the foregoing to Your
Lordship as an outline of the contemplated undertaking. When
the details are matured, it will be my duty to report further on
the subject, and to transmit a copy of the Instructions with
which Mr. Kennedy will be furnished.

In the meantime, it may be as well that I should state that,
according to calculations already made, I am led to believe the
expense will not exceed the sum of £1,000, which I propose to
defray from the Land Revenue fund under the instructions
respecting the payment of the expenses of Expeditions of this
nature, conveyed to Sir Richard Bourke in Lord Glenelg's
Despatch, No. 105 of the 2d February, 1836.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[This was a copy of the issue of the "Government Gazette,"
dated 24th January, 1848.]

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 52, per ship Emperor of China.)

Sir,

Downing Street, 19 March, 1848.

I have received your Despatch No. 193 of the 27th of
September last, in further explanation of the grounds on
which you had recommended that the claims of Mr. Percy
Simpson should be allowed by the Government to be submitted
to the decision of a Court of Law.

I am fully aware that, in some cases of disputed claims on
the Colonial Government, the decision of a Court of Law has
been very properly obtained; but the nature of the claim in

* Note 24.
this case, the length of time which has elapsed since the trans-
actions on which it was founded, and the fact that it had been
so repeatedly considered and rejected, afford in my opinion a
sufficient ground for not adopting that course in the present
instance. Although I have no doubt that, in the course which
you adopted, you acted to the best of your judgment, I still
consider that, under such circumstances, it would have been
more advisable not to hold out to the claimant any expectation
of special facilities for bringing the case before a Court of
Law, without having previously ascertained that such a course
would be approved by Her Majesty’s Government.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 53. per ship Emperor of China.)

Sir,
Downing Street, 19 March, 1848.

I have received your Dispatch No. 194 of the 28th Sep-
tember last, in which you further explain the course which
you adopted and the motives by which you were influenced in
regard to the Bill, introduced into the Legislative Council, “to
declare void so much of all local Ordinances as assumes to vest
the appropriation of the ordinary Revenue elsewhere than in the
Legislative Council.”

I have the pleasure of expressing my opinion that the explana-
tion which you have now afforded is satisfactory, although, at
the same time, I must observe that it was impossible for me to
comprehend your former Dispatch* in a different sense from
that in which I was impressed by it.

The declaratory part of the Bill in question assumed a power
of construing the provisions of the Constitutional Act, which
the Legislative Council certainly does not possess; and, in the
explanation to the Council of your reasons for refusing to
sanction the Act, you adopted an unfortunate choice of terms
which led to the obvious conclusion expressed in my Despatch
of the 29th of May last, to which you now reply.

In legislating upon such subjects, the form of an Enactment
is frequently of far more importance than its immediate and
direct effects, and, looking to the principle which would have
been established in this instance by the form in which the
declaratory part of the Local Act was drawn, such an enactment
would, for the reasons already explained to you, have been in
the highest degree objectionable. I quite approve of the

* Note 25.
practice, which you describe in this despatch, of sending to the Crown Law Officers every Bill, which is submitted to you for the Royal Assent in order to receive their report upon the points which you proceed to specify. I have, &c.,
GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 54, per ship Emperor of China.)
Sir,
Downing Street, 19 March, 1848.
I have received your Dispatch No. 199 of the 9th of October last, transmitting an Address to the Queen from the Legislative Council of New South Wales, requesting that Her Majesty would be pleased to instruct you to place upon the Estimates a sum sufficient to compensate Mr. McLeay for the loss of that portion of his pension as late Secretary to the Transport Board in England, of which he was deprived under the provisions of the Act, 3 and 4 Wil. 4, Cap. 24, while holding the Office of Speaker of the Council.
You will intimate to the Council that I have laid their Address before the Queen, who was pleased to receive it very graciously, and that, in compliance with the wish of that Body, Her Majesty has directed that you should make the necessary provision for that Grant in the next Estimates to be laid before them.
I have, &c.,
GREY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 63, per ship Alert.)
My Lord,
Government House, 19th March, 1848.
I have had the honor to receive Your Lordship's Despatch, No. 221 of 15th September, 1847, enclosing an extract from a Report addressed by the Commissioners of Customs to the Lords of the Treasury relative to the suspension from office of Mr. Cassell, Acting Collector of Customs at Melbourne, and informing me that the Lords of the Treasury are willing to assent to the reinstatement of Mr. Cassell in the Office from which he has been suspended, provided I have no objection to the arrangement.
In reply, I have the honor to report that Mr. Cassell was reinstated into the Office of Acting Collector at Melbourne on the 19th ulto., and that Mr. Llewellyn, who had temporarily filled that situation, returned to Sydney and resumed the duties of Chief Clerk on the 29th ultimo. I have, &c.,
CHS. A. FITZ ROY.
EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 55, per ship Emperor of China; acknowledged by Sir Charles Fitz Roy, 13th December, 1848.)

Downing Street, 20 March, 1848.

I have to acknowledge the receipt of your Dispatch and its Enclosures, No. 101 of the 11th May, 1847, accompanied by a Memorial from Mr. A. Elyard, Chief Clerk of the Supreme Court and also Marshal of the Vice Admiralty Court in New South Wales, praying that he may be compensated for the loss of certain Fees due to him in the latter capacity on account of the seizure and detention of a Vessel called the "Caroline" under a Warrant of the Vice Admiralty Court.

Having consulted the Lords Commissioners of the Treasury on the subject, I herewith transmit to you a Copy of a letter from the Secretary to that Board, with a Copy of a Report upon Mr. Elyard's claims addressed to their Lordships by Mr. Rothery.

Should it appear that there were any peculiar circumstances attending the decision of the Vice Admiralty Court in the case in question, as might prevent the adoption by Mr. Elyard as Marshal of the Court of the usual course of demanding payment of his Fees before he released the "Caroline," there will be no objection to your granting him the indemnification recommended in your Despatch.

The requisite inquiry must however be made on this point, and you will be guided by the result in deciding whether such indemnification is or is not to be granted to Mr. Elyard.

I have, &c.,

GREY.

[Enclosure.]

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

Treasury Chambers, 13th March, 1848.

I am directed by the Lords Commissioners of Her Majesty's Treasury to transmit to you, in order that it may be transmitted to Earl Grey, a Report of Mr. Rothery's, dated 16th ultimo, respecting the claim of Mr. Alfred Elyard, Marshal of the Vice Admiralty Court at New South Wales, for compensation for the loss of certain fees, due to him on account of the seizure of a Vessel called the "Caroline," with reference to the communication made to this Board by His Lordship's direction on the 26th November last; and I am to request that you will state to His Lordship that, if it should appear that there were any such peculiar circumstances attending the decision of the Vice Admiralty Court at Sidney in the case of the "Caroline," as might prevent the adoption by Mr. Elyard, as Marshal of that Court, of the usual course of demanding payment of his Fees before he released the Vessel,
1848.
20 March.

Conditional approval of compensation.

My Lords would not object to the indemnification recommended by the Governor of New South Wales being accorded to him; and I am further to request that you will suggest to Lord Grey that the Governor should be instructed to make the requisite enquiry in this respect, and should be authorized to grant or withhold the indemnification, as the result of such enquiry may indicate.

I am, &c.

C. E. Trevelyan.

I am to request that the enclosure may be returned.

[Sub-enclosure.]

Mr. W. Rothery to Lords Commissioners of Treasury.

May it please Your Lordships,

In obedience to Your Lordships' commands, I have perused and considered the documents herewith returned, consisting of a Letter from H. Merivale, Esquire, dated the 26th of November last, with copy of a Despatch from Sir C. A. Fitzroy, Governor of New South Wales, and Memorial of Mr. Alfred Elyard, Chief Clerk of the Supreme Court and also Marshal of the Vice Admiralty Court of that Colony, praying that he may be compensated for the loss of certain Fees, due to him in the character of Marshal, on account of the seizure and detention of a Vessel called the "Caroline," under a warrant of the Vice Admiralty Court; also Copy of a Letter from Sir Alfred Stephen, Judge of the said Vice Admiralty Court, recommending Mr. Elyard's application for favourable consideration.

I have the honor to report to Your Lordships that it appears from these documents that Mr. Elyard was, by a Commission under the hand of His Excellency Sir George Gipps, the late Governor of New South Wales, and under the seal of the Colony, dated the 18th May, 1840, appointed Marshal of the Vice-Admiralty Court in that Colony, the practice of which Court is regulated by an Order of His late Majesty in Council, made in pursuance of the Act of the 2 W. 4, C. 51, and in obedience thereto, Mr. Elyard was called upon in his capacity of Marshal to arrest the ship "Caroline," in a cause of subtraction of wages, and to retain possession of her until the suit was judicially determined, which having been done, the Marshal applied to the Proctor, who had instituted the suit, for his regulated Fees, and, failing to obtain them on application, he entered an action at Law for their recovery, which resulted in a decision of the full Court to the effect that the Proctor was not liable, and that the Marshal must seek his remedy against the Promovent, or party at whose instance the suit had been instituted in the Vice Admiralty Court.

It further appears that the proceedings in the Vice Admiralty Court are conducted by Proctors, and all fees payable to officers of the Court have hitherto been paid by them, and that they have always been considered the responsible parties and are virtually the only persons to whom the Officers of the Court can look for payment, as the parties to the suit are generally unknown to such Officers, and it is impossible to recover the fees from these persons, who are in most instances (as in this) sailors suing for wages, and who, when the Marshal's fees can be demanded, have either gone to parts beyond the seas, or, if still in the Colony, had not the means of paying them; that Mr. Elyard, in thus executing a Process of the Vice Admiralty Court, which the Chief Justice certifies he was bound to obey, having no option in the matter, has incurred a heavy pecuniary loss, and is left without any remedy; and there are features in this case, which in a peculiar manner aggravate the loss; the first is that the Marshal, as such, receives no salary, but is remunerated entirely by the Authorized Fees of Court; and Secondly, a large proportion of the sum sought to have been recovered was actually money paid by him to the Keeper, or person left in possession of the Ship; and Governor Fitz-Roy, under all the circumstances of the case supports the recommendation of Sir Alfred Stephen that Mr. Elyard should have made good to him the loss entailed on him in the performance of his duty out of any savings that may be effected in the sums appropriated to the services enumerated in Schedule B, annexed to the enactment 5 and 6 Victoria, Cap. 76. Those fees are stated to be amount to £43 12s., of which the sum of £32 14s. is stated to have been paid by Mr. Elyard to the person keeping possession of the Vessel; in addition to which are the expenses of the Action in the Supreme Court instituted by him unsuccessfully for the recovery of these Fees, which it appears he was not entitled to demand until after the duty had been performed; that the costs of this action have been taxed at the sum of £46 8s. 7d., and there are also Mr. Elyard's Costs, which he estimates at £50 or £60.

Mr. Trevelyan, in his letter transmitting these documents, states that, if Mr. Elyard is entitled to indemnification from the Government of New South Wales for
the expenses and loss of Fees to which the Memorial has reference, their Lordships would not be prepared to object to the payment of such indemnification from the Fund mentioned in Governor Sir C. Fitz-Roy's Despatch.

I have the honor further to report that the facts are not so fully stated in these Report by Papers as they might have been. In ordinary cases, I am of opinion that the W. Rothery Marshal of any Vice Admiralty Court, having been put into possession of a vessel on claim of by the Authority of the Vice Admiralty Court, ought not to have delivered up A. Elyard for possession to any party, without first obtaining from him the amount of the proper compensation.

Fees due for keeping such possession.

It does, however, appear from the statement of Mr. Elyard, the Marshal, that he retained the possession of this vessel from the 14th of June, 1844, to the 13th of January, 1845, and that his charge for the same amounted to £43 12s., which seems to me to be a very proper and reasonable charge for him to have made: and, in all ordinary cases, the Marshal should have insisted upon the payment of his Fees before he delivered up the possession of the Vessel, leaving the Party so obtaining possession from him to his remedy of recovering the same against the individual, who had caused the Arrest, or the Bail given to answer it, or as the circumstances might render necessary. I find, however, in Mr. Elyard's statement, that, in November, 1844, J. J. Hunter, the Master of the "Caroline," applied to the Supreme Court at New South Wales for a rule to shew cause why a writ of Prohibition should not issue to prohibit the Commissary or Surrogate of the Vice Admiralty Court from further proceeding, which was on the 13th of December made absolute on the ground that the contract entered into by Boulton, the person who entered the action against the Vessel in the Vice Admiralty Court, was under Seal, and stated to have been of such a Special and unusual nature as "to oust the Vice Admiralty Court of its jurisdiction."

I am at a loss to know upon what principle the right of Boulton for the recovery of his wages in a Court of Vice Admiralty, and which amounted to £120, could have been thus defeated; the effect, however, of this Prohibition probably might have been to prevent the Marshal from detaining the Vessel until his Fees as Marshal were paid, and that he was thereby deprived of his usual remedy, that of resorting to the Vessel. Should this be the case, I submit that Mr. Elyard may be equitably entitled to receive indemnification from the Fund mentioned in the Despatch of Sir C. Fitz Roy but not otherwise.

All which is most humbly submitted to Your Lordships' wisdom.

Stratford Place, 16th February, 1848. Wm. Rothery.

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Sir Charles Fitz Roy to Earl Grey.
(Despatch No. 64. per ship Alert.)

My Lord, Government House, 20th March, 1848.

In reply to Your Lordship's Despatch "Military" No. 6 of 14th September, 1847, forwarding copies of a letter and of its enclosures received from the War Office, relating to the employment of Dr. Silver, Colonial Assistant Surgeon, as Medical Officer to a Detachment of Troops sent from Sydney to North Australia, I have the honor to inform Your Lordship that, in consequence of Dr. Silver having received pay from both the Military and Convict Funds for the 6th and 7th March, 1847, he has now refunded into the Commissariat Chest the undermentioned amount, viz.:

2 days' pay as Col. Asst. Surgeon at 7s. 6d. .. £0 15 0
2 days' Lodging money at £60 per ann. .. £0 6 6

Amounting in all to .. .. .. £1 1 6

I have, &c.,

Chs. A. Fitz Roy.
SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 65, per ship Alert.)

My Lord,

Government House, 21st March, 1848.

With reference to the concluding paragraph of Your Lordship's Circular Despatch, dated 11th January, 1847, I have the honor to forward herewith a copy of "the New South Wales Almanac and Remembrancer for 1848," being the first Almanac published in Sydney since the receipt of Your Lordship's Despatch.

I have, &c,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 56, per ship Emperor of China.)

Sir,

Downing Street, 22 March, 1848.

I have to acknowledge the receipt of your Dispatch No. 182 of the 16 Sept. last, transmitting with your Report the copy of a letter, which had been previously addressed to me by Mr. W. Cape, relative to his alleged claim to an allotment of Land in Sydney; and I have to desire you will inform that Gentleman that, his Case having long since been decided after the fullest investigation by my Predecessors in Office, it is impossible for me now to re-open the question.

In compliance with Mr. Cape's request, the original letters written to him by the late Colonial Secretary of New South Wales, and forwarded to this Department with his Memorial of the 31st March, 1842, are herewith returned for the purpose of being delivered to Mr. Cape.

I have, &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 57, per ship Emperor of China; acknowledged by Sir Charles Fitz Roy, 21st September, 1848.)

Sir,

Downing Street, 22 March, 1848.

I herewith transmit for your information and guidance Copies of a Report from the Commissioners of Customs and of their Instructions to the Acting Collector at Melbourne, from which you will perceive that, in the event of your having availed yourself of the discretionary power given to you in my Dispatch No. 221 of the 15 Sept. last, to reinstate Mr. Cassell in that Office, he has been selected to proceed without delay to Adelaide for the purpose of investigating the manner in which the business of the Custom House has been conducted, and
whether the Public monies have been faithfully collected. Subject therefore to the above mentioned condition, I have to desire that you will cause every assistance to be rendered to Mr. Cassell in furtherance of this object, taking care that the necessary arrangements are made for the discharge of his duty during his absence.

Should you have seen sufficient reason, however, for not restoring that gentleman to his former Appointment, you will not fail to apprise me of the fact; and you will make a similar intimation to the Lieutenant Governor of South Australia, who will be informed by the present Mail of Mr. Cassell's probable arrival at Adelaide.

I have, &c.,

GREY.

[Enclosure.]

COMMISSIONERS OF CUSTOMS TO THE LORDS COMMISSIONERS OF TREASURY.

We beg to state that your Lordships were pleased by your Minute Proposal for the 23d June, 1846. Copy of which was transmitted in Mr. Trevelyon's Letter of 25th of that Month, to acquaint us that you would defer any decision as to the permanent Establishment that should be assigned to the Customs Department at Adelaide, South Australia, until we should have been enabled to select some competent Superior Officer to proceed to Adelaide for the purpose of investigating the manner in which the Business has been conducted, and reporting his opinion as to the nature and extent of the Customs Establishment that should be permanently fixed upon for that place.

That, in consequence of the absence of Mr. Barnes, Collector at Hobart Town, on special service at Sydney, and his return to this country on Leave of absence, as well as the continued absence of Mr. D'Arch, Collector at Launceston, employed on Special Service at New Zealand, We have hitherto been unable to give effect to the directions of your Lordships above referred to. But, being of opinion that it is desirable that some steps should now be taken for carrying into effect the directions of your Lordships, we have deemed it expedient, adhering to your Lordships' order of 25th August, 1847, sanctioning the reinstatement to Office of Mr. Cassell, the Acting Collector at Melbourne, Port Philip, subject to the approval of the Governor of New South Wales, to direct that officer, provided he shall have been reinstated in his Office of Acting Collector, upon the receipt of our order in the Colony, to proceed to Adelaide for the purpose of carrying into effect the Instructions of Your Lordships.

In transmitting a Copy of the order, which we have issued to Mr. Cassell on the present occasion, marked A. we have to request that your Lordships will be pleased to communicate with Her Majesty's Principal Secretary of State for the Colonies, in order that the Governors of New South Wales, South Australia, and the Superintendent at Port Phillip may be duly apprized of the
nature and object of Mr. Cassell's mission, and requested to afford any aid or assistance that he (Mr. Cassell) may require at their hands, in carrying into effect your Lordships' orders.

G. E. M. Dawson.
Culling Chas. Smith.
H. Richmond.
T. P. Dickenson.

Custom House, 24th February, 1848.

[Sub-enclosure.]

COMMISSIONERS OF CUSTOMS TO ACTING COLLECTOR AT MELBOURNE.


We are of opinion that it is very desirable that steps should be taken for carrying into effect the directions contained in the Minute of the Lords of the Treasury, dated the 25th June, 1846, transmitted to us in Mr. Trevelyan's Letter of the 25th of that month, with regard to the inspection of Port Adelaide, Southern Australia, by some competent Superior Officer of this Revenue, which measure has been delayed in consequence of the absence of Mr. Barnes, Collector at Hobart Town, on Special Service at Sydney, and his subsequent return to this Country on Leave of absence; as well as the continued absence of Mr. D'Archi, Collector at Launceston, employed on Special Service at New Zealand.

We are of opinion that the duty of inspecting Adelaide may be confided to Mr. Cassell, provided His Excellency the Governor of New South Wales has not thought fit to object to his reinstatement in the Office of Acting Collector at your Port, as authorized by the order of the Lords of the Treasury of the 25th August, 1847, and he shall have resumed the duties thereof on the date of the receipt of this order; and, with that view, we hereby transmit a Copy of the Minute of the Lords of the Treasury, and of Mr. Trevelyan's Letter referred to, together with a Statement shewing the present temporary Establishment and names of the Officers employed at Adelaide, as well as a Copy of a Letter from the Acting Collector at that Port on the subject, dated the 11th August last; and We direct Mr. Cassell, as soon as he shall have obtained the sanction of the Governor of New South Wales and the Superintendent of Port Philip, to proceed to Adelaide, for the purpose of instituting a strict Inquiry into the manner in which the duties of the Customs Department have been conducted, and whether the Public Moneys have been faithfully collected and accounted for, reporting fully as to the general conduct, character and Qualifications of the several Parties employed, and what in his opinion would be a proper Establishment for Adelaide, with reference to the increasing Trade and Revenue of that place.

We further direct Mr. Cassell to take care that the several Officers be instructed in their respective duties, and that, previous to his Return, all outstanding Accounts and Queries from the Inspector and Examiner of Plantation accounts be transmitted to us, together with detailed comparative statements of the Trade and Revenue of Adelaide and its outstations for the last three years, accompanied by Plans or Sketches of the various Localities.

But, prior to the departure of Mr. Cassell for Adelaide, he is with the sanction of the Governor of New South Wales and the Superintendent of Port Philip, to make such arrangements for the discharge of his duty during his absence, as may under the circumstances be deemed the most expedient.

And We have requested the Lords of the Treasury to communicate with Her Majesty's Principal Secretary of State for the Colonies, in order that the Governors of New South Wales and Adelaide and the Superintendent of Port Philip may be apprised of these Instructions, and be requested to afford to Mr. Cassell any aid he may require at their hands in carrying their Lordships' orders into effect.

G. B. Dawson,
H. Richmond.
T. P. Dickenson.

EARL GREY TO SIR CHARLES FITZ ROY.

(A circular despatch, per ship Emperor of China.)

Sir,
Downing Street, 22nd March, 1848.

I have the honor to announce to you that at 8 o'clock on the Morning of the 18th Instant, The Queen was happily delivered of a Princess.
It is very satisfactory to me to be able to add that Her Majesty and the Infant Princess have continued to do well up to the present time.

I have, &c.,

Grey.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 58, per ship Emperor of China.)

Sir,
Downing Street, 23 March, 1848.

I herewith transmit to you the copy of a letter from Count Reventlow, the Danish Minister at this Court, requesting that enquiries may be made in order to ascertain what may have become of Mr. Peter Anton Munderloh of Copenhagen, who came to this Country in 1839 and afterwards proceeded to Sydney; and I have to request that you will send home at your earliest convenience whatever information it may be in your power to procure respecting the fate of that person.

I am, &c.,
Grey.

[Enclosure.]

COUNT REVENTLOW TO EARL GREY.

My Lord,
Danish Legation, 10th March, 1848.

I have the honor to request Your Lordship's assistance in obtaining some information about the fate of a Danish subject, M. Peter Anton Munderloh of Copenhagen, which town he left in 1839 for England, from which he is said to have gone to Sydney; the last report of him was that he lived in the month of May, 1840, with a Scotch Gardener half a mile from Sydney.

He has left behind an old wife in great distress, as she cannot obtain the payment of the pension due to him without proving him being alive, nor her own pension as widow without proving his death; under these circumstances, my Government has instructed me to obtain the necessary information and legal certificates either of his being alive or of his death; and I therefore take the liberty of soliciting Your Lordship to cause the necessary investigation to be made and the proper certificates to be issued.

I beg you to accept beforehand my thanks for Your assistance, and avail myself of this opportunity to renew the assurances of the high consideration with which

I remain, &c.,
Reventlow.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 67, per ship Alert.)

My Lord,
Government House, 23d March, 1848.

With reference to Your Lordship's Despatch No. 211 of Arrival of 28th August, 1847, notifying to me that the Ship "Marion" had been chartered for the conveyance to Port Phillip of three hundred Exiles from the Milbank, Pentonville and Parkhurst Prisons, I have the honor to inform Your Lordship that the
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1848.
23 March.

Superintendent of Port Phillip has reported to me the arrival of the "Marion" on the 25th January last, and I enclose a List showing the disposal of the Exiles who were sent out in that Vessel.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[This list has been omitted.]

26 March.

Transmission of speech and address on opening session of legislative council.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 70, per ship Alert; acknowledged by earl Grey, 21st August, 1848.)

My Lord,

Government House, 26th March, 1848.

I have the honor to enclose herewith a copy of the Speech with which, on the 21st instant, I opened the Session of the Legislative Council of this Colony.

I also transmit a copy of the Address presented to me by the Council and my rejoinder.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosures.]

[The speech was printed in the issue of the "Government Gazette," dated 25th March, 1848; the address and reply will be found in the "Votes and Proceedings" of the legislative council.]

27 March.

Transmission of petitions against changes in constitution without approval of colonists.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 71, per ship Alert; acknowledged by earl Grey, 14th August, 1848.)

My Lord,

Government House, 27th March, 1848.

With reference to my Despatch No. 31 of the 2d February, 1848, forwarding a Petition to Her Majesty from the Inhabitants of Sydney, praying that Her Majesty would be graciously pleased not to assent to any change in the Constitution of this Colony, which shall not have received the sanction of the Colonists at large, I have the honor to enclose Petitions of a similar nature addressed to Her Majesty which I have been requested to forward:—

1. From the Inhabitants of the Electoral District of Penrith.
2. From the Clergy, Landowners and Inhabitants of Singleton and the District of Patrick's Plains.
3. From the Inhabitants of the District of Port Phillip, together with the Copy of a letter, in which I received it from the Superintendent.
4. From the Inhabitants of the District of Windsor.
Fitz Roy to Grey.

I also transmit a similar Petition, but addressed to myself by the Inhabitants of the District of Picton, and a series of Resolutions to the same effect from the Inhabitants of the District of Queanbeyan.

I may add that Petitions of a similar nature to the enclosed are in course of preparation in many of the other Country Districts.

I have, &c.,

Chs. A. Fitz Roy.

[Enclosure No. 1.]

The humble Petition of the undersigned Inhabitants of the Electoral District of Penrith in the Counties of Cumberland and Cook and Colony of New South Wales.

To the Queen's Most Excellent Majesty,

Humbly Sheweth.

That the contents of the Despatch, dated 31st July, 1847, from Earl Grey, Secretary of State for the Colonies, had excited in the breasts of your Majesty's Petitioners indignation and alarm; as by it they learn that the Electoral Franchise enjoyed by them under the Act of the Imperial Parliament of 5th and 6th Victoria, cap. 76, was about to be abrogated and superseded by a Crude Experiment, no less at variance with the principles of the British Constitution than absurd and impracticable in a population dispersed and located as are the Inhabitants of New South Wales.

Second to none of your Majesty's subjects in glowing loyalty to your Majesty's person and deep veneration for the principles of the Constitution of the parent State, as seen in operation in Great Britain, Your Majesty's Petitioners are unconscious of any adequate reason for depriving them of that dearly cherished birthright of a Briton—the power of electing his Representatives in the Councils of their Country.

That an Act affecting the change propounded by Earl Grey would deprive your Majesty's Petitioners of that power, and thus be in truth to them a Bill of Pains and Penalties without a pretence that any conduct of theirs has merited punishment.

That your Majesty's Petitioners claim the right to enjoy, as nearly as circumstances will admit, the full benefit of the principles of the British Constitution, and humbly and earnestly implore your Majesty to be graciously pleased to interpose your high authority to prevent this Colony being made the field of theoretical experiments in legislation.

That as born subjects of your Majesty they conceive themselves entitled to all the blessings and benefits of Britons, and they have therefore a right to expect that no alteration in the Constitution of the Colony shall be effected without the previous assent of those whose liberties and property must be affected by it.

Your Petitioners therefore most humbly pray your most Gracious Majesty will not assent to any alteration of the Electoral Franchise of your subjects in this Colony, which may have the effect of diminishing the Rights they now enjoy, nor any such important changes in the form of their Government, which shall not have been previously submitted for the opinion, and received the approbation of the Colonists.

And your Petitioners as in duty bound will ever pray.
The humble Petition of the undersigned, Clergy, Landowners and Inhabitants of Singleton, and the District of Patrick's Plains, in the Colony of New South Wales.

