

VICTORIA.



VOTES

AND

PROCEEDINGS

OF THE

LEGISLATIVE

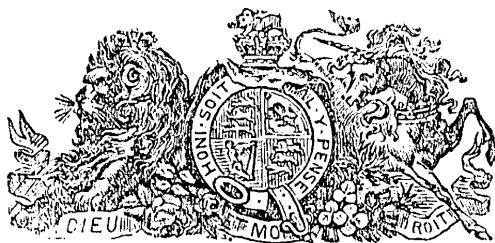
COUNCIL.

SESSION.

1857-8.



VICTORIA.



VOTES AND PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL

DURING THE SESSION

1857-8,

WITH COPIES OF THE VARIOUS DOCUMENTS ORDERED BY THE  
COUNCIL TO BE PRINTED.

---

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.







# TABLE OF CONTENTS.

	PAGE.
INDEX ... ..	v
LIST OF PAPERS LAID UPON THE TABLE, NOT ORDERED TO BE PRINTED ... ..	xi
SUMMARY OF BILLS INTRODUCED INTO THE COUNCIL ... ..	xiii
ADDITIONAL JOINT STANDING ORDERS ... ..	xv
MINUTES OF PROCEEDINGS ... ..	1
SELECT COMMITTEES ... ..	127
WEEKLY REPORT OF DIVISIONS IN COMMITTEE OF THE WHOLE COUNCIL ... ..	129

## RETURNS TO ADDRESSES AND ORDERS, AND PAPERS:—

A	1. Patent Slip.—Return to Order ... ..	139
	„ 2. Collision between the Steamers <i>Champion</i> and <i>Lady Bird</i> .—Return to Order ... ..	159
	„ 3. Sale of Land on Captain Hepburn's Run.—Paper ... ..	161
	„ 4. Title Page only (which see) ... ..	163
	„ 5. Site for New Government Offices.—Paper ... ..	165
	„ 6. Chinese Passengers and Gold shipped by the Chinese.—Return to Order ... ..	169
	„ 7. Land Sales at Belfast, &c.—Return to Order ... ..	171
	„ 8. Dismissals in the Public Service.—Return to Address ... ..	177
	„ 9. Sewerage and Water Commission.—Return to Order ... ..	183
	„ 10. Occupations of the People.—Return to Order ... ..	195
	„ 11. Examination of Railway Tenders.—Papers ... ..	207
	„ 12. Superseded Persons in the Public Service in 1858.—Return to Address ... ..	209
	„ 13. Railway Loan Correspondence.—Papers ... ..	215

## REPORTS OF SELECT COMMITTEES:—

D	1. First Report of Printing Committee ... ..	229
	„ 2. Marriage Bill ... ..	233
	„ 3. Second Report of Printing Committee ... ..	285
	„ 4. Elections and Qualifications ... ..	289
	„ 5. Punishment of Frauds Bill ... ..	305
	„ 6. Transfer of Land Bill ... ..	323

## PETITION:—

E	1. Local Court of Mount Ararat Gold Field ... ..	369
---	--	-----







# INDEX.

A.	Minutes of Proceedings.	Printed Papers.
	Page.	Page.
Absence (Leave of) to Member—(Hon. G. Urquhart) - - - - -	13	
(Hon. S. G. Henty) - - - - -	47	
(Hon. D. Kennedy) - - - - -	59, 60	
Accounts, Public (Act 21 Vict., No. 24)—General Regulations respecting—Laid on Council Table - - - - -	11	
Rules for Guidance of Treasurer respecting—Laid on Council Table - - -	118	
Memorandum of Distribution of (May, 1858)—Laid on Council Table - - -	2, 3	
Address—In Reply to Governor's Speech - - - - -	21	
On Vice-Admiralty Court - - - - -	21	
Admiralty (Vice) Court—Motion for Address - - - - -	27	
Return to Address - - - - -	28	
Analyses of Water of Yan Yean and Yarra River—Motion for Return - - - - -	43	
Return to Order—Laid on Council Table - - - - -	94	
Apology of Member absent from Call of House - - - - -	89	
Appointments to Vacancies in Public Service—Motion - - - - -	39	
Appropriation Bill, 1858—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills") - - - - -	27	
Ararat (Petition of Members of Local Court at)—Motion on - - - - -	75	
Area and Population of Electoral Districts in Electoral Districts Alteration Bill— Motion for Return - - - - -	89	
Return laid on Council Table - - - - -	41	
Assent (Royal) to Bills. ( <i>Vide</i> "Summary on Bills") - - - - -	714	
Assessment on Stock Bill—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills") - - - - -	11	
Audit Act Amendment Bill—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills") - - - - -	21	
Avoca District—Local Court Regulations (11th December, 1857)—Laid on Council Table - - - - -	11	
(18th December, 1857)—Laid on Council Table - - - - -	11	
B.		
Ballaarat District—Local Court Regulations (14th December, 1857)—Laid on Council Table - - - - -	11	
(31st December, 1857)—Laid on Council Table - - - - -	21	
Order in Council (15th February, 1858)—Laid on Council Table - - - - -	43	
Polling places for Mining Board—Order in Council (15th February, 1858)— Laid on Council Table - - - - -	55	
Order in Council (15th February, 1858)—Laid on Council Table - - - - -	43	
Banks (Tenure of Office in Direction of) by Responsible Ministers—Motion - - -	87	
Beechworth District—Local Court Regulations (11th December, 1857)—Laid on Council Table - - - - -	11	
(24th December and 31st December, 1857)—Laid on Council Table - - - - -	21	
Births, Deaths, and Marriages (Year ending 30th June, 1857)—Laid on Council Table	27	
Board of Land and Works Act Amendment Bill—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills") - - - - -	76	
Buildings (Parliament)—Joint Committee appointed - - - - -	6	
Buninyong District—Local Court Regulations (18th December, 1857)—Laid on Council Table - - - - -	21	
Business—Days of - - - - -	5	
Government—Days of - - - - -	5	
C.		
Call of the House for 18th May—Ordered - - - - -	70	
Called on - - - - -	94	
Castlemaine District—Local Court Regulations (4th December, 1857)—Laid on Council Table - - - - -	5	
(11th December, 1857)—Laid on Council Table - - - - -	11	
(24th December, and 31st December, 1857)—Laid on Council Table - - - - -	21	
Central Province—Issue of Writ for Return of Member - - - - -	69	
Chairman of Committees—Election of - - - - -	3	
Chinese—Supplementary Regulations for—On the Gold Fields (20th November, 1857)— Laid on Council Table - - - - -	3	

	Minutes of Proceedings.	Printed Papers.
	Page.	Page.
Chinese—Immigrants' Fund (18 Vic., No. 39)—Receipts and Disbursements—Laid on Council Table	13	
Annual Rate Fund (18 Vic., No. 39)—Receipts and Disbursements—Laid on Council Table		
Passengers and Gold exported by—	31	
{ Motion for Returns	35	
{ Returns— { Laid on Council Table	49	169
{ Returns— { Ordered to be printed		
Closing Parts of Streets in Melbourne Bill—Brought in ( <i>Hon. W. H. F. Mitchell</i> ). ( <i>Vide</i> "Summary on Bills")	11	
Collision of <i>Lady Bird</i> and <i>Champion</i> Steamers—Motion for Report of Steam Navigation Board	13	
{ Laid on Council Table	17	
{ Ordered to be printed	22	159
Committees (Chairman of) elected	3	
Conveyancing—Motion for Address	9	
Copyright Bill—Brought in ( <i>Hon. J. Hood</i> ). ( <i>Vide</i> "Summary on Bills")	59	
Council—Counted out	9	
{	50	
{	50	
{	43	
County Courts and Gold Fields Acts—Orders and Rules—Laid on Council Table		
Creswick District—Local Court Regulations (27th November, 1857)—Laid on Council Table	3	
(31st December, 1857)—Laid on Council Table	21	
Crown Explanation Bill—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills")	94	
D.		
Days of Business		
{ Government	5	
Debtors from Neighboring Colonies Bill—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills")	39	
Declaration of Qualification by Member	55	
{	93	
{	63	
Defences of the Colonies—Motion for Select Committee	89	
Denominational School Board—Report of Proceedings, 1856-7—Laid on Council Table	64	
Diseases (Return of), 1857—Laid on Council Table	50	
Dismissals in the Public Service—Motion for Address	65	
{ Laid on Council Table	75	177
{ Ordered to be printed		
Donaghy, Mr. (Complaint of)—Motion for Correspondence	13	
{ Return laid upon Council Table	27	
Dunolly District—Local Court Regulations (14th December, 1857)—Laid on Council Table	11	
(31st December, 1857)—Laid on Council Table	21	
Duration of Assembly Bill—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills")	27	
E.		
Education—Appropriations for School Purposes—Motion for Return	63	
{ Denominational School Board—Report of Proceedings 1856-7—Laid on Council Table	89	
{	49	
Educational and Religious Purposes—Grants of Land for—Motion	5	
Elections and Qualifications Committee—Warrant appointing	97	
{ Petition of T. T. a'Beckett and M. H. Irving referred to Members of, sworn	99	
{ Report brought up and ordered to be printed	113	289
{ Two Petitions referred to, and hour of meeting fixed	115	
Electoral Districts Alteration Bill—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills")	70	
{ Roll to 31st March—Motion for Return	75	
{ Part Return—Laid on Council Table	79	
{ Further Return—Laid on Council Table	89	
{	108	
Electoral Districts in Electoral Districts Alteration Bill (Area and Population of)—		
{ Motion for Return	75	
{ Return—Laid on Council Table	89	
F		
Federal Union of Australian Colonies—Report of Committee of Parliament of South Australia—Laid on Council Table	55	
{ Letter from Government of Tasmania—Laid on Council Table		
Federation Committee—Appointed	9	
{ Name of President added to	11	
Fire (Careless Use of) Bill—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills")	76	
Frauds (Punishment of) Bill—Brought in ( <i>Hon. J. B. Bennett</i> ). ( <i>Vide</i> "Summary on Bills")	63	
{ Referred to Select Committee	99	
{ Report brought up and ordered to be printed	118	305
Friendly Societies (Particular) Bill—Brought in ( <i>Hon. J. B. Bennett</i> ). ( <i>Vide</i> "Summary on Bills")	59	
{ Return of—Registered in 1857—Laid on Council Table	99	
Fryer's Creek District—Local Court Regulations (31st December, 1857)—Laid on Council Table	21	



	Minutes of Proceedings.	Printed Papers.
G.		
Gambling Lotteries—Motion for Address and Committee appointed to prepare Report brought up	Page. 59 84	Page.
Geelong Boundaries Restriction Bill—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills")		
Geelong Gas Company's Bill—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills")	101	
Gold deposited in Treasury and Sub-Treasuries—Motion for Return	35	
Returns laid on Council Table	55	
Gold Fields and County Court Acts—Orders and Rules—Laid on Council Table	43	
Gold Fields Management Act—Orders in Council (4th January, 1858)—Laid on Council Table	21	
Government—Business days of	5	
Governor—Speech of	1, 2	
Reply of, to Address	5	
Grants of Land and Money to Free Presbyterian Church—Motion for Return	47	
Grants of Land for Religious and Educational Purposes—Motion	49	
Gun Boats for the protection of the Coast—Motion for Select Committee—Select Committee appointed	75	
Motion for extension of powers to Select Committee	93	
H.		
Health Officer's Report—Half-year ending 31st December, 1857—Laid on Council Table	55	
Hepburn District—Local Court Regulations (11th December, 1857)—Laid on Council Table	11	
Hepburn's (Captain) Run (Sale of Land at)—Paper ordered to be printed	25	161
I.		
Immigrants Fund (18 Vic. No. 5)—Receipts and Disbursements, 1856—Laid on Council Table	13	
(Chinese)—Receipts and Disbursements, 1856—Laid on Council Table	13	
Immigration—Report of Immigration Agent, 1856—Laid on Council Table	21	
Summary Report of Colonial Land and Emigration Commissioners, 1857 (Assisted)—Motion for cessation of	55	
Report of Immigration Agent, 1857—Laid on Council Table	73	
Imprisonment for Debt Abolition Bill—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills")	117	
Independence of the Legislature Bill—Brought in ( <i>Hon. W. H. F. Mitchell</i> ). ( <i>Vide</i> "Summary on Bills")	118	
	2	
L.		
Lands—Public (Sale of)—Motion—	6	
Survey of—Motion for Returns	21	
Sale of, on Captain Hepburn's Run—Paper ordered to be printed	25	161
Report of Survey of Public—Motion for	31	
Sales of, at Belfast and at Colac—		
Motion for—	{ Returns	
Select Committee on	{	
Returns—	{ Laid on Council Table	
Ordered to be printed	{	
Motion on	55, 60	171
Library (Joint) Committee—Appointed	6	
Lunatic Asylum (Yarra Bend)—Report, 1857—Laid on Council Table	35	
M.		
Mackay, Dr. (Charge made against)—Motion	69	
Maldon District—Local Court Regulations (11th December, 1857)—Laid on Council Table	11	
(31st December, 1857)—Laid on Council Table	21	
Marriage Bill—Brought in ( <i>Hon. J. Hood</i> ). ( <i>Vide</i> "Summary on Bills")	22	
Referred to Select Committee	53	
Report of Select Committee brought up and ordered to be printed	67	233
Marriage of the Princess Royal—Motion for Message to Assembly	93	
Appointment of Committee to prepare Address	104	
Address adopted	109	
President announced that Address had been presented to Governor	117	
Marriages celebrated by Civil Officers—Motion for Return	67	
Return laid on Council Table	80	
Maryborough and Sandhurst Districts—Order in Council (22nd February, 1858)—Laid on Council Table	41	
Maryborough Mining District Divisions—Orders in Council (1st February, 1858)—Laid on Council Table	35	
Member—Election of—( <i>Hon. Henry Miller</i> ) (double Return)	55	
( <i>Hon. T. H. Fellows</i> )	90	
New, sworn	55	
	93	
Members (Return of Attendances of) at Select Committees	31	
Message from the Governor, conveying Order of Queen in Council, declaring the Royal Assent to a Bill for the Enforcement of Claims against the Crown	121, 122	

	Minutes of Proceedings.	Printed Papers.
	Page.	Page.
Message from Legislative Assembly—Transmitting Oaths Bill - - - -	9	
Agreeing to Additional Joint Standing Order - - - -	14	
Transmitting Duration of Assembly Bill - - - -	25	
Transmitting Appropriation Bill and Debtors from Neighboring Colonies Bill -	27	
Transmitting Assessment on Stock Bill - - - -	39	
Requesting leave for the Hon. W. H. F. Mitchell to attend Select Committee as witness - - - -	41	
Transmitting Electoral Districts Alteration Bill - - - -	59	
Transmitting Sewerage and Water Act Amendment Bill - - - -	69	
Transmitting Union Bank Act Amendment Bill - - - -	70	
Returning Supreme Court Terms, Sittings, and Holidays Bill - - - -		
Transmitting Board of Land and Works Act Amendment Bill, Main Trunk Line of Railway Act Amendment Bill, and Careless Use of Fire Bill - - - -	76	
Transmitting Report and Evidence on Union Bank Act Amendment Bill - - - -		
Transmitting Crown Explanation Bill - - - -		
Transmitting Copies of Report, &c., Supreme Court Terms, Sittings, and Holidays Bill - - - -	94	
Transmitting Geelong Boundaries Restriction Bill - - - -		
Transmitting Roads Act Amendment Bill - - - -	101	
Transmitting Geelong Gas Company's Bill - - - -		
Transmitting Address on Marriage of Princess Royal - - - -	103	
Transmitting Report and Proceedings, Geelong Gas Company's Bill - - - -		
Returning Friendly Societies Bill - - - -	110	
Transmitting Roads District Assessment Bill - - - -		
Transmitting Report and Proceedings, Geelong Boundary Bill - - - -		
Returning Roads Act Amendment Bill - - - -	111	
Transmitting Partnerships Bill - - - -		
Informing Council that Assembly had agreed to Address on Marriage of Princess Royal - - - -	114	
Returning Sewerage and Water Act Amendment Bill - - - -		
Transmitting Post Office Money Orders Bill and Audit Act Amendment Bill -		
Informing Council that Assembly had agreed to Joint Standing Order No. 25 -		
Returning Careless Use of Fire Bill - - - -	116	
Returning Geelong Gas Company's Bill - - - -		
Returning Board of Land and Works Act Amendment Bill - - - -	118	
Transmitting Imprisonment for Debt Abolition Bill - - - -		
Miller, (Hon. H.)—Reappointed on Select Committees - - - -	56	
Mining Board—Polling places, Ballarat District—Laid on Council Table - -	55	
Mitchell, (Hon. W. H. F.)—Leave given to attend Committee of Assembly as witness -	60	
N.		
New Members (Hon. H. Miller, Hon. T. H. Fellows) sworn - - - -	55	
O.		
Oaths Bill, brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills") - - - -	14	
Occupations of the People—Return—Laid on Council Table - - - -	79	195
Offices for the Civil Service—Progress Report of Commissioners laid on Council Table, and ordered to be printed - - - -	28	165
Orders in Council (4th January, 1858)—Gold Fields Management Act (21 Vict., No. 32)—Laid on Council Table - - - -	21	
Maryborough Mining Division (1st February, 1858)—Laid on Council Table - -	35	
Maryborough and Sandhurst Districts (22nd February, 1858)—Laid on Council Table - - - -	41	
Ballarat District (15th February, 1858)—Laid on Council Table - - - -	43	
Polling Places for Mining Board—Ballarat District (15th February, 1858)—Laid on Council Table - - - -	55	
P.		
Parliament—Proclamation opening - - - -	1	
Buildings—(Joint) Committee appointed - - - -	6	
Particular Friendly Societies Bill—Brought in ( <i>Hon. J. B. Bennett</i> ). ( <i>Vide</i> "Summary on Bills") - - - -	59	
Partnerships Bill—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills") - - - -	111	
Pay or Pensions—Persons drawing (31st January, 1858)—Motion for Return - -	59	
Penal Hulks—Report of Board on Conduct of Visiting Justice—Laid on Council Table - - - -	3	
Motion for printing - - - -	22	
Pensions (List of, granted under 18 and 19 Vict., c. 55)—Laid on Council Table -	35	
Petition from H. J. Smith and others, at Ararat— { Crown Lands - - - -	13	
William Shea and others, Ararat—Education Bill - - - -	17	
Certain Persons—Education Bill—Withdrawn - - - -	17	369
N. Jervis—Assessment Bill - - - -	39	
W. H. F. Mitchell—Railway Routes, Kyneton - - - -	45	
Archibald Simpson—Moderator Free Synod (Marriage Bill) - - - -	47	
	63	



	Minutes of Proceedings.	Printed Papers.
	Page.	Page.
H. E. Ellerman and others, against Sale of Liquors on Sundays - - - - -		
Referred to Printing Committee - - - - -	73	
Mayor, Aldermen, &c., Melbourne—Sewerage and Water Act Amendment Bill		
Charles Williams, Beechworth—Electoral Reform Bill - - - - -		
J. P. Richards, Maldon—Withdrawn - - - - -	83	
H. W. Farrar and Co. and others—Supreme Court Sittings, &c., Bill - - - - -		
John Scarlett, Snake Valley—Reform Bill - - - - -	90	
Francis Quinlan and others, Dunolly—Reform Bill - - - - -		
P. Johnson and others, Richmond—Reform Bill - - - - -		
R. Mills, Emerald Hill—Reform Bill - - - - -	93	
J. Brown and others, Sandhurst—Reform Bill - - - - -		
H. J. Smith and others, Pleasant Creek—Reform Bill - - - - -		
Geo. Russell, Creswick Creek—Reform Bill - - - - -		
Geo. Sherwood, Heidelberg—Reform Bill - - - - -		
John Everard and another, Melbourne—Reform Bill - - - - -	94	
Abraham J. Cohen and others, Prahran—Reform Bill - - - - -		
T. T. a'Beckett and Martin H. Irving, against Return of T. H. Fellows, Esq.	97	
Flower McDonald and Co.—Supreme Court Terms, Sittings, and Holidays Bill	99	
John Cumming and other householders, Queenscliff-road—Geelong Boundaries Restriction Bill - - - - -	102	
W. P. Wilson and T. T. a'Beckett - Against Return of T. H. Fellows - - - - -	109	
Referred to Elections and Qualifications Committee - - - - -	115	
Hon. T. H. Fellows—Vote of J. R. Gill—Election of T. H. Fellows - - - - -	109	
Referred to Elections and Qualifications Committee - - - - -	115	
Pilot Board of Victoria—Accounts for Year ending 31st August, 1857—Laid on Council Table - - - - -	117	
Population and Occupations of the People—Motion for Return - - - - -	75	195
Return laid on Table, and ordered to be printed - - - - -		
Replaced by paper extract from Part 2 of Census Returns - - - - -	79	
Post Office Money Orders Bill—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills") - - - - -	114	
Presbyterian (Free) Church (Grant of Land and Money to)—Motion for Correspondence Return—Laid on Council Table - - - - -	47	
Return—Laid on Council Table - - - - -	64	
President—Laid on Table Warrant appointing Elections and Qualifications Committee	5 & 13	
Absent—Detained from Council Chamber by illness - - - - -	17	
Detained from Council Chamber - - - - -	39	
Detained from Council Chamber - - - - -	73	
Detained from Council Chamber - - - - -	51	
Princess Royal (Marriage of) - - - - -	93	
Address adopted - - - - -	109	
Printing Committee appointed (by Ballot) - - - - -	25	
First Report—{ Brought up and adopted - - - - -	41	
Ordered to be printed - - - - -	49	229
Second Report brought up, adopted, and ordered to be printed - - - - -	75	285
Proclamation opening Parliament - - - - -	1	
Prorogation of Parliament announced - - - - -	109	
Punishment of Frauds Bill—Brought in ( <i>Hon. J. B. Bennett</i> ). ( <i>Vide</i> "Summary on Bills")	63	
Q.		
Quorum of Joint Refreshment Rooms Committee - - - - -	9	
R.		
Railway—Tenders—Motion - - - - -	14	
Report of Examination of Tenders—Laid on Council Table and ordered to be printed - - - - -	108	207
Main Trunk Lines of Railway Act Amendment Bill—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills") - - - - -	76	
Loan—Correspondence respecting negotiation of—Laid on Council Table and ordered to be printed - - - - -	122	215
Refreshment Rooms—Joint Committee appointed—Ordered to be printed - - - - -	3	
Quorum of - - - - -	9	
Hon. J. Henty appointed Member of, in lieu of Hon. S. G. Henty - - - - -	49	
Religious and Educational Purposes (Grants of Land for)—Motion - - - - -	122	
Reservation of Bill for signification of Her Majesty's Pleasure - - - - -	110	
Reserved Acts (Numbering of)—Joint Standing Order - - - - -	121	
Approval of by Governor - - - - -	36	
Richmond Bridge Road (Boundaries of)—Motion for Return - - - - -	39	
Return laid on Council Table - - - - -		
Roads Act Amendment Bill—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills") - - - - -	101	
Roads District Assessment Bill—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills") - - - - -	111	
Royal Assent to Bill - - - - -	25	
Assent to Bills - - - - -	53	
Assent withheld from Bill - - - - -	122	
Assent withheld from Bill - - - - -	122	
S.		
Sandhurst and Maryborough Districts—Orders in Council (22d February, 1858)—Laid on Council Table - - - - -	41	
Sanitary Station (Report on), 1857—Laid on Council Table - - - - -	55	

	Minutes of Proceedings.	Printed Papers.
	Page.	Page.
School Purposes (Appropriations for)—Motion for Return	63	
Select Committees—Return of Attendances, Session 1856-7—Laid on Council Table	31	
Sewerage and Water Act Amendment Bill—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills")	69	
Sewerage and Water Supply Commission—Motion for Return	35	
Return— { Laid on Council Table -	65	
{ Ordered to be printed -	75	183
Site for New Government Offices-	28	165
Slip (Patent)—Paper laid on Council Table and ordered to be printed	11	139
Speech of Governor—(Opening of Parliament)	1, 2	
(Prorogation)	123-5	
Committee to prepare Reply—Appointed	2, 3	
Address in Reply—Adopted and ordered to be presented	3	
Reply of Governor to Address	5	
Standing Orders—Additional Joint Order, No. 24—Adopted, and Message to Legis- lative Assembly ordered	9	
Approval of by Governor	36	
Suspension of No. 40	11	
Suspension of No. 41	53	
Suspended -	114	
Additional Joint, No. 25 (Reserved Acts)—Adopted, and Message to Legis- lative Assembly ordered	110	
Approval of by Governor	121	
Standing Orders Committee—Appointed	5	
St. Kilda Electoral Roll (Return of) to Registrar of District Court	13	
Superseded Persons in Public Service, 1858—Motion for Address	60	
Return laid on Council Table and ordered to be printed	118	209
Supreme Court Terms, Sittings, and Holidays Bill—Brought in ( <i>Hon. J. B. Bennett</i> ). ( <i>Vide</i> "Summary on Bills")	39	
Survey of Public Lands—Motion for Returns	21	
Motion for Report of Inspector	31	
Surveyors' Field Work, 1857—Return laid on Council Table and ordered to be printed	21	163
T.		
Telegraph (Electric)—Report to 31st December, 1857—Laid on Council Table	32	
Copy of Contract for Erection of, between Belfast and Portland—Laid on Council Table	35	
Tenure of Office in Direction of Banks by Responsible Officers—Motion	78	
Tollgates (Receipts from) and Expenditure on Roads and Bridges—Motion for Return	63	
Transfer of Land Bill—Brought in ( <i>Hon. J. B. Bennett</i> ). ( <i>Vide</i> "Summary on Bills")	6	
Select Committee on— { Appointed	12	
{ Report of brought up and ordered to be printed	118	323
U.		
Union Bank Act Amendment Bill—Brought in by Message from Legislative Assembly. ( <i>Vide</i> "Summary on Bills")	70	
V.		
Vacancies in the Public Service (Appointments to)—Motion	89	
Vacation of Seat by a Member—( <i>Hon. A. R. Cruikshank</i> )	50	
( <i>Hon. H. Miller</i> )	69	
Vice-Admiralty Court—Motion for Address	21	
Return laid on Council Table	27	
W.		
Writ (Issue of) for return of Member for Central Province	96	
Y.		
Yackandandah District—Local Court Regulations (11th December, 1857)—Laid on Council Table	11	
Yan Yean and Yarra River (Analyses of Water of)—Motion for	28	



# LIST OF PAPERS LAID UPON THE TABLE,

NOT ORDERED TO BE PRINTED.