To Her Most Gracious Majesty Victoria by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

Sheweth:

Your Petitioners approach your Majesty with the most sincere assurance of Loyalty and attachment to your Majesty's person and Government.

Your Petitioners, in common with the whole of the Colonists of New South Wales, settled and residing in the old or middle portion of this Colony, have felt the greatest alarm upon his Excellency Sir Charles Augustus Fitz Roy, the Governor, having published a Dispatch of the Right Honorable Earl Grey, your Majesty's Secretary of State for the Colonies, and dated the 31st July, 1847.

Your Petitioners would, in approaching your Most Gracious Majesty by petition, represent that such Dispatch conveys to the Colonists of New South Wales the intention of the Right Honorable Secretary of introducing a Bill at the ensuing session of the Imperial Parliament of Great Britain, for the purpose of altering the government and constitution of this your Majesty's Colony of New South Wales, and which, of necessity, must repeal the Constitutional Act, V and VI Vic., c. 76.

Your Petitioners would beg respectfully to state that the Act V and VI Vic., c. 76, was brought in and passed the Imperial Parliament after the most deliberate and serious consideration of its purposes by this community; that it has only existed for five Years; that it was welcomed as a boon, for it conceded to the Colonists their inherent birthright; that well known British principle of taxation by representation was acknowledged and granted.

On your Petitioners receiving this settlement of their long solicited claims, they were still shackled with a condition, humiliating to their feelings, and irreconcilable with their interest. A civil List amounting to about one-third part of the Yearly revenue of the Colony was appropriated by the Imperial Parliament and over which the representatives of the people have not the least control.

Yet your Petitioners have not complained. They looked forward with confidence that, through the wisdom of your Majesty's Ministers and the Imperial Parliament, any alteration of the Law would be to extend their representation system, to lower the franchise, to enlarge their liberties, and to approximate their constitutional freedom still nearer to that of the Mother Country.

Your Petitioners, whilst they feel the greatest veneration for that noble, inimitable, and integral part of the British Constitution, the House of Commons, cannot but feel that they are not, as they should be, adequately represented in that body; and that, upon the discussion of or the passing of Laws, affecting your Petitioners in the most sensible manner, they are sorry to observe a continued apathy and indifference to their interests; and thus your Majesty's Colonial Minister is perfectly uncontrolled in any
measure affecting your Petitioners which he (from whatever cause) may wish to fix the sanction of the Imperial Legislature upon.

Your Petitioners then cannot but feel the most heartfelt grief at the intentions suggested in the Dispatch of the Right Honorable Secretary of State for the Colonies, and cannot see any good reason for such a radical change in the Laws and Institutions of the elder Colony, because a junior one requires a separate government. It is making the strong subservient to the weak.

Your Petitioners observe in the Dispatch of the Right Honorable Secretary his dissatisfaction with the practical operation of the present constitution of the Colony, and they cannot fail to see that this points to his favourite principle of local self-government through the instrumentality of municipal corporations, and which the Right Honorable Secretary states has hitherto been defeated. Yet, he continued, it is not the opinion of her Majesty's Government that it ought to be abandoned.

Your Majesty's Petitioners must here take leave to state that such defeat has not arisen from factious or disloyal feelings but from the solemn conviction of the Legislative Council that the same could not beneficially be carried into effect, shewing the fallacy of the Imperial Parliament legislating for so remote a Colony without sufficient knowledge of its local wants; but, if the Laws constituting Local Government were left to the Colonial Legislature, your Petitioners believe that such institutions would be favourably received.

If the great mischiefs of the contemplated change are not already apparent to your Majesty, your Petitioners would beg briefly to bring a few of them to your Majesty's further notice.

Your Petitioners' representative system is about to undergo a radical change, without any solicitation from your Petitioners, or conferences with their present Representatives. Your petitioners are to have municipal bodies thrust upon them contrary to their expressed declarations that such are unsuited to their present wants and to their means of supporting them. The Franchise for the choice of Members to the Legislative Council is to be transferred to the municipal Corporations of the Colony. Your petitioners feel that investing District Councillors with the right of returning Members to their Legislature, whereby from twenty to thirty persons only will form the constituency in each of their counties, will be subversive of their rights as British subjects and virtually disfranchising nineteen-twentieths of their present electors.

Your Petitioners have already recorded their Dissent to District Councils; they are opposed to an upper House composed of Crown nominees; and, moreover, are decidedly adverse to a central Legislature as altogether unnecessary. In fine, they cannot accord their assent to any part of the proposed new Constitution.

Your Petitioners would further urge upon your Majesty's attention that, as municipal bodies can only exist in their Cities and Towns, the rural being the most useful and important part of the population of the Colony, and comprising nearly half of the same, would be wholly unrepresented, and left in a situation unworthy of their descent and intolerable, as British subjects, to bear.
1848.
27 March.

Petition against changes in constitution from residents of Singleton and in district of Patrick’s plains;

and from residents in district of Port Phillip.

Your Petitioners would, therefore, most humbly pray your most gracious Majesty to hear the voice of your subjects from this distant portion of your dominions, and not sanction the passing of a crude and experimental Law unsolicited by your Petitioners, which must affect their rights and privileges as loyal, industrious, and deserving people.

And your Petitioners further pray, before the least alteration is attempted in their Constitutional Law, as at present existing and established, that opportunity will be given for an expression of the opinion of your Petitioners, through your Representatives, upon a subject so vital and momentous to them as subjects of the British Empire.

And your Majesty’s Petitioners as in duty bound will ever Pray.

[Enclosure No. 3.]

The humble Petition of the undersigned Inhabitants of the District of Port Phillip in the Colony of New South Wales, in public meeting assembled.

To the Queen’s Most Excellent Majesty.

Most Gracious Sovereign,

Sheweth.

That a Despatch addressed by the Right Honble. Earl Grey, your Majesty’s Secretary of State for the Colonies, to His Excellency the Governor of New South Wales, has been published by His Excellency, from which the Inhabitants of Port Phillip have learnt with the liveliest emotion of joy and gratitude that it is the determination of your Majesty’s Government to take immediate measures to erect Port Phillip into a separate Colony to be named after your Most Gracious Majesty the Colony of Victoria.

But that the said Despatch also announces the intention of giving a new Constitution and form of Government to the Australian Colonies generally, a Constitution which your Majesty’s Petitioners respectfully aver is universally disapproved of and condemned by the Inhabitants of Port Phillip as unsuited to their requirements, as being experimental, as disturbing a form of Government with which in most particulars they are contented, and as altering and abridging their natural rights as British subjects.

And whereas against this proposed Constitution the Inhabitants of New South Wales proper have very generally petitioned, and it is feared that, if these Petitions are successful, they may also have the effect of delaying the erection of Port Phillip into a separate Colony,

Your Majesty’s Petitioners therefore implore that, mindful of the many intolerable hardships and injustices to which their District is subjected by its union with New South Wales, as set forth in their various former Petitions, and of all the strong grounds on which your Majesty’s Government has decided to erect Port Phillip into an independent Colony, they may without further delay be at once released from these hardships and injustices.

And your Majesty’s Petitioners humbly pray that the District of Port Phillip may be forthwith separated from New South Wales and erected into an independent Colony.
Mr. C. J. La Trobe to Colonial Secretary Thomson.

Superintendent's Office.

Sir, Melbourne, 9th March, 1848.

The enclosed Petition, addressed to Her Most Gracious Majesty, has been placed in my hands for transmission through His Excellency the Governor under circumstances which preclude, if the wishes of the Petitioners are to be complied with, my doing more than stating, that the object of the Petitioners is to depurate the new form of Constitution proposed for the Australian Colonies to this portion of the same, and to urge upon Her Majesty's Gracious consideration the early separation of the Port Phillip District from New South Wales. Upon the latter point, I may however remark that, under the present constitutional Act of the Colony, Her Majesty is precluded from detaching the Port Phillip District from New South Wales and forming it into a Separate Colony, in so much as the last paragraph of the 51st Section of the Act of Parliament, 5 and 6 Victoria, Chap. 76, provides that no part of the territories lying Southward of the 26° of South Latitude in the Colony of New South Wales shall be detached from the Said Colony.

A repeal however of such portions of the present Act, in the event of Obstacles arising in the way of the immediate passing of the new Constitution Act in the precise form contemplated by the Right Honorable the Secretary of State, would enable Her Majesty to confer that boon upon the inhabitants of the Port Phillip District, which has been so long and earnestly prayed for.

I have, &c.

G. J. Latrobe.

[Enclosure No. 5.]

Petition

UNTO Her Majesty Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, etc.

May it please your Majesty,

We the undersigned inhabitants of the District of Windsor in the Colony of New South Wales beg, in approaching your Majesty, to express our ardent and devoted loyalty to your Majesty's person and Government, and our fervent desire that it may be permitted to you by Divine Providence long to sway the British Sceptre with much prosperity and glory.

The contemplated changes in the Constitution of this Colony as respects the Electoral Franchise, which are indicated in the Despatch of the Right Honorable The Secretary of State for the Colonies under date 31st July, 1847, to the Governor of New South Wales, are regarded by us with strong aversion and with anxious dread of the consequences should these changes be effected.

These changes appear to us utterly uncalled for, and unjustified and unexampled by any thing similar in the British Constitution. They will in effect deprive the Colonists of the Elective franchise which they have enjoyed now for five years, and lodge it in the hands of a small irresponsible Body, which will practically be in many instances nominated by the Governor, and in almost all instances will be easily susceptible of being directed by influences other than those of their Constituents. They involve as a first
1848.
27 March.

Petition against changes in constitution from residents in district of Windsor:

step the full operation in the Colony of District Councils, which (Except for a few of the closely peopled Districts and even in these for such purely local purposes as roads, etc., only) are odious to the Colonists, unadvisable and impolitic on general grounds, and impracticable in this Colony where the population is naturally widely dispersed over a vast territory.

As natural born subjects of your Majesty, we consider ourselves entitled to equal rights and privileges with our fellow subjects in the United Kingdom; and we earnestly deprecate the changes alluded to as laying the axe to the very root of those rights and privileges, by depriving us of the most valuable of them, the being present by immediate representation in the Assembly where are enacted the laws by which we are governed. We are most desirous to enjoy a Constitution as nearly as may be alike to that of the United Kingdom; and we accordingly think it due to the Colonists that no measure of magnitude should be passed at home affecting the Colony without their previous assent.

We, therefore, humbly pray that Your Majesty will be graciously pleased to withhold your sanction from any measure calculated to impair our Electoral franchise, or render less direct our representation in the Legislature, and from any important measures affecting our Constitution which have not previously been approved by the Colonists.

And your Petitioners as in duty bound will ever pray, etc.

[Enclosure No. 6.]

The Humble Petition of the undersigned Magistrates, Landholders, and Residents in the District of Picton, County of Camden.

Unto His Excellency Sir Charles Augustus Fitz Roy, Knight Companion of the Royal Guelphic Hanoverian Order, Governor in Chief in and over the Territory of New South Wales and its Dependencies and Vice Admiral of the same, etc., etc., etc.

Respectfully sheweth,

That your Petitioners have learned with much regret and dissatisfaction that it is the intention of Her Majesty's Government to alter the present Constitution of the Colony and substitute in its stead a form of Representation totally at variance with all their ideas of liberty and utterly repugnant to every British Colonist. Your Petitioners would respectfully point to their own District in order to show that it will be impossible to carry out such a scheme as is detailed in the Despatch (No. 203) of Earl Grey to your Excellency. The District contains an area of nearly six hundred square miles, and the population only numbers twelve hundred according to the last Census, while there is but one Village in the whole District containing about one hundred and twenty persons, and distant only fifty miles from Sydney. By the last Electoral List, there appears to be sixty-eight voters; but the number would be considerably increased if the franchise was extended to Leaseholders.

Your Petitioners would also beg to remark that not only would it be impossible to establish District Councils in any shape; but at present there is even a difficulty in finding properly qualified persons to act as local Magistrates; and your Petitioners believe that there are other Districts similarly situated in the Colony.
Your Petitioners would particularly call the attention of Your Excellency to that part of the Despatch where it is admitted that "the intention of Parliament to create local authorities (District Councils) has hitherto been defeated"; but the fact of such a dangerous and iniquitous power being given to any Government Officer as detailed in clause 49 of the present Constitutional Act (5 and 6 Vict., cap. 71) is quite sufficient of itself to account for that part of the Act not having been carried out; and your Petitioners are convinced that all further attempts of this nature will in like manner be defeated.

Your Petitioners therefore pray that the present representative system may be continued to the Colony, and all alterations in their Laws and Government left in the hands of the Legislative Council as at present established.

Your Petitioners respectfully request that your Excellency will be pleased to forward this Petition to The Right Honorable the Secretary of State for the Colonies.

[Enclosure No. 7.]

RESOLUTIONS.

At a Public Meeting held at Queanbeyan in the County of Murray on Wednesday, the 16th of February, 1848 (Dr. Murray being in the Chair), the annexed Resolutions were unanimously adopted:

First Resolution,—Moved by Mr. C. Campbell of Duntroon and seconded by Mr. Hall of Charnwood:

"That this meeting regards the change, which it appears, from the letter of The Right Honorable the Secretary of State for the Colonies recently published, Her Majesty's Ministers contemplate making in the Constitution at present enjoyed by this Colony, with extreme aversion and alarm; conceive that it will virtually deprive the Colonists of the most important privilege of British subjects—viz., the Elective franchise."

Second Resolution,—Moved by Mr. Morey of Gundaroo, and seconded by Mr. J. A. Murray, M.L.C.:

"That, in the event of the proposed change being effected, this meeting would advise their fellow Colonists to adopt a system of passive resistance by refusing to elect Members to the proposed District Councils or Electoral Colleges."

Third Resolution,—Moved by Mr. Hayley, of Queanbeyan, and seconded by Mr. Mowle of Canberry:

"That the chairman be requested to transmit a copy of these Resolutions to His Excellency the Governor, and respectfully to solicit His Excellency to forward them to The Right Honorable the Secretary of State for the Colonies."

Fourth Resolution,—Moved by Mr. Mowle of Canberra and seconded by Mr. L. Rutledge of Molonglo:

"That the Petition now read, being the one which was adopted at the public meeting held at Sydney, be now adopted."

J. F. MURRAY, Chairman.
EARL GREY TO SIR CHARLES FITZ ROY.

(Despacht No. 61, per ship Emperor of China; acknowledged by Sir Charles Fitz Roy, 22nd August, 1848.)

Sir,

Downing Street, 28 March, 1848.

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

I have, &c.,

[Enclosure.]

GREY.

MR. J. MORRISON TO EARL GREY.

May it please your Lordship,

As the Senior brother and next of kin of Sergeant Matthew Morrison attached to Her Majesty's 90th Regiment; and as the said Brother wrote to the War Office about him, and yet no information from them more than desiring to write to Your Lordship. The last letter he received from him, he was in Sydney, New South Wales, serving as a Mounted Police Man in February, 1844.

He humbly hopes Your Lordship will be pleased to inform him whether he now survives or not, as there is a family affair or property depending on his life and now in dispute, requires the above information.

With the most profound respect, &c.,

Collonsey, County Sligo, JOHN MORRISON, Knockbeg.
Ireland, 21st March, 1848.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despacht No. 72, per ship Alert.)

My Lord,

Government House, 28th March, 1848.

I have had the honor to receive Your Lordship's Despatch No. 210 of the 27th August, 1847, forwarding a copy of the Letters Patent, which the Queen has been pleased to issue under the Great Seal of the United Kingdom*, reconstituting the Bishoprick of Australia by reducing the same to a See to be styled the Bishoprick of Sydney, and appointing the Right Reverend William Grant Broughton to be Bishop of the See of Sydney, and also erecting three distinct Bishops' Sees styled the Bishopricks of Newcastle, Adelaide and Melbourne.

Your Lordship further transmits copies of the Letters Patent erecting the Bishopricks of Newcastle and Melbourne, and appointing the Reverend William Tyrrell, D.D., and the Reverend Charles Perry, D.D., to be ordained and consecrated Bishops of those Sees respectively.

* Note.—The margin is blank.
I have the honor to report to Your Lordship that the Lord Bishop of Sydney was Installed in the Bishoprick as Metropolitan on the 26th January last; that the Lord Bishop of Newcastle arrived in Sydney on the 16th January, and was Installed in his Cathedral at Newcastle on the 31st of the same month; and that the Lord Bishop of Melbourne arrived at Melbourne on the 23d January, and was installed in the Cathedral Church of St. James on the 13th February last.

I have, &c.,

CHS. A. FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 73, per ship Alert; acknowledged by earl Grey, 30th August, 1848.)

My Lord,

Government House, 29th March, 1848.

I have had the honor to receive Your Lordship's Despatch No. 177 of 25th June, 1847, informing me that, pending the consideration which, in my Despatch No. 40 of 18th February, 1847, I reported was in the course of being given by a Committee of the Legislative Council on the subject of the Rules of the Supreme Court promulgated by the Judges of this Colony, your Lordship would postpone submitting the said Rules for the confirmation of Her Majesty.

I have the honor to inform Your Lordship that the Committee, to which I alluded, "on Supreme Court Legislation and Taxation," appointed in August, 1845, brought up a progress report and evidence, and was re-appointed in the first Session of 1846, since which time nothing further has been done and no new Committee appointed.

I have the honor to enclose Rules of Court, promulgated by the Resident Judge at Port Phillip, which, in accordance with the 24th Clause of the Colonial Enactment, 4 Victoria, No. 22, must be submitted for the approval or disallowance of Her Majesty; and the numbers and dates of the Despatches in which, since the 18th February, 1847, I have transmitted Rules of Court for the confirmation of Her Majesty, are enumerated in the margin.*

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

[Copies of these rules of court were published in the "Government Gazette."]

* Marginal note.—Nos. 40, 18 February; 61, 28 March; 144, 14 July; 169, 22 August; 205, 13 October, 1847.
Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 75, per ship Alert; acknowledged by Earl Grey, 14th December, 1848.)

My Lord,

Government House, 30th March, 1848.

I have the honor to transmit a Memorial from Mr. Charles Windeyer, who has held the Office of Police Magistrate of Sydney since 1831, soliciting to be allowed to retire on a Pension on account of his advanced age and increasing infirmities.

I deemed it proper to submit this Memorial to my Executive Council, together with an application made by Mr. Windeyer, and supported by two Medical Certificates, to be allowed leave of absence for twelve months on half Salary; and I have to state to Your Lordship that, with the advice of the Council, I have sanctioned his request by granting the leave applied for with half salary until Your Lordship's decision shall be received on his application for a Pension.

The Council, in respect to Mr. Windeyer's application for permission to retire finally from the Office which he has so long and so ably filled, felt it but an act of justice on their part to express their opinion that his services entitle him to the most favourable consideration of Her Majesty's Government; and, in proof of the respect in which Mr. Windeyer is held and of the efficiency with which he has performed the duties of his Office, the Council thought it necessary to refer to the Certificates of the Judges of the Supreme Court and the Attorney General, which accompany his Memorial.

I have further the honor to state to Your Lordship that the Council, concurring in the opinion contained in those Certificates, expressed their hope that I would represent to Your Lordship that the Public service would be benefitted by Mr. Windeyer's retirement from a situation, which his age and infirmities will no longer allow him to fill efficiently; and, with the advice of the Council, I beg to recommend that he may receive the highest rate of Pension, which can be awarded to him consistently with established usage.

Mr. Windeyer was appointed Chief Clerk in the Police Office, Sydney, on 1st October, 1828, with a salary of £250 a year.

On 1st August, 1831, he was appointed Assistant Police Magistrate with £350 per annum; and, on 1st October, 1843, Second Police Magistrate with £400 per annum, which rate of Salary he has since enjoyed.
He was also appointed on the 12th March, 1837, a Commissioner for reporting on claims to Grants of Land, which Office he still holds; but the emoluments derived from it are uncertain, and at the best but small.

Chs. A. Fitz Roy.

[Enclosures.]

[Copies of these papers are not available.]
Office and duties of senior police magistrate.

1848. 30 March.

1. Preventing nuisances and obstructions therein; but the regulation of the Police Force and the outdoor duties of the Office are by arrangement left to an Officer, termed "Commissioner of Police," the Senior Police Magistrate presiding in the Police Court and disposing of matters brought before him whether under the Police or other local or British Laws.

2. The Office is in the gift of the Crown; but, although persons have in some instances been selected by the Secretary of State, the appointment to this and similar Offices in the Colony may be considered to have been practically with the Governor, subject to the confirmation of the Secretary of State. Mr. Windeyer the retiring Officer was so appointed.

3. The chief duty of the Senior Police Magistrate is to transact the daily business brought before him at the Sydney Police Office: and intelligence, discretion, and Colonial and general information and experience are qualifications very necessary for the Office.

4. Salary £400 a year without allowances.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

The Memorial of Joseph Long Innes, one of the Police Magistrates for the City of Sydney, Colony of New South Wales, and formerly Captain in the 39th Regiment of Foot.

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

Respectfully Sheweth,

That your Memorialist entered the Army as an Ensign in the 39th Regiment of Foot in April, 1825, having received his Commission from His Royal Highness, the late lamented Duke of York, at Your Memorialist's own personal solicitation, and Served as Adjutant of that Corps for Ten Years, when he was promoted to a Company in January, 1837. Shortly after which, whilst serving in India, Your Memorialist was attacked with disease in his right leg, so violent as to render amputation necessary, which operation was accordingly performed, blighting at once Your Memorialist's professional prospects at the early age of Thirty-one.

In 1838, Your Memorialist returned to the Colony of New South Wales, where his Wife and family were residing, and was in December of the same Year placed by His Excellency the late Sir George Gipps in the Commission of the Peace, which he has ever since continued to hold; in September, 1839, Your Memorialist was appointed to the Office of Superintendent of Gangs, and in the November following to the command of the Sydney Police; this body Your Memorialist succeeded in raising from a neglected and undisciplined State to a degree of good order and efficiency...
Fitz Roy to Grey.

which they had never before attained; and, on his success in doing so, Your Memorialist was complimented by His Excellency the Governor.

Your Memorialist continued to discharge the duties of Superintendent of Police for twenty-one months, when he was superseded by a Gentleman sent out from England, as Your Memorialist made no effort to have himself confirmed in the appointment; but Your Memorialist would respectfully draw Your Lordship's attention to the fact that, on its being notified that a Superintendent of Police was appointed in England, the Magistrates of the District unanimously addressed Sir George Gipps requesting him to take measures to have Your Memorialist continued in his position; as this of course could not be done, Your Memorialist fell back upon his former appointment as Superintendent of Gangs, and was subsequently appointed Visiting Magistrate of the Gaol, of the Lunatic Asylum, and of the Penal Settlement of Cockatoo Island; for this last most arduous and harassing duty, Your Memorialist has never received any remuneration, although Your Memorialist has reason to believe the manner in which that duty has been performed has given universal satisfaction.

Your Memorialist would further respectfully state that for many years past the greatest portion of the duty of the Sydney Bench has been performed by him gratuitously, at a great expense of time and labour, and that he has ever been found at his post as Police Magistrate, when energy either bodily or mental was called for for the public good.

Your Memorialist begs leave further most respectfully to show that, from his long experience in the Colony, his undivided attention to his Magisterial duties, and his unvarying attention to passing events, that he has attained an experience in the Police affairs of the Colony in general and of the City of Sydney in particular equal if not superior to any man in New South Wales.

In confirmation of these statements, Your Memorialist would most respectfully refer Your Lordship to His Excellency Sir Charles A. FitzRoy, the present Governor, to the Honorable the Colonial Secretary, to the different Officers of the Government of the Colony, and finally to the opinion of every Colonist in New South Wales, who has any knowledge of Your Memorialist.

Your Memorialist would beg leave most respectfully but at the same time most particularly to refer Your Lordship to the annexed testimonials from the different Officers under whom he has served.

Your Memorialist now most respectfully showeth that he has been appointed by His Excellency Sir Charles A. Fitz Roy, Knight, the present Governor, to act as Senior Police Magistrate upon the retirement of the Gentleman (Mr. Charles Windeyer) who has for many years held the situation, and therefore Your Memorialist humbly prays that, in consideration of his long and faithful services, his unceasing zeal, and untiring exertions. Your Lordship will be pleased to recommend him to the favourable consideration of Her Most Gracious Majesty the Queen for confirmation in the appointment of Senior Police Magistrate of Sydney, New South Wales.

And Your Memorialist will as in duty bound ever pray.

Sydney, New South Wales, 15th March, 1848.

Joseph Long Innes.
Petition requesting continuance of J. L. Innes as superintendent of police.

February, 1840.

We, the undersigned Magistrates of New South Wales residing in the district of Sydney, having been informed that a Superintendent of Police is on his passage from England to relieve Captain Innes from that situation, respectfully beg leave to express our regret to Your Excellency that the Home Government should have contemplated the removal of so efficient a Public Officer, who has on all occasions performed the important duties required of him to our perfect satisfaction and having co-operated with us in our Magisterial capacities, the peculiar nature of which in this Colony requires energy and local experience which Captain Innes possesses in an eminent degree.

We, therefore, humbly request that, should it not be inconsistent with instructions from Her Majesty's Principal Secretary of State for the Colonies, Your Excellency will be pleased to retain Captain Innes in the situation he so ably fills at present.

We are strangers to Mr. Miles, who may be shortly expected to arrive in this Colony, with a recommendation for the above appointment; therefore can have no personal prejudice against that gentleman; our only object in now addressing Your Excellency being to preserve the good order and quietude of the inhabitants of Sydney which have been so well maintained by Captain Innes.

J. Bowmax.
W. S. Deloitte.
R. B. Sparke.
T. Snaithforth.
W. H. Clarke.
Thomas Gore.
S. Raymond.
Stuart A. Donaldson.
Randolph Dacre.

Although not having had the pleasure to co-operate with Captain Innes on the Bench, I am not ignorant of the value of his services and his peculiar adaptation for the situation he now holds, and therefore respectfully recommend the prayer of the Memorial.

Thos. Baker, J.P.

Reply to petition by Sir G. Gipps.

February, 1840.

Gentlemen,

A Superintendent of the Sydney Police having been appointed by the Secretary of State, I regret it is not in my power to comply with the main object of your address. I am, however, extremely happy to find that the services of Captain Innes are so highly appreciated by his Brother Magistrates, and I assure you there is not one amongst you, who estimates them higher than I do.

Though no longer Superintendent of Police, I trust Captain Innes will still continue in a situation in which he may render essential services to yourselves and the inhabitants of Sydney.

G. Gipps.

Letter to Captain Innes.

February, 1840.

My dear Innes,

Bangalore, 14th December, 1833.

I cannot leave the Regiment without expressing to you the great satisfaction you have given to me in the performance of your duty as Adjutant of the Corps.

The circumstances of the Regiment not being together for seven years previous to our arrival in India, and the multiplicity of orders, correspondence and Returns in this Country, all new and strange to us, left you much to do, both on the parade and in the Orderly Room; all these difficulties have been surmounted by your intelligence, zeal and activity in a manner highly creditable to yourself and advantageous to the Corps. I beg you to accept my best thanks for your exertions and believe me to be most truly and sincerely yours.

D. McPherson.

FITZ ROY TO GREY.

[Sub-enclosure No. 4.]

Choultry Plain, Madras, 16th November, 1835.