- 1857.
- 3rd Dec. 1. Local Court Regulations.—District of Creswick (27th November, 1857).  
 " 2. Supplementary Regulations for the Chinese on the Gold Fields (20th November, 1857).  
 " 3. Report of Board upon Conduct of Visiting Justice of Penal Hulks.
- 15th Dec. 4. Local Court Regulations.—District of Castlemaine (4th December, 1857).  
 23rd Dec. 5. Local Court Regulations.—District of Beechworth (11th December, 1857).  
 " 6. Local Court Regulations.—District of Yackandandah (11th December, 1857).  
 " 7. Local Court Regulations.—District of Castlemaine (11th December, 1857).  
 " 8. Local Court Regulations.—District of Avoca (11th December, 1857).  
 " 9. Local Court Regulations.—District of Hepburn (11th December, 1857).  
 " 10. Local Court Regulations.—District of Ballaarat (14th December, 1857).  
 " 11. Local Court Regulations.—District of Maldon (11th December, 1857).  
 " 12. Local Court Regulations.—District of Dunolly (14th December, 1857).  
 " 13. Public Accounts (Act 21 Vict. No. 24) General Regulations respecting.  
 " 14. Public Accounts (Act 21 Vict. No. 24) Rules and Regulations for the guidance of the Treasurer respecting.
- 1858.
- 5th Jan. 15. Immigrants' Fund (18 Vict. No. 5) Receipts and Disbursements, 1856.  
 " 16. Chinese Immigrants' Fund (18 Vict. No. 39) Receipts and Disbursements, 1856.  
 " 17. Chinese Annual Rate Fund (18 Vict. No. 39) Receipts and Disbursements, 1856.
- 26th Jan. 18. Immigration.—Report of Immigration Agent, 1856.  
 " 19. Local Court Regulations.—District of Maldon (31st December, 1857).  
 " 20. Local Court Regulations.—District of Fryer's Creek (31st December, 1857).  
 " 21. Local Court Regulations.—District of Dunolly (31st December, 1857).  
 " 22. Local Court Regulations.—District of Creswick (31st December, 1857).  
 " 23. Local Court Regulations.—District of Ballaarat (31st December, 1857).  
 " 24. Local Court Regulations.—District of Buninyong (18th December, 1857).  
 " 25. Local Court Regulations.—District of Avoca (18th December, 1857).  
 " 26. Local Court Regulations.—District of Castlemaine (24th December and 31st December, 1857).  
 " 27. Local Court Regulations.—District of Beechworth (24th December and 31st December, 1857).  
 " 28. Orders in Council (4th January, 1858.)—Gold Fields Management Act (21 Vict. No. 32).
- 2nd Feb. 29. Vice-Admiralty Court.—Return to Address of Legislative Council (26th January, 1858).  
 " 30. Complaint of Mr. Donaghy.—Return to Order of Legislative Council (5th January, 1858).  
 " 31. Births, Deaths, and Marriages.—Fourth Annual Report of Registrar General for the year ending 30th June, 1857.  
 " 32. Progress Report of Commissioners for providing Offices for Civil Service of the Colony.
- 3rd Feb. 33. Attendances on Select Committees of Legislative Council during Session 1856-7.  
 " 34. Electric Telegraph.—Concluding Report of General Superintendent to 31st December, 1857.
- 9th Feb. 35. Orders in Council.—Maryborough Mining District Divisions (1st February, 1858).  
 " 36. Report on Yarra Bend Lunatic Asylum, 1857.  
 " 37. List of Pensions granted under Act 18 and 19 Vict., cap. 55.  
 " 38. Electric Telegraph between Belfast and Portland.—Copy of Contract.
- 16th Feb. 39. Boundaries of Richmond Bridge Road.—Return to Order of Legislative Council (9th February, 1858).
- 23rd Feb. 40. Order in Council.—Maryborough and Sandhurst Districts (22nd February, 1858).
- 24th Feb. 41. Order in Council.—Ballaarat District (15th February, 1858).  
 " 42. Analysis of Water of Yan Yean and Yarra River.—Return to Order of Legislative Council (2nd February, 1858).  
 " 43. Orders and Rules.—Gold Fields and County Courts Acts.
- 8th April 44. Immigration from the United Kingdom.—Summary Report of Colonial Land and Emigration Committees (1857).  
 " 45. Report on the Sanitary Station (1857).  
 " 46. Health Officer's Report for Half-year ending 31st December, 1857.

- 1858.
- 8th April 47. Federal Union of Australian Colonies.—Reports of Committees of Parliament of South Australia.
- „ 48. Order in Council (15th February, 1858).—Polling Places for Mining Board—Ballaarat District.
- „ 49. Federal Union of Australian Colonies. — Letter from the Government of Tasmania.
- „ 50. Gold deposited in Treasury and Sub-Treasuries.—Return to Order of Legislative Council (9th February, 1858).
- 20th April 51. Grants of Land and Money to Free Presbyterian Church.—Return to Order of Legislative Council (2nd March, 1858).
- „ 52. Return of Diseases, 1857.
- 6th May 53. Electoral Roll.—In part compliance with an Order of Legislative Council (5th May, 1858).
- „ 54. Marriages celebrated by Civil Officers.—Return to Order of Legislative Council (27th April, 1858).
- 13th May 55. Denominational School Board.—Report of Proceedings (1856–7).
- „ 56. Area and Population of Electoral Districts in Electoral Districts Alteration Bill.—Return to Order of Legislative Council (5th May, 1858).
- „ 57. Electoral Roll.—In part compliance with an Order of Legislative Council (5th May, 1858).
- 20th May 58. Friendly Societies.—Return of registered in 1857.
- 27th May 59. Electoral Roll.—In part compliance with an Order of Legislative Council (5th May, 1858).
- 3rd June 60. Immigration.—Report of Immigration Agent, 1857.
- „ 61. Pilot Board of Victoria.—Accounts of for year ended 31st August, 1857.
- „ 62. Memorandum of Distribution of the Public Account during month of May, 1858.
-





# ADDITIONAL JOINT STANDING ORDERS, 1857-8.

---

---

## ANALYSIS.

---

- CXXII. [J.O. 24.] Three to be a quorum of Joint Refreshment Rooms Committee.  
CXXIII. [J.O. 25.] Reserved Bills assented to by Her Majesty, how to be numbered.
- 

## JOINT STANDING ORDERS OF BOTH HOUSES OF PARLIAMENT.

---

CXXII. [J.O. 24.] That so much of the Joint Standing Order, No. 9, as requires that five members shall be present to form a quorum of the Refreshment Rooms Committee be repealed, and that three members thereof do henceforth form a quorum.

CXXIII. [J.O. 25.] That any Act which shall, as a Bill, have been passed by both Houses of Parliament, but reserved by the Governor for the signification of Her Majesty's pleasure, and shall afterwards receive the Royal Assent, shall be numbered with the number next in arithmetical progression to the number already given to the last Act assented to by the Governor.

Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

THURSDAY, 3RD DECEMBER, 1857.

His Excellency the Governor having, by Proclamation, bearing date at Melbourne, the thirtieth day of November, One thousand eight hundred and fifty-seven, appointed the Parliament to open this day, at the hour of Two o'clock P.M., the same was read by the Clerk as follows:—

MEETING OF PARLIAMENT.

PROCLAMATION

By His Excellency SIR HENRY BARKLY, Knight Commander of the most Honorable Order of the Bath, Captain-General and Governor-in-Chief of the Colony of Victoria, and Vice-Admiral of the same, &c., &c., &c.

WHEREAS the present Parliament stands prorogued to Thursday, the third day of December next: Now therefore I, the Governor aforesaid, do hereby proclaim and direct that the said Parliament shall assemble on that day, at the Parliament Houses, in the City of Melbourne, at Two o'clock in the afternoon, for the despatch of business.

Given under my Hand and the Seal of the Colony, at Melbourne, this thirtieth day of November, in the year of Our Lord One thousand eight hundred and fifty-seven, and in the twenty-first year of Her Majesty's Reign.

(L.S.)

HENRY BARKLY.

By His Excellency's Command,  
WILLIAM C. HAINES.

GOD SAVE THE QUEEN!

The approach of His Excellency the Governor was announced by the Usher.

His Excellency the Governor came into the Council Chamber and commanded the Usher to desire the attendance of the Legislative Assembly in the Council Chamber, Who, being come with their Speaker, His Excellency was pleased to speak as follows:—

MR. PRESIDENT AND HONORABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL,  
MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY,

I regret that I am compelled to call you together for the despatch of public business almost immediately after the termination of an unusually laborious Session, and at a season during which many representatives of the country districts cannot relinquish without great inconvenience and loss the personal supervision which the successful prosecutions of their business demands.

I should not feel justified in asking you to submit to this sacrifice of your time and interests, were I not sensible of the many evils which may be caused by departing from the spirit of the Constitution, and imposing upon the Government the necessity of dealing with the public revenue before obtaining the sanction of the Legislature.

GENTLEMEN OF THE LEGISLATIVE ASSEMBLY,

The Estimates for the ensuing year will at once be laid before you. I trust you will find that, while making sufficient provision for the Public Service, they have been framed with a due regard to economy. I need not point out how desirable it is, at this advanced period of the year, that your undivided attention should be given to their consideration without delay.

MR. PRESIDENT AND HONORABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL,  
MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY,

Measures will be laid before you for the Amendment of the Constitution Act. Of these the most important will be a Bill for increasing the number of Members of the Legislative Assembly, and for effecting such alterations in the Electoral Districts as are rendered necessary by changes in the local distribution of the population, in order to secure to each class of the community its due representation in the Legislature.

A Bill will be submitted to you for reducing the duration of the Assembly from five to three years; and another for placing the independence of Parliament beyond the possibility of question, by rendering all salaried officers of the Government, with the exception of the Responsible Ministers, incapable of being elected Members of either House of Legislature.

A Bill for amending and incorporating in one Act the laws relating to proceedings at Elections, the return of Members to Parliament, and the prevention of bribery and intimidation, will also be laid before you.

As the measures of Reform which were passed in the last Session, and those which may be expected to become law during the present, can have but limited operation until followed by a dissolution and a general election, it is not the intention of my advisers to submit for your consideration any subjects with regard to which legislation is not immediately required, or which would be more properly dealt with by an Assembly representing those electors upon whom the franchise has been recently conferred.

The only Bills therefore which will be brought under your consideration, in addition to the measures to which I have alluded, will be one for simplifying the Oaths of Qualification for Office, and one for increasing the Assessment on Sheep and Cattle.

The subjects to which I have alluded are of high importance, and I have no doubt will engage your serious attention.

I pray God to prosper your counsels and guide your decisions.

HENRY BARKLY,  
Governor.

Which being concluded, a copy of the speech was delivered to the President of the Council and to Mr. Speaker, and the Legislative Assembly withdrew.

His Excellency the Governor left the Council Chamber.

The President took the Chair.

The President read the Prayer.

INDEPENDENCE OF THE LEGISLATURE.—The Honorable W. H. F. Mitchell obtained leave of the Council to bring in a Bill to secure the Independence of the Legislature.

Which being ordered, the Bill was, on the motion of the Honorable W. H. F. Mitchell, read a first time, ordered to be printed, and read a second time on Tuesday next.

SPEECH OF HIS EXCELLENCY THE GOVERNOR.—The President reported His Excellency's speech, and the same being read by the President, the Honorable H. Miller moved, That a Select Committee be appointed to prepare an Address to His Excellency the Governor in reply to His speech delivered to the Houses of Legislature, and that such Committee consist of the following members, viz. :—The Honorables W. H. F. Mitchell, T. McCombie, T. H. Power, W. Highett, J. Hood, J. B. Bennett, and the Mover.

Question—put and passed.

The House was adjourned during pleasure, and the Committee withdrew to prepare the Address.

After some time the House was resumed, and the Honorable H. Miller reported from the Committee an Address drawn by them as follows, viz. :—

To His Excellency SIR HENRY BARKLY, Knight Commander of the Most Honorable Order of the Bath, Captain-General, and Governor-in-Chief of the Colony of Victoria, and Vice-Admiral of the same, &c., &c., &c.

MAY IT PLEASE YOUR EXCELLENCY,

We, the Members of the Legislative Council of Victoria, in replying to the Address with which Your Excellency has opened the present Session of the Parliament, beg leave to express our loyalty to the Queen, and our adherence to the Constitution conferring responsible Government on the Colony.

Your Excellency has not over-estimated the inconvenience and loss which are likely to ensue from our meeting so soon after the termination of the late protracted Session, yet we fully acquiesce in the sufficiency of the reasons given by Your Excellency for the step you have taken, and cheerfully sacrifice our private interests to that duty which we owe to the public, as representatives of the people, in order to exercise our constitutional right of a general control over the public expenditure.

We will be prepared to take into our most serious consideration any measures which may be laid before us, having for their object the amendment of the Constitution Act, more especially the Bill which Your Excellency informs us is to be introduced for increasing the number of the Members of the Legislative Assembly, and for effecting such alterations in the Electoral Districts as are called for by changes in the distribution of the population, so as to secure to each class of the community a due share of representation in the Parliament; as also the Bill which will be submitted for altering the duration of the Legislative Assembly from five to three years; and the Bill to provide that, with the exception of the responsible Ministers, no salaried officers of the Government shall be capable to be elected to either House of the Legislature, with a view of securing the greater independence of the Parliament.



We will further be prepared to consider the new Bill to regulate the proceedings at Elections, and a Bill to simplify the Oaths of Qualification for Office, and a Bill to increase the Assessment on Sheep and Cattle depasturing on Crown Lands.

We learn that it is not the intention of Your Excellency's advisers to submit for our consideration any subject on which immediate legislation is not required, as the measures of reform passed in the last Session, and those which may be passed in the present, can have but limited operation until followed by a dissolution and a general election.

We join with Your Excellency in a prayer to Almighty God to aid our counsels and guide our decisions in such a manner as will result in measures calculated to advance the prosperity of this Colony.

HENRY MILLER,  
Chairman.

The Address was read at the Table by the Clerk.

The Honorable H. Miller moved, That the Address be now adopted.

Debate ensued.

Question—put and passed.

The Honorable H. Miller moved, That the Address, as now adopted, be presented to His Excellency the Governor to-morrow, at twelve o'clock, by the President and the members of the Select Committee who prepared the Address, accompanied by such other members as may desire to accompany them.

Question—put and passed.

ELECTION OF CHAIRMAN OF COMMITTEES.—The Honorable W. H. F. Mitchell moved, That the Honorable J. Hodgson be Chairman of Committees during the present Session.

Question—put and passed.

ADJOURNMENT OF THE HOUSE.—The Honorable W. H. F. Mitchell, with leave of the Council, moved, That the House, at its rising, adjourn until three o'clock on Tuesday, 15th instant.

Debate ensued.

Question—put and passed.

PAPERS.—The Honorable W. H. F. Mitchell, by command of His Excellency the Governor, presented to the Council the following papers:—

1. Local Court Regulations—District of Creswick (27th November, 1857).
2. Supplementary Regulations for the Chinese on the Gold Fields (20th November, 1857).
3. Report of Board upon Conduct of Visiting Justice of Penal Hulks.

Ordered severally to lie on the Table.

JOINT REFRESHMENT ROOMS SELECT COMMITTEE.—The Honorable H. Miller, with leave of the Council, moved, without notice, That the Honorables W. Hightt, J. Stewart, S. G. Henty, J. H. Patterson, and J. Hodgson, be members of the Joint Committee to manage the Refreshment Rooms and Stables.

Question—put and passed.

The Council adjourned at half-past four o'clock until three o'clock on Tuesday, 15th instant.

---

## NOTICES OF MOTION.

TUESDAY, 15TH DECEMBER, 1857.

1. The Hon. DR. TIERNEY: To ask the Honorable the Postmaster General—
  - (1.) Is the Government aware of the discovery of Coal in the District of Moonlight Head or Cape Otway.
  - (2.) Coal having been discovered, would the Government take measures to ascertain whether there is a payable Coal Mine in these localities.

---

### NOTICES OF MOTION:—

1. The Hon. W. H. F. MITCHELL: To move, That Tuesdays, Wednesdays, and Thursdays be the days on which the Council shall meet for the despatch of business during the present Session; and that three o'clock be the hour of meeting on each day.
2. The Hon. W. H. F. MITCHELL: To move, That on Wednesday in each week during the present Session, the transaction of Government business take precedence of all other business.
3. The Hon. T. MCCOMBIE: To move, That the Honorables the President, W. H. F. Mitchell, J. Hodgson, J. P. Fawkner, J. B. Bennett, J. Hood, H. Miller, and the Mover, be appointed as a Select Committee on the Standing Orders of the House.
4. The Hon. W. H. F. MITCHELL: To move, That the Honorables the President, J. Hodgson, H. Miller, J. Hood, and the Mover, be members of the Joint Committee to manage and superintend the Parliament Buildings.

5. The Hon. J. HODGSON: To move, That the Honorables the President, W. H. F. Mitchell, J. P. Fawcner, Dr. Hope, and the Mover, be members of the Joint Committee to manage the Library.
6. The Hon. J. HOOD: To move resolutions embodying the following principles—
  - (1.) That, in the opinion of this House, no country lands should be sold in larger quantities than one hundred and sixty or three hundred and twenty acre sections.
  - (2.) That every second section be reserved for sale at some distant period.
  - (3.) That the House request the Government to give immediate effect to the above resolutions until such time as a comprehensive Land Law can be brought into operation.
7. The Hon. J. B. BENNETT: To move for leave to bring in a Bill to facilitate the transfer of land in Victoria.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

TUESDAY, 15TH DECEMBER, 1857.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

ELECTIONS AND QUALIFICATIONS.—In pursuance of "*The Electoral Act of 1856*," the President laid upon the Council Table the following Warrant, appointing the Committee of Elections and Qualifications:—

VICTORIA.

Pursuant to the provisions of "*The Victoria Electoral Act of 1856*," I do hereby appoint—

The Honorable John Barter Bennett,  
The Honorable John Pascoe Fawcner,  
The Honorable Stephen G. Henty,  
The Honorable Dr. Hope,  
The Honorable W. H. F. Mitchell,  
The Honorable T. H. Power,  
The Honorable Charles Vaughan,

to be members of a Committee to be called "The Committee of Elections and Qualifications."

Given under my hand this fifteenth day of December, 1857.

J. F. PALMER,  
President.

REPLY OF HIS EXCELLENCY THE GOVERNOR TO THE ADDRESS OF THE COUNCIL.—The President announced to the Council that the Address to His Excellency the Governor, adopted on the 3rd instant, had been presented, in accordance with the resolution of the House, to His Excellency the Governor on the 4th instant, and that His Excellency had been pleased to make thereto the following reply:—

MR. PRESIDENT AND HONORABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL,

I thank you for your loyal Address, and am happy to learn that you acquiesce in the sufficiency of the reasons which have induced me so soon to re-assemble Parliament, and that you are prepared to give your serious consideration to the measures about to be submitted to you.

HENRY BARKLY,  
Governor.

Melbourne, 4th December, 1857.

PAPERS.—The Honorable W. H. F. Mitchell, by command of His Excellency the Governor, presented to the Council the following Paper:—

Local Court Regulations—District of Castlemaine (4th December, 1857).

Ordered to lie on the Table.

DAYS OF BUSINESS.—The Honorable W. H. F. Mitchell, in accordance with notice, moved, That Tuesdays, Wednesdays, and Thursdays be the days on which the Council shall meet for the despatch of business during the present Session, and that three o'clock be the hour of meeting on each day.

Question—put and passed.

GOVERNMENT BUSINESS.—The Honorable W. H. F. Mitchell, in accordance with notice, moved, That on Wednesday in each week during the present Session the transaction of Government business take precedence of all other business.

Question—put and passed.

STANDING ORDERS.—The Honorable T. McCombie, in accordance with *amended* notice, moved, That the Honorables the President, J. B. Bennett, J. Hood, H. Miller, and the Mover, be appointed as a Select Committee on the Standing Orders of the House.

Question—put and passed.

JOINT PARLIAMENT BUILDINGS COMMITTEE.—The Honorable W. H. F. Mitchell, in accordance with *amended* notice, moved, That the Honorables the President, J. Hodgson, H. Miller, J. Hood, and the Mover, be members of the Joint Committee to act with the Committee of the Legislative Assembly on the same subject, to manage and superintend the Parliament Buildings.

Question—put and passed.

JOINT LIBRARY COMMITTEE.—The Honorable J. Hodgson, in accordance with *amended* notice, moved, That the Honorables the President, W. H. F. Mitchell, J. P. Fawcner, Dr. Hope, and the Mover, be members of the Joint Committee to act with the Committee of the Legislative Assembly on the same subject, to manage the Library.

Question—put and passed.

SALE OF PUBLIC LANDS.—The Honorable J. Hood, in accordance with *amended* notice, moved—

(1.) That this House is of opinion that 320 acres is the maximum quantity in which country lands should be offered for sale.

(2.) That in order to counteract the present monopolizing system pursued by speculators, every alternate section, without reference to size, be reserved for sale at some distant date—say, at least three years, or until a comprehensive Land Bill is brought into operation.

Debate ensued.

Amendment moved by the Honorable Dr. Tierney, That a Select Committee of this House be appointed to consider and report to this House the best system for the surveying and Sale of the public lands of the Colony, such Committee to consist of the Honorables W. H. F. Mitchell, J. Hood, J. B. Bennett, H. Miller, G. Urquhart, and the Mover.

Debate ensued.

Original resolution by leave withdrawn.

Question—That a Select Committee of this House be appointed to consider and report to this House the best system for the surveying and Sale of the Public Lands of the Colony, such Committee to consist of the Honorables W. H. F. Mitchell, J. Hood, J. B. Bennett, H. Miller, G. Urquhart, and the Mover—put.

Council divided.

Contents 8.  
The Hon. G. Urquhart  
J. Cowie  
Dr. Tierney  
J. B. Bennett  
J. Hood  
B. Williams  
T. McCombie  
N. Guthridge (*Teller*).

Not Contents, 10.  
The Hon. J. Hodgson  
T. H. Power  
J. H. Patterson  
W. H. F. Mitchell  
C. Vaughan  
S. G. Henty  
Dr. Hope  
W. Highett  
H. Miller  
W. J. T. Clarke (*Teller*).

The question was therefore negatived.

TRANSFER OF LAND BILL.—The Honorable J. B. Bennett, in accordance with notice, moved for leave to bring in a Bill to facilitate the transfer of Land in Victoria.

Question—put and passed.

Bill read a first time, ordered to be printed, and read a second time on Tuesday next.

ADJOURNMENT.—The Honorable W. H. F. Mitchell, with leave of the Council, moved, without notice, That the House, at its rising, adjourn until Tuesday next.

Question—put and passed.

MEETINGS OF SELECT COMMITTEES.—The Honorable W. H. F. Mitchell moved, with leave of the Council, without notice, That all Select Committees of the Council have power to meet during the adjournment.

Question—put and passed.