BEING about to leave India and observing that, by Casualties in the 39th Regiment, no very distant prospect of promotion awaits Lieutenant and Adjutant Innes, I think it may possibly be of service to him that he should be able, when the proper time arrives, to produce some Certificate of his conduct and qualifications from those who have known him longest. For this reason and with every hope of its being of use in forwarding his interests, I am anxious to volunteer this testimonial of my perfect approbation of his conduct as an Officer and his Character as a Gentleman from the period he first joined the Regiment.

He was at my recommendation appointed Adjutant in 1827, and performed the duties of that responsible situation under my immediate eye for Five years with a zeal, activity and intelligence, which I have reason to know he has maintained under other Commanding Officers since I have been employed on the Staff.

Under these circumstances, I confidently and earnestly recommend him to the favorable notice of His Excellency the Commander in Chief, assured that there is no Officer who will do more credit to any promotion that may be conferred on him than Lieutenant and Adjutant Innes.

P. LINDESAY, Colonel,
Lieut. Col. 39th Regiment.

[Sub-enclosure No. 5.]

LIEUT.-COLONEL POOLE TO MILITARY SECRETARY AT MADRAS.

Sir, Bangalore, 4th Feb., 1838.

I have the honor to transmit herewith a Letter to my address from Captain from T. Poole; Innes of the Regiment under my command, together with the Memorial and other documents therein referred to (in Duplicate), which I request you will be pleased to submit to His Excellency the Commander in Chief, with a view to their being forwarded to His Lordship, the General Commanding in Chief Her Majesty's Forces.

In submitting these documents for consideration, I feel it to be a pleasing duty incumbent on me to state that, since I assumed command of the 39th Regiment in December, 1833, Captain Innes uniformly evinced the most indefatigable real, attention and intelligence in the discharge of his important duties as Adjutant of the Regiment, and as Captain of a Company since his promotion.

I beg leave further to State that, in every particular both as an Officer and Gentleman, Captain Innes is fully entitled to my most unqualified approbation. I, therefore, take the liberty of respectfully recommending his case to the favourable consideration of His Lordship.

I have, &c,
T. POOLE, Lieut. Colonel,
Commanding H.M. 39 Regt.

[Sub-enclosure No. 6.]

SIR MAURICE O'CONNELL TO CAPTAIN INNES.

Sir Maurice O'Connell presents his Compliments to Captain Innes and encloses for his perusal a letter he (SIR M.) received by the latest arrival from Lord Fitz Roy Somerset, as it may be pleasing to him (Capt. Innes) to know how the merits of his services are appreciated by Lord Hill.

Sir Maurice called at the Hyde Park Barracks to ask for Captain Innes, but did not find him at that time. Sir Maurice communicated to His Excellency the Governor the purport of Lord Hill's recommendation, and the Governor said he was happy to have anticipated His Lordship's wishes.

Tasmania, 19th Sep., 1839.

[Sub-enclosure No. 7.]

LORD FITZROY SOMERSET TO SIR MAURICE O'CONNELL.

My dear General,

Lord Hill has desired me to draw your attention to the case of Captain Innes of the 39th Regiment, who, after having been many years Adjutant of that Corps and having acquired in the situation the approbation and good opinion of all who witnessed his exertions, had the misfortune to be attacked with such violent inflammation in the leg as to lead to the amputation of the limb and to his undergoing much Suffering.

Upon the recommendation of Sir Robert O'Callaghan, Lord Hill has granted this deserving Officer leave of absence to March, 1841; and, as during that time he will reside in New South Wales, His Lordship would be much obliged to you if you would mention him to Sir George Gipps, who perhaps might be so good as to place him in a Colonial situation for which his habits of business, his integrity and his talents might qualify him to fill.

Believe me, &c,
FITZROY SOMERSET.
1848.
31 March.

Sir Charles Fitz Roy to Earl Grey.
(Despatch No. 78, per ship Alert; acknowledged by Earl Grey, 18th August, 1848.)

My Lord,

Government House, 31st March, 1848.

In submitting for Your Lordship's consideration the accompanying copy of a communication addressed to the Secretary of this Government by the Committee of the Sydney Benevolent Society, requesting that the contribution from the Military Chest in aid of the funds of that Institution should be continued at the rate of £2,000 a year until the state of this community shall have undergone such a change as will relieve the British Government from any just claim upon it for assistance, I deem it my duty to call Your Lordship's attention to the instructions conveyed to my predecessor in Lord Stanley's Despatch, No. 189 of the 16th September, 1842, directing "that the annual aid thereafter to be afforded to the Institution was not in any case to exceed £2,500," and "that that sum was to be gradually reduced in amount in proportion as the peculiar state of things, which led to its being afforded, shall cease to exist, until it be entirely discontinued."

Acting upon these instructions, Sir Geo. Gipps in 1846 had reduced the amount to £2,000; and this year I felt it my duty still further to reduce it to £1,500.

The Committee, as Your Lordship will perceive, have remonstrated against this further reduction, urging that the proportion which the originally convict inmates of the Institution bears to those, who arrived free or who are natives of the Colony, instead of having decreased have very considerably increased, and therefore that the principle laid down by Lord Stanley, upon which the Government contribution was to be gradually diminished until finally discontinued, will not justify the reduction I have made.

I believe the statement of the Committee with respect to this increase in the proportionate number of the originally Convict inmates to be borne out by the fact, and that for the reasons alleged this proportion is likely to continue for some time to come; but, considering myself bound by Lord Stanley's instructions to make some attempt at reduction, I have caused the Committee to be informed that, unless I can obtain your Lordship's sanction, I do not feel at liberty to continue the contribution at the rate they have applied for, although at the same time I am bound to apprise Your Lordship that, unless it be continued, I greatly fear it will not be possible to maintain this valuable institution in its present state of efficiency.

I have, &c.,

Chs. A. Fitz Roy.
MR. G. ALLEN TO COLONIAL SECRETARY THOMSON.

Sir,

Sydney, 29th February, 1848.

I have the honor to acknowledge the receipt of your letter of the 25th January, stating that His Excellency the Governor had given directions that a Warrant should be issued for the sum of £375 as the first quarterly instalment of the Sum of £1,500, being the largest sum which His Excellency could sanction being appropriated in aid of the funds of the Benevolent Society for the current year.

Upon the receipt of the abovenamed communication, I considered it my duty to call a meeting of the General Committee to consider under these circumstances what measures ought to be adopted, and a Sub-committee was appointed, to whom the consideration of the matter was recommended; and, by their direction, I beg to submit the following statement for the consideration of His Excellency.

The Committee would in the first place beg to draw the attention of His Excellency to the following extract from a Despatch from Lord Stanley, No. 189, dated 30th September, 1812, received by the late Governor Sir George Gipps.

"You will therefore be at liberty to sanction the contemplated contribution of £3,000 from Convict Funds, should it be required towards defraying the expenditure of the Asylum for the present year; but the amount of aid hereafter is not in any case to exceed £2,500 a year. You will also bear in mind that that sum must be gradually reduced in amount, in proportion as the peculiar State of things, which led to the assistance being afforded, shall cease to exist until it be entirely discontinued."

From this extract, it will be seen that the principle is laid down that, while the peculiar State of things which led to the assistance being afforded continued to exist, that assistance should be continued in the proportion, which the originally convict inmates bear to those, who arrived free or who are natives of the Colony; and that it was only contemplated to withdraw that assistance as the abovenamed proportion decreased.

Now so far from any favourable change in that proportion having taken place, the reverse is the fact.

In a communication made to you by the Committee for the consideration of the Home Government, dated 29th June, 1843, it is stated that, according to a return of the State of the House made by direction of His Excellency the then Governor, there were in the Asylum on 23rd of March, 1843, three hundred and thirty-one (331) inmates, exclusive of 13 children, mostly in arms, of whom 86 arrived in the Colony free or were Natives, and 245 as Convicts, being a proportion of nearly four fifths. By a similar return made on the 15th February, 1848, the number in the Asylum is stated to be 367, exclusive of 33 Children mostly in arms; of these 291 arrived in the Colony as Convicts, and 76 free or are natives of the Colony, showing a proportion of rather more than four fifths; and, as this proportion has been increasing instead of decreasing since the first date mentioned, so it is likely to do for some time to come. Inasmuch as the individuals referred to, when they become worn out in their respective employments, will be forced to seek for support from this institution,
they being a class of persons, who seldom provide for the wants of old age; and this state of things is not likely to be alleviated by the arrival of vigorous young men, who of course will obtain employment in preference to many of those who are retained merely as better than none.

The Committee would further beg to state that the Society at the present time stands more in need of assistance than at past periods from many circumstances, one of the most important being the reduction of the amount received for unclaimed Pounds, which amount from nearly £2,000 per annum is rapidly becoming merely nominal.

Another diminution of the income arises from similar societies participating in the fines for drunkenness, etc., while this institution is not proportionately relieved from the reception of up-country paupers.

Nor do the Committee see any prospect of the funds from other sources at all increasing to make up for the losses sustained; and, with an increasing expenditure, and a decreasing income, they cannot help feeling the greatest anxiety as to how the institution is to be sustained in its present beneficial state to the colony, should his excellency not feel authorised to continue the smallest allowance the society has yet received, namely £2,000 per annum.

In the communication to which reference has already been made, it is stated that the proportion of the expense contributed by the British Government to the cost of the Establishment was about three fifths of the whole: during the past year, that proportion did not amount to two fifths, with a larger proportion of convict inmates to maintain.

Under these circumstances, the Committee fervently hope that his excellency will be pleased to continue to the society the annual grant of £2,000, until the state of the community shall have undergone that change, which will relieve the British Government from any just claim towards aiding the funds of the Institution.

I have, &c,

George Allen, Secretary.

Sir Charles Fitz Roy to Earl Grey.

(Despatch No. 79, per ship Alert; acknowledged by earl grey, 30th September, 1848.)

My Lord,

Government House, 31st March, 1848.

With reference to your predecessor's despatch of the 30th March, 1848, respecting the contemplated division of the Bishopric of Australia into three sees, which has now been carried into effect, I do myself the honor to transmit to your lordship a minute of my executive council respecting the provisions to be made for the payment of that portion of the salaries of the newly-appointed bishops, which is to be defrayed out of the public revenue of the colony, and respecting the mode of obtaining the funds requisite for the building of suitable episcopal residences, in accordance with the intentions expressed in Mr. Gladstone's despatch above referred to.
In pursuance of the 27th Clause of Her Majesty's Instructions of the 20th February, 1846, which were forwarded to me on my appointment to the administration of this Government, and of the Minute of the Executive Council of this Colony on which the portion of those Instructions to which I refer was founded, the yearly sum allotted to the Church of England out of the £30,000, provided by Stat. 5 and 6 Victoria, Cap. 76, has been divided into two portions, the one comprising *five sixth* (5/6th) parts of the entire sum is designated the Stipend Fund, the other consisting of the remaining sixth part is designated the Building Fund.

The former of these two funds is of course that out of which the salaries of the two newly appointed Bishops should be paid, but, its amount being insufficient to bear this additional charge, I have determined, under the advice of my Executive Council, to reduce the Building Fund, in order to provide the sum required without any disturbance of the salaries and allowances, which are now enjoyed by existing Clergymen. On the vacation of their Cures by those Clergymen who were appointed previously to the passing of the local Act 7 William IV, No. 3, and whose Stipends are considerably higher than those now granted, the means of again restoring the Building fund to its due proportion will be afforded.

It may be necessary for me to remark that, in the instructions referred to, Her Majesty specially reserved to Herself the power of modifying the appropriation of the portion of the £30,000, allotted to the Church of England for the express purpose, it appears from Mr. Gladstone's Despatch of the 17th January, 1846, No. 19, of enabling Her Majesty's Government to "provide effectually for the then contemplated arrangements respecting the Anglican Church in Australia."

The amount, which I shall have occasion to deduct from the present Building fund of the Church of England is £500, being the difference between the total sum to be paid to the two newly appointed Bishops and the sum surrendered by the Bishop of Sydney out of the Salary formerly attached to the See of Australia.

I have now to advert to the second topic referred to in the enclosed Minute, namely the provision to be made for the Building of Residences for the three Bishops of Sydney, Newcastle, and Melbourne.

It is quite certain that the portion of the £30,000 assigned to the Church of England, charged as it is with the additional £500 above referred to, will not afford any Surplus out of which to
derive funds for the erection of the Bishops' Residences in the manner proposed in Mr. Gladstone's Despatch of the 30th March, 1846. Under these circumstances, I beg to recommend, in accordance with the advice of my Executive Council, that the sum of £6,000 should be set apart for the purpose out of the Revenue derived from the Church and School Estates.

The provision made by Parliament for Public Worship in the Colony being already inadequate to its wants, the question respecting the appropriation of the income arising from the Church and School Estates has become one of pressing importance. I, therefore, gladly avail myself of this opportunity to bring under Your Lordship's notice the concluding part of the Minute of the Executive Council of this Colony of the 9th June, 1845, which was forwarded in my Predecessor's Despatch of the 7th August, 1845. The Council then set forth the general state of the Revenue arising from the Church and School Estates and the purposes to which it was dedicated; and recommended a plan for its distribution in accordance with the principle on which they at the same time advised that the £30,000, provided by Stat. 5 and 6 Victoria, Cap. 76, should be divided. On that recommendation, however, no decision has as yet been communicated to this Government.

The net sum at the credit of the Church and School Lands Revenue on the 2d February last was £15,342 6s. 8d., of which nearly £9,000 would fall to the share of the Church of England under the plan of distribution recommended in the Minute above referred to, and more than £6,000 would be available for Church purposes. There is, therefore, a sufficient sum now in hand for the payment of the sums proposed to be granted for the erection of the Bishops' residences, should Your Lordship sanction the arrangement.

I may mention that one half of the surplus at the end of the year 1846, amounting to £387 8s. 7d., was applied on the recommendation of the Lord Bishop of Australia to the completion of the Parsonage at Morpeth as a temporary Residence for the Bishop of Newcastle. No provision has as yet been made out of the public funds for a Residence for the Bishop of Melbourne.

Your Lordship has already been informed by my Despatch No. 24 of 29th September, 1846, of the inability of the Government to carry out Mr. Gladstone's instructions respecting the disposal of the surplus of 1844, in consequence of the previous promise made by my Predecessor to the Bishop of Australia.

I have, &c,

CHS. A. Fitz Roy.
PROCEEDINGS of the Executive Council relative to the provision to be made for the payment of the Salaries of the Bishops of Newcastle and Melbourne, and for the building of Episcopal Residences to those Sees and that of Sydney.

EXTRACT from Minute No. 48/4, dated 3rd February, 1848, and confirmed 9th March, 1848.

Members present:—His Excellency the Governor; The Honorable the Commander of the Forces; The Honorable the Colonial Secretary; The Honorable the Colonial Treasurer.

His Excellency the Governor lays before the Council a Despatch from the Secretary of State (then Mr. Gladstone) dated the 30th March, 1846, No. 13, announcing the intended division of the Bishoprick of Australia into three Sees; and also a letter from the Bishop of Australia on the same subject.

The Bishops of Newcastle and Melbourne having now arrived in the Colony, it was necessary to consider in what manner provision should be made for the payment of that portion of their Lordships' Salaries, which was chargeable on the Fund provided by the Statute, 5 and 6 Vict., cap. 76, for the purposes of Public Worship. The whole amount so chargeable was £1,000 per annum; but of this £500 would be made up by a reduction in the Salary of the Bishop of Sydney to that extent. The sum, therefore, which it would be necessary to provide in addition to the sum hitherto allotted to the Bishoprick of the Diocese of Australia, would be £500; and, the Stipend Funds of the Church of England being insufficient to bear this additional charge, some modification of the present distribution of the Funds assigned for the Public Worship of that Church would be necessary.

His Excellency had also to bring under the consideration of the Council the course, which it would be expedient to adopt in order to provide suitable Residences for the three Bishops, as proposed in Mr. Gladstone's Despatch. The surplus accrued at the end of the year 1844, out of which it was intended that a large proportion of the requisite funds should be provided, was applied, as the Council were aware, to other purposes, in performance of a promise made by this Government previously to the receipt of Mr. Gladstone's Despatch; and it is highly improbable that there will be any surplus in future years of an amount sufficiently considerable to afford the means of carrying out Mr. Gladstone's intention. It will be necessary, therefore, to look to some other source for the sums requisite for the building of the Bishops' Residences. That which has suggested itself to His Excellency as the most suitable Fund, from which to draw those sums, is the Revenue derived from the Church and School Estates, should Her Majesty's Government be disposed to sanction its appropriation in that manner. This Revenue, during the continuance of the former Legislative Council, added to the ways and means of the year in consideration of the entire sums required for the Religious and Educational Establishments having been supplied by Legislative appropriation. But, since the establishment of the present Legislative Council, it has formed a part of the Crown Revenue; and there is now a balance at its credit to the amount of £15,342 6s. 8d. In the Minute of the Executive Council of the 9th June, 1845, upon which
the existing distribution of the £30,000 provided for Public Worship was directed by His Majesty, it was recommended that the Revenue in question should be appropriated to purposes of Religion and Education in the proportion of five seventh parts to the former and two seventh parts to the latter, and that the yearly sums thus allotted to these purposes should be divided in the same manner as the £30,000 above referred to. On this recommendation, however, no decision of the Secretary of State has been given.

After consideration of the subjects thus brought under their notice, the Council advise that the sum, required to make up the Salaries of the Bishops of Newcastle and Melbourne to the yearly amount authorized by Her Majesty's Government, should be paid out of the present Building fund of the Church of England, that fund being reduced for the purpose under the power which Her Majesty specially reserved to Herself in Her Instructions of modifying the appropriation of the portion of the £30,000 assigned to the Church of England.

The Council further advise that His Excellency should bring under the notice of the Secretary of State the recommendation contained in their Minute of the 9th June, 1845. respecting the appropriation of the Revenue derived from the Church and School Estates; and that, in the event of those recommendations being adopted, the sum of £6,000 out of the share allotted to the Church of England should be set apart for the purpose of providing Residences for the Bishops of Sydney, Newcastle and Melbourne on the condition stated in Mr. Gladstone's Despatch that not more than £2,000 shall be applied in any one of the three cases.

FRANCIS L. S. MEREWETHER,
Clerk of the Council.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 80, per ship Alert.)

My Lord,

Government House, 31st March, 1848.

Referring to my Despatch No. 52 of the 28th ultimo, I have the honor to inform Your Lordship that a Warrant has been prepared in favour of Deputy Commissary General Ramsay for the further sum of £10,000 to form a remittance to England for the purpose of defraying the expenses of Emigration to New South Wales and Port Phillip, and that the Certificate from the Deputy Commissary General on his receipt of the money will be forwarded to the Emigration Commissioners in London with a view to their receiving the money from the British Treasury.

With this sum of £10,000, the total amount now paid on account of Emigration will be £70,000.

I have, &c.,

CHS. A. FITZ ROY.
SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 81, per ship Alert.)

My Lord, Government House, 31st March, 1848.

I have the honor to inform Your Lordship that a Requisition has been forwarded to the Colonial Agent General for Type for the Government Printing Establishment at Sydney, and that I have given the proper authority for the estimated expense, viz. £220, being issued to Deputy Commissary General Ramsay from the Colonial Treasury. I have, therefore, to beg that Your Lordship will have the goodness to cause the necessary order to be given for a corresponding amount to be issued to Mr. Barnard from Her Majesty's Treasury to enable him to comply with the Requisition.

The Certificate from the Deputy Commissary General on his receiving the money will be sent to Mr. Barnard; and I have the honor to state that the cost of the Type will be defrayed out of the General Revenue at the disposal of the Legislative Council.

I have, &c.,

CHS. A. FITZ ROY.
1848.
31 March.

without making it a Free Warehousing Port. To this extent, therefore, I would recommend that the prayer of the Petition should be granted.

I have, &c.,

Chs. A. Fitz Roy.

[Enclosures.]

[Copies of these papers are not available.]

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 83, per ship Alert; acknowledged by Earl Grey, 24th October, 1848.)

1 April. My Lord, Government House, 1st April, 1848.

Transmission I have the honor to enclose the copy of a letter from the Superintendent of the District of Port Phillip, covering a Petition which had been addressed to him by Mr. Wm. Chambers Sparrow, Locker in the Customs' Bonded Stores at the Port of Melbourne, praying, for the reasons therein set forth, an increase of Salary.

I also transmit the copy of a letter from the Acting Collector at Melbourne forwarding and reporting upon Mr. Sparrow's request; and as, by the reply to a reference which I desired to be made to the Superintendent, I find that a compliance with the prayer of Mr. Sparrow's Memorial would not give rise to any similar claim on the part of any other Officer of the Department, unless the increasing state of the Port should warrant such a proceeding, I beg to recommend Mr. Sparrow's application to Your Lordship's favorable consideration, and that his Salary be increased Fifty pounds per annum in accordance with the suggestion of Mr. La Trobe.

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. 84, per ship Alert; acknowledged by Earl Grey, 12th December, 1848.)

3 April. My Lord, Government House, 3d April, 1848.

Transmission With reference to my Despatch No. 239 of the 6th December last, in which I informed Your Lordship that I, in conjunction with my Executive Council, was engaged in framing Regulations for the occupation of Crown Lands within the Settled Districts in accordance with the 4th chapter of Her
Majesty's Order in Council* of the 9th March, 1847, I have the honor to forward herewith a Copy of the Regulations which, with the advice of the Council, I have established subject to Your Lordship's approval.

I also enclose a Minute of the Executive Council in reference to the Regulations.

As this Minute affords all the explanation which appears to me to be requisite for Your Lordship's information as to the general principles on which the Regulations have been framed, it is unnecessary that I should trouble you with any further remarks from myself on the subject.

I have, &c,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

[This was a copy of the supplement to the issue of the "Government Gazette," dated 20th March, 1848.]

[Enclosure No. 2.]

MINUTE of the Executive Council explanatory of the provisions contained in the Regulations, framed by them, respecting the occupation of Crown Lands in the "Settled Districts" of the Colony.

EXTRACT from Minute No. 48/8, dated 31st March, 1848, and confirmed by the Council on the 3rd April, 1848.

Members present:—His Excellency the Governor; the Honorable the Commander of the Forces; the Honorable the Colonial Secretary; the Honorable the Attorney General; the Honorable the Colonial Treasurer.

With reference to the Minute of Proceedings on the 13th Instant, which has just been read and confirmed, and which contains the advice of the Council that the Code of Regulations then finally adjusted by them for the occupation of Crown Lands within the settled Districts should be issued, the Council desire that the following Minute, explanatory of the principles on which those Regulations were framed, should be now recorded.

By the Fourth chapter of Her Majesty's Order in Council of the 9th March, 1847, under the authority of which the Regulations now issued have been framed, the Governor is empowered to grant Leases of lands within the Settled Districts for terms not exceeding one year and for pastoral purposes only. He is also empowered to make general Rules, under which the holders of purchased lands in the Settled Districts may be permitted to pasture their flocks free of charge on any adjacent Crown Lands, provided that this privilege shall in no way interfere with the right of the Government to dispose of the lands either by sale or by lease for one year.

It is not discernible, from the terms of the order above cited, whether, in conceding to the holders of purchased land the

* Note 26.

1848.

3 April.
privilege of pasturing their stock free of charge on adjacent vacant lands of the Crown, it was contemplated that such vacant lands should be parcelled out amongst the adjoining proprietors, so as to confer on each an exclusive right of pasturage over a particular portion, or whether it was merely intended that they should have the use of them in common. The Council have, therefore, felt themselves at liberty to lay down the rules, which appears to them to be the most simple and the most expedient, that, without any formal license to that effect, the mere holding of purchased lands shall carry with it the right of commonage over any adjacent Crown Lands, which may be unlet; but that the exclusive occupancy of any particular portions of land shall only be acquired by the purchase of a lease thereof from the Crown.

Seeing, however, that, except in particular situations, such as the neighbourhood of Towns, where lands have been sold in small allotments, a commonage right is but of little value in this Colony, and fully appreciating the policy of allowing to purchasers of lands the use of adjoining Crown lands for pasture at an easy rate, the Council have provided that every holder in fee simple of 640 acres or more in one block shall be allowed to obtain without competition, at the minimum rent allowed by the Regulations, the lease of any adjoining Crown Lands which may be available to an extent not exceeding three times the area of his fee simple Estate.

The minimum price at which lands can be obtained on lease has been fixed. It will be observed, at a lower rate than any which has hitherto been adopted in the Colony. The minimum, which was previously £1, was in the year 1840 raised to £5 per Section; but experience has proved that the former rate was more productive of revenue, and a return to it was in contemplation before Sir George Gipps' retirement from the Government, and was only postponed in consequence of the expected arrival of the general Regulations of Her Majesty's Government respecting the occupation of Crown Lands in this Colony. Those Regulations having restricted the use of lands held under lease in the Settled Districts to pastoral purposes, instead of allowing them to be applied to any purpose as was the practice before, the Council have thought it expedient and equitable, as well as in accordance with what appears to them to be the Spirit of the Order in Council, that the minimum Rent should be assimilated to that fixed for lands in the Unsettled and Intermediate Districts. They have accordingly adopted the minimum of Ten shillings per Section. This reduction, it is hoped, will not merely tend to satisfy the residents in the Settled Districts, who view with jealousy the concessions made to what is termed the Squatting Interest, but will also materially augment the Revenue. The pre-emptive right granted by the 16th and 22nd Clauses of the Regulations, the exposure of all leases not taken under the pre-emptive right to sale by auction, and the power of obtaining any leases put up but not sold at auction by simple application at the Treasury, may be expected by their conjoint operation, coupled with the low minimum and the prospect of a yearly renewal of a lease when once obtained, to cause
nearly all the available lands in the Settled Districts to be taken
on lease, in which case the yearly Revenue will reach a much
larger amount than any hitherto obtained from this source.

In allowing the pasturage of lands free of charge, the Governor
is restricted by the Order in Council to "holders of purchased
lands." It is considered that holders of land, granted subject to
Quit Rent, who have redeemed the Quit Rent by payment of the
established fine, may be regarded as purchasers of lands within
the meaning of the order in council, but not to those who have not
redeemed their Quit Rent. The former are therefore admitted* to,
and the latter are excluded from the privilege of pasturing their
stock on vacant Crown Lands free of charge. Both are however
alike admitted* to the privilege of obtaining leases without com­
petition to the extent of three times the area of their granted
lands, under the provision† above referred to. Whether the Order
in Council contemplated the allowance of any special privilege to
holders of granted lands, on which the Quit Rent has not been
redeemed, appears to the Council to be doubtful; but they have
not thought it worth while to draw a distinction, which would
occasion much dissatisfaction without any material advantage
either to the general interest or to the public Revenue.

In respect to those lands which, before the passing of the Order
in Council were beyond the Boundaries of location, and were held
under Squatting Licenses, but which are now placed within the
Settled Class, a special provision‡ has been introduced. The
present occupants of such lands will be enabled to obtain leases of
them from year to year at a fixed Rent of £1 per Section, so long
as they shall not be required for sale or be demanded on lease by
holders of purchased lands in the neighbourhood. The Rent in
this case is fixed at £1 instead of Ten shillings, because, whilst the
persons benefited by this provision will on the one hand be exempt
from the assessment on Stock levied on occupants in the Unsettled
and Intermediate Districts, they will on the other hand receive
the boon of a Lease obtained under a pre-emptive right without
having expended any of their capital in the purchase of lands.