POSTPONEMENTS.—The Honorable T. McCombie, with leave of the Council, moved, That the business set down for intermediate days be postponed until Tuesday next.

Ordered.

The Council adjourned at five minutes to six o'clock until three o'clock on Tuesday next.

## NOTICES OF MOTION AND ORDER OF THE DAY.

TUESDAY, 22ND DECEMBER.

NOTICES OF MOTION:—

1. The Hon. T. McCOMBIE: To move, That an Address be presented to His Excellency the Governor, praying that he will be pleased to appoint a Commission to inquire into the present system of conveying real property in this Colony, and report upon such reforms as may be requisite to make the transfer of land less expensive and more correct.



2. The Hon. T. McCOMBIE: To move, That the following gentlemen be appointed a "Federation Committee," with power to confer with the Committee, on the same subject, of the Assembly, viz., The Honorables W. H. F. Mitchell, J. F. Strachan, H. Miller, G. Urquhart, J. H. Patterson, and the Mover.

ORDER OF THE DAY:—

1. TRANSFER OF LAND BILL—To be read a second time.

MEETING  
OF  
**SELECT COMMITTEE.**

*Wednesday, 16th December.*

REFRESHMENT ROOMS—(Joint Committee) at two o'clock.

G. W. RUSDEN,  
*Clerk of the Council and Clerk of the Parliaments*



Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

TUESDAY, 22<sup>ND</sup> DECEMBER, 1857.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

CONVEYANCING.—The Honorable T. McCombie, in accordance with notice, moved, That an Address be presented to His Excellency the Governor, praying that he will be pleased to appoint a Commission to inquire into the present system of conveying real property in this Colony, and report upon such reforms as may be requisite to make the transfer of land less expensive and more correct.

Debate ensued.

Question—put.

Council divided.

Contents, 5.  
The Hon. G. Urquhart  
D. Kennedy  
W. Roope  
T. McCombie  
N. Guthridge (*Teller*).

Not Contents, 7.  
The Hon. J. H. Patterson  
T. H. Power  
A. R. Cruikshank  
W. Highett  
J. B. Bennett  
C. Vaughan  
H. Miller (*Teller*).

The question was therefore negatived.

FEDERATION COMMITTEE.—The Honorable T. McCombie, in accordance with *amended* notice, moved, That the following gentlemen be appointed a "Federation Committee," with power to confer with the Committee on the same subject of the Assembly, viz., The Honorables W. H. F. Mitchell, J. F. Strachan, H. Miller, G. Urquhart, J. H. Patterson, J. Hood, and the Mover.

Question—put and passed.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—The President announced to the Council the receipt of a Message from the Legislative Assembly with a Bill intituled "*An Act to assimilate and simplify the Oaths of Qualification for Office*," and pointed out that the said Message was unsigned by the Speaker.

The Honorable H. Miller moved, That the Message be transmitted to the Legislative Assembly with a Message, pointing out that the Message from the Assembly does not bear the signature of the Speaker.

Question—put and passed.

QUORUM OF JOINT REFRESHMENT ROOMS COMMITTEE.—The Honorable W. Highett, with leave of the Council, moved, without notice, That so much of the Joint Standing Order, No. 9, as requires that five members shall be present to form a quorum of the Refreshment Rooms Committee be repealed, and that three members thereof do henceforth form a quorum.

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly to desire their concurrence in this resolution as an additional Joint Standing Order of both Houses of Parliament.

TRANSFER OF LAND BILL.—The Order of the Day for the second reading of this Bill being called on, the Honorable T. McCombie called the attention of the President to the fact that a quorum was not present.

The President forthwith counted the House, and there being no quorum present, adjourned the House at five minutes to five o'clock until the next sitting day.

## NOTICE OF MOTION.

---

TUESDAY, 29TH DECEMBER, 1857.

## NOTICE OF MOTION:—

1. The Hon. T. H. POWER: To move, That there be laid upon the Table of this House copies of the correspondence that has taken place between the Government and Mr. Donaghy, and between the Government and the Commissioners of National Education; also copies of all other documents referring to the complaint of Mr. Donaghy.

G. W. RUSDEN,  
*Clerk of the Council and Clerk of the Parliaments.*



Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

WEDNESDAY, 23RD DECEMBER, 1857.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

PAPERS.—The Honorable W. H. F. Mitchell presented to the Council the following Papers:—

1. Local Court Regulations—District of Beechworth (11th December, 1857).
2. Local Court Regulations—District of Yackandandah (11th December, 1857).
3. Local Court Regulations—District of Castlemaine (11th December, 1857).
4. Local Court Regulations—District of Avoca (11th December, 1857).
5. Local Court Regulations—District of Hepburn (11th December, 1857).
6. Local Court Regulations—District of Ballaarat (14th December, 1857).
7. Local Court Regulations—District of Maldon (11th December, 1857).
8. Local Court Regulations—District of Dunolly (14th December, 1857).
9. Public Accounts (Act 21 Victoria No. 24)—General Regulations respecting.
10. Public Accounts (Act 21 Victoria No. 24)—Rules and Regulations for the guidance of the Treasurer respecting.

Ordered severally to lie upon the Table.

PATENT SLIP.—The Honorable W. H. F. Mitchell presented to the Council a Return to an Order of the Legislative Council, dated 10th November, 1857, That the Report of the Board appointed some time since to inquire into, and report upon the capabilities of the Patent Slip, together with all evidence or correspondence relating thereto, be laid on the Table of the House.

The Return, on the motion of the Honorable J. Hood, ordered to be printed.

CLOSING PARTS OF STREETS IN MELBOURNE.—The Honorable W. H. F. Mitchell with leave of the Council, without notice, obtained leave to bring in a Bill for closing parts of certain streets in Melbourne.

Bill brought in, read a first time, ordered to be printed, and read a second time on Tuesday, 5th January, 1858.

FEDERATION COMMITTEE.—The Honorable J. Hood, with leave of the Council, without notice, moved, That the name of the Honorable the President be added to the Select Committee on Federation.

Question—put and passed.

SUSPENSION OF STANDING ORDER No. XL.—The Honorable J. B. Bennett, with leave of the Council, without notice, moved the suspension of the Standing Order No. XL., in order that the lapsed Order of the Day for the second reading of the Transfer of Land Bill might be taken into consideration.

Question—put and passed.

The Order of the Day for the second reading of the Transfer of Land Bill was, on the motion of the Honorable J. B. Bennett, placed on the paper.

TRANSFER OF LAND BILL.—The Order of the Day for the second reading of this Bill being called on, the Honorable J. B. Bennett moved, That the Bill be now read a second time.

Debate ensued.

Amendment moved by the Honorable H. Miller—That all the words after the word “be” be omitted, with the view to add the words “referred to a Select Committee of this House, consisting of the following members, viz.: the Honorables W. H. F. Mitchell, T. McCombie, W. Highett, J. F. Strachan, J. Hood, T. H. Power, Dr. Hope, J. Henty, J. B. Bennett, and the Mover, with power to call for documents and to take evidence on the Bill, and on the subject of Conveyancing generally, and to report upon the same.”

Question—That the words proposed to be omitted stand part of the question—put and negatived.

Question—That the words proposed to be inserted be so inserted—put and passed.

Question—That the Bill be referred to a Select Committee of this House, consisting of the following members, viz.:—The Honorables W. H. F. Mitchell, T. McCombie, W. Highett, J. F. Strachan, J. Hood, T. H. Power, Dr. Hope, J. Henty, J. B. Bennett, and the Mover, with power to call for documents and to take evidence on the Bill, and on the subject of Conveyancing generally, and to report upon the same—put and passed.

ADJOURNMENT.—The Honorable W. H. F. Mitchell, with leave of the Council, moved, without notice, that the House at its rising this day adjourn until Tuesday week.

Question—put and passed.

MEETINGS OF SELECT COMMITTEES.—The Library and the Refreshment Rooms Joint Committees were empowered to meet during the adjournment.

The Council adjourned at ten minutes past four o'clock until three o'clock on Tuesday, 5th January, 1858.

## NOTICES OF MOTION AND ORDER OF THE DAY.

TUESDAY, 5TH JANUARY, 1858.

1. The Hon. J. HOOD: To ask the Honorable the Postmaster General—
  - (1.) Has the reader in the Assembly received an advance from £5 to £6 per week, and the appointment been made permanent.
  - (2.) Did the messengers in the Assembly receive during the first half of 1857 the same rate of salary as the messengers of this Council, viz., 50s. per week.
  - (3.) Did they (the messengers of the Assembly) receive an advance of salary during the currency of 1857, and if so, at what date and to what extent.
  - (4.) Did they (the messengers of the Assembly), receive a sum as arrears of salary at the advanced rate from 1st January.
  - (5.) Did the messengers of the Council receive any arrears, and if not, why?
2. The Hon. J. H. PATTERSON: To ask the Honorable the Postmaster General why provision has not been made in the Estimates for 1858 for carrying on the electric telegraph from Kilmore to Heathcote, as promised by him.
3. The Hon. J. H. PATTERSON: To ask the Honorable the Postmaster General if he will explain to this House by what authority a difference of postage exists in different wards of the city, specially in reference to Sandridge.

### NOTICES OF MOTION:—

1. The Hon. T. H. POWER: To move, That there be laid upon the Table of this House copies of the correspondence that has taken place between the Government and Mr. Donaghy, and between the Government and the Commissioners of National Education; also copies of all other documents referring to the complaint of Mr. Donaghy.
2. The Hon. DR. TIERNEY: To move, That there be laid upon the Table of this House a copy of the Report of the Steam Navigation Board on the collision of the *Lady Bird* and *Champion* steamers.
3. The Hon. J. HOOD: To move, That, in the opinion of this House, it is inexpedient for the Government to call for Tenders for a greater length of Railway than provision has been made for on the Estimates for the current year.

### ORDER OF THE DAY:—

1. CLOSING PARTS OF STREETS IN MELBOURNE BILL.—To be read a second time.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*

Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

TUESDAY, 5TH JANUARY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

LEAVE OF ABSENCE TO A MEMBER.—The President having announced to the Council that the Honorable G. Urquhart, being unable to attend at the House, had applied for leave of absence, the Honorable T. McCombie moved, That leave of absence for the period of three weeks be given to the Honorable G. Urquhart.

Question—put and passed.

ST. KILDA ELECTORAL ROLL.—The President informed the Council that the manuscript copy of the St. Kilda Electoral Roll, laid on the Council Table by the Honorable M. Hervey in the Session of 1856—1857, had been applied for by the Registrar of the District Court of Melbourne, and that unless objection were made by any Member of the Council, it would be handed over in accordance with the application.

COMMITTEE OF ELECTIONS AND QUALIFICATIONS.—The President called the attention of the Council to the fact that the warrant appointing the Committee of Elections and Qualifications was now, for the third time, laid upon the Council Table, in accordance with the requirements of "*The Victoria Electoral Act of 1856.*"

PETITION.—The Honorable J. P. Fawcner presented to the Council a Petition from Henry J. Smith and others, styling themselves Members of the Local Court at Ararat, praying that the Local Court at Ararat may be empowered to take such steps as may be necessary to allow every miner in possession of a Miner's Right to occupy and cultivate in that neighborhood one acre of unalienated Crown Lands.

Petition received.

The Petition was read at the Table by the Clerk.

PAPERS.—The Honorable W. H. F. Mitchell presented to the Council the following Papers:—

1. Immigrants' Fund, 18 Vict. No. 5.—Receipts and Disbursements, 1856.
2. Chinese Immigrants' Fund, 18 Vict. No. 39.—Receipts and Disbursements, 1856.
3. Chinese Annual Rate Fund, 18 Vict. No. 39.—Receipts and Disbursements, 1856.

Ordered severally to lie on the Table.

COMPLAINT OF MR. DONAGHY.—The Honorable T. H. Power, in accordance with notice, moved, That there be laid upon the Table of this House copies of the correspondence that has taken place between the Government and Mr. Donaghy, and between the Government and the Commissioners of National Education; also copies of all other documents referring to the complaint of Mr. Donaghy.

Question—put and passed.

COLLISION OF "LADY BIRD" AND "CHAMPION" STEAMERS.—The Honorable Dr. Tierney, in accordance with notice, moved, That there be laid upon the Table of this House a copy of the Report of the Steam Navigation Board on the collision of the *Lady Bird* and *Champion* steamers.

Question—put and passed.

RAILWAY TENDERS.—The Honorable J. Hood, in accordance with notice, moved, That, in the opinion of this House, it is inexpedient for the Government to call for Tenders for a greater length of Railway than provision has been made for on the Estimates for the current year.

Debate ensued.

MESSAGE FROM LEGISLATIVE ASSEMBLY.—The President announced to the Council the receipt of the following Message from the Legislative Assembly :—

MR. PRESIDENT—

The Legislative Assembly transmits to the Legislative Council a Bill intituled "*An Act to assimilate and simplify the Oaths of Qualification for Office,*" to which they desire the concurrence of the Legislative Council.

Legislative Assembly Chambers,  
Melbourne, 21st December, 1857.

FRANS. MURPHY,  
Speaker.

The Bill, on the motion of the Honorable W. H. F. Mitchell, read a first time, ordered to be printed, and read a second time this day fortnight.

RAILWAY TENDERS—DEBATE RESUMED.—

Question—That, in the opinion of this House, it is inexpedient for the Government to call for Tenders for a greater length of Railway than provision has been made for on the Estimates for the current year—put.

Council divided.

Contents, 4.  
The Hon. Dr. Tierney  
J. Hood  
A. R. Cruikshank  
J. B. Bennett (*Teller*).

Not Contents, 13.  
The Hon. W. H. F. Mitchell  
H. Miller  
J. Henty  
T. H. Power  
D. Kennedy  
D. P. Keogh  
W. Highett  
T. McCombie  
J. H. Patterson  
Dr. Hope  
C. Vaughan  
S. G. Henty  
J. Hodgson (*Teller*).

The question was therefore negatived.

ADJOURNMENT.—The Honorable W. H. F. Mitchell, with leave of the Council, moved, without notice, That the House at its rising adjourn until this day fortnight.

Question—put and passed.

POSTPONEMENTS.—The various Notices of Motion set down for earlier days, and the Order of the Day for the second reading of the "*Closing parts of Streets in Melbourne Bill*" were severally postponed until Tuesday, 19th instant.

MEETINGS OF SELECT COMMITTEE.—The Honorable J. B. Bennett moved, with leave of the Council, without notice, That the Select Committee on Conveyancing be empowered to meet during the adjournment.

Debate ensued.

Question—put.

Council divided.

Contents, 5.  
The Hon. W. H. F. Mitchell  
H. Miller  
J. B. Bennett  
J. H. Patterson  
C. Vaughan (*Teller*).

Not Contents, 12.  
The Hon. J. Hodgson  
J. Henty  
S. G. Henty  
D. Kennedy  
D. P. Keogh  
W. Highett  
Dr. Tierney  
Dr. Hope  
T. McCombie  
J. Hood  
A. R. Cruikshank  
T. H. Power (*Teller*).

The question was therefore negatived.

The Council adjourned at ten minutes to five o'clock until three o'clock on Tuesday, the 19th instant.



## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 19TH JANUARY, 1858.

1. The Hon. J. HOOD: To ask the Honorable the Postmaster General—
  - (1.) Has the reader in the Assembly received an advance from £5 to £6 per week, and the appointment been made permanent.
  - (2.) Did the messengers in the Assembly receive during the first half of 1857 the same rate of salary as the messengers of this Council, viz., 50s. per week.
  - (3.) Did they (the messengers of the Assembly) receive an advance of salary during the currency of 1857, and if so, at what date and to what extent.
  - (4.) Did they (the messengers of the Assembly), receive a sum as arrears of salary at the advanced rate from 1st January.
  - (5.) Did the messengers of the Council receive any arrears, and if not, why?
2. The Hon. A. R. CRUKSHANK: To ask the Honorable the Postmaster General whether any further correspondence has taken place since 17th July, 1856, between this Government and the Colonial Office respecting the establishment of a Vice-Admiralty Court in this Colony, and contingent on an answer in the affirmative, That an Address be presented to His Excellency the Governor praying him to cause to be laid on the Table of this House a copy of such correspondence.
3. The Hon. C. VAUGHAN: To ask the Honorable the Postmaster General why the Government does not bring some of the land in the neighborhood of Buninyong into the market.
4. The Hon. J. HOOD: To ask the Honorable the Postmaster General the following questions:—
  - (1.) Was there a petition presented to the President of the Board of Land and Works complaining of the conduct of the District Surveyor in changing what were originally two allotments of land into one, immediately previous to the sale in Captain Hepburn's run?
  - (2.) Were these allotments withdrawn in consequence of such petition?
  - (3.) Were the same lots gazetted for sale one month afterwards, with compensation to the extent of £950 put on them, and was the land finally sold in one lot or two, and who was the purchaser?
  - (4.) On what grounds were other two lots withdrawn from sale, and why were they put up at a sale in another district?
  - (5.) Why was the petition of the inhabitants of Creswick against the removal of the sale from that place to Castlemaine disregarded?
  - (6.) Is it true, as stated in a letter bearing the signature of F. Longmore, that a fence placed between private and Crown Lands was valued, and compensation allowed, in direct contravention to the second section of the Fences Act?—(See Adamson, page 695.)
  - (7.) Is it true that Captain Hepburn was allowed compensation for fences removed from a public road, and put up between land previously purchased by him and that then about to be offered for sale, although such removal took place only two days previous to the sale?
  - (8.) Is it true that the lots were of a larger size close to Captain Hepburn's pre-emptive right (or wrong) than on the remainder of the survey?

## NOTICES OF MOTION:—

1. The Hon. J. P. FAWKNER: To move, That the Petition of the Members of the Local Court on the 5th instant at Ararat be printed.
2. The Hon. J. P. FAWKNER: To move, That an Address be presented by this Council, praying the Executive Government of Victoria be requested to take such steps as may be found necessary to enable them to grant to the miners of Ararat, and miners in general, the allotment of land prayed for by the Local Court at Ararat.  
*Contingent*—That the Honorables J. Henry, C. Vaughan, J. Cowie, D. P. Keogh, and the Mover, be the Committee to prepare the Address.
3. The Hon. DR. TIERNEY: To move for the following Returns from 1st January, 1857, to 31st December, 1857, inclusive:—
  - (1.) The number and names of the District Surveyors and Assistant Surveyors in the field.
  - (2.) The number of acres and lots surveyed by each, distinguishing whether town, suburban, agricultural, pastoral, or reserves, showing the number of agricultural or pastoral lots under 80 acres, between 80 and 160, between 160 and 320, and between 320 and 640.
  - (3.) The number of surveys that have been made by each, and for what purposes.
  - (4.) How many blocks have been re-surveyed? where situated? for what reasons? and the additional expenses of such re-surveys?
  - (5.) The number of acres and lots sold or selected from each Surveyor or Assistant Surveyor's survey.
  - (6.) The amount paid into the Treasury for the lands so sold or selected.
  - (7.) The total amount paid into the Treasury, and the number of acres alienated from the Crown at upset price.
  - (8.) The amount of each Surveyor and Assistant Surveyor's salary and allowances, with all expenses for wages, &c., and the number of men employed in each party.
  - (9.) The average cost per acre of each Surveyor and Assistant Surveyor's field work.

4. The Hon. J. HOOD : To move, That the Report of the Board upon conduct of Visiting Justice of Penal Hulks, laid on the Table on the 3rd December ultimo, be printed.
5. The Hon. J. HOOD : To move, That the Report of the Board of Inquiry in the case of John Langtree, Secretary to the Water and Sewerage Commission, laid on the Council Table during the last Session, be printed.

## ORDERS OF THE DAY:—

1. OATHS BILL.—To be read a second time.
2. CLOSING PARTS OF STREETS IN MELBOURNE BILL —To be read a second time.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*

No. 6.

# Minutes of the Proceedings

OF THE

## LEGISLATIVE COUNCIL.

TUESDAY, 19<sup>TH</sup> JANUARY, 1858.

The Council met in accordance with adjournment.

The President having by letter informed the Clerk of the Council of his inability, by reason of illness, to perform the duties of President, the Clerk informed the Council accordingly.

The Chairman of Committees took the Chair as Deputy President.

The Deputy President read the Prayer.

**COLLISION OF "LADY BIRD" AND "CHAMPION" STEAMERS.**—The Clerk laid upon the Table a Return to an Order of the Council made on the 5th instant, for a copy of the Report of the Steam Navigation Board on the collision of the *Lady Bird* and *Champion* steamers.

**PETITION.**—The Honorable Dr. Tierney presented a Petition from William Shea and others on the Ararat Gold Field, praying that the Council will reject the Education Bill brought into Parliament.

Petition received.

**PETITION OF MEMBERS OF LOCAL COURT AT ARARAT.**—The Honorable J. P. Fawcner, in accordance with notice, moved, That the Petition of the Members of the Local Court at Ararat, presented on the 5th instant, be printed.

Question—put and passed.

**OATHS OF OFFICE BILL.**—The Order of the Day for the second reading of this Bill being read, the Honorable C. Vaughan moved, That the Honorable T. H. Power do act as Chairman of Committees while the Chairman of Committees officiates as Deputy President.

Question—put and passed.

The Honorable H. Miller moved, That the Oaths of Office Bill be now read a second time.

Question—put and passed.

Ordered—That the said Bill be now considered in Committee of the whole Council.

The Deputy President left the Chair.

The Deputy Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same without amendments.

The Honorable H. Miller moved, That the Report of the Committee be now adopted.

Question—put and passed.

The Deputy President having reported that the Deputy Chairman of Committees had certified that the fair copy of the Bill was in accordance with the Bill as reported, the Bill, on the motion of the Honorable H. Miller, read a third time and *passed*.

Ordered—That a message be carried to the Legislative Assembly, to acquaint them that the Council have agreed to the Bill without any amendment.

**POSTPONEMENT.**—The Order of the Day for the second reading of the Closing parts of Streets in Melbourne Bill was postponed until Tuesday, 26th instant.

**ADJOURNMENT.**—The Honorable J. F. Strachan, with leave of the Council, moved, without notice, That the House at its rising adjourn until Tuesday next.

Debate ensued.

Question—put and passed.

**MEETING OF SELECT COMMITTEE.**—The Honorable J. B. Bennett, with leave of the Council, moved, without notice, That the Conveyancing Committee have leave to sit during the adjournment.

Question—put and passed.

The Council adjourned at ten minutes to four o'clock until three o'clock on Tuesday, the 26th January.

## NOTICES OF MOTION AND ORDER OF THE DAY.

TUESDAY, 26TH JANUARY, 1858.

1. The Hon. J. HOOD : To ask the Honorable the Postmaster General—
  - (1.) Has the reader in the Assembly received an advance from £5 to £6 per week, and the appointment been made permanent.
  - (2.) Did the messengers in the Assembly receive during the first half of 1857 the same rate of salary as the messengers of this Council, viz., 50s. per week.
  - (3.) Did they (the messengers of the Assembly) receive an advance of salary during the currency of 1857, and if so, at what date and to what extent.
  - (4.) Did they (the messengers of the Assembly), receive a sum as arrears of salary at the advanced rate from 1st January.
  - (5.) Did the messengers of the Council receive any arrears, and if not, why?
2. The Hon. A. R. CRUIKSHANK : To ask the Honorable the Postmaster General whether any further correspondence has taken place since 17th July, 1856, between this Government and the Colonial Office respecting the establishment of a Vice-Admiralty Court in this Colony, and contingent on an answer in the affirmative, That an Address be presented to His Excellency the Governor praying him to cause to be laid on the Table of this House a copy of such correspondence.
3. The Hon. C. VAUGHAN : To ask the Honorable the Postmaster General why the Government does not bring some of the land in the neighborhood of Buninyong into the market.
4. The Hon. J. HOOD : To ask the Honorable the Postmaster General the following questions:—
  - (1.) Was there a petition presented to the President of the Board of Land and Works complaining of the conduct of the District Surveyor in changing what were originally two allotments of land into one, immediately previous to the sale in Captain Hepburn's run?
  - (2.) Were these allotments withdrawn in consequence of such petition?
  - (3.) Were the same lots gazetted for sale one month afterwards, with compensation to the extent of £960 put on them, and was the land finally sold in one lot or two, and who was the purchaser?
  - (4.) On what grounds were other two lots withdrawn from sale, and why were they put up at a sale in another district?
  - (5.) Why was the petition of the inhabitants of Creswick against the removal of the sale from that place to Castlemaine disregarded?
  - (6.) Is it true, as stated in a letter bearing the signature of F. Longmore, that a fence placed between private and Crown Lands was valued, and compensation allowed, in direct contravention to the second section of the Fences Act?—(See Adamson, page 665.)
  - (7.) Is it true that Captain Hepburn was allowed compensation for fences removed from a public road, and put up between land previously purchased by him and that then about to be offered for sale, although such removal took place only two days previous to the sale?
  - (8.) Is it true that the lots were of a larger size close to Captain Hepburn's pre-emptive right (or wrong) than on the remainder of the survey?