Of lands which were previously beyond the limits of location
but are not placed by the Order in Council in the "Settled Dis­
tricts," no Sections containing valuable improvements§ will for the
present be open to lease by any other persons than the present
licensed holders thereof, in order that their occupation may not
be disturbed until the receipt of the decision of Her Majesty's
Government on the recommendation of the Council that an allow­
ance for improvements should in such cases be made to the occu­
pants on the sale of the lands. The contiguous sections are also
reserved in order that the present occupants in every case, should
they become the holders of the improved sections, may be enabled
to obtain leases of such of the adjoining sections as they may
select under the pre-emptive right conferred on purchasers by the
Regulations.

Considering it to be most desirable that lands rented under these
Regulations should be at any time available for purchases if
applied for, the Council have retained the provision, which existed

* Marginal note.—Clause 21.  
† Marginal note.—Clause 16.  
‡ Marginal note.—Clause 22.  
§ Marginal note.—Clause 24.
in former Regulations, respecting the letting of lands within the boundaries of location, that the leases shall be determined after one month's notice, and the lands be surrendered accordingly.

In the framing of the Regulations which form the subject of this Minute, the Council have not failed to consider with all the attention due to so high an authority the suggestions offered by the Superintendent of Port Phillip, when the original Draft was submitted to his perusal. The modifications introduced by the Council, as the Rules underwent their revision, will in many respects, it is believed, satisfy the views of the Superintendent; but there are some points in His Honor's paper,* which was laid before them on the 5th February last, on which they have not been able to adopt his opinions, and on which therefore they think it necessary to comment.

Mr. La Trobe objects to the Rule, as one to be of uniform application, that lands in the Settled Districts shall be let only by the Section. On this subject, Mr. La Trobe remarks that "a large portion of these lands, whether upon the Coast or within the prescribed area adjacent to the Towns, are not only unsurveyed, but, from their decided pastoral character, have been long subdivided into regular stations and been held up to the present time under ordinary Squatting Licenses. Many of the Stations so situated, or lying partly within and partly without the boundary of these settled lands, are of very considerable dimension, and return in certain instances as much as 10,000 sheep or 1,500 to 2,000 head of cattle. Under such circumstances, it appears to me that it is quite impossible to apply such a system of occupation as is proposed," etc.

It does not appear to the Council to be in any way a consequence of the system of leasing by Sections that the occupancy of the Runs, described by Mr. La Trobe in the passage above quoted, should be interfered with: the only difference being that, instead of being let in one block at a rent of £10 for the block with an additional sum of £2 10s. for every 1,000 sheep above 4,000, which the Run will carry, each Run will be let according to its sectional contents at a certain rate per Section. By allowing, therefore, to the present occupants of such Runs the pre-emptive right conferred by Clause 22 of the Regulations, the Council consider that they have removed all valid objection on this score to the system proposed.

In respect to the further objection, however, that a large portion of the lands in the Port Phillip District, which have been brought by the Order in Council within the Settled Class, are unsurveyed, the Council have to observe that the accuracy of a detailed survey is not necessary for the purpose of letting the lands by the Section for the term of one year. In this portion of the Colony, where much of the Country is perhaps of a far more "decidedly pastoral character" than that described by Mr. La Trobe, the practice has been for many years to let lands within the boundaries in no other way than by the Section, and a large number of the Sections let have not been surveyed. All that is requisite is that the leading features should be surveyed so as to obtain certain fixed points by which Sectional lines may be charted in the Survey Office, and, according to such sectional lines, the lands can be described as charted with sufficient accuracy for a lease for one year for pastoral purposes only. The Council have, however, inserted a provision, which will obviate any real difficulty in this matter, that,

* Marginal note.—Paper No. 1 appended.
where lands are not charted in Sections, they may be let, until so charted, by the block at a rent determined by the estimated number of sections comprised in the block.

Mr. La Trobe further objects to the letting of land by Sections on the ground that it will create an inconvenient distinction between portions of the same Run, which may lie partly within and partly without the boundary of the Settled Districts. It is, however, to be observed that this distinction is not made by the Regulations of this Government; but it is one established by Her Majesty's Order in Council. That order has provided that, on one side of the boundary line dividing the Settled from the Unsettled and Intermediate Districts, the lands shall be let for one year and for pastoral purposes only; and that on the other side they shall be let for a term of years with the right of erecting buildings and making improvements, and of bringing under cultivation a quantity of the soil sufficient for the supply of the Lessee's own establishment. The line having been thus drawn by superior authority, the Council consider that the more distinctness can be given to it the better; and on this ground they hold it to be rather an advantage that on the one side the lands should be let by the Section and on the other by the Block, even though the Lessee should be the same person. In the event also of any portion of the land being required for sale or for lease, the portion so required can be more easily withdrawn from the Run of the original licensed occupant, if the Run be let in Sections.

The exception of lands in the neighbourhood of Towns from the operation of the general Regulations, in order that they may be subjected to special rules, was originally contemplated by the Councils, and it has been established by Clause 6 of the Regulations.

The plan of allowing to each holder of purchased lands the privilege of obtaining at the minimum price the lease of a certain number of adjoining vacant sections proportioned to the extent of his fee simple estate is approved by Mr. La Trobe; but he recommends a resort to Tender instead of Auction, where conflicting claims to leases of the same portions of land cannot be adjusted by arrangement amongst the parties, as well as in cases in which holders of purchased lands may desire to rent more Sections than they can acquire under their pre-emptive rights; and, at the close of his paper, he deprecates the introduction of the system of the sale of leases by auction, "considering that no public advantage will be obtained commensurate with the degree of private injury, embarrassment and wrong that must inevitably follow."

Mr. La Trobe does not explain the grounds, on which he applies these strong terms of condemnation to the system of the sale of leases by Auction, which already subsists in the Port Phillip District as well as in this part of the Colony; but, so far as the Council are able to form an opinion on the subject, the objections would apply in a much greater degree to the system of public Tender which he proposes to substitute. At a sale by Auction, any person having a particular interest in any portion of land can secure to himself a lease of it, if it be of so much value as to him as to make it worth his while to outbid his competitors; and, although he may have to make a considerable advance on the upset price, it will not ordinarily happen that he will have to pay
more than the marketable value of the property. A person may certainly be run up, as it is termed, to a sum exceeding the value of the lease; but even this extreme case appears to afford a strong argument for the preference of the sale by auction, as it may be fairly assumed that the possession of the land was from peculiar circumstances of such value to the individual that he would rather give more than its real worth than lose it. But, under the system of Tender, through ignorance of his competitors' offers, he might lose by a few shillings what he would gladly have given additional pounds to secure.

Mr. La Trobe's suggestions, in the Paragraph numbered 4 of his Paper, as to the mode of dealing with lands not claimed or occupied under the privileges conceded to purchasers, are met to as great an extent as the Council could advise by Clause 16 of the Regulations. The privilege of retaining the occupation of their Runs under yearly lease, until they may be claimed by neighbouring purchasers, is thereby conceded to those persons whose Runs were beyond the Boundaries of location before the passing of the Order in Council, but are placed by that order in the Class of Settled lands. Those persons, who desire to rent lands which before the passing of the order were within the Boundaries of location, but who are not holders of purchased lands, cannot be considered entitled to any special privileges, and should only be allowed to obtain leases by purchase at Auction.

The Council cannot concur in the principal advocated by Mr. La Trobe that "compensation for certain bona fide improvements" should be allowed to the Lessees of Crown Lands in the Settled Districts. The Council have already recommended that compensation for existing improvements should be allowed to those persons, whose Runs have been brought within the settled Districts by the Order in Council, though previously beyond the boundaries of location, and consequently beyond the limits within which lands were open to purchase. Persons within the boundaries of location, as they were defined before the issue of the Order in Council, should have purchased land before they improved it; and no encouragement should now be held out to persons in the Settled Districts to make valuable improvements on lands the property in which remains with the Crown. Indeed it is scarcely compatible with the provision that lands leased from the Crown in the Settled Districts shall be used for pastoral purposes only, that any valuable improvements should now be made on the lands so held.

Although for the reasons above explained the Council have been unable to adopt all Mr. La Trobe's suggestions, they hope that the modifications made in the Regulations since his perusal of them will be sufficient to render them generally acceptable to him. The Council have the further satisfaction of hoping that they will also be acceptable to the bulk of the occupants of land in the Port Phillip District, as it certainly appears that the views stated in the two diametrically opposite Petitions* laid before them, the one from the holders of purchased lands and the other from the Squatters, are sufficiently met to afford to both parties advantages, but little short of their expressed wishes.

FRANCIS L. S. MEREWETHER,
Clerk of the Council.

* Marginal note.—Paper marked II and III appended.
FITZ ROY TO GREY.

APPENDIX I

To Minute of the Executive Council explanatory of the provisions contained in the Regulations framed by them respecting the occupation of Crown Lands in the "Settled Districts" of the Colony.

Crown Lands within the settled Districts.

The proposed regulations, however suited to the Middle District, are, I am thoroughly convinced, quite inapplicable to the state of things in the settled Districts of Port Phillip.

A large portion of these lands, whether upon the Coast or within the prescribed Area adjacent to the towns, are not only unsurveyed, but from their decided pastoral character have been long subdivided into regular stations, and been held up to the present time under ordinary squatting license. Many of the Stations so situated, or lying partly within and partly without the boundary of these Settled lands, are of very considerable dimensions, 20, 30 or even 40 square miles; and return, in certain instances, as much as 10,000 Sheep or 1,500 to 2,000 head of cattle.

Under such circumstances, it appears to me that it is quite impossible to apply such a system of occupation as that proposed in the first 12 Sections of the Regulations.

If there were no other objection to it than the difficulty that stands in the way of applying two distinct modes of tenure to the large number of stations that lie partly within and partly without the settled boundaries, both in the vicinity of the towns and along the extended coast line and on the Glenelg, I think that would be sufficient to raise doubts as to the expediency of its adoption, and it seems to me that, in this District, others might be cited, and that the best course that could be pursued would be:

1st. To reserve round the Towns a certain area, say, 3 miles round Melbourne, 2 miles round Geelong and Portland respectively, within which the occupation of unsold Crown Lands, if permitted at all, would be made the subject of special regulations to be hereafter determined upon.

2nd. That, on the unsold lands lying beyond that limit and in all other parts of the settled District where lands have been or shall be purchased, the system of occupation by the purchasers of Crown Lands, pointed out in Sec. 13 (1) to (9) of the proposed regulation, should be introduced with the sole alteration, that a system of "tender" should be substituted for that of "Auction" in the cases cited in the (7th) and following paragraphs.

3. That the Lands, that cannot or are not claimed or occupied under these regulations in favour of the purchasers of land, shall be, as at present, allowed to be occupied for pastoral purposes only, under yearly lease or license, subject, of course, to resumption without difficulty either for sale or for the use of those who having become purchasers of the adjacent Crown Lands, have acquired a distinct claim to their occupation under the Order in Council; and that, in determining the sum to be paid in each instance for the yearly lease or license, the same principle should be applied as under Sec. 2 of the Order in Council in the case of unsettled and intermediate lands, a yearly assessment as in the adjacent and Intermediate Districts or a rate for local purposes being levied upon the stock depastured on each station.

4. I would recommend the extension of the principle of compensation for certain bona fide specified improvements to the Settled Districts, considering it but just; and know no grave reason why it could not be conceded.

I do not see any other way of getting over the difficulties that appear to exist on every hand.

I must strongly deprecate the proposed introduction of a system of sale of leases within the Settled Districts "by Auction," considering that no public advantage will be attained commensurate with the degree of private injury, embarrassment, and wrong that must inevitably follow.

Melbourne, 17th January, 1848.

C.J.L.

APPENDIX No. II

To Minute of the Executive Council explanatory of the provisions contained in the Regulations framed by them respecting the occupation of Crown Lands in the "Settled Districts" of the Colony.

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

Sir, Superintendent's Office, Melbourne, 19th Feb., 1848.

I take this opportunity of forwarding to you, in order that it may be laid before the Governor, a Petition addressed to His Excellency by a number of transmitted Settlers resident within the settled District of Port Phillip, at Present occupying

1848, 3 April.
Crown land for pastoral purposes under license, bringing their case under His Excellency's notice, deprecating the disposal of the License to occupy waste Crown lands within the settled Districts by sale at Auction or by tender, and expressing a hope that His Excellency would be pleased to allow the present occupants to possess them, so long as their occupancy is not at variance with Chapter IV, section 1, of the recent order in Council.

My general view and opinion upon this subject have been recently communicated to you, privately if not officially; and you will be aware that I advocate the adoption of arrangements by which the present occupants of waste lands of the Crown within the settled Districts shall be allowed to retain their Runs, much in the same manner as they are held at present, always provided:

1. That the immediate resumption of such waste lands of the Crown, either for sale or for temporary occupation, by bona fide purchasers of Crown Lands, under the provisions of the Order in Council (chap. IV, Section 1) is secured; and

2. That the price paid for this license of occupation should be such as to give the holder no unfair advantage either over actual purchasers of Crown land on the one hand or holders of waste lands under lease, on the adjoining intermediate Districts, on the other.

1848.
3 April.

Proposals by C. J. La Trobe for retention of runs by present occupants.

Petition from squatters re disposal of runs by auction or tender.

ENCLOSURE REFERRED TO.

THE Humble Petition of the undersigned Residents within the settled Districts of Port Phillip,
To His Excellency Sir Charles Fitzroy, Knight Companion of the Royal Hanoverian Guelphic Order, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies and Vice Admiral of the same, etc., etc.

Sheweth:
That Your Petitioners have learned that it is intention of Your Excellency's Government to cause the waste Crown Lands within the settled Districts to be put up annually to Auction or disposed of by tender.
That Your Petitioners fully admit the justice of the position that, as soon as such waste Lands can be sold, it becomes necessary and just that the then occupiers should quit their Runs for the benefit of the community at large.
That Your Petitioners beg respectfully to draw your Excellency's attention to the fact that the settled Districts embrace a very large number of Squatters, many of whom have embarked in such occupation the whole of their means, and would, if subjected to the leasing by auction annually, be deprived of House and Home, and be unable to acquire another locality to which to remove their stock; and it is with reference to this Class that Your Petitioners are induced to hope Your Excellency will take the foregoing circumstances into consideration and allow the present squatters to occupy what shall from time to time remain of their station until finally appropriated under Chap. 4, Sec. 1, of the Order in Council.
Your Petitioners respectfully and urgently solicit your Excellency's attention to the Interest of the Purchasers of Land in the settled District, and venture to express the hope that Chap. 4, Sec. 1, as applicable to such purchasers, may be fully carried out.

Your Petitioners, therefore, humbly pray Your Excellency to forego, should such be your Excellency's intention, the putting up the section to Public Auction, or disposing of them by tender, and allow the present occupants to possess them so long as their occupancy is not at variance with chap. 4, sec. 1, of said Order in Council.

[Here follow thirty-nine signatures.]

APPENDIX NO. III

To Minute of the Executive Council explanatory of the provisions contained in the Regulations framed by them respecting the occupation of Crown Lands in the Settled "Settled Districts" of the Colony.

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

48/96.
Sir,
It is my duty to transmit to you, in order that it may be brought in due course under His Excellency's notice, a Petition addressed to His Excellency by certain gentlemen, purchasers of Crown lands in the vicinity of Melbourne, which has been handed to me for this purpose. It represents the disadvantages under which the purchasers of Crown land, with a view to agriculture, labor, as long as the system of temporary occupation of the waste lands for pastoral purposes is permitted within the settled Districts of the Colony, and prays His Excellency to
FITZ ROY TO GREY.

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give full effect to the authority delegated to him of giving the use for pastoral purposes of the waste Crown Lands within the settled Districts to the proprietors of land and agriculturists within the same.

Upon this subject, I take leave to state that, considering the large extent, position, and character of the unalienated Crown Lands comprised within the various Settled Districts of Port Phillip, I apprehend that no system of exclusive occupation by the purchaser of Crown Lands, such as the Petitioners advocate, could be devised or carried into effect, and that the extinction of the system of temporary occupation for pastoral purposes by those, who may not be actual purchasers of Crown land, must be a work of time.

But I certainly concede that the position of the purchasers of Crown Lands, of the description of the Petitioners, has up to this time, in many respects, been a disadvantageous one.

I consider that the introduction of the new principle, laid down by the late Imperial Act and Order in Council, will remove these disadvantages to a certain degree; but I have no doubt but His Excellency and the Executive Council, in framing the necessary detailed regulations for the occupation of waste lands of the Crown within the Settled Districts, will be sensible of the just claim of the purchasers of Crown Lands, as well as of the expediency of placing matters on such footing as may lend encouragement to the purchase and improvement of the same.

I have, &c.,

C. J. LA TROBE.

ENCLOSURE REFERRED TO.

The humble petition of the proprietors of Land, and the agriculturists in the settled Districts around Melbourne in public meeting assembled,

Unto His Excellency Sir Charles Augustus Fitz Roy, Knight Companion of the Royal Hanoverian Guelphic order, Captain General, and Governor in Chief of the Territory of New South Wales and its dependencies, and Vice Admiral of the same, etc., etc., etc.

Sheweth:

That, since the year 1836, when Port Phillip was first occupied, the large sum of half a million Sterling has been paid to Government by Agriculturists and other Land proprietors of Port Phillip in the purchase of Government Lands; and that an additional large amount has been expended by your Petitioners in bringing large blocks of said purchased Land near Melbourne under cultivation, your Petitioners thus giving the best proof of their conviction of the surpassing fertility and salubrity of its soil and climate.

That, from a variety, probably of unforeseen circumstances, connected with the first years of Port Phillip, the rights and interests of your Petitioners have not been, as your Petitioners believe, sufficiently attended to, and a sort of argument or justification has been put forward by interested parties to the effect that this magnificent Colony was unfit for agriculture, and that all attempts to make it agricultural should be resisted; however untrue or absurd this statement may now appear, it has proved most injurious to your Petitioners and to agriculture, particularly in situations where their growing crops were adjacent to occupants of Crown Lands under depasturing licenses. The same reasons, and the same state of the Law still continue. Your Petitioners, therefore, respectfully submit to your Excellency that agriculture must be altogether an insecure investment of capital and industry if Leases or licenses to occupy waste Lands are given within the settled Districts. The interests of persons occupied chiefly in pastoral pursuits are adverse to the purchasing of Land and to agriculture; and we admit that they cannot co-exist in the same locality.

The waste Lands of the Crown are adjacent and convenient to the purchased Lands, and moreover indispensably necessary to the agriculturists in the first improvements for the grazing of the requisite amount of stock for farming purposes, such as ploughing, trench ploughing for vineyards, grubbing, fencing, manuring, etc., etc.

Your Petitioners, therefore, pray Your Excellency to give full effect to the authority delegated to you, giving the use for pastoral purposes of the waste Crown Lands within the settled Districts to the proprietors of Land and agriculturists within the same.

And your Petitioners shall ever pray, etc.

P. MCARTHUR, J.P., Chairman.
J. M. ARDLE,
THOS. PENROCK BINGLEY,
A. MCKILLOP,
E. E. KENNY,

Petition from land proprietors and agriculturists re leases of crown lands.

3 April.

1848.

Opinion of C. J. La Trobe re claims of purchasers of crown lands.
EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 64, per ship Faithful.)

Downing Street, 4 April, 1848.

Sir,

I have to acknowledge the receipt of your despatch No. 79 of the 5th of April last; and, with reference to the Memorial which accompanied it from a number of the Inhabitants of Geelong, I have now to acquaint you that the Lords Commissioners of the Treasury, whom I have consulted on the subject, have apprised me that they have caused the requisite steps to be taken for submitting, for the approval of Her Majesty in Council, an order for Constituting the Port of Geelong a Free Warehousing Port.

I have, &c.,
GREY.

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 85, per ship Alert.)

Government House, 4th April, 1848.

Referring to my Despatch No. 51 of the 28th February last, I have the honor to inform Your Lordship that, out of the amount voted by the Legislative Council for Schools to be conducted on Lord Stanley's system of National Education, the further sum of £300 has been paid to the Deputy Commissary General (making with the former payment on this account £600), with a view to an equal amount being issued to Mr. Barnard from the British Treasury to enable him to pay the Commissioners of Education for the National Schools of Ireland for a further supply of Books, Stationery, etc., for the use of the Schools to be established here.

The Board for superintending these Schools has undertaken to procure the Books, etc., and I have to beg that Your Lordship will cause the requisite authority to be given for the issue of the sum of £300 to Mr. Barnard from the British Treasury to enable him to place it at the disposal of the Commissioners to provide the Books.

The Deputy Commissary General's certificate on his receipt of the money will be sent to Mr. Barnard.

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

SIR CHARLES FITZ ROY TO EARL GREY.
(Despatch No. 86, per ship Alert; acknowledged by earl Grey, 23rd December. 1848.)

Government House, 5th April, 1848.

With my Despatch No. 237 of the 6th of December last, I had the honor to transmit copies of the correspondence, which
had then passed between this Government and that of Van Diemen's Land, on the subject of the reduction of the Convict Establishment of this Colony and the removal to the former of those Convicts, to whom Tickets of Leave or Conditional Pardons cannot properly be granted, as directed in Your Lordship's Despatch No. 218 of the 28th October, 1847.

In the same Despatch, I also apprised Your Lordship that I had furnished the information desired by the Van Diemen's Land Government respecting the number and condition of the Convicts liable to be removed, the Officers of the Convict Establishment in this Colony to be discontinued, and the quantity of serviceable Clothing, Stores, etc., belonging to the Convict Service; and that I had intimated to Sir William Denison that the Convicts could be transferred as soon as the Government of Van Diemen's Land was prepared to receive them.

I have now the honor to transmit for your Lordship's information copies of the further correspondence, which has taken place on the subject of the removal of the Convicts, between the Colonial Secretary of this Colony and the Comptroller General of Convicts in Van Diemen's Land.

Your Lordship will observe that the Lieut. Governor of Van Diemen's Land, having felt some difficulty, under the existing circumstances of the Colony and from the absence of suitable Buildings for the accommodation of the Lunatics and Invalids, in signifying his readiness to receive the Convicts maintained by the Government in New South Wales, but wishing to carry out as far as might be in his power the instructions of Her Majesty's Government, directed the Comptroller General of Convicts to proceed to Sydney for the purpose of ascertaining by personal enquiry on the spot, how far the object contemplated in the proposed transfer of the Convicts could be otherwise attained.

Mr. Hampton, having accordingly arrived in Sydney on the 5th February, proceeded in compliance with the desire of Sir William Denison and with my sanction to inspect the Convicts and the several Establishments; and, on the 12th of the same month, submitted for my consideration an arrangement which, after personal enquiries made on the spot, seemed to him to be calculated to meet the views of Her Majesty's Government, and at the same time to relieve that of Van Diemen's Land from any embarrassment on the subject. To this arrangement I saw Conditional approval by Sir C. Fitz Roy.

instructions, upon the distinct understanding, however, the
1848.
5 April.

Liability of convicts transferred to Tasmania to serve colonial sentences.

Convicts to be removed to Norfolk Island; and to be detained in colony.

Certain convicts to be detained on Cockatoo Island.

Transfer of convicts to Norfolk Island.

responsibility of not carrying out to their full extent the orders of Her Majesty's Government should rest entirely with the Government of Van Diemen's Land.

It will be observed that, in discussing the arrangements for the removal of the Convict Establishment, a question arose whether certain Prisoners would be liable on their transfer to Van Diemen's Land to complete the sentences which have subsequently to their arrival here been passed upon them, and which, under the 34th section of the Colonial Act 3 Wm. IV, No. 14, are made cumulative on their original sentences, which would otherwise have expired, or whether on leaving this Colony they would become free. This question was referred for the opinion of the Attorney General and at his suggestion to the Crown Law Officers of Van Diemen's Land; and I transmit for the information of Your Lordship copies of the Reports, which have been received on the subject. It appears by these documents that if, under an extension of their original sentences of transportation, they might on being transferred from this Colony to another be retained, but not if only under sentence of imprisonment with or without hard labour in or out of Irons; and the Principal Superintendent of Convicts has reported that there is only one Prisoner serving under a cumulative sentence who, in this view of the case, would be liable to be retained in service on being removed from this Colony.

This point being decided, the Convicts for removal to Norfolk Island, under the arrangement which has been made with the Van Diemen's Land Government, are those still serving under their original sentences and requiring strict coercion; the Lunatics, Invalids, and Convicts under Colonial Sentences but which would otherwise have expired, being retained in this Colony, but maintained at the expense of the British Treasury.

The Convicts under cumulative sentences are to be placed at the Penal Establishment on Cockatoo Island; and such Prisoners, as may be sentenced to punishment, deprived of their Tickets of Leave, or returned from private service, will also be kept at the same place and supported from Convict Funds during the periods of their sentence, or until removed to Norfolk Island.

At the time the arrangement was concluded, there were at Cockatoo Island about 80 prisoners under punishment, whose original sentences had not expired; and, on the 21st of last month, 50 of these men were forwarded to Norfolk Island in the Brig "Governor Phillip," a Vessel belonging to the Van
Diemen's Land Government sent to remove them. On the return of the Brig, the remaining Convicts of this class, at the present time 31 in number, will be also transferred to that Island. There will then remain 66 Prisoners under cumulative sentences; and these, with such others as may from time to time be sent to Cockatoo Island as a punishment or for removal to Norfolk Island, will have to be maintained at the Expense of the British Treasury.

The number of Prisoners to be thus provided for will be liable to variation; but it is anticipated that it will not exceed, on an average for the present year, 100, and this number will of course gradually diminish as the Ticket of Leave holders become eligible to obtain Conditional Pardons. As Cockatoo Island has now been transferred to the Colony as a Penal Establishment, and those Convicts will be employed on Colonial Works, the salaries of the Officers, which are specified in the enclosed returns, ceased to be issued from the Military Chest on the 31st ultimo, being from that date paid from the Colonial Treasury; and the only expense for that Establishment, forming a charge on the Home Government, will be for Provisions and Clothing, which for 100 men may be estimated at £558 4s. 1d. for the year.

The Building at Parramatta, lately the Female Factory, has been selected as the most suitable for the reception of the Male and Female Invalid and Lunatic Prisoners of the Crown; and I transmit for Your Lordship's information a copy of a Report from the Principal Medical Officer and the Visiting Magistrate on the arrangements (which have since been carried into effect) for forming this Establishment and for discontinuing the Hospitals at Sydney, Parramatta, and Liverpool. It will be observed that it has been estimated that there will be about 240 persons to be maintained at the new Establishment; but it is probable that this number will be rapidly diminished by natural causes in a greater ratio than it can be increased by the addition of other Prisoners and Invalids, and therefore that the number of Officers and Attendants may, from time to time be reduced in due proportion. For the present, I have sanctioned the employment of the Officers and others specified in the return annexed to the Report referred to, at an expense not exceeding £1,053 11s. 3d. per annum; but, in this arrangement, the Surgeon lately at the Hospital at Parramatta, who would otherwise have been transferred to and paid from Convict funds in Van Diemen's Land, has been included, as also the Storekeeper of the Factory; and, by retaining at the Invalid Establishment the few
female Prisoners still remaining, I have been enabled at once to dispense with the services of the Matron. A statement is also annexed to the Report of the probable expense of the maintenance of the Lunatic and Invalid Prisoners, etc., amounting to £1,782 1s. 7d. per annum.

In this Establishment, such Female Prisoners as may be sentenced to punishment, become Invalids or Insane, or forfeit their Tickets of Leave, are to be received; and likewise Male Convicts holding Tickets of Leave, who may be obliged to relinquish them in consequence of becoming insane, or of requiring Medical treatment, which they are not in circumstances to procure otherwise. For the present also, the Pauper Patients admitted into the late Convict Hospitals by order of the local Government have been transferred to the Factory and placed under the charge of the Surgeon, although it is in contemplation to enter into an arrangement with the Committee of the Sydney Infirmary respecting them; but, whilst retained at Parramatta, payment will be made for them to the Commissariat by the Colony, which will considerably reduce the cost of the Establishment to the Home Government.

The enclosed Report from the Principal Medical Officer shows the number of persons, including the pauper Patients alluded to, on the 28th ultimo.

Besides the Prisoners at the Invalid Establishment and at Cockatoo Island, there are 54 who are in the service of the Commissariat and Engineer Departments; but these are men on probation for Tickets of Leave and will therefore shortly cease to be a charge on Convict funds. In the meantime, their employment saves the expense which would be incurred in hiring free men.

Your Lordship will observe that it was proposed by Sir William Denison that Convicts sentenced to punishment for a longer period than six months, or deprived of their Tickets of Leave and removed to Norfolk Island, should, until the receipt of further instructions from England, be returned to New South Wales when again eligible for indulgence; but, in acceding to the arrangement generally, I have deemed it right to stipulate that no Convicts now under coercion, who may be sent to that Settlement, shall be transferred to this Colony without your Lordship's previous authority; and it appears to me very objectionable that Convicts either of this class, or any others who may be removed from this place, should be returned to it; such an arrangement would not only occasion considerable expense
in providing conveyance for the Prisoners from Norfolk Island to Sydney, but would tend to prolong the period during which it would be requisite to maintain an Officer for the administration of the Convict Service in this Colony, whilst at the same time the return of the Prisoners, by placing them again amongst their former associates, might prove prejudicial both to society and to themselves. I therefore submit, for Your Lordship's consideration, that the Lieut. Governor of Van Diemen's Land may be instructed that no Convicts whatever are to be returned to New South Wales.

I have already stated that these arrangements have been made subject to Your Lordship's approval, and upon the understanding that the responsibility of any deviation, which has taken place from the instructions given by Her Majesty's Government on the subject, shall rest with the Government of Van Diemen's Land; but I consider it proper to observe to Your Lordship that, in consequence of the greater cheapness of provisions and of there being in this Colony suitable Buildings for the accommodation of the Lunatics and Invalids, no extra expense is likely to be entailed on the British Treasury by retaining them here; but that on the contrary a saving will probably be effected; and that, as pointed out in Mr. Hampton's letter of the 12th of February last, the age and state of health of many of the Invalids and the number of years others have resided in the comparatively high temperature of New South Wales, render it inexpedient to remove them to the more rigorous climate of Van Diemen's Land. I therefore hope that, under all the circumstances, Your Lordship will approve of the arrangements now reported, and also of the Establishment of Officers and Attendants, which, as before stated, I have authorised for the Superintendence and care of the Lunatic and Invalid Convicts.

In my Despatch No. 218 of the 20th of October last, I stated that it would be necessary to retain a small portion of the Department of the Principal Superintendent of Convicts until the Prisoners holding Tickets of Leave became eligible to receive Conditional Pardons. I now do myself the honor to transmit, for Your Lordship's information and approval, a return of that Officer's Establishment.

I likewise enclose a List of the Clerks of the Convict Department who have been discontinued. These gentlemen, with the exception of two* who, it appears, are not required, will be forwarded to Van Diemen's Land in a Vessel now here, which has been sent for the purpose of removing them, receiving their

* Marginal note.—Mr. Wm. Glaister and Mr. W. E. Rogers.
1848.
5 April.

Transfer of medical officers to Tasmania.

Gratuity for discharged subordinate officers.


Allowance to itinerant clergy to be continued.

full pay until they embark, as they have continued in the performance of duty up to the present time. To the two Clerks who cannot be transferred, it may be necessary to grant a gratuity; but in that case a report will be made to Your Lordship in a Separate Despatch. The subordinate persons whose services are no further necessary have been discharged.

The whole of the Medical Officers can be provided with employment in Van Diemen's Land, and they will therefore, with the exception of Mr. Hill appointed to Parramatta, embark on board a Vessel belonging to the Government of that Colony, which has been despatched to receive them. They will be continued on their full pay and allowances for the short time they will remain in the Colony, in compliance with the recommendation of the Principal Medical Officer, a copy of whose letter I enclose, together with the List therein referred to of Officers to be transferred to Van Diemen's Land. As suggested by Dr. Dawson, I have also sanctioned the issue of a gratuity, equal to the pay of one month for each year of service, to the subordinate servants of the Medical Department on their discharge.

In the correspondence transmitted with my Despatch of the 6th of December last, No. 237, the case of the Reverend Mr. Walpole, who is in the receipt of a Salary of £300 per annum for performing Divine Service and affording religious instruction to the Convict Establishments in Sydney, was referred to. I now forward for Your Lordship's information a copy of a letter from the Comptroller General of Convicts in Van Diemen's Land, by which it appears that Mr. Walpole cannot be provided with employment in that Colony, together with one from the Bishop of Sydney in which His Lordship submits the claim of this gentleman to have a passage to England found for him; and, under the circumstances of the case, I have deemed it to be my duty to comply with the Bishop's recommendation. The Salary of Mr. Walpole will be discontinued on the 30th instant.

An allowance is paid from the funds provided for Convict Service to Clergymen for travelling in certain Districts in the Colony. In consequence of the instruction received for breaking up the Convict Establishments, I directed this allowance to be discontinued; but, the Lord Bishop of Sydney having, as reported in my Despatch No. 35 of the 12th of February last, made a representation on the subject, I have sanctioned its being again issued until Your Lordship's pleasure shall be known.
FITZ ROY TO GREY.

With reference to the Return of Stores, which formed one of the enclosures to my Despatch No. 237 of the 6th of December last, I enclose a copy of a letter from the Ordnance Storekeeper and of one from the Comptroller General on the subject. I also transmit a copy of a letter from Mr. Dawson respecting the Medical Stores, which, after selecting what are required for the Invalid Establishment at Parramatta, will be forwarded to Van Diemen's Land.

It only remains for me to add that, as soon as it has been decided in what way the Hospital and other Buildings may be appropriated with most advantage to the Public Service, I shall have the honor of addressing your Lordship on the subject. In the meantime, they will be placed in the care of the Commanding Royal Engineer.

I avail myself of this opportunity to state, with reference to that part of my Despatch No. 218 of the 28th October, 1847, wherein I informed Your Lordship that, with the view of expediting the earlier abolition of the Convict Office in this Colony, I proposed to shorten the period, for which, under the existing Regulations, holders of Tickets of Leave must remain under probation before they can apply for Pardons, to twelve months; that, as under the arrangement with the Government of Van Diemen's Land, now submitted for Your Lordship's sanction, it will be necessary to maintain the Convict Office here for a longer period than I, at the time my Despatch of the 28th October was written, considered would be necessary, I do not consider that it would be expedient at present to make any alteration in the existing Regulations for granting further indulgence to Convicts holding Tickets of Leave.

I have, &c,

CHS. A. FITZ ROY.

[Enclosure No. 1.]

MR. J. S. HAMPTON TO COLONIAL SECRETARY THOMSON.

Comptroller General's Office.

Sir,

5th January, 1848.

I have been directed by Lieutenant Governor Sir William Denison to acknowledge the receipt of your letter of the 23rd of November last, forwarding the information relative to the Convict Department in New South Wales, for which application was made in my letter of the 5th of October, in consequence of the instructions received from Her Majesty's Government to transfer the Convicts, maintained by the Government in New South Wales, to this Colony. I am now to acquaint you, for the information of Governor Sir Charles Fitz Roy, that Sir William Denison finds it impossible in the existing circumstances of the Colony, to transfer the Convicts at present maintained by the Government in New South Wales, there being no accommodation in this Colony available

1848.

5 April.

Disposal of stores; and of hospital and other buildings.

Delay in grant of further indulgences to holders of tickets of leave.
1848.
5 April.

J. S. Hampton
to visit Sydney.

for the reception of the Lunatics, nor any establishment in which
the Convicts on Cockatoo Island and elsewhere under sentence
could be adequately restrained.

I am to add that, as it is Sir William Denison's wish to carry
out, to the extent of his power, the instructions of Her Majesty's
Government, he has thought it desirable to direct me to proceed
to Sydney for the purpose of ascertaining by personal enquiry on
the Spot, how far the objects proposed by the contemplated transfer
of the Convicts can be otherwise obtained.

I have, &c,
J. S. HAMPTON,
Comptroller General.

[Enclosure No. 2.]

MR. J. S. HAMPTON TO COLONIAL SECRETARY THOMSON.

Sir,
Sydney, 7th Febry., 1848.

With reference to my letter dated 5th Jan., stating that I
had been directed by Sir William Denison to proceed to Sydney
for the purpose therein mentioned, I have now the honor to report,
for the information of Sir Charles Fitz Roy, my arrival here
yesterday, and to request that you will be pleased to move His
Excellency to grant me authority to visit the Convict Establish­
ments in New South Wales, at which the Convicts whom it is pro­
posed to transfer to Van Diemen's Land are now stationed, and
and to issue instructions for the Officers of these Establishments to
furnish me with such information as I may require respecting the
Convicts under their charge to enable me to comply with Sir
William Denison's Orders.

I have, &c,
J. S. HAMPTON.

[Enclosure No. 3.]

MR. J. S. HAMPTON TO COLONIAL SECRETARY THOMSON.

Sir,
Sydney, 12th February, 1848.

I had the honor, in my letter of the 7th Instant, to report
my arrival at Sydney, and to request the sanction of this Govern­
ment to my visiting the Convict Establishments in New South
Wales, for the purpose of making the enquiries necessary to enable
me to carry out the instructions given to me by Sir William
Denison on my departure from Van Diemen's Land for this
Colony.

It was the desire of Sir William Denison that I should en­
davour to ascertain at Sydney how far the objects, proposed by
the contemplated transfer of the Convicts now in New South
Wales to Van Diemen's Land, might be otherwise attained; and
that I should suggest on the spot for the consideration of Sir
Charles Fitz Roy any arrangements, which might appear to me
calculated to remove the difficulties that embarrass the question,
and at the same time carry out the views of Her Majesty's
Government in directing the reduction of the Convict Establish­
ment in this Colony by diminishing the charge on the British
Treasury for the Convict Service.

Having inspected the Convicts and concluded my enquiries, I
have now the honor to request that you will be pleased to submit
the following remarks and suggestions for the favorable considera­
tion of His Excellency Sir Charles Fitz Roy.
1845.
5 April.

Fitz Roy to Grey.

It appears, by the Official Returns furnished to me and the careful enquiry I have made on the spot, that the Convicts proposed to be transferred may be divided into four classes, viz.,
1st. Lunatics. 2nd. Invalids. 3rd. Those requiring strict coercion,
and 4th. Ticket of Leave holders, who may hereafter forfeit their indulgences; and that there are besides 5,413 Ticket of Leave holders, for the regulation of whom, as well as for carrying on the Convict business generally, it will still be necessary to maintain a distinct office in New South Wales at the expense of the Home Government.

For the first class, there is no accommodation in Van Diemen's Land, and there would be so much difficulty, delay and expense in erecting suitable buildings, and in transferring dangerous and bed-ridden Lunatics, that it is in no point of view desirable to remove them to that Colony.

With reference to the second class, I have ascertained from the Official reports furnished to me and by personal inspection that it would cause a large amount of suffering and even in some instances endanger life to remove all the Invalids to Van Diemen's Land. Several of these persons have been bed-ridden for years; others are totally or partly blind from age (a considerable number being from Seventy to one hundred years old); and, even of those who are less infirm or aged, many have been resident upwards of thirty years in the comparatively high temperature of this Colony, and would, in addition to all the hardships of a Sea Voyage, suffer severely from the rigorous climate of Van Diemen's Land.

It is, therefore, evident that under any circumstances an Establishment must, if only on the ground of humanity, be kept up in New South Wales for a portion of the Invalids; and, as the same Staff of Officers could manage the whole, for whom there is ample accommodation, it would in this and other respects be a saving of expense to retain all the Invalids in this Colony, where their rations cost much less than in Van Diemen's Land.

Looking at all the circumstances of the case, the most advantageous arrangement in every point of view appears to be—
to place the Lunatics and Invalids in one Establishment either in the commodious buildings at Liverpool or Parramatta, which I understand are not now required for any other British purpose, and where Convicts, forfeiting or giving up their Ticket of Leave for short periods and thereby becoming chargeable to the Home Government, could also be received.

I, therefore, submit for the approval of His Excellency Sir Charles Fitz Roy that an Establishment should be formed and maintained for the Lunatics and Invalids in this Colony until further instructions can be obtained from the Secretary of State.

The sole object of Her Majesty's Government in ordering the transfer of the Convicts appears to have been the saving of expense; and the arrangement now proposed will therefore be consistent with the Spirit of the Secretary of State's instructions, whilst it will possess the additional recommendation of being more suitable to the condition of the Prisoners than any other which could be adopted under existing circumstances.

Sir William Denison instructed me, in the event of such an Establishment being required in New South Wales, to propose that the Officers should be transferred to the Convict Department of
Van Diemen's Land, and placed under my orders; but this will not be necessary as it is intended to retain the services of the Principal Superintendent of Convicts in New South Wales, even if all the Convicts ordered to be removed were immediately transferred.

It appears from the Official Returns that 46 of the Convicts under strict coercion are detained in servitude by cumulative sentences, binding in this Colony but, I believe, of non effect in any other part of the World; and therefore these men, if removed to Van Diemen's Land, would at once become free and evade the punishment they are amenable to by law, while retained in New South Wales.

The introduction into Van Diemen's Land of such a class of persons would, with great reason, be considered an act of injustice to the Colonists; and consequently I think it right at once to state that Sir William Denison would feel it his duty to decline receiving any Convicts entitled by Law to demand Certificates of freedom on their arrival in Van Diemen's Land.

With respect to the remainder of the prisoners proposed to be removed, it is to be remarked that the free inhabitants of Van Diemen's Land have protested very strongly against the transfer of any Convicts whatever from New South Wales, but more especially those under strict coercion, who are regarded by them in such a light that Sir William Denison has been induced to refer several very numerously signed Petitions on the subject for the decision of Her Majesty's Government; and, until a reply is received from the Secretary of State, I submit for the consideration of His Excellency Sir Charles Fitz Roy that as there is no place in Van Diemen's Land to which such Convicts could at present with safety be removed; that as the free inhabitants of Van Diemen's Land object to the transfer of such a notoriously bad class of men; that as the Colouy of New South Wales has derived great benefit from the labour of the better class of Convicts of which these are the very dregs and refuse, it would be equitable, whilst it would meet all the difficulties of the case, if after their removal from this Colony His Excellency would consent again to receive these men into New South Wales in the event of their obtaining Tickets of Leave.

Upon this understanding, an arrangement could be at once made for their transfer to Norfolk Island to undergo such further coercion and punishment as the present circumstances of their condition and conduct may appear to require; and the adoption of this proposal would also obviate the great and otherwise at present insuperable difficulty, which exists, of providing for the disposal of the fourth class, or Prisoners deprived of their Tickets of Leave, who might in this case be also sent to Norfolk Island and returned to New South Wales when again eligible for indulgence.

These suggestions if acted upon would I conceive tend to relieve the British Treasury from expense more than any other arrangements, which could be made under present circumstances, without causing any new impediment in, as far as practicable, carrying out the instructions of the Secretary of State. There would also be time to obtain the final decision of Her Majesty's Government on the subject of the re-transfer of the Convicts under strict coercion, before any of them could be returned, as none will become eligible for Tickets of Leave during the next twelve months.
I believe that Sir William Denison will fully concur in these opinions; but, as the necessary Transport for the removal of the Convicts cannot be provided until I return to Hobart Town, no benefit can arise from an immediate and final decision of the question respecting the Convicts under coercion whose original sentences have not expired, and the Ticket of Leave holders who may hereafter forfeit their indulgences: and I, therefore, beg that the preceding remarks with reference to these two classes may only be considered as suggestions, but at the same time suggestions which I am confident Sir William Denison will authorise me to carry out, if the proposed re-transfer of the Convicts to New South Wales, pending the decision of the Secretary of State, meets with the concurrence of His Excellency Sir Charles Fitz Roy. The Visiting Magistrate of the Factory having informed me that there will not be any Female Convicts to be transferred to Van Diemen's Land, it will perhaps be only necessary for me to mention this circumstance to you in my present communication. To prevent misapprehension, I will briefly recapitulate the arrangements I propose, viz.: The Lunatics, Invalids, and Convicts serving under Colonial sentences cumulative on their original sentences, which would otherwise have expired, to be retained in New South Wales. All other Convicts, maintained at the expense of the Home Government while under punishments for periods exceeding six months, to be removed by the Van Diemen's Land Government to Norfolk Island, and, pending the decision of the Secretary of State, re-transferred to New South Wales when again eligible for indulgence.

If, under punishment for less periods than six months, to be received either into the Lunatic and Invalid Depot or placed, with those waiting for removal to Norfolk Island at the Colonial Establishment on Cockatoo Island, but provided by the Commissariat with food and Clothing at the expense of the British Treasury, the Colony, in consideration of their labour and in accordance with the Secretary of State's instructions in force in Van Diemen's Land, providing supervision and tools.

If the arrangements now proposed are carried out, some changes will be necessary with reference to the number of Officers and quantity of stores for transfer. I will therefore, after obtaining further information, address to you a separate communication on both these subjects.

J. S. HAMPTON.

COLONIAL SECRETARY THOMSON TO MR. J. S. HAMPTON.

Sir,

Sydney, 14th February, 1848.

I have the honor to acknowledge the receipt of your letter of the 12th Instant, proposing an arrangement by which you conceive that the object, which it appears to you Her Majesty's Government had principally in view in directing the Convict Establishments in this Colony to be finally broken up, namely, the saving of expense to the British Treasury, may be affected without rendering it necessary to transfer to Van Diemen's Land, as desired by the Secretary of State, the whole of the Convicts now remaining in New South Wales, who, it is represented, cannot conveniently be received by the Government of that Colony in consequence
either of the want of suitable buildings for the accommodation of a portion of them, or of the objections which have been urged against their reception by the Colonists, and which have been considered of so much weight by Sir William Denison as to induce Him to make a reference on the subject to Her Majesty's Government.

The proposals which you make appear to be to the following effect:—

1st. That the Lunatics, Invalids and Convicts, serving under Colonial Sentences cumulative on their original sentences, but which would otherwise have expired, be retained in New South Wales.

2nd. That Convicts, under punishment for less periods than six months, be retained in New South Wales, but provided with food and clothing at the expense of the British Treasury.

3rd. That Female Convicts, who may be deprived of their Tickets of Leave or returned from hired Service, be kept at the Invalid and Lunatic Establishment at the Expense of the Military Chest, until again eligible for indulgence.

4th. That all other Convicts maintained at the expense of the Home Government, while under punishment for periods exceeding six months, be removed by the Van Diemen’s Land Government to Norfolk Island, and, pending the decision of the Secretary of State, retransferred to New South Wales when again eligible for indulgence.

5th. That Male Convicts, whose Tickets of Leave may be cancelled, be retained at Cockatoo Island, and supplied with food and clothing by the Commissariat, until they can be removed by the Van Diemen’s Land Government to Norfolk Island, with a similar understanding that they are to be returned to New South Wales when eligible for indulgence.

The two last proposals, 4th and 5th, you state are to be considered only in the light of suggestions, but which you are confident Sir W. Denison will authorise you to carry out, if the retransfer of the Convicts to New South Wales, pending the decision of the Secretary of State, be assented to.

In reply I am directed by His Excellency Sir Charles Fitz Roy to inform you that this Government, being quite prepared to carry out the Instructions of Her Majesty’s Government for the breaking up of the whole of the Convict Establishments in this Colony (with the exception of the Office of the Principal Superintendent of Convicts, which must be retained so long as there remain so many Convicts holding Tickets of Leave), and also for the transfer of the whole of the Convicts to whom it would not be proper at present to grant Tickets of Leave, or Conditional Pardons, the responsibility of not carrying out, to their full extent, these Instructions must entirely rest with the Van Diemen’s Land Government. Upon this distinct understanding, Sir Charles Fitz Roy will not object, under all the circumstances represented to him, to assent to the proposals which you have submitted for His consideration under the direction of Sir William Denison; and the necessary arrangements will therefore be made for retaining in New South Wales, until the further instructions of the Secretary of State can be obtained, the Lunatics, Invalids, and Convicts serving under Colonial Sentences, cumulative on their Original Sentences, but which would not have effect in Van Diemen’s Land.
FITZ ROY TO GREY.

1848.
5 April.

Objections to re-transfer of convicts from Norfolk island.

Upon the subject of the retransfer to this Colony of any portion of the Convicts, who, under the proposed arrangements, will be sent to Norfolk Island, Sir Charles Fitz Roy reserves to himself the privilege of making such observations to the Secretary of State, as the circumstances of the case may appear to Him to require, and especially to point out that such a course, if finally decided upon, will necessarily prolong the period during which it will be requisite to maintain an office for the administration of the Convict Service in this Colony, and thereby entail an expense upon the Home Government. His Excellency feels it also necessary, in acceding to your proposals, expressly to stipulate that no Convicts, now under coercion who may be sent to Norfolk Island, shall be retransferred to this Colony without the previous authority of the Secretary of State; altho' it is not likely that any of this Class will become eligible for indulgence, before an answer to the reference to Her Majesty's Government has been received in the Colony.

With respect to the Officers and stores to be transferred to Van Diemen's Land, I will again communicate with you, when I have ascertained what alteration in their numbers and quantity may be necessary, in consequence of the proposals which you have made in your letter now under reply, for retaining a portion of the Convict Establishments in this Colony.

E. DEAS THOMSON.

[Enclosure No. 5.]

MR. J. S. HAMPTON TO COLONIAL SECRETARY THOMSON.

Comptroller General's Office, Hobart Town,
Sir, 11th March, 1848.

I have the honor to acquaint you, for the information of Governor Sir Charles Fitz Roy, that I have laid before His Excellency Sir William Denison copy of the letter which I had the honor to address to you on the 12th Ultimo after my inspection of the various Convict Establishments in New South Wales, together with your letter of the 14th Ultimo in reply, having reference to the arrangements which, in fulfilment of the orders I had received from Sir William Denison, I submitted for adoption as offering in my judgment the best mode of carrying out the directions of Her Majesty's Government in reference to the reduction of the Convict Establishments in New South Wales.

The Lieutenant Governor has observed that it is stated in your letter that the responsibility of not carrying out, to their full extent, the instructions of the Secretary of State must rest entirely with the Van Diemen's Land Government, and that it is upon this distinct understanding that Sir Charles Fitz Roy will not object, under all the circumstances represented to him, to assent to the proposals submitted in my letter of the 12th February; and, in reply to this point, I have been instructed to state that Sir William Denison, advertting to the reasons which are set forth in my letter, is fully prepared to take upon himself the responsibility of not carrying out the instructions of the Secretary of State, so far as regards the transfer to this Colony of the Convicts now on the hands of the Government in New South Wales.
Recapitulation of proposals accepted by Sir W. Denison.

To the general proposals as recapitulated in your letter, and hereafter re-stated, the Lieut. Governor has expressed his full assent, so far as his concurrence may be necessary for giving them effect:—

1st. That the Lunatics, Invalids and Convicts serving under Colonial Sentences cumulative on their original sentences, but which would otherwise have expired, be retained in New South Wales.

2nd. That Convicts under punishment for less periods than six months be retained in New South Wales, but provided with food and clothing at the expense of the British Treasury.

3rd. That Female Convicts, who may be deprived of their Tickets of Leave, or retained from hired service, be kept at the Invalid and Lunatic Establishment at the expense of the Military Chest, until again eligible for indulgence.

4th. That all other Convicts, maintained at the expense of the Home Government, while under punishment for periods exceeding six months, be removed by the Van Diemen's Land Government to Norfolk Island, and, pending the decision of the Secretary of State, re-transferred to New South Wales, when again eligible for indulgence.

5th. That Male Convicts, whose Tickets of Leave may be cancelled, be retained at Cockatoo Island, and supplied with food and clothing by the Commissariat until they can be removed by the Van Diemen's Land Government to Norfolk Island, with a similar understanding that they are to be returned to New South Wales, when eligible for indulgence.

With regard to the question, whether Convicts, whose original sentence of Transportation has expired, and who are held under cumulative sentences only, could be retained in that Colony, if transferred from New South Wales, I have to state that a reference has been made to the Law Officers of the Crown on the subject, and that the result of that reference will be communicated by the earliest opportunity.

For the transfer to Norfolk Island of the Convicts under coercion whose sentences have not expired, the "Governor Phillip" has been ordered to Sydney, and will return thither, thus admitting of any of the Convicts, whom, for want of accommodation on board, it may have been expedient to retain, being sent to their destination via this port.

I am to add that the Lieutenant Governor will lose no time in reporting to the Secretary of State the arrangements which have been made; and that, until His Lordship's further instructions are received, these arrangements will be strictly adhered to in the part of the Van Diemen's Land Government.

I have, &c.,

[Enclosure No. 6.] J. S. HAMPTON.

MR. J. S. HAMPTON TO COLONIAL SECRETARY THOMSON.

Comptroller General's Office,
Hobart Town, 11th March, 1848.

Sir,

With reference to your letter of the 16th Ulto, forwarding copy of a letter from the Deputy Inspector General of Hospitals with a Return of Officers and others of the Medical Department disposable for Service in Van Diemen's Land, I am directed to
acquaint you that employment can be found for each of the Medical Officers in the same capacity in which they have been employed in New South Wales, and that a passage will be afforded them in the Government Schooner "Mary," or in the "Governor Phillip" on her return from Norfolk Island.

With regard to the Subordinate Officers, I am to state that there is no opportunity of making their services available in this Department.

[Enclosure No. 7.]

MR. J. S. HAMPTON TO COLONIAL SECRETARY THOMSON.

Comptroller General's Office,

Sir, 11th March, 1848.

With reference to the Return furnished by the Principal Superintendent of Convicts of the names and services of Officers belonging to his Department, who will have to be reduced in consequence of the alteration in the Convict Establishment in New South Wales, I am directed to acquaint you that neither Mr. Glaister nor Mr. Rogers can be transferred to the Convict Department in this Colony, as it appears that the former is only able to act as a copyist, and that the latter does not possess the qualifications necessary for an Office Clerk; but that employment in this Office can be provided for Messrs. Snape, McLean, Buckland and Flaherty at the rate of Pay which they now receive.

I am to add that the "Mary" proceeds to Sydney within a few days, and that a passage can be afforded to such of these Gentlemen as may be desirous to avail themselves of the employment now offered to them, it being understood that they will have to make their own arrangements for providing their mess.

I have, &c.,

J. S. HAMPTON.

[Enclosure No. 8.]

MR. J. S. HAMPTON TO COLONIAL SECRETARY THOMSON.

Sir, 11th March, 1848.

Referring to the List of Messengers and other Persons attached to the Convict Department at Hyde Park Barracks, who are desirous of being employed in the Convict Department in this Colony, dated 12th November, and transmitted in your letter of the 23rd November last, I have been directed by Lieutenant Governor Sir William Denison to acquaint you that no employment can be provided for any of these persons, with the exception of Jeremiah Callaghan, who can proceed by the "Governor Phillip" as an overseer to Norfolk Island, with pay at the rate of 3s. 6d. a day, and a Ration, should such an appointment be desired by him.