## NOTICES OF MOTION:—

1. The Hon. J. P. FAWKNER : To move, That an Address be presented by this Council, praying the Executive Government of Victoria to take such steps as may be found necessary to enable them to grant to the miners of Ararat, and miners in general, the allotment of land prayed for by the Local Court at Ararat.  
*Contingent*—That the Honorables J. Henty, C. Vaughan, J. Cowie, D. P. Keogh, and the Mover, be the Committee to prepare the Address.
2. The Hon. DR. TIERNEY : To move for the following Returns from 1st January, 1857, to 31st December, 1857, inclusive:—
  - (1.) The number and names of the District Surveyors and Assistant Surveyors in the field.
  - (2.) The number of acres and lots surveyed by each, distinguishing whether town, suburban, agricultural, pastoral, or reserves, showing the number of agricultural or pastoral lots under 80 acres, between 80 and 160, between 160 and 320, and between 320 and 640.
  - (3.) The number of surveys that have been made by each, and for what purposes.
  - (4.) How many blocks have been re-surveyed? where situated? for what reasons? and the additional expenses of such re-surveys?
  - (5.) The number of acres and lots sold or selected from each Surveyor or Assistant Surveyor's survey.
  - (6.) The amount paid into the Treasury for the lands so sold or selected.
  - (7.) The total amount paid into the Treasury, and the number of acres alienated from the Crown at upset price.
  - (8.) The amount of each Surveyor and Assistant Surveyor's salary and allowances, with all expenses for wages, &c., and the number of men employed in each party.
  - (9.) The average cost per acre of each Surveyor and Assistant Surveyor's field work.
3. The Hon. J. HOOD : To move, That the Report of the Board upon conduct of Visiting Justice of Penal Hulks, laid on the Table on the 3rd December ultimo, be printed.

4. The Hon. J. HOOD : To move, That the Report of the Board of Inquiry in the case of John Langtree, Secretary to the Water and Sewerage Commission, laid on the Council Table during the last Session, be printed.
5. The Hon. DR. TIERNEY : To move, That the Return to an Order of the Legislative Council, laid on the Council Table on the 19th instant, on the subject of the collision between the steamers *Champion* and *Lady Bird*, be printed.
6. The Hon. A. R. CRUIKSHANK : To move, That a Select Committee be appointed to enquire whether an Insolvent Court, legally constituted, exists in this Colony; and if so, to further enquire as to the working of the Insolvent law, with a view to its amendment.
7. The Hon. J. HOOD : To move for leave to amend and consolidate the laws relating to marriage.

ORDER OF THE DAY:—

1. CLOSING PARTS OF STREETS IN MELBOURNE BILL.—To be read a second time.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*





**Minutes of the Proceedings**  
OF THE  
**LEGISLATIVE COUNCIL.**

TUESDAY, 26<sup>TH</sup> JANUARY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

PAPERS.—The Honorable W. H. F. Mitchell presented to the Council the following Papers:—

1. Immigration—Report of Immigration Agent, 1856.
2. Local Court Regulations—District of Maldon (31st December, 1857).
3. Local Court Regulations—District of Fryer's Creek (31st December, 1857).
4. Local Court Regulations—District of Dunolly (31st December, 1857).
5. Local Court Regulations—District of Creswick (31st December, 1857).
6. Local Court Regulations—District of Ballarat (31st December, 1857).
7. Local Court Regulations—District of Buninyong (18th December, 1857).
8. Local Court Regulations—District of Avoca (18th December, 1857).
9. Local Court Regulations—District of Castlemaine (24th December and 31st December, 1857).
10. Local Court Regulations—District of Beechworth (24th December and 31st December, 1857).
11. Orders in Council (4th January, 1858)—Gold Fields Management Act (21 Vic. No. 32).

Ordered severally to lie on the Table.

VICE-ADMIRALTY COURT.—The Honorable A. R. Cruikshank, in accordance with notice, moved, That an Address be presented to His Excellency the Governor, praying him to cause to be laid upon the Table of this House a copy of any correspondence which has taken place since 17th July, 1856, between the Government of Victoria and the Colonial Office, respecting the establishment of a Vice-Admiralty Court in this Colony.

Question—put and passed.

SURVEY OF PUBLIC LANDS.—The Honorable Dr. Tierney, in accordance with notice, moved, That there be laid upon the Table of the House Returns from 1st January, 1857, to 31st December, 1857, inclusive, of—

- (1.) The number and names of the District Surveyors and Assistant Surveyors in the field.
- (2.) The number of acres and lots surveyed by each, distinguishing whether town, suburban, agricultural, pastoral, or reserves, showing the number of agricultural or pastoral lots under 80 acres, between 80 and 160, between 160 and 320, and between 320 and 640.
- (3.) The number of surveys that have been made by each, and for what purposes.
- (4.) How many blocks have been re-surveyed? where situated? for what reasons? and the additional expenses of such re-surveys?
- (5.) The number of acres and lots sold or selected from each Surveyor or Assistant Surveyor's survey.
- (6.) The amount paid into the Treasury for the lands so sold or selected.
- (7.) The total amount paid into the Treasury, and the number of acres alienated from the Crown at upset price.
- (8.) The amount of each Surveyor and Assistant Surveyor's salary and allowances, with all expenses for wages, &c., and the number of men employed in each party.
- (9.) The average cost per acre of each Surveyor and Assistant Surveyor's field work.

Debate ensued.

Motion by leave withdrawn.

RETURN OF SURVEYORS' FIELD WORK IN 1857.—The Honorable W. H. F. Mitchell laid upon the Table a Return of Field Work sent in by Surveyors and Assistant Surveyors during the year 1857, and moved that the same be received and printed.

Question—put and passed.

PENAL HULKS.—The Honorable J. Hood, in accordance with notice, moved, That the Report of the Board upon the conduct of the Visiting Justice of Penal Hulks, laid on the Table on the 3rd December ultimo, be printed.

Debate ensued.

Question—put.

Council divided.

Contents, 6.  
 The Hon. G. Urquhart  
 B. Williams  
 J. Hood  
 Dr. Tierney  
 J. Cowie  
 M. Hervey (*Teller*).

Not Contents, 13.  
 The Hon. H. Miller  
 J. P. Fawcner  
 J. Hodgson  
 W. H. F. Mitchell  
 C. Vaughan  
 D. P. Keogh  
 T. McCombie  
 W. J. T. Clarke  
 W. Highett  
 A. R. Cruikshank  
 T. H. Power  
 W. Roope  
 J. Henty (*Teller*).

The question was therefore negatived.

**COLLISION BETWEEN "CHAMPION" AND "LADY BIRD" STEAMERS.**—The Honorable Dr. Tierney, in accordance with notice, moved, That the Return to an Order of the Legislative Council, laid on the Council Table on the 19th instant, on the subject of the collision between the steamers *Champion* and *Lady Bird*, be printed.

Debate ensued.

Question—put and passed.

**MARRIAGE BILL.**—The Honorable J. Hood, in accordance with notice, moved for leave to bring in a Bill to amend and consolidate the laws affecting the solemnization of Marriage.

Question—put and passed.

The Bill, on the motion of the Honorable J. Hood, read a first time, ordered to be printed, and read a second time on Tuesday, the 9th proximo.

**ADJOURNMENT.**—The Honorable W. H. F. Mitchell, with leave of the Council, moved without notice, That the House at its rising adjourn until four o'clock on Wednesday, the 27th instant.

Question—put and passed.

The Council adjourned at twenty-five minutes to five o'clock until four o'clock on Wednesday, 27th instant.

---

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 27TH JANUARY, 1858.

1. The Hon. C. VAUGHAN : To ask the Honorable the Postmaster General why the Government does not bring some of the land in the neighborhood of Buninyong into the market.
2. The Hon. T. McCOMBIE : To ask the Honorable the Postmaster General if the forms under the new County Courts Act are ready; and if so, why they have not been forwarded to the various County Courts throughout the Colony.
3. The Hon. Dr. TIERNEY : To ask the Honorable the Postmaster General for the opinion of the Law Officers of the Crown, which was some time since promised to this House, relative to the unclaimed balances in the Treasury and Banks, supposed to belong to intestates in this Colony, and whether those sums can legally be appropriated to the Orphan Asylums.

---

### NOTICES OF MOTION:—

1. The Hon. J. HOOD : To move, That the answers to question No. 4 of the Notice Paper of the 26th January, 1858, laid on the Council Table by the Honorable W. H. F. Mitchell, be printed.
2. The Hon. A. R. CRUIKSHANK : To move, That a Select Committee be appointed to inquire and report whether an Insolvent Court, legally constituted, exists in this Colony; and if so, to further inquire and report as to the working of the Insolvent Law, with a view to its amendment, and that such Committee consist of the Honorables the Postmaster General, J. F. Strachan, J. Henty, T. H. Power, T. McCombie, J. Hood, J. H. Patterson, and the Mover, with power to take evidence and call for the production of documents.
3. The Hon. G. URQUHART : To move, That there be laid upon the Table of this House a return of all the Stock which crossed the respective boundaries of New South Wales and South Australia into this Colony, since 1st January, 1857.
4. The Hon. J. P. FAWKNER : To move, That a Committee of five members be elected to act as the Printing Committee, and that members requiring papers to be printed come before the Committee and point out the reasons why they consider the papers referred should be printed; the Committee to recommend periodically to the Council the printing of such papers as it may appear desirable to print; the Committee to consist of the Honorables H. Miller, J. Henty, T. H. Power, W. H. F. Mitchell, and the Mover.

THURSDAY, 28TH JANUARY.

NOTICE OF MOTION :—

1. The Hon. J. P. FAWKNER : To move, That an Address be presented by this Council, praying the Executive Government of Victoria to take such steps as may be found necessary to enable them to grant to the miners of Ararat, and miners in general, the allotment of land prayed for by the Local Court at Ararat.  
*Contingent*—That the Honorables J. Henty, C. Vaughan, J. Cowie, D. P. Keogh, and the Mover, be the Committee to prepare the Address.

---

TUESDAY, 2ND FEBRUARY.

NOTICE OF MOTION :—

1. The Hon. J. HOOD : To move, That the Report of the Board of Inquiry in the case of John Langtree, late Secretary to the Water and Sewerage Commission, laid on the Council Table during the last Session, be printed.

ORDER OF THE DAY :—

1. CLOSING PARTS OF STREETS IN MELBOURNE BILL.—To be read a second time.

---

TUESDAY, 9TH FEBRUARY.

ORDER OF THE DAY :—

1. MARRIAGE BILL.—To be read a second time.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*



Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

WEDNESDAY, 27<sup>TH</sup> JANUARY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

ROYAL ASSENT TO A BILL.—The approach of His Excellency the Governor was announced by the Usher.

His Excellency the Governor came into the Council Chamber, and commanded the Usher to desire the attendance of the Legislative Assembly in the Council Chamber;

Who being come with their Speaker, His Excellency was pleased to assent, in the name of Her Majesty the Queen, to the following Bill:—

*“An Act to assimilate and simplify the Oaths of Qualification for Office,”*

The Royal Assent being read by the Clerk of the Parliaments in the following words:—

“In the name and on behalf of Her Majesty, I assent to this Act.

“HENRY BARKLY,

“Governor.

“Parliament Houses,

“Melbourne, 27th January, 1858.”

The Clerk of the Parliaments delivered to Mr. Speaker a Schedule of the Act assented to.

Mr. Speaker and the Legislative Assembly withdrew.

His Excellency the Governor left the Council Chamber.

SALE OF LAND AT CAPTAIN HEBBURN'S RUN.—The Honorable J. Hood, in accordance with notice, moved, That the answers to question No. 4 on the Notice Paper of the 26th January, 1858, laid on the Council Table by the Honorable W. H. F. Mitchell, be printed.

Question—put and passed.

PRINTING COMMITTEE.—The Honorable J. P. Fawkner, in accordance with notice, moved, That a Committee of five members be elected to act as the Printing Committee, and that members requiring papers to be printed come before the Committee and point out the reasons why they consider the papers referred should be printed; the Committee to recommend periodically to the Council the printing of such papers as it may appear desirable to print; the Committee to consist of the Honorables H. Miller, J. Henty, T. H. Power, W. H. F. Mitchell, and the Mover.

A ballot having been required, the question that the Committee be appointed was put and passed.