I have, &c.,

J. S. HAMPTON.

[Enclosure No. 9.]

ATTORNEY-GENERAL PLUNKETT TO COLONIAL SECRETARY THOMSON.

Sir, Attorney General's Office, 17th February, 1848.

I beg leave to acknowledge the receipt of your letter of the 11th instant, stating that it is proposed to remove to Van Diemen's Land certain convicts remaining on the Establishment in this
Legal opinion re effect of transfer of convicts with cumulative sentences.

Proposal for transfer of convicts to Norfolk Island.

Power to hold convicts under colonial sentences.

Transmission of legal opinion.

5 April.

Legal opinion re effect of transfer of convicts with cumulative sentences.

1848, 5 April.

In reply, I beg leave to refer to the joint letter of myself and the Solicitor General, dated 29th Nov., 1847, in answer to yours of the 13th and 17th of same month.

In that letter, we have advised "that such Convicts, as were bond at the time of receiving a Colonial Sentence of Transportation not yet carried into effect, ought to be removed to Van Diemen's Land"; adding to that advice "that, whatever may be their position as regards their original sentence on arriving at Van Diemen's Land, we can only recognise the law of this Country, by force of which the original term has ceased to run on from the date of subsequent conviction."

By force of the 34th Section of the Colonial Act, 3 Willm. 4th, No. 3, those Convicts, serving under cumulative sentences, are liable to be dealt with in all respects as Transported Felons in this Colony; but, as I am not sufficiently informed in the law of Van Diemen's Land, I cannot give an opinion as to whether they will be in the same situation there, or whether they can be controlled and dealt with there, as in this Colony.

I would therefore suggest that the Law Officers of Van Diemen's Land should be consulted on this point.

I have, &c.,

J. H. Plunkett,
Attorney General.

[Enclosure No. 10.]

MR. J. S. Hampton to Colonial Secretary Thomson.

Comptroller General's Office, 15th March, 1848.

With reference to your letter of the 18th Ultmo, transmitting the opinion of the Attorney General of New South Wales upon the question, whether Convicts transferred from New South Wales to this Colony can be held under sentences cumulative on their original Sentences, and suggesting that the opinion of the Law Officers in this Colony should be taken upon the subject, I have now the honor to forward, for the information of Governor Sir Charles Fitz Roy, copy of the opinions of the Law Officers of the Crown.

From these opinions, it will be seen that the Law Officers consider that Convicts, transferred to this Colony from New South Wales, might be held under extensions of their original sentences of Transportation, but not under any sentence of Imprisonment with or without hard labour, in or out of Irons.

I am now, therefore, to state that the Lieutenant Governor will be prepared to sanction the reception at Norfolk Island, of any Convicts, who are under Sentences of Extension of their original Sentences, admitting of their being legally held for a period sufficient for the receipt of the Secretary of State's decision as to
their removal to this Colony or New South Wales, under the general reference that has been made to His Lordship; and I am therefore to request that any Convicts of this description may be forwarded by the "Governor Phillip" on her return from Norfolk Island.

The Lieutenant Governor has directed me further to observe, in order to prevent any misapprehension, that the removal of Convicts, under Sentences that would not be binding in this Colony, was clearly not contemplated by the Secretary of State, and could not, therefore, be carried out by the Van Diemen's Land Government; and that the removal of any Convict to Norfolk Island under Sentences of extension, which would expire before the receipt of His Lordship's decision, would be open to equal objection, unless Sir Charles Fitz Roy should be willing that they should be received back into New South Wales under the same arrangements as have been agreed upon in reference to Ticket of Leave holders who may hereafter forfeit their indulgence.

I have, &c,

J. S. Hampton,
Comptroller General.

[Sub-enclosure.]


I understand the question submitted by the Colonial Secretary in his Memo, of the 2nd March Instant, arising out of the Letters of the Colonial Secretary and Attorney General of New South Wales (dated respectively the 18th and 17th Feb.) to be this:

Whether offenders, originally transported to New South Wales, whose original sentences have now expired, but who, before the expiration of such original sentences, have received additional Sentences in New South Wales not yet expired, would be liable to complete the terms of the latter as cumulative upon their original Sentences?

In order that this question should have been effectually answered, it should have been stated whether the Colonial Sentences referred to are intended to include only those of Transportation as distinguished from other sentences mentioned in the Sydney Act 3d Wm. IVth, No. 3 (as for instance those of hard labour on the roads in that Colony which are in some instances thereby substituted for Transportation), and also whether any and what order of the Queen and Council has issued in pursuance of the 6th Geo. IV, C. 64, Sec. 4, appointing or authorising the Governors of these Colonies or either of them to appoint this Island as the place to which offenders transported from New South Wales may be sent, without which it would not be lawful to transfer such offenders to this Island for the purpose of carrying out their sentences.

Assuming then in the absence of this information, that the sentences referred to are exclusively sentences of Transportation, and that some such order of the Queen in Council has issued, I am of opinion that the offenders above mentioned, transferred to this Island, will be liable to complete their Colonial Sentences of Transportation as Cumulative upon their original sentences. For such sentences, if operative at all, are operative according to their terms; any alterations would be the enforcement of a different sentence to the one passed (one inseparable Tenor of these sentences is, that they shall commence and be computed from the expiration of the original sentence); and the personal status of each prisoner in every part of the British Dominions, to which he may be lawfully removed for the purpose of punishment, is that of a person liable to be constrained and dealt with as a Transferred Felon, not only during the time of the original sentence, but for such subsequent period as the Colonial Sentence may specify; in other words, he is impressed with the deprivation of liberty for the period and according to the terms of the sentence which creates that deprivation.

The above opinion, so far as this Island is concerned, is as before stated subject to the assumption that the transfer of such Convicts here has been sanctioned by Order in Council. But, as regards the dependency of Norfolk Island, whether such Order in Council has issued or not, the transfer there would be legal, and the Convicts liable to serve the whole time of their additional Colonial Sentences. For by the law of New South Wales, Norfolk Island is recognised as a place of Transportation for such offenders; and, by the 6th and 7th Vic., c. 33, sec. 2, all the laws and regulations in force in Norfolk Island at the time of its annexation shall continue in force as if it had continued part of New South Wales, till altered by competent authority.


F. Smith, Junr.
Since writing my former Memo, on the condition of Convicts if transferred to this Island from Sydney, I have had the Letter of the Assistant Comptroller of Convicts before me, from which it appears that His Excellency is desirous that the opinion of the Law Officers should have reference to two descriptions of Sentences:

1st. Those extending the original sentence of Transportation;
2d. Those inflicting imprisonment with or without hard labour, in or out of chains.

1st. With reference to the first description of sentences, I am of opinion that such Convicts may be sent to this Island, upon Proclamations for that purpose being issued by the respective Governors of New South Wales and Van Diemen's Land, in pursuance of the 6th Geo. 4, c. 64, and the Queen's Order in Council consequent thereon dated 22nd May, 1840. But I do not think any such proclamation necessary in the case of Norfolk Island for the reasons already given in my former Memo.

2nd. As to the second description of sentences, I am of opinion that such Convicts, transferred here, would not be lawfully subject to control; and that they would be free elsewhere than within the limits of the Colony of New South Wales, to which their punishment and control are restricted by the terms of their sentences.

Francis Smith, Jr.

Solicitor General's Chambers, 1st March, 1848.

I concur in this opinion of the Solicitor General; and, if Convicts be sent here under the first description of sentence, I think they may be held and dealt with as such until the expiration of the period of such sentence.

V. Fleming.

Attorney General's Chambers, 14th March, 1848.

[Enclosure No. 11.]

Captain McLean to ———.

Principal Superintendent of Convicts Office,

Sir, Sydney, 28th March, 1848.

In reply to your letter of the 25th Instant (No. 48/118) calling for a Return of Convicts under Colonial Sentence of Transportation, who under the opinion of the Law Officers of the Crown in Van Diemen's Land would be removed to Norfolk Island; I have the honor to acquaint you that the only prisoner, who comes under that class, is the man named in the margin,* and whose police history I enclose for your information, by which you will observe he has more than nine years of such sentence to complete.

I have, &c.,

J. McLean.

P.S.—Hamilton is now in the Hospital and supposed to be dying.

J. McL.

[Sub-enclosure.]

Description.

Name Wm. Hamilton, alias Young.
Ship "Parmelia."
Year of arrival 1832.
Native place Linlithgowshire.
Trade or Calling Gardener.
Education Reads.
Religion Protestant.
Married or Single Married (Two Children).
Year of Birth 1800.
Height 5 feet 8 inches.
Complexion Dark.
Hair Brown.
Eyes Dark Grey.
General Remarks Scar left finger; breast and arms hairy.

* Marginal note.—William Hamilton, alias Young, per "Parmelia."
FITZ ROY TO GREY.

Police History and personal description of William Hamilton alias Young now under sentence of Transportation to Van Diemen's Land.

William Hamilton alias Young pr. "Parmelia" arrived 16th of Novr., 1832, was tried at Edinburgh Court of Justiciary, 12th July, 1831. Sentenced 7 years for offence Embezzlement.

July 17/35.—12 Mos. in Irons; making away with his Master's property.

July 12/35.—12 Months in Irons; False Pretences.

Octr. 30/35.—12 Months in Irons; Absconding.

Octr. 18/41.—18 Mos. in Irons; Absconding.

Apl. 24/43.—Abandoned from Tourang Stockade and was apprehended on the 27th December, 1843.

March 1/44.—3 years in Irons; Horse Stealing. (J remitted.)

March 30/46.—12 months in Irons; Absconding. (J remitted.)

Was again tried at the Circuit Court, Maitland, on the 25th of September, 1847, for (Horse) stealing and sentenced Seven Years.

[Enclosure No. 12.]

RETURN of Officers in the Convict Establishment at Cockatoo Island, discontinued on the 31st March, 1848.

<table>
<thead>
<tr>
<th>Office</th>
<th>Name</th>
<th>Yearly Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Superintendent</td>
<td>George Ormsby</td>
<td>£200</td>
</tr>
<tr>
<td>Assistant Superintendent</td>
<td>George Newbolt</td>
<td>£73</td>
</tr>
<tr>
<td>Chaplain of the Church of England</td>
<td></td>
<td>£50</td>
</tr>
<tr>
<td></td>
<td></td>
<td>£323</td>
</tr>
</tbody>
</table>

[Enclosure No. 13.]

MESSRS. DAWSON AND ELIOTT TO COLONIAL SECRETARY THOMSON.

Sir, Sydney, 11th March, 1848.

In obedience to your directions that we should meet and frame a report on subjects referred to in your Memorandum relative to the formation of an Establishment at the Female Factory at Parramatta for Male and Female Invalid and Lunatic Prisoners of the Crown, who for the present are to be supported in this Colony, we have now the honor to report—

1st. That we met at the Factory on the 29th February, and pointed out to the Officer Commanding Royal Engineers certain alterations in the buildings and yard, which we consider necessary for the safe keeping and proper separation of the several classes of Male and Female prisoners.

2d. That the number of male Invalid and Lunatic prisoners is about 200, and of the Females about 30; and, if we suppose that other 30 Women may from time to time be sent in as prisoners, the whole number will not exceed 240 persons, besides the Officers and Attendants. It is most probable that this number will be rapidly diminished by several causes in a much greater ratio than it can be increased by the addition of other prisoners or Invalids, and, therefore, that the number of Officers and attendants to be named, and the expenses of the Establishment, may from time to time be lessened in due proportions.

3rd. We annex a Return of the Officers and Attendants, whom we recommend to be employed with the amount of the pay and
allowances of each, among whom we propose to retain the Storekeeper at present employed in the Factory, as well as the Head Nurse of the Lunatic and Invalid Women, who will without difficulty be able to undertake also the Superintendence of the few Women that may from time to time be deprived of their Tickets and committed to the Factory; and, therefore, we recommend the discontinuance of the services of the Matron Mrs. Statham; Her Salary is £150 per annum and her rations may be valued at £10.

4th. We annex also a Return of the probable expense of the maintenance of the Invalid and Lunatic prisoners, etc., inclusive of the cost of Rations for themselves and their Attendants, Medical comforts for the sick, and Straw for Bedding, and Fuel and Light.

5th. We recommend that, in addition to the Stores now in the Factory, the whole of the serviceable Stores in the Hospital at Liverpool be sent to the Factory; and we think that, with the addition of some Flannel Waistcoats, Drawers, and Shirts, there will be in the Establishment a Stock of Clothing and other stores sufficient for a three years' supply.

6th. We recommend that all the medicines and Medical and Surgical Instruments now in the Hospital at Liverpool, that are likely to be serviceable, be transferred to the Factory, and that the Deputy Inspector General of Hospitals do send from the Government Medical Depot in Sydney other Medicines sufficient for a three Years Supply.

7th. We recommend that the removal of the stores be commenced as soon as possible.

8th. And that the removal of the Invalids and Lunatics from Sydney and Liverpool should commence as soon as the Officer Commanding Royal Engineers reports that the Alterations in progress to the Factory are completed.

9th. We recommend that the Deputy Commissary General be instructed to provide transport for the Stores and prisoners, the Deputy Inspector General of Hospitals first furnishing for his information a Return of the Stores to be removed, and of the number of Invalids and Lunatics to be conveyed from Sydney and Liverpool, and the days on which the Stores and Invalids will be ready for removal.

10th. In accordance with your instructions in paragraphs 10, 11, 12, 13, 14, 15 of your Memorandum, the Deputy Inspector General of Hospitals will report to the Officer Commanding Royal Engineers the days on which the Hospitals at Sydney, Parramatta and Liverpool will be vacated, and he will transmit a Return of all stores, remaining at each Hospital at the time, to the Ordnance Storekeeper.

11th. We recommend that the Surgeon's Quarter in Parramatta near to the Hospital be retained for the use of the Surgeon, who will have the Superintendence and Charge of the Invalid and Lunatic Establishment in the Factory.

We have, &c.,

W. DAWSON, M.D.,
Principal Medical Officer.
G. W. ELIOTT, Visiting Justice.
[Enclosure No. 14.]

[A] Return of the Officers, Attendants and Servants recommended for employment in the Convict Invalid Establishment at Parramatta.

<table>
<thead>
<tr>
<th>No.</th>
<th>Employment</th>
<th>Salary per Diem</th>
<th>Salary per Annum</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td>Visiting Justice</td>
<td></td>
<td>£ s. d.</td>
</tr>
<tr>
<td>1</td>
<td>Surgeon 15/- — Horse Allowance 2/-</td>
<td>17/-</td>
<td>310 5 0</td>
</tr>
<tr>
<td>2</td>
<td>Dispenser of Medicines</td>
<td>2/3</td>
<td>41 1 3</td>
</tr>
<tr>
<td>3</td>
<td>Storekeeper and Clerk</td>
<td>5/6</td>
<td>100 7 6</td>
</tr>
<tr>
<td>4</td>
<td>Head Nurse</td>
<td>2/3</td>
<td>41 1 3</td>
</tr>
<tr>
<td>5</td>
<td>Head Wardensman</td>
<td>2/3</td>
<td>41 1 3</td>
</tr>
<tr>
<td>6-9</td>
<td>4 Attendants, Invalids, each</td>
<td>/6d</td>
<td>36 10 0</td>
</tr>
<tr>
<td>10</td>
<td>Head Keeper</td>
<td>3/6</td>
<td>63 17 6</td>
</tr>
<tr>
<td>11-14</td>
<td>4 Attendants, Free, each</td>
<td>1/8</td>
<td>121 13 4</td>
</tr>
<tr>
<td>15-18</td>
<td>4 Do Invalids, each</td>
<td>/6d</td>
<td>36 10 0</td>
</tr>
<tr>
<td>19</td>
<td>Assistant Nurse</td>
<td>1/6</td>
<td>27 7 6</td>
</tr>
<tr>
<td>20-21</td>
<td>2 Do Prisoners, each</td>
<td>/6d</td>
<td>18 5 6</td>
</tr>
<tr>
<td>22</td>
<td>Cook</td>
<td>1/8</td>
<td>30 8 4</td>
</tr>
<tr>
<td>23</td>
<td>Porter and Gatekeeper</td>
<td>1/8</td>
<td>18 5 0</td>
</tr>
<tr>
<td>24</td>
<td>Carter and Messenger</td>
<td>1/8</td>
<td>30 8 4</td>
</tr>
<tr>
<td>...</td>
<td>1 Horse and Cart</td>
<td>2/-</td>
<td>36 10 0</td>
</tr>
</tbody>
</table>

£ 1,053 11 3

W. Dawson, M.D., Principal Medical Officer.
Gilb. Elliott, Visiting Justice.

[B] Return of the probable Expense of the Maintenance of the Invalids and Lunatic Prisoners, etc., inclusive of the cost of Rations for themselves and their Attendants, Medical Comforts for the Sick, and Straw for Bedding, and Fuel and Light.

<table>
<thead>
<tr>
<th>Daily Allowance</th>
<th>Supply required for—</th>
<th>Price</th>
<th>Cost per Diem</th>
<th>Cost per Annum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full Hospital Ration Provisions.</td>
<td>240 Persons</td>
<td>4jd.</td>
<td>£ s. d.</td>
<td>£ s. d.</td>
</tr>
<tr>
<td>Firewood</td>
<td>9 Wards</td>
<td>2 Officers</td>
<td>1 Kitchen and Laundry</td>
<td>1 lb.</td>
</tr>
<tr>
<td>Light</td>
<td>6 oz. Candles</td>
<td>1 oz. Cotton</td>
<td>2/3 Gills Oil</td>
<td>3/- pr. Gal.</td>
</tr>
<tr>
<td>Straw</td>
<td>200 Beds 96 lbs. each</td>
<td>26,880</td>
<td>6/- pr. 100 lbs.</td>
<td>80 12 10</td>
</tr>
<tr>
<td>Extras</td>
<td>Medical Comforts, etc.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

£1,782 1 7

W. Dawson, M.D., Principal Medical Officer.
Gilb. Elliott, Visiting Justice.
1848.
5 April.

Removal of patients to factory at Parramatta.

DR. DAWSON TO COLONIAL SECRETARY THOMSON.

Principal Medical Officer's Office,
Sydney, 28th March, 1848.

Sir,

I have the honor to report that all the Patients from the Hospitals in Sydney and Liverpool have been removed to the Factory in Parramatta, and to enclose a Return of the several classes of persons now in the Factory.

I beg to remark that a large portion of the sick, being pauper patients for whom the Colonial Government is paying One Shilling per diem each to the Commissariat Chest, a considerable saving will be effected to Her Majesty's Government of the expense estimated in the Return B, enclosed in the letter of the Police Magistrate and myself of the 11th March, 1848, No. 149.

I have, &c,

W. DAWSON, M.D., Principal Medical Officer.

Return of inmates of factory.

<table>
<thead>
<tr>
<th>Males</th>
<th>No.</th>
<th>Females</th>
<th>No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prisoners</td>
<td>173</td>
<td>Prisoners</td>
<td>13</td>
</tr>
<tr>
<td>Convicts free by servitude</td>
<td>32</td>
<td>Sick and Insane</td>
<td>34</td>
</tr>
<tr>
<td>Insane or Invalids</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Free Paupers</td>
<td>6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prisoner Attendants</td>
<td>8</td>
<td>Prisoner Attendants</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>219</td>
<td></td>
<td>53</td>
</tr>
</tbody>
</table>

W. DAWSON, M.D., Principal Medical Officer.

RETURN of the Department of the Principal Superintendent of Convicts in New South Wales on the 31st March, 1848.

<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Office</th>
<th>Salary Daily</th>
<th>Salary Yearly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>John McLean</td>
<td>Principal Superintendent of Convicts</td>
<td>s. d. 600</td>
<td>£ s. d. 0 0 0</td>
</tr>
<tr>
<td>2.</td>
<td>Thomas Ryan</td>
<td>Chief Clerk (2d Class)</td>
<td>200</td>
<td>0 0 0</td>
</tr>
<tr>
<td>3.</td>
<td>Alexander Geo. Dumas</td>
<td>Clerk of the 3rd Class</td>
<td>200</td>
<td>0 0 0</td>
</tr>
<tr>
<td>4.</td>
<td>John Long Horsey</td>
<td>Ditto</td>
<td>170</td>
<td>0 0 0</td>
</tr>
<tr>
<td>5.</td>
<td>James Collins</td>
<td>Officekeeper</td>
<td>54 15 0</td>
<td>54 15 0</td>
</tr>
<tr>
<td>6.</td>
<td>John Bagwall</td>
<td>Messenger</td>
<td>3 6 or 63 17 6</td>
<td>63 17 6</td>
</tr>
<tr>
<td>7.</td>
<td>Samuel Sykes</td>
<td>Ditto</td>
<td>2 3 or 41 1 3</td>
<td>41 1 3</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td></td>
<td>£ 1,429 13 9</td>
<td></td>
</tr>
</tbody>
</table>

[Enclosure No. 15.]

[Sub-enclosure.]
[Enclosure No. 17.]

A RETURN of the Names, Situations, and Salaries of the Officers and Persons of the Department of the Principal Superintendent of Convicts in New South Wales, reduced, or about to embark to join the Convict Establishment in Van Diemen's Land.

<table>
<thead>
<tr>
<th>Name</th>
<th>Situation</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Daily</td>
</tr>
<tr>
<td>William Glaister</td>
<td>Clerk of the 3rd Class, in the Principal Superintendent of Convicts' Office</td>
<td>300 0 0</td>
</tr>
<tr>
<td>William Edward Rogers</td>
<td>Ditto</td>
<td>200 0 0</td>
</tr>
<tr>
<td>Phillip Snape</td>
<td>Ditto</td>
<td>200 0 0</td>
</tr>
<tr>
<td>George Augustus Buckland</td>
<td>Ditto</td>
<td>185 0 0</td>
</tr>
<tr>
<td>Donald McLean</td>
<td>Ditto</td>
<td>155 0 0</td>
</tr>
<tr>
<td>John Ryder Flaherty</td>
<td>and Clerk of the Convict Police Court.</td>
<td>150 0 0</td>
</tr>
</tbody>
</table>

Subordinate Officers.

<table>
<thead>
<tr>
<th>Name</th>
<th>Situation</th>
<th>s. d.</th>
<th>Yearly</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>John Wickham</td>
<td>Police Runner</td>
<td>4 3 or</td>
<td>77 11 3</td>
<td>Reduced.</td>
</tr>
<tr>
<td>Archibald Bolam</td>
<td>Court Messenger</td>
<td>1 9 or</td>
<td>31 18 9</td>
<td></td>
</tr>
<tr>
<td>Edward Halferty</td>
<td>Gatekeeper</td>
<td>3 6 or</td>
<td>63 17 6</td>
<td></td>
</tr>
<tr>
<td>Jeremiah Callaghan</td>
<td>Ditto</td>
<td>3 6 or</td>
<td>63 17 6</td>
<td>Transferred to Norfolk Island.</td>
</tr>
<tr>
<td>Edward Kitson</td>
<td>Constable</td>
<td>3 7 or</td>
<td>65 7 11</td>
<td>Reduced.</td>
</tr>
<tr>
<td>John Myers</td>
<td>Watchhouse Keeper</td>
<td>2 3 or</td>
<td>47 1 3</td>
<td></td>
</tr>
<tr>
<td>Thomas Widders</td>
<td>Chimney Sweep</td>
<td>1 9 or</td>
<td>31 18 9</td>
<td></td>
</tr>
</tbody>
</table>

Total: £ 1,465 12 11

31st March, 1848.
1848.  
5 April.

Application for full salary from clerks.

[Enclosure No. 18.]

CAPTAIN MCLEAN TO COLONIAL SECRETARY THOMSON.

Principal Superintendent of Convicts Office,  
Sydney, 23rd March, 1848.

Sir,  
I have the honor to transmit, for the information and commands of His Excellency the Governor, the enclosed applications from Messrs. Snape, Buckland, D. McLean and Flaherty to be allowed full salary from the date of their reduction to half pay (the 1st Ultimo) to the time they leave this Colony; and, as they have during the period since they were reduced afforded assistance in the preparation of the Returns and Police Histories required for transmission to Van Diemen's Land, I beg leave strongly to recommend their application to the favorable consideration of the Governor.

I have, &c.,  
J. MCLEAN.

[Enclosure No. 19.]

DR. DAWSON TO COLONIAL SECRETARY THOMSON.

Principal Medl. Officer's Office,  
Sydney, 14th March, 1848.

Sir,  
I have the honor to report that I have received letters from all the Medical Officers of the Convict Service Stating their desire to be employed in the Similar Service in Van Diemen's Land when their duties in this Colony terminate.

As, until it be determined whether they are to be employed in Van Diemen's Land, the Officers are obliged to keep themselves in readiness to proceed there and therefore cannot consider themselves at liberty to engage in private business, I beg to submit their case to the consideration of His Excellency the Governor, and to suggest that the pay of all the Officers of the Department, those whose hospitals have already been broken up, as well as those in Sydney and Liverpool whose hospitals are to be closed immediately, be continued to them without allowances until the 30th April; before which date an answer may be expected from Van Diemen's Land as to their employment there; and from that date that they be placed on half pay on the Scale differing according to Ranks, and the length of the Service, the same as that allowed to the Junior Surgeons and Assistant Surgeons of the Army until the pleasure of Her Majesty regarding their Services be made known.

I annex a Return of the pay of the Officers and of the Scale of Half Pay to which I refer, that each would be entitled to.

I beg also to suggest that a Gratuity be allowed to each Dispenser, Overseer, and Clerk according to the length of his Service, from the day of his Employment ceasing, say of one month's pay for each year's Service.

I add a Return of the Dispensers, Overseers and Clerks, their present pay, Service, and the remuneration proposed for each.

It is right to observe that Surgeon Hill, one Dispenser, and one Overseer, with one keeper of Lunatics, will be required for duty in the Factory at Parramatta, and that it is probable the Services of Assistant Surgeon Silver may be continued at Cockatoo Island.

I have, &c.,  
W. DAWSON, M.D.,  
Principal Medical Officer.
[Sub-enclosure.]

[1] Return showing the length of service of the Officers of the Medical Department, Convict Service, with the scale of half pay granted Military Medical Officers of similar rank and service.

<table>
<thead>
<tr>
<th>Rank</th>
<th>Name</th>
<th>Period of Service</th>
<th>Daily Rate of Pay.</th>
<th>Military Daily Rate of Half Pay.</th>
<th>Assistant Surgeons.</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Surgeons</td>
<td>Assistant Surgeons</td>
<td></td>
</tr>
<tr>
<td>Surgeons</td>
<td>P. Hill</td>
<td>27 years, 2 months</td>
<td>15/-</td>
<td>13/-</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Surgeons</td>
<td>W. Richardson</td>
<td>22 years, 1 month</td>
<td>13/-</td>
<td>...</td>
<td>11/-</td>
<td>...</td>
</tr>
<tr>
<td>Surgeons</td>
<td>A. C. Gamack</td>
<td>17 years, 4 months</td>
<td>13/-</td>
<td>...</td>
<td>8/6</td>
<td>...</td>
</tr>
<tr>
<td>Assistant</td>
<td>D. K. Ballow</td>
<td>11 years, 10 months</td>
<td>7/- 6</td>
<td>...</td>
<td>...</td>
<td>5/-</td>
</tr>
<tr>
<td>Surgeons</td>
<td>J. Eckford</td>
<td>11 years, 4 months</td>
<td>7/- 6</td>
<td>...</td>
<td>...</td>
<td>5/-</td>
</tr>
<tr>
<td>Assistant</td>
<td>M. W. Lee</td>
<td>7 years,</td>
<td>7/- 6</td>
<td>...</td>
<td>...</td>
<td>4/-</td>
</tr>
<tr>
<td>Surgeons</td>
<td>J. Silver</td>
<td>3 years, 6 months</td>
<td>7/- 6</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

W. Dawson, M.D., Principal Medical Officer.

Medical Department,
Sydney, 31st March, 1848.
[2] RETURN Shewing the period of Service of the Several Dispensers, Overseers and Clerks of the Medical Department, Convict Service, with a Scale of the proposed Gratuity.

<table>
<thead>
<tr>
<th>Rank</th>
<th>Name</th>
<th>Period of Service</th>
<th>Daily Rate of Pay</th>
<th>Proposed Gratuity Scale</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>s. d.</td>
<td>£ s. d.</td>
<td>&quot;30 Days in Each Month.&quot;</td>
</tr>
<tr>
<td>Dispensers</td>
<td>M. O'Brien</td>
<td>3 11</td>
<td>3 0</td>
<td>17 12 7</td>
<td></td>
</tr>
<tr>
<td></td>
<td>E. Heuner</td>
<td>4 5</td>
<td>3 0</td>
<td>19 17 1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>F. O'Brien</td>
<td>5 2</td>
<td>2 9</td>
<td>21 16 3</td>
<td></td>
</tr>
<tr>
<td></td>
<td>F. Robertson</td>
<td>4 6</td>
<td>2 3</td>
<td>15 3 9</td>
<td></td>
</tr>
<tr>
<td></td>
<td>J. Brennan</td>
<td>3 6</td>
<td>2 3</td>
<td>11 16 3</td>
<td></td>
</tr>
<tr>
<td></td>
<td>P. T. Tighe</td>
<td>7 4</td>
<td>2 3</td>
<td>24 15 0</td>
<td>Reduced on 31st January, 1848,</td>
</tr>
<tr>
<td></td>
<td>S. P. Cann</td>
<td>3 0</td>
<td>2 3</td>
<td>10 2 6</td>
<td>Reduced on 31st May, 1847.</td>
</tr>
<tr>
<td>Overseers</td>
<td>W. S. Proctor</td>
<td>1 11</td>
<td>4 0</td>
<td>69 0 6</td>
<td></td>
</tr>
<tr>
<td></td>
<td>P. Plunkett</td>
<td>4 3</td>
<td>2 3</td>
<td>14 6 10</td>
<td></td>
</tr>
<tr>
<td></td>
<td>J. White</td>
<td>1 3</td>
<td>2 3</td>
<td>4 4 4</td>
<td>Reduced on 31st January, 1848,</td>
</tr>
<tr>
<td></td>
<td>G. Plunkett</td>
<td>4 4</td>
<td>2 3</td>
<td>14 12 6</td>
<td>Reduced on 31st May, 1847.</td>
</tr>
<tr>
<td>Clerk</td>
<td>T. L. Styles</td>
<td>3 0</td>
<td>2 3</td>
<td>10 2 6</td>
<td></td>
</tr>
<tr>
<td></td>
<td>J. Hendry</td>
<td>6 4</td>
<td>3 0</td>
<td>28 10 10</td>
<td></td>
</tr>
</tbody>
</table>

N.B.—All the Dispensers and Overseers will be reduced on the 31st March, 1848, except one Dispenser and one Overseer to be employed as Head Wardsman at Parramatta.

W. Dawson, M.D., Principal Medical Officer.
Medical Department,
Sydney, 31st March, 1848.

[Enclosure No. 20.]

Mr. J. S. Hampton to Colonial Secretary Thomson.

Comptroller General's Office,

Sir,

11th March, 1848.

With reference to the transfer of the Revd. Mr. Walpole to the Convict Department in this Colony, I have been directed by the Lieutenant Governor to State that it is not in his power to provide any employment for that Gentleman without displacing some other Gentlemen of Superior claims from length of Service, and that the transfer cannot therefore be carried into effect.

I have, &c,

J. S. Hampton.

[Enclosure No. 21.]

Bishop of Sydney to Colonial Secretary Thomson.

Sir,

Sydney, 21st March, 1848.

I have the honor to acknowledge the receipt of your letter of the 20th inst., apprizing me of the inability of the Lieut. Governor of Van Diemen's Land to provide employment for the
Revd. Mr. Walpole in that Colony, and expressing the hope of His Excellency the Governor that I may be enabled to continue Mr. Walpole in office in this Diocese. I have the honor to state that every appointment is already full, and that other equitable engagements would require to be fulfilled in providing for other Clergymen, previously to Mr. Walpole. Indeed I would submit with much deference to His Excellency that Mr. Walpole accepted an appointment, which placed him in the employment of the British Government. It would, therefore, be by no means in conformity with the general practice of that Government to leave him to be replaced (at a great disadvantage even if it were possible) in a position which he was considered to have finally abandoned for the purpose of entering upon that new and different employment. The latter having been discontinued by the will and direction of the British Government itself, I conceive that Mr. Walpole must stand towards the Home Government in that relation, which is universally admitted in the case of the holders of other offices which are abolished; and I beg, therefore, to urge his claim to be provided at the public expense with a passage for himself and family to England: Such being the only mode in which compensation can be made to him for the disadvantage, he has incurred through the unexpected abolition of an appointment which he undertook without having received the slightest intimation that it probably would not be permanent.

I have, &c,

W. G. SYDNEY.

[Enclosure No. 22.]

MR. E. SOWERS TO COLONIAL SECRETARY THOMSON.

Office of Ordnance,

Sir, Sydney, 16th February, 1848.

In attention to your letter of yesterday's date, I do myself the honor to enclose a Statement of the alterations which it is necessary to make in the Return of Clothing and Stores for Convict Service, dated 20th November last, then considered available stores (for Convict Service in Van Diemen's Land, by which a provision will be made, as nearly as the same can be ascertained (calculated for two years Supply) for the probable number of Convicts likely to be retained in this Colony, as stated in the Postscript of your letter.

I have, &c,

RICHD. ROGERS, Storekeeper.

[Sub-enclosure.]

[This detailed statement relating to clothing and stores has been omitted.]

[Enclosure No. 23.]

MR. J. S. HAMPTON TO COLONIAL SECRETARY THOMSON.

Comptroller General's Office,

Sir, Hobart Town, 11th March, 1848.

With reference to the transfer of the Stores now in charge of the Ordnance Storekeeper in New South Wales, I have the honor, by direction of Sir William Denison, to forward to you copy of a letter from the Ordnance Storekeeper in this Colony, from which it will be seen that that Officer does not consider that any transfer
HISTORICAL RECORDS OF AUSTRALIA.

1848.

Stationery required.

5 April.

Report re proposed transfer of stores to Tasmania.

could at present be effected with advantage to the Service; an opinion in which, under the circumstances stated by Mr. Douglas, the Lieutenant Governor concurs.

With regard, however, to the Stationery, I have to state that any portion not required by the Convict Department in New South Wales can be made available here, and to request, therefore, that you will move His Excellency the Governor to sanction its being forwarded either by the "Governor Phillip" or the "Mary."

I have, &c.

J. S. HAMPTON.

[Sub-enclosure.]

MR. R. DOUGLAS TO MR. J. S. HAMPTON.

Office of Ordnance, Hobart Town, 7th March, 1848.

In reply to your letter of the 4th Instant, in which you request me to report what portion of Stores, pronounced (as per list enclosed) available for transfer to this Colony by the Ordnance Storekeeper at Sydney, New South Wales, would be likely to be required for Convict Service here.

I have the honor to state that, after carefully examining the List in question, I find that I have on charge almost every article enumerated therein equal to about two years consumption, and the Ordnance Stores being full at the present moment, together with the hired Stores almost adjoining, I cannot take upon myself to recommend any portion of the Sydney Stores being at present, at all events, transferred to this Colony, but would propose that they should be retained at Sydney until actually required here.

In the event of my proposition being acted upon, I would submit that a copy of the list in question be retained for my guidance, in the event of my seeing it advisable to require any portion of the Stores in question at a future period, in order to preclude purchases on the spot; and as the annual Demands for the years 1847-48 and 1848-49 have been transmitted to England, that it would be also advisable to transmit a copy of the Enclosures to the Right Honble. the Secretary of State to prevent provision by purchase in England.

I have, &c.

R. DOUGLAS.

Ordnance Storekeeper.

[Enclosure No. 24.]

DR. DAWSON TO COLONIAL SECRETARY THOMSON.

Principal Medical Officers Office.

Sir, Sydney, 28th March, 1848.

I have the honor to acknowledge your letter of the 27th March enquiring how I propose to dispose of the Medicines now in the Medical Depot after selecting a supply for the Invalid Establishment at Parramatta; and to reply that I have directed the Acting Apothecary to have his accounts and Returns of Medicines prepared as speedily as possible in order that a Board of Medical Officers may examine them and ascertain that the remaining Medicines are correct; and that, as soon as I have submitted his return and the proceedings of the Board on them to His Excellency the Governor for approval, it is my intention to recommend that they be packed up and sent to Van Diemen's Land.

I beg to observe that, as the number of Medicines and Medical and Surgical Materials in the store is very great and must amount to twenty tons, some weeks must elapse before they can be ready to be sent away. There is of course a good supply of medicines in Van Diemen's Land, and, as we are sending all those which have just arrived for the Supply of this Colony for one year, the Old Medicines in the stores cannot be immediately required there.

I have, &c.

W. DAWSON, M.D.

Principal Medical Officer.
SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 87, per ship Alert.)

My Lord,

Government House, 5th April, 1848.

I have the honor to forward to Your Lordship a copy of a letter from the Immigration Agent of this Colony respecting the ship "Sir Edward Parry," accompanied by a Report in the form prescribed by Lord John Russell's Circular Despatch of the 11th March, 1841.

The "Sir Edward Parry" was the ship selected by the Land and Emigration Commissioners for the conveyance to this Colony of the Children, to whom free passages were granted under the Notice of this Government of the 26th May, 1846, of which the approval was communicated to me by Your Lordship's Despatch of the 24th March, 1847, No. 114.

From the Immigration Agent's letter and its enclosure, Your Lordship will learn the satisfactory issue of the Voyage, and that, through the efficiency of the management, the Commissioners' apprehensions of a more than ordinary number of deaths has been so far from realised, that the mortality was considerably below the usual average.

In communicating to the Land and Emigration Commissioners the documents which I now enclose, I beg to request that Your Lordship will convey to them the thanks of this Government for the care and attention, which they bestowed on the arrangements for the collection, the outfit, and the despatch of the Children, who arrived in the "Sir Edward Parry," and for the efficiency with which the whole business has been conducted.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure No. 1]

MR. F. L. S. MEREWETHER TO COLONIAL SECRETARY THOMSON.

Immigration Office.

Sir.

Sydney, 31st March, 1848.

With reference to your letter of the 23rd Ultimo, and to the communications from the Colonial Land and Emigration Commissioners which have been forwarded for my information, I do myself the honor to forward to you herewith, for transmission to the Right Honorable the Secretary of State for the Colonies, a report in the form, prescribed by Lord John Russell's Circular Despatch of the 11th March, 1841, on the Ship "Sir Edward Parry," which was chartered by the Commissioners for the conveyance of the children to whom passages had been granted under the Notice of this Government of the 26th May, 1846.

The "Sir Edward Parry" arrived at Port Phillip on the 24th January last, and, the portion of the Immigrants destined for that place or desiring to remain there having been in the meantime landed, she was placed by His Honor the Superintendent under
orders to proceed to Sydney on the 31st January. She sailed on the 2nd February, and arrived at Port Jackson on the 17th of that month.

Two persons only died on the passage, one an infant, and the other an adult female, who, though apparently in good health, was consumptive when she embarked.

The children landed both at Melbourne and at Sydney were taken away by their parents or friends without delay, and the adult Immigrants, who had no relatives on board, were all either engaged in Service, or went to their friends almost immediately after their arrival.

The State of the Ship and Immigrants and the arrangements observed on board have given every Satisfaction to the inspecting Officers, both here and at Port Phillip. The highest credit is due to Dr. Sullivan, the Surgeon Superintendent, for the efficiency of his management. The conduct of Mr. Capps, the Schoolmaster, and Mrs. Read, the Matron, are spoken of in commendatory terms by Dr. Sullivan, and the observation of the Board here enables them to appreciate the justice of Dr. Sullivan's praise.

It can scarcely fail to be a source of gratification to the Commissioners that the care and attention which they have bestowed on the arrangements for giving effect to the intentions of this Government should have been so efficiently carried out by the persons appointed to take charge of the children on the voyage, that the mortality should have been so small, and the general result so successful.

I consider it due to Dr. Sullivan and to the Immigrants by the "Sir Edward Parry" to notice in this Report the assistance rendered by them when the refractory conduct of the crew would have otherwise caused the detention of the Ship at Melbourne. The Crew having refused to weigh anchor when ordered, with a view to obtain either their discharge or the higher rate of wages current in Melbourne, Dr. Sullivan came forward and proffered the aid of himself and the Immigrants to work the Ship to Sydney. This offer was accepted by the Master, and the Ship was thus enabled to proceed to its destination without delay.

I may notice here that the local Government have fully approved of the course pursued by the Commissioners in providing outfit for those of the Children who could not otherwise have procured it, and that repayment of the money has not been demanded from their relatives here.

I have, &c.,

FRANCIS L. S. MEREWETHER.

[Enclosure No. 2.]

[This was a detailed report on the immigrants per ship Sir Edward Parry.]

SIR CHARLES FITZROY TO EARL GREY.

(Despatch No. SS. per ship Alert.)

6 April.

My Lord,

Government House, 6th April, 1848.

By my Despatch No. 7 of the 8th of January last, I acquainted Your Lordship with the steps which have been taken for defining the boundary line between this Colony and that of
South Australia; and I now have the honor to inform Your Lordship that the Government of South Australia has since pointed out an error that has been made in the Proclamation issued by Lieut. Governor Robe, by which the boundary is stated to commence 1 ½ Miles East from the Glenelg instead of West. This, however, has now been corrected, as Your Lordship will see by the accompanying copy of the South Australian Government Gazette.

I regret at the same time to have to inform Your Lordship that, independently of this error, the general description given in the Schedule of the Proclamation is found in many points to differ very materially from that published by Mr. Surveyor Wade, who was employed by this Government in the Survey in question. How this occurred is at present unknown to me; but I have requested the Superintendent of Port Phillip to communicate with the Lieut. Governor of South Australia, for the purpose of endeavouring to effect an adjustment of the matter; the result of which I shall have the honor of making known to Your Lordship.

I have, &c.,

[Enclosure.] CHS. A. FITZ ROY.

[This was a copy of the issue of the "South Australian Gazette," dated 23rd December, 1847.]

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 80. per ship Alert; acknowledged by Earl Grey, 28th August, 1848.)

My Lord,

Government House, 6th April, 1848.

The accompanying Petition addressed to Her Majesty by Mr. James Johnstone, complaining of, and seeking redress for the manner in which certain Crown Lands in the Port Phillip District occupied by him under License have been brought forward for sale, under the authority of the Superintendent, Mr. La Trobe.

This Petition, although dated the 20th November, 1847, was not received by this Government until the 28th January last; and, having reference to Land situated in the District of Port Phillip, it was in the usual course submitted for the report of the Superintendent. This reference was made on the 2d February, and Mr. La Trobe's reply bears date the 16th of the same month, but did not reach Sydney until the 28th. I have entered into this explanation in order to account for the apparent delay in the transmission of the Petition.
Several previous communications had been addressed by Mr. Johnstone to the Colonial Government upon the same subject; but I saw no reason to dissent from the line of conduct pursued by Mr. La Trobe in the matter; and my opinion was communicated to Mr. Johnstone to this effect through Mr. La Trobe on the 12th November last. To this decision Mr. Johnstone objects, and the present complaint is the consequence.

The facts of the case appear to lie in a very narrow compass.

In the early period of the establishment of the District of Port Phillip, several extensive portions of Land, some of which as in the present case were situated in the Country of Bourke, were measured for sale; but, not having been sold, individuals were subsequently allowed to occupy them under yearly License for pastoral purposes under the Colonial Regulations, dated 21st August, 1841, on condition of their being surrendered at one month's notice, whenever they might be required for sale or otherwise, and subject to other conditions which clearly prove that the intention of the Government was to keep the lands in question for its disposal at any time and in any way it might be considered advisable for the public interests to adopt.

It appears that, in the month of September, 1845, Mr. Johnstone the complainant obtained an occupation License for two portions of the Land referred to in the County of Bourke, as having been originally measured for sale under the conditions before mentioned, one containing 427 acres and the other 174 acres, and of which he continued in possession until they were sold on the 8th December last.

In July, 1846, in February, 1847, and again in April of that year, applications were made for the purchase of these lands, but the same were not entertained, it being intended, as the parties were apprised, to subdivide the lands in question for sale.

It appears that the reason, which induced Mr. La Trobe to cause this subdivision of the original Allotments to be made, was that, the Land being of good quality and situated within a short distance of the City of Melbourne, it was likely to sell at better prices in smaller lots, whilst at the same time persons with limited means, who, however, are frequently the improvers of land, would be afforded an opportunity of purchasing direct from the Crown and of obtaining a clear Title to the land. Mr. Johnstone also made application in July, 1847, but received a similar reply. These portions of land were accordingly, with others, subdivided into smaller lots and put up to Auction, as before stated, on the 8th December last in the usual manner, and sold, Mr. Johnstone being outbid at the sale.
Mr. Johnstone complains of the subdivision and states that he made considerable improvements on the Land under the belief that they might be put up as originally measured, referring to a case where this was done; and he Petitions that the land may be now put up to Auction in this manner, which of course cannot be complied with, the land having, as already stated, been sold; but, were it otherwise, there does not appear any valid reason for complying with such a request.

Upon a full consideration of the whole case, I do not conceive that Mr. Johnstone has any just cause whatever of complaint against the authorities of Port Phillip. The Government only exercised its undoubted right in putting up the Lands in question in such portions as was thought most proper for the public advantage. Mr. Johnstone has not, it appears to me, been treated either unjustly or harshly; nor in dealing with him has the Government departed from the settled and ordinary rules of practice, large portions of land similarly situated and Licensed having been subdivided and disposed of by Auction.

I have, &c.,

Fitz Roy

[Enclosure.]

The Humble Petition of James Johnston, Settler, on the Marybyrnong River near Melbourne, in the District of Port Phillip, Colony of New South Wales.

To Her Most Gracious Majesty Queen Victoria.

Sheweth:—

That your Petitioner purchased at a sale of occupation licenses, held by the Colonial Government in Melbourne on the twenty-fourth day of September in the year of our Lord, one thousand, eight hundred and forty five, a portion of the measured waste lands of the Crown, situated in the County of Bourke, Parish of Cut-Parv-Parv, being portion No. 21, and the adjoining reserve, containing six hundred and one acres; that on the said land Your Petitioner erected a homestead, and made considerable improvements thereon in fencing and clearing the ground under a belief that, when the said land was brought forward for public sale, it would be sold as then measured.

That a plan of the said and adjacent lands was kept in the Survey Office at Melbourne for the inspection of the public, as measured lands open for application for purchase; that selections had been made at various times from the said plan and, where applied for, brought forward by the Colonial Government at the periodical land sales.

That, on the 21st of June and 10th of July, 1847. Your Petitioner put in applications to the Surveyor in charge at Melbourne that portion No. 21 containing 427 acres and the adjoining reserve containing 174 acres in the Parish of Cut-Parv-Parv might be brought forward to public sale, when your Petitioner's applications were refused, on the plea that the land would be resurveyed.
That your Petitioner wrote to His Honor the Superintendent of Port Phillip, pointing out the injustice and injury your Petitioner would sustain by any subdivision of the Land, as your Petitioner had erected a comfortable homestead, and been at considerable expense in improving the land, on the faith of its present survey.

That your Petitioner being unable to obtain redress from His Honor the Superintendent at Melbourne, your Petitioner wrote to the Colonial Secretary, requesting him to bring the same under the notice of His Excellency the Governor, when your Petitioner received an answer, certifying that His Excellency had found it necessary to refer your Petitioner's communication to His Honor the Superintendent of Port Phillip.

That, on the 27th day of October, 1847, your Petitioner received a communication from His Honor the Superintendent at Melbourne certifying that, on His Excellency the Governor receiving His Honor's Explanation to your Petitioner's letter, requesting that His Excellency would be pleased to have brought forward for sale certain lands situated in the parish of Cut-Parv-Parv as applied for by your Petitioner, His Excellency regretted he could not accede to your Petitioner's request.

That your Petitioner has in the most summary manner and without an opportunity being afforded him of defending or justifying his application to His Excellency the Governor been deprived of his just rights, as regards the measured portions of the waste lands.

That the adjacent land held under an occupation license, when applied for by a Mr. J. P. Main, was brought forward to public sale, as then measured; that land possesses superior advantages over the land applied for by your Petitioner, in as much as the former has, at all seasons of the year, a constant supply of fresh water, and an excellent and direct road to Melbourne. Whereas the land refused to your Petitioner is without any fresh water, except what is saved from the drainage of the ground.

That allowing one applicant to make selections from the measured waste land, and refusing it to another, is subversive of justice, and opens a road for bribery and corruption.

Your Most Gracious Majesty's. Humble Petitioner therefore prayeth that Your Majesty will be Graciously pleased to order that the above mentioned portion of the waste land of the Crown, now occupied by your Petitioner, may be put up at public sale in the same measured portions, as measured and sold to your Petitioner under the occupation license, and not as re-surveyed, or that Your Most Gracious Majesty will make such other order as to Your Majesty may seem meet.

And your Petitioner as in duty bound will ever pray, etc., etc.

20th day of November, 1847.

JAMES JOHNSTON.

SIR CHARLES FITZ ROY TO EARL GRBY.

(Despatch No. 90, per ship Alert.)

My Lord, Government House, 7th April, 1848.

I have the honor to acknowledge the receipt of Your Lordship's Despatch No. 238 of the 18th October last, directing
my attention to Mr. Secretary Gladstone's Despatch of the 16th March, 1846, which called for any observations I might have to offer on a representation made by Mr. N. Dennys of certain alleged hardships to which his son is exposed as Treasurer of a District Council in this Colony under the Act of Parliament, 3 and 4 Victoria, Cap. 62.

In only now forwarding to Your Lordship the information required, the only apology I have to offer for the delay that has occurred is the fact that Mr. Gladstone's despatch was received by me within a very few days of my arrival in this Government, and that, upon obtaining from the Office of the Colonial Secretary the information necessary to enable me to answer it, I by accident placed the Memorandum, with some other papers relating to the District Councils of the Colony, where it entirely escaped my memory, until I was reminded of it by Your Lordship's Despatch of the 18th of October, which I received by the last Packet. Trusting that this explanation, although unsatisfactory to myself, may be favorably received by Your Lordship, I proceed to put your Lordship in possession of the circumstances of Mr. Dennys' case.

Mr. Dennys represents that in consequence of the Resolution of the District Council of Grant in the Port Phillip District of this Colony not to levy any sums to defray the liabilities incurred by them in seeking to carry out the provisions of the Act of Parliament, 5 and 6 Vict. Cap. 76, for fear of the Actions at law threatened against them, his son, Mr. C. J. Dennys, who holds the situation of Treasurer of the Council, is personally subjected to such liabilities, although he has no means of compelling the Council to raise the money themselves, and that he is also unable to obtain payment of his salary which is now two years in arrear.

By the 47th Section of the above Act, the Governor may, by his Warrant, direct the Treasurer of a District Council to pay the amount of the Police Rate for which his District may be assessed by the Governor and Legislative Council; and, by the 49th Section of the same Act, if such amount is not paid within two months after the receipt of the Warrant, the goods of the Treasurer and all the Members of the Council may be sold to defray such Police Rate with Costs, etc.; but, as no Police Rate was ever fixed by the Governor and Legislative Council under the 47th Section above mentioned (the whole cost of the Police having been hitherto defrayed from the General Revenue), Mr. Dennys is of course in no danger of being levied upon for such Rate.
It is, however, mentioned that Mr. Dennys is a Creditor of the Council to the amount of two years Salary, and there appear to be considerable difficulties in the way of his recovering this amount.

Certain Bye Laws were passed in the early career of the Council for levying Rates, etc., in order to carry out the intentions of the Imperial Act.

The Settlers having intimated their intention to resist payment of such Rates (through certain alleged legal informalities), the Council applied to my Predecessor to be exonerated from the damages, which they might incur in endeavouring to enforce the payment of the Rates mentioned; but he refused any pledge of the kind.

A Bye Law was then passed by the Council "to facilitate the Assessment and recovery of Rates imposed upon Crown Lands within the District of Grant and to provide against casual informalities in the Assessment Notices of the Council"; but, as it was considered unfair by my Predecessor and his Executive Council that persons already paying assessment as Squatters under the Act of Council, 2d Vict., No. 27, should have another rate levied upon them, this Bye Law was disallowed.

It was, upon this, submitted by the Warden of the District Council that, from doubts of the power of the Council to levy (under the Bye Laws actually approved by the Governor), only £170 had been received; that the Salaries of the Officers had been long in arrear; and that, through the disallowance of the Bye Law just referred to, the other Bye Laws could not be enforced.

The Warden further brought under notice that the Council were on the one side threatened with law proceedings for the recovery of their Officers' Salaries, and on the other to Actions from parties assessed upon; and stated the decision of the Council to proceed no further in the exercise of their local functions for the present. He also about the same time represented that the Council looked to the local and to the Home Government to relieve them from their embarrassment and liabilities.

The Warden further expressed a hope that, if the difficulties of working District Councils were not removed, or if the system should fall to the ground, the Officers of the Council and the other claimants might be paid the sums due to them; in answer
to which he was apprised that the Governor was of opinion that District Councils would not be abolished by Parliament.

It appears questionable, therefore, whether Mr. Dennys can obtain payment of his Salary without proceeding at law against the parties who employed him as Treasurer, a course which might involve him in considerable expense, as it is probable that such an Action would be defended.

Applications were made by the Council to my Predecessor for an appropriation from the Public funds of a sum sufficient to discharge their debts; but, as these applications were rejected by Sir Geo. Gipps, the District Council appears to have no means of defraying their liabilities unless they proceed to enforce the Bye Laws already mentioned as approved, which they fear to do from the loss to which (they have been advised) they might be subjected in consequence.

For Your Lordship's further information, I avail myself of this opportunity of stating that I recently received through Mr. La Trobe a Petition from the same District Council bringing under my notice the amount of the pecuniary liabilities under which it lies, for services performed during the period at which it attempted to carry the provisions of the Imperial and Colonial Acts into operation, and praying that I "would be pleased to take steps to relieve the Petitioners from the embarrassing and dishonorable position," in which they state themselves to be placed. For the same reasons, however, which induced Sir Geo. Gipps to reject the former and similar application, which the District Council of Grant addressed to him, and also bearing in mind Your Lordship's decision with respect to the application of the Warden and two other Members of the Sydney District Council as conveyed to me in Your Lordship's Despatch No. 230 of the 26th September, 1847, I have deemed it my duty to cause the Petitioners to be informed that I do not consider myself at liberty to entertain the prayer of their Petition.