The Council then proceeded to the ballot, and the following members being found to have the greatest number of votes, were declared by the President to be the members of the Committee, viz.:—The Honorables J. P. Fawkner, T. H. Power, W. H. F. Mitchell, J. Henty, and H. Miller.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—The President announced to the Council the receipt of the following Message from the Legislative Assembly:—

MR. PRESIDENT—

The Legislative Assembly acquaint the Legislative Council that they have adopted the Additional Joint Standing Order proposed by the Legislative Council on the 22nd day of December last.

FRANS. MURPHY,  
*Speaker.*

Legislative Assembly Chambers,  
Melbourne, 5th January, 1858.

ADJOURNMENT.—The Honorable W. H. F. Mitchell, with leave of the Council, moved, without notice, That the House, at its rising, adjourn until Tuesday, 2nd of February.

Question—put and passed.

The Council adjourned at ten minutes to five o'clock until three o'clock on Tuesday, the 2nd of February.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 2ND FEBRUARY.

1. The Hon. C. VAUGHAN : To ask the Honorable the Postmaster General why the Government does not bring some of the land in the neighborhood of Buninyong into the market.
2. The Hon. T. McCOMBIE : To ask the Honorable the Postmaster General if the forms under the new County Courts Act are ready ; and if so, why they have not been forwarded to the various County Courts throughout the Colony.
3. The Hon. Dr. TIERNEY : To ask the Honorable the Postmaster General for the opinion of the Law Officers of the Crown, which was some time since promised to this House, relative to the unclaimed balances in the Treasury and Banks, supposed to belong to intestates in this Colony, and whether those sums can legally be appropriated to the Orphan Asylums.
4. The Hon. J. HOOD : To ask the Honorable the Postmaster General if all unexpended balances lapse at the end of the year, or if they are still available for the purposes for which they were originally voted.

## NOTICES OF MOTION :—

1. The Hon. J. P. FAWKNER : To move, That an Address be presented by this Council, praying the Executive Government of Victoria to take such steps as may be found necessary to enable them to grant to the miners of Ararat, and miners in general, the allotment of land prayed for by the Local Court at Ararat.  
*Contingent*—That the Honorables J. Henty, C. Vaughan, J. Cowie, D. P. Keogh, and the Mover, be the Committee to prepare the Address.
2. The Hon. J. HOOD : To move, That the Report of the Board of Inquiry in the case of John Langtree, late Secretary to the Water and Sewerage Commission, laid on the Council Table during the last Session, be printed.
3. The Hon. J. HOOD : To move, That any and all analyses of the water of either the Yan Yean or Yarra in the possession of the Government or of the Water Commission may be laid on the Table of this House.

## ORDER OF THE DAY :—

1. CLOSING PARTS OF STREETS IN MELBOURNE BILL.—To be read a second time.

TUESDAY, 9TH FEBRUARY.

## ORDER OF THE DAY :—

1. MARRIAGE BILL.—To be read a second time.

MEETING  
OF  
SELECT COMMITTEE.

*Tuesday, 2nd February, 1858.*

PRINTING COMMITTEE—at half-past 2 o'clock.

G. W. RUSDEN,  
*Clerk of the Council and Clerk of the Parliaments.*



Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

TUESDAY, 2ND FEBRUARY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

PAPERS.—The Honorable W. H. F. Mitchell presented to the Council the following Papers:—

1. Vice-Admiralty Court—Return to an Address of the Legislative Council, 26th January, 1858.
2. Complaint of Mr. Donaghy—Return to an Order of the Legislative Council, 5th January, 1858.
3. Births, Deaths, and Marriages—Fourth Annual Report of Registrar General; for the year ending 30th June, 1857.

Ordered severally to lie on the Table.

PETITION OF MEMBERS OF LOCAL COURT AT ARARAT.—The Honorable J. P. Fawcner, in accordance with *amended* notice, moved, That an Address be presented by this Council, praying the Executive Government of Victoria to take such steps as may be found necessary to enable them to grant to the miners of Ararat, and miners in general, the allotment of land prayed for by the Local Court at Ararat, and further to facilitate the purchase of land by men of limited capital.

The Honorable W. H. F. Mitchell moved the previous question.

Debate ensued.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—

MR. PRESIDENT,

The Legislative Assembly transmit to the Legislative Council a Bill intituled "*An Act to shorten the duration of the Legislative Assembly,*" to which they desire the concurrence of the Legislative Council.

Legislative Assembly Chambers,  
Melbourne, 29th January, 1858.

FRANS. MURPHY,  
Speaker.

The Bill, on the motion of the Honorable W. H. F. Mitchell, read a first time, ordered to be printed and read a second time on Tuesday, the 9th instant.

PETITION OF MEMBERS OF LOCAL COURT AT ARARAT.—

Debate resumed.

Question—That this question be now put—put.

Council divided.

Contents, 3.  
The Hon. J. P. Fawcner  
J. Hood  
J. Henty (*Teller*).

Not Contents, 14.  
The Hon. N. Guthridge  
J. Hodgson  
C. Vaughan  
G. Urquhart  
J. H. Patterson  
W. J. T. Clarke  
J. B. Bennett  
W. H. F. Mitchell  
H. Miller  
D. Kennedy  
W. Hightt  
T. McCombie  
T. H. Power  
J. F. Strachan (*Teller*).

The question was therefore negatived.

ANALYSES OF WATER OF YAN YEAN AND YARRA RIVER.—The Honorable J. Hood, in accordance with notice, moved, That any and all analyses of the water of either the Yan Yeau or Yarra in the possession of the Government or of the Water Commission may be laid on the Table of this House.

Question—put and passed.

PAPER.—The Honorable W. H. F. Mitchell presented to the Council the following Paper:—

Progress Report of the Commissioners appointed to inquire and report upon the best mode of providing Offices for the Civil Service of the Colony, and the most eligible sites for any new buildings that may be necessary for such purpose, and moved that the same be printed.

Question—put and passed.

POSTPONEMENT.—The Order of the Day for the second reading of the Closing Parts of Streets in Melbourne Bill was postponed until Tuesday, the 9th instant.

RESTORATION OF LAPSED ORDER.—The Order of the Day for the second reading of the Independence of Legislature Bill was ordered to be restored to the Notice Paper for Wednesday, 3rd instant.

The Council adjourned at five minutes past five o'clock until three o'clock on Wednesday, the 3rd instant.

---

## NOTICES OF MOTION AND ORDERS OF THE DAY.

### WEDNESDAY, 3RD FEBRUARY.

1. The Hon. J. HENTY: To move, That there be laid upon the Table of this House:—
  - (1.) A Return of the number of Chinese entered out at the Port of Melbourne for all ports and places in China during the half-year ending 31st December, 1857.
  - (2.) A Return of the quantity of coined gold and crude gold in ounces shipped by the Chinese from the Port of Melbourne for the same period.
2. The Hon. J. HENTY: To move, That the report of the officer appointed by the Government to inspect the work of the District Surveyors at their several stations be laid upon the Table of this House.

ORDER OF THE DAY:—

1. INDEPENDENCE OF THE LEGISLATURE BILL.—To be read a second time.

### THURSDAY, 4TH FEBRUARY.

1. The Hon. W. HIGGETT: To ask—
  - (1.) Whether the line of the Richmond road was originally marked straight from end to end, or only straight from the angle of each suburban abutting on the same.
  - (2.) Whether, by straightening the line from end to end, the title deeds to property contained in suburban allotments 24, 25, 26, 27, 28, 29, 30, 31, 32, 34, 35, 36 and 37, would not be most materially affected by thus setting aside the registered corner trees.
  - (3.) How much the present fence of the Police Paddock diverges from a true east and west line; and whether this or the old line of trees inside the fence would best agree with the general line of Richmond road as originally marked out and defined by the registered corner trees.
  - (4.) Whether the suburban allotments were in the first instance marked off sufficiently carefully to render the lengths in the ground in strict accordance with the land described and granted.
2. The Hon. J. H. PATTERSON: To ask the Honorable the Postmaster General if he will cause a copy of the contract entered into by the Government for the erection of the electric telegraph between Belfast and Portland to be laid upon the Table of this House.

NOTICES OF MOTION:—

1. The Hon. J. H. PATTERSON: To move, That a copy of all instructions given by Government to Mr. Stewart, Police Magistrate of Belfast, relative to the sale of the Crown Lands which took place there under his direction on the 27th and 28th December last, be laid on the Table of this House, together with a statement of all lots withdrawn before the commencement of the sale, and all lots during the sale by his authority, distinguishing those lots for which offers were made, and the prices offered, and by whom; and if subsequently disposed of, when, how, and to whom; and also a copy of all telegraphic messages, instructions, and correspondence which passed between the Government and the officer superintending the sale of Crown Lands at Lake Colac, relative to or during the last Government land sale there.

*Contingent* upon these Papers being laid upon the Table, to move, That a Select Committee be appointed to take the whole subject into consideration, to take evidence and to report to this House; such Committee to consist of the Honorables W. H. F. Mitchell, H. Miller, T. H. Power, S. G. Henty, T. McCombie, and the Mover.

2. The Hon. W. HUGHETT: To move, That there be laid upon the Table of the House any report made to the Government by Mr. Surveyor Foot and others relative to the boundaries of the Richmond Bridge road from Hoddle street to the bridge.

---

TUESDAY, 9TH FEBRUARY.

NOTICE OF MOTION:—

1. The Hon. A. R. CRUIKSHANK: To move, That a Select Committee be appointed to inquire and report whether an Insolvent Court, legally constituted, exists in this Colony; and if so, to further inquire and report as to the working of the Insolvent Law, with a view to its amendment, and that such Committee consist of the Honorables the Postmaster General, J. F. Strachan, J. Henty, T. H. Power, T. McCombie, J. Hood, J. H. Patterson, and the Mover, with power to take evidence and call for the production of documents.

ORDERS OF THE DAY:—

1. MARRIAGE BILL.—To be read a second time.
2. DURATION OF ASSEMBLY BILL.—To be read a second time.
3. CLOSING PARTS OF STREETS IN MELBOURNE BILL.—To be read a second time.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*



Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

WEDNESDAY, 3RD FEBRUARY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

RETURN OF ATTENDANCES OF MEMBERS AT SELECT COMMITTEES.—The President laid on the Table a Return showing the Meetings of the Select Committees of the Legislative Council during the Session 1856-7, distinguishing the names of the members and attendances; the times when there was no attendance, and the members who attended when there was no quorum; prepared in accordance with the desire of the Honorable Dr. Tierney.

Ordered to lie on the Table.

CHINESE PASSENGERS AND GOLD EXPORTED BY CHINESE.—The Honorable J. Henty, in accordance with notice, moved, That there be laid upon the Table of this House—

- (1.) A Return of the number of Chinese entered out at the Port of Melbourne for all ports and places in China during the half-year ending 31st December, 1857.
- (2.) A Return of the quantity of coined gold and crude gold in ounces shipped by the Chinese from the Port of Melbourne for the same period.

Question—put and passed.

REPORT ON SURVEY OF PUBLIC LANDS.—The Honorable J. Henty, in accordance with *amended* notice, moved, That the report of the officer appointed by the Government to inspect the work of the District Surveyors at their several stations, including the Counties of Bourke and Evelyn, be laid upon the Table of this House.

Question—put and passed.

MEETING OF SELECT COMMITTEE.—The Honorable J. B. Bennett, with leave of the Council, moved, without notice, That the Select Committee on the Transfer of Land Bill be empowered to sit on Friday next.

Question—put and passed.

INDEPENDENCE OF THE LEGISLATURE BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable W. H. F. Mitchell moved, That the Bill be now read a second time.

Debate ensued.

Question—put

The President pointed out to the Council, that as it might be held that the Bill fell under the operation of the LXth clause of the Constitutional Act, he would desire that the numbers voting respectively for and against the Bill should be taken down by the Clerk.

The number voting for the Bill was eleven, against it four.

A division was then called for.

Council divided.

Contents, 11.  
The Hon. W. H. F. Mitchell  
H. Miller  
J. Henty  
J. P. Fawkner  
J. Hood  
T. H. Power  
J. H. Patterson  
J. B. Bennett  
C. Vaughan  
W. Highett  
J. Hodgson (*Teller*).

Not Contents, 4.  
The Hon. Dr. Tierney  
T. McCombie  
B. Williams  
N. Guthridge (*Teller*).

The Honorable J. B. Bennett moved, That the Bill intituled "*An Act to secure the Independence of the Legislature*" comes under the operation of the sixtieth section of the Constitution Act.

Question—put and passed.

The President declared that the Bill had not passed by the majority provided for in the sixtieth clause of the Constitution Act