I have, &c.,

Chs. A. Fitz Roy.

**Earl Grey to Sir Charles Fitz Roy.**

(A circular despatch, per ship Faithful; acknowledged by Sir Charles Fitz Roy, 30th September, 1848.)

Sir, Downing Street, 8th April, 1848.

I have to request that you will obtain and transmit to me, for the purpose of completing a Return for the House of Commons, a List of all Offices held by Letters Patent under the
Great Seal of the United Kingdom, at present existing in the Colony under your Government, with the particulars enumerated under the following heads, viz.:

1. Title of the Office and date of its first establishment.
2. Name of the present Holder.
3. Nature of the duties of such Office.
4. Whether executed in Person or by Deputy.
5. Amount of Salary, Fees, and other Allowances, in 1845 and 1846.

Together with a Statement of any Sums of Money which may have been received in respect of such Office, and not appropriated to the benefit of the Holder or his Deputy, shewing the date at which any such Sums were first retained, and how since disposed of.

I have, &c.,

GREY.

SIR CHARLES FITZ ROY TO EARL GREY.

(My Lord. Government House, 8th April, 1848.)

At the request of Mr. Ryan Brenan, Coroner of the City of Sydney, I have the honor to transmit a letter to Your Lordship's address, accompanied by a statement of his services under this Government, in which Mr. Brenan solicits the appointment of Senior Police Magistrate of Sydney, which will be vacant on the retirement of Mr. Charles Windeyer, whose application for a Pension I forwarded in my Despatch No. 75 of the 30th ultimo.

Having, in my Despatch No. 76 of the 30th ultimo, strongly recommended Mr. Joseph Long Innes to Your Lordship's favorable consideration as Mr. Windeyer's successor, it only remains for me to add that, even if I did not consider that Mr. Innes had the best claim to this appointment, Mr. Brenan's character in the Community, and his conduct (as frequently reported in the Newspapers) as a practising Attorney in the Sydney Police Court would be sufficient to satisfy me that he would be a very unfit person to fill the Office of Police Magistrate.

I have, &c.,

CHS. A. FITZ ROY.

[Enclosure.]

MR. J. R. BRENAN TO EARL GREY.

(My Lord. Sydney, 8th April, 1848.)

I have the honor to enclose a Copy of my Application to His Excellency Sir Charles Augustus Fitz Roy, together with a
statement of my services as a public Officer, requesting to be nominated by him Senior Police Magistrate of the City of Sydney subject to your Lordship's confirmation; but His Excellency has not been pleased to appoint me, nor recommend me to Your Lordship for that office. Yet I have a hope that Your Lordship, on looking into my claims on the Government and my services in the Colony, and my peculiar qualifications for that office, being legally educated and having for so many years filled a similar Office as Third and Second Police Magistrate for the City of Sydney, that Your Lordship will be pleased to appoint me Senior Police Magistrate for the City of Sydney vacant on the resignation of Charles Windeyer, Esquire.

I have, &c.,

J. RYAN BRENAN.

[Sub-enclosure.]

A BRIEF statement of the services and claims of Mr. Ryan Brenan to promotion in the public service under the Dispatch of The Right Honorable Lord Stanley to His Excellency Sir George Gipps of the 15th June, 1842, relative to the appointments to public offices in the Colonies.

For the Information of His Excellency Sir Charles Augustus Fitz Roy, K.G.H., etc., etc., etc.

I arrived in Sydney New South Wales in June, 1833, and brought with me the following Letter from the then Secretary of State for the Colonies to His Excellency then Major General Bourke.

"Dear Sir, " Colonial Office, February one, 1833.

"In an enclosed paper you will see that, on Mr. Rice's recommendations, I authorized Lord Howick some time ago to make a recommendation to you of a Gentleman who is, I believe, well known to you and who has been subsequently to the date of that letter recommended again to me by Mr. Rice as well as by Lord Anglesey. In consequence of these repeated Letters, I am now induced to say that I shall be glad if I find myself called upon by you to confirm any appointment of him which you may believe him capable of discharging with advantage to the interest of His Majesty's Service."

"I have, &c.,"

"To Major Genl. Bourke."

"H. GODERICH."

No office being vacant under the Government on my arrival, I accepted the appointment of Solicitor of the Bank of Australasia; and shortly after the Coronership of Sydney became vacant, which was offered to me by the Governor, but I declined accepting it from the smallness of the Salary (then £100 a year); but the Governor requested me to accept it to bring the office as he said into proper odour, to which I agreed on the condition that I should get a suitable appointment when an opportunity offered.

In pursuance of the above authority of Lord Goderich, the Governor nominated me in 1835 principal Superintendent of Convicts at a Salary of £600 p. annum, and recommended my confirmation in that appointment to the Secretary of State in due course. I held this Appointment for two years until the 2nd September, 1837, when, to the astonishment of the Governor and myself, Captain McLean arrived with the Secretary of State's appointment to that office, and without a moment's notice I was superseded.

Here I beg to observe, on being nominated Principal Superintendent of Convicts in 1835, I was obliged to resign the practice of my profession and the Solicitorship of the Bank of Australasia.

As to the manner in which I discharged the duties of that most important office I beg to refer to the Dispatch* of the then Governor Sir Richard Bourke, forwarding my protest against my unceremonious removal from that office, as also to the present Colonial Secretary.

At this period, I had embarked my Capital in a considerable herd of Cattle, Station, etc., and was by my removal from office obliged to sacrifice the whole of my property at a loss of about £2,000, being compelled to abandon all speculations of the kind and practice my profession as an Attorney.

Shortly after the arrival of Sir George Gipps, he was pleased to appoint me Third Police Magistrate of Sydney in addition to the office of Coroner, and strongly recommended to the Secretary of State my confirmation in both offices, which appointments were confirmed accordingly by Lord Glenelg, feeling no doubt the
great hardship of my sudden removal from the office of Principal Superintendent of Convicts. The Dispatch is as follows:

"No. 187. Sir,
I have received your Dispatch No. 58 of the 12th of April last, reporting the nomination of Mr. Ryan Brenan to the office of Third Police Magistrate of Sydney vacant by the resignation of Mr. Young and proposing that he should hold that appointment in conjunction with the office of Coroner which he already filled.

"In my Dispatch No. 174 of the 6th Instant, I authorised you to offer to Mr. Brenan the office of Clerk of the Crown at Port Phillip with a salary of £400 per annum, but, as the combination of the offices in which you have appointed Mr. Brenan appears to have been indispensable and will confer on him a higher rate of Salary than the situation at Port Phillip, I have much pleasure in confirming Mr. Brenan as a Police Magistrate and Coroner of Sydney.

"I have, &c.,
E. GLEEMEL."}

On receiving the appointment of Police Magistrate, I was again obliged to give up the practice of my profession, having then to take charge of and deal with all the Prisoners assigned in the District of Sydney together with other extensive duties connected with the Police Bench. I, however, did so cheerfully considering myself safely fixed for life in these offices, and continued to do the duty of Police Magistrate from April, 1838, to January, 1844, when on the 3rd of that month I received the following intimation from His Excellency Sir George Gipps:

"No. 44. Sir,
I am directed by His Excellency the Governor to state that, as he understands, no provision has been made by the City Council for the payment of salary to you as a Police Magistrate during the year 1844. His Excellency thinks it right to apprise you that he has no other funds out of which you can be paid.

"I have, &c.,
E. DEAR THOMSON.

By this letter, your Excellency will perceive Sir George Gipps did not remove me from the office of Police Magistrate, nor have I been removed up to the present period, His Excellency merely intimating that he had no funds out of which to pay my Salary. And it is important here to observe that the power, exercised by the City Corporation and referred to in the above letter, was subsequently discovered not to be within their Jurisdiction, and such interference was thenceforth prevented; but my necessities obliged me to again fall back upon the practice of my profession.

Many months having elapsed before this discovery was made, the Governor declined placing my name on the estimates for Salary as a Police Magistrate, finding as he said that the City Magistrates were sufficiently numerous to relieve the public from such an additional expense, but intimating to me his intention of doing so and promoting me to Senior Police Magistrate on the retirement of Mr. Windyer.

Thus have I been put into office and thrust out of office from 1835 to 1844, and the last removal at a period of unprecedented public distress, having from the fall in value of every description of property nearly lost the whole of my capital and worse the prime of my life, and this last deprivation of the emoluments of office had nearly driven me into the Insolvency Court.

As to emoluments.

My appointment of Principal Superintendent of Convicts gave me a salary of £600 a year. The confirmation of my appointment of Police Magistrate and Coroner for Sydney gave me conjointly about the same sum, which it is obvious from the terms of the Dispatch the Secretary of State was desirous of making me.

The Legislative Council, however, in opposing the estimates of Sir George Gipps reduced my salary as Coroner to £40 a year, which, together with fees, now produce about £140 a year; and, suppose I am to be appointed Senior Police Magistrate, the Salary is £400 a year only, which conjointly with that of Coroner will produce only £540 a year.

In addition to my severe losses from my frequent change of position without the slightest blame attributable to me, I was on the appointment of Captain McLean obliged to refund to that Gentleman one half the Salary payable to him.

As I am but little known to your Excellency, I feel some confidence in referring to the present Colonial Secretary and Her Majesty's Attorney General to testify to my faithful and efficient public services in all the offices I have had the honor to hold and my capability to discharge the duties of any office that I may undertake under your Excellency's administration.

I take leave to draw your Excellency's Attention to the first portion of the eighth paragraph of the Dispatch of Lord Stanley to Sir George Gipps of 18th June, 1842, viz.: "In the distribution of the patronage of the Government in the Colonies, great weight must always be attached to local services and experience. Every Governor will, therefore, make once in each year a confidential report of the claims of
Candidates whether already employed in the public service or not, whom he may consider to possess that qualification in order that when a vacancy or opportunity for promotion occurs the Secretary of State may have before him the means of judging how far the particular Candidate recommended by the Governor is on the whole the best qualified, and whether a Candidate of proper qualifications is to be found in the Colony or in the adjacent Colony.

I trust that your Excellency will be pleased to bring my name under the notice of the Secretary of State for the Colonies as a Claimant for promotion in the public service.

J. Ryan Brennan.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 92, per ship Alert; acknowledged by Earl Grey, 8th September, 1848.)

My Lord,

Government House, 10th April, 1848.

Having taken the earliest opportunity after the commencement of the present Session of the Legislative Council to submit for their consideration Your Lordship's Despatch No. 213 of the 3d September last on the subject of the introduction into this Colony of Convicts holding Tickets of Leave or Conditional Pardons, and also (at the expense of the Mother Country) of free Immigrants equal in number to the Convicts so transported, I have now the honor to transmit the copy of an Address, which has this day been presented to me by a deputation from the Council, by which Your Lordship will perceive that the Council express their readiness to co-operate with Her Majesty's Government in giving effect to this system on the terms proposed in Your Lordship's Despatch, and that "they would urge as a point of the greatest importance to the complete success of this measure, that the wives and families of the Exiles should accompany rather than follow them"; and further, "that, in the whole progress of this combined deportation and Emigration, due care should be taken to maintain as far as possible an equality of the sexes."

Should these amendments meet with Your Lordship's approbation, I would venture to recommend the immediate commencement of the system, which I am convinced will be received as a boon by a large majority of the people of this Colony when the want of a sufficient supply of labour is becoming daily more apparent, and is operating most injuriously on the prospects of many of the largest and most respectable landholders in it.

The copies of the "Sydney Morning Herald" and "Australian" Newspapers, which accompany this Despatch, contain reports of the debate which occurred in the Legislative Council when this subject was under their consideration.

I have, &c.,

Chas. A. Fitz Roy.
ADDRESS

To His Excellency Sir Charles Augustus Fitz Roy, Knight Companion of the Royal Hanoverian Guelphic Order, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, etc., etc., etc.

May it please your Excellency:

We, Her Majesty's most dutiful and loyal subjects, the Members of the Legislative Council of New South Wales in Council assembled, beg respectfully to present to your Excellency the accompanying Resolutions adopted by the Council this day, and to request that your Excellency will be pleased to transmit the same for the information of Her Majesty's Government.

1. That the Despatch of the Right Honorable the Secretary of State for the Colonies, No. 213, dated 3rd September, 1847, having been submitted to the consideration of this Council, this Council is disposed to co-operate with the Home Government in carrying out the scheme of reformatory discipline indicated therein, so far as relates to the reception and employment in this Colony of the two classes of Exiles, holding Conditional Pardons and Tickets of Leave, on the terms in the said Despatch mentioned, viz., that in all cases the Wives and Families of such Exiles, together with a number of Free Emigrants, equal to the number of such Exiles, shall be sent out at the cost of the British Treasury. This Council would, however, urge, as a point of the greatest importance to the complete success of the measure, that the Wives and Families of the Exiles should accompany rather than follow them; so that the evils arising from large aggregations of males in the narrow compass of a Vessel, and almost necessarily in a state of idleness, may be avoided, and the beneficial tendencies of the first stage of their probationary career on their arrival in the Colony may not be needlessly endangered by a severance of domestic ties. The Council would further urge that, in the whole progress of this combined deportation and emigration, due care should be taken to maintain, as far as possible, an equality of the sexes, so as to prevent a recurrence of those social evils which are allowed on all hands to have been the worst feature of the late system of transportation. The Council would further urge the justice of applying the same principle to the Exiles who have already been sent to the District of Port Phillip.

2. That a copy of the above Resolution be presented to His Excellency the Governor, with a request that he will be pleased to transmit the same for the information of Her Majesty's Government.

Charles Nicholson.

Legislative Council Chamber,
Sydney, 7th April, 1848.

[Additional enclosures.]

[These were copies of the issues of the "Sydney Morning Herald," dated 10th April, and of the "Australian," dated 7th April, 1848.]
GREY TO FITZ ROY.

SIR CHARLES FITZ ROY TO EARL GREY.

(Despatch No. 93, per ship Alert.)

My Lord,

Government House, 10th April, 1848.

I have the honor to acknowledge the receipt of Your Lordship's Despatches numbered in the margin* which arrived on the 10th Ultimo by the ship “Chaseley.”

I have, &c.,

CHS. A. FITZ ROY.

EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 65, per ship Faithful.)

Sir,

Downing Street, 11 April, 1848.

With reference to my despatch No. 35 of the 28th of Feb., I transmit to you herewith the copy of a letter from the Revd. Robert Park, in which he adverts to the omission of the Presbyterian Clergyman in the Notice issued by the Emigration Commissioners with reference to the formation of local Committees for the protection and guardianship of First Orphan Emigrants.

I have assured Mr. Park that he need entertain no apprehension of any desire on the part of the Government to place the Members of one Church under the control or management of the Head of another; and I wish to explain to you that, although in that Memorandum reference was made to the expediency of endeavouring to secure the services of the Heads of the Churches of England and Rome on that Committee, yet of course it would be proper that you should take the advice of some of the leading Members of the Presbyterian Church in respect to any matter, which may affect the disposal of young people who are Members of that Church; and it will probably be desirable to invite some clergyman of that persuasion to become a Member of the Committee.

I am, &c.,

GREY.

[Enclosure.]

REVD. ROBERT PARK TO EARL GREY.

My Lord,

Ballymoney, 30th March, 1848.

My attention has been directed to a document submitted to the Board of Guardians of the Ballymoney Poor Law Union, respecting the Emigration of Orphans to Australia. It is a printed copy of a Communication from the Commissioners of Colonial Lands and Emigration to the Under Secretary for the Colonial Department, dated 17th February, 1848, and has annexed a Memorandum of Arrangements on the subject.

* Marginal note.—Nos. 232 to 255 (inclusive); Circular, 27th Septr.; Military No. 7, 1847.
Protest against omission of Presbyterian clergy from committees for control of orphans.

I have specially remarked No. 8 in the Memorandum, which, in reference to the employment of Emigrants, prescribes:—

"8. The Governors of New South Wales and South Australia will be directed to appoint a Committee in each Colony, at which they will request the co-operation of the Bishop of Australia and the Roman Catholic Archbishop of Sydney, and, in South Australia, of the Bishop of Adelaide and the Roman Catholic Bishop to see that these stipulations are duly observed by the Employers."

As Presbyterian Chaplain in the Ballymoney Union Workhouse, I have had charge of very many Orphans, both Male and Female, who may be induced to emigrate. As a Minister of the Presbyterian Church in Ireland, I hold conscientiously its distinguishing principles.

I have taught them to the Children under my care, and I am extremely unwilling that these young people and others in similar circumstances should not only be deprived of the counsel and influence of pastors of their own Church, and be cast within the control of parties holding principles at variance with those of the Church, to which they and their parents belong, and in which, with the sanction of the Legislature, they have been educated.

I am, therefore, obliged to remonstrate against a regulation, which recognizes and encourages the co-operation of the Bishops of the Church of England and of the Roman Catholic Church, and yet takes no notice of the authority of the Presbyterian Church or of any right of interference on its part with the Emigrants, although it is the established Church of Scotland, and is endowed in this Country as the "General Assembly" of the Presbyterian Church in Ireland.

I beg respectfully to request that the Moderator of the Presbyterian Synod of Australia shall have the same right of co-operation with the Committee appointed in each Colony by the Governors of New South Wales and South Australia, as the Bishops of the Churches specified in regulation No. 8, and that Your Lordship will have the regulation so amended that the rights and privileges of the Presbyterian Church, or of any of its Members, whether young or old, may not be interfered with in any of the Colonies under Your Lordship's control.

I have, &c.

ROBERT PARK,
Minister First Presbyterian Church, Ballymoney, and Presbyterian Chaplain in the Ballymoney Poor Law Union Workhouse.

EARL GREY TO SIR CHARLES FITZ ROY.

(Send to No. 68, per ship Faithful.)

Sir,

Downing Street, 12 April, 1848.

I have to acknowledge the receipt of your Despatch, No. 169 of the 23rd of August, and avail myself of the earliest opportunity to transmit to you, herewith, Letters Patent, which have been issued under the Great Seal of the United Kingdom, extending the limits* of New South Wales to the Northward of the 26th Degree of South Latitude.

* Note 28.
EARL GREY TO SIR CHARLES FITZ ROY.

(Despatch No. 68, per ship Faithful; acknowledged by Sir Charles Fitz Roy, 23rd November, 1848.)

Sir,

Downing Street, 14 April, 1848.

I have to acknowledge the receipt of your despatch No. 141 of 11 July last, with its enclosures, communicating the result of an enquiry which you had directed to be made by some of the Officers of Your Government into the state of the Instruments and Books, etc., belonging to the Observatory at Paramatta, in the charge of Mr. J. Dunlop, the Astronomer, and also reporting upon the state of the Building itself.

In another despatch, dated 30 August last, No. 176, you announce the resignation by that gentleman of his appointment, and that you had given the necessary authority for packing and depositing the above mentioned books and instruments in the Ordnance Store at Sydney.

I approve of your having authorized the charging to the Engineer Branch of the Convict Service the expense, which has been incurred in this Service, and, with further reference to the suggestion contained in Mr. Dunlop's letter, which you have forwarded, of the 18th August, 1847, you are authorized to Conditional make over the Transit Instrument to the possession of the Colonial Government, provided they should be willing to make arrangements for the construction and maintenance of a Time Ball Establishment.

As regards the other Instruments, with the Clocks and Chronometers, no time should be lost in disposing of them to the best advantage in the Colony, as they are likely soon to become deteriorated, if left in the Ordnance Stores in Sydney.

I have, &c.,

GREY.
EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 52, per ship Faithful.)

Downing Street, 14 April, 1848.

Sir,

I have to acknowledge the receipt of your despatch, No. 190 of 24 September last, submitting the Annual Estimate for the repair of the Convict Buildings in New South Wales for the year 1848-9, together with your despatch of 28 October last, No. 218, reporting the measures then in progress for breaking up the Convict Establishment. I gather from these Reports that some of the principal Buildings referred to in the Estimate, namely the Hospitals at Sydney and at Liverpool, will still be required for invalid Lunatic Convicts.

You likewise promise to send home detailed Statements of the further arrangements, which may be made for breaking up the Convict Establishment.

I should wish to be informed (unless, indeed, such information may have been conveyed in your promised reports) which of the above mentioned buildings would, under the terms of my Instruction of the 4th of May, 1847, be retained for Military purposes, and which for Convicts still under the control of Government. Moreover, you will understand that, if the Colony takes the remainder of the buildings for its own use, it must provide, in future years, for the expense of keeping such buildings in repair, as no further provision for that purpose can be made from the British Treasury.

I have to add that the Estimate transmitted in your despatch has received the Sanction of Her Majesty’s Government.

I have. &c.,

GREY.

EARL GREY TO SIR CHARLES FITZ ROY.
(Despatch No. 70, per ship Faithful; acknowledged by Sir Charles Fitz Roy, 8th May, 1849.)

Sir,

Downing Street, 14 April, 1848.

I transmit to you herewith a Copy of a letter from the Secretary to the Board of Admiralty, with a copy of a Report from Captain McArthar, Commandant of the Settlement of Victoria in North Australia, on the state of the Public Buildings at that Settlement. I also enclose a copy of the reply, which has by my direction been returned to that communication, from which you will perceive that, adverting to the difficulty of communicating from Sydney with that Settlement, I have requested that one of Her Majesty’s Ships of War should be directed if possible to visit Victoria in order that some means
might be devised of preserving the Public Buildings from the ravages of the White Ant, from which it appears they now suffer great detriment.

You will not, however, fail to use any means which might be in your power for checking that evil, if you should have an opportunity of communicating with the Settlement.

I have to add that it appears to me very doubtful whether the destruction of these buildings by the white ants may not have been a good deal accelerated by closing in the open space originally left beneath them.

While they were raised upon piles leaving a free circulation of air beneath, it must have been much easier to observe and check the attacks of these destructive insects than it can be now, for the sake of giving some additional accommodation, the space below has been closed in and converted into a ground floor.

I have, &c.,

Grey.

[Enclosure No. 1.]

CAPTAIN HAMILTON TO UNDER SECRETARY MERIVALE.

Sir, Admiralty, 18th March, 1848.

I am commanded by My Lords Commissioners of the Letter Admiralty to transmit to you, for the information of Earl Grey, transmitted.

a copy of a communication which has been received from Captain John McArthur, Commandant at Victoria, N. Australia, relative to the state of the Public Building at that place.

I have, &c.,

W. A. B. HAMILTON.

[Sub-enclosure.]

CAPTAIN McARTHUR TO .

Sir, Victoria, North Australia, 16th October, 1847.

In reply to your letter of the 6th February, 1847, I beg to state that, from Report of pub-

the long detention of Mails and consequent accumulation of letters producing con-

lie buildings at considerablc pressure of business during the short visit of a vessel, I have not been Victoria, Port

able to execute their Lordships' order as communicated by you in a manner satis-

factory to myself, but the general correctness of my statements I can vouch for.

The Buildings may be classed thus:

First, Those which were framed and all the materials prepared at Sydney, shipped and brought on in Freight Ships with the expedition to this Port.

Secondly, Those which have been erected with materials on the spot.

Of the first, there were six in number, besides the Church; Government House being larger than the other five.

In the map, they are distinguished by the letters,

A. Government House;
B. Officers’ Mess House and Quarters;
C. Quarter Master’s Office and Quarters above, below the Spirit Store;
D. Store House, above Slop clothing and dry goods, below Salt Meat;
E. Ordnance Store;
F. Store, bread above, below Cooper’s Materials, Boat Gear, etc.;
G. The Hospital, sent from Sydney complete in 1840.

This is a fine Building. I regret I cannot possibly complete an elevation of it.

The Church was opposite the Officers’ Mess House, a good building, but unfortunately was blown down in the Hurricane. The Wreck of it has now been nearly all worked into the other Buildings as they have required repairs.

The Buildings, marked A and E, stand on dwarf pillars of Stone and Wood about two feet from the ground or more.

Those, marked B and F, the former on piles 8 feet high forming a complete under store and the latter on similar piles but not enclosed.
1848.
14 April.

Report re public buildings at Victoria, Port Essington.

Those, marked C and D, were originally also built upon piles of eight feet, but in time C was completed in solid masonry and formed an admirable Spirit Store, whilst D was completed with bricks in a substantial manner. The dotted lines in the elevation denote the brickwork.

This temporary method of piling in order to raise the buildings has proved very useful. Had they been fixed on the ground in the usual manner, they must have been destroyed long since by vermin. Then the capacity of every house so raised was doubled. As to their present condition, I regret to say that the Store C, standing on Masonry, will need extensive repairs before the rains set in; the Stone Walls harbour the white ant, and we have long since been obliged to move the coping and clear the Masonry of the Wood work so as to intercept these invaders. Lt. Lambriek has always succeeded in extirpating them, but they first effect much mischief; the framing and roof have been undergoing frequent repairs. None of the buildings have suffered like this from the same cause, but all without exception are now beginning to decay: the shingle covering readily saturates when the rain falls, and thus Water is constantly deposited on the rafters. E upon the beach has suffered less than any other; the Ant cannot reach it.

The second Class of Buildings are the Blockhouse, Smithy, Hospital Cook House and the general quarters and accommodation for the People, consisting of Messing houses and dormitories. The Map shows their positions.

The Blockhouse and Fort are particularly infested by the White Ant; having so much solidity in the construction, it is not possible to reach the destructive creature, and altogether it must be destroyed by them; it requires a new roof now; the Magazine, constructed by solid Masonry and arched over, had been lined with thin plank, ventilated in the usual way, but we discovered that the whole of it had been destroyed, ere we suspected any evil.

The Hospital Kitchen stands well, Walls Masonry.

The Smithy consists of a solid stone Chimney, strong framing of timber throughout and covered roof and walls with bark. I have taken some pains to make it complete, and it is a respectable workshop. This was finished about Eight Months ago, I think.

The Men's quarters comprise two kinds; the thatched roof with reeded walls and the entire bark covered. I prefer the first as being most cleanly; they will not last more than two or three years. We are just now actively employed about them. The long shed is covered with bark and includes Carpenters, Wheelwrights and Coopers' Workshops, Cart House and various Marine stores are lodged here.

The whole of this Class of building will soon be in order.

All the buildings have been considered by me to be under my own charge, and I uniformly required of those, who had duties connected with them, immediately to report the appearance of the White Ant. Nothing can be done but to rip open every place where they are found, invariably at the angles, or else some of the principals. The lower plates are seriously damaged, but the upper parts are yet good though not sound.

I shall immediately commence and complete plans with details of scantling used in all the buildings and forward them by the first conveyance, as I must repeat, Sir, the present has been too hasty a performance.

I beg leave respectfully to assure their Lordships that I will not fail in my duty in bestowing every care and attention upon the public property under my superintendence.

JNO. MCArTHUR, Captain Royal Marines,
Commandant.

[Enclosure No. 2.]

UNDER SECRETARY MERIVALE TO CAPTAIN HAMILTON.

SIR,
Downing Street, 5 April, 1848.

I have laid before Earl Grey your letter of the 18th Ultimo, enclosing a report from Captain McArthur relative to the state of the Public Buildings at the Settlement of Victoria, in South Australia.

Lord Grey regrets to perceive the destruction caused to the Buildings from the ravages of the White Ant. Captain McArthur observes that Lieutenant Lambriek has always succeeded in extirpating them; but that they first effect much mischief, and he adds that all the Buildings without exception are beginning to decay.

As the local Government of New South Wales have but little opportunity of communicating with that Settlement, Lord Grey would suggest to the Lords Commissioners of the Admiralty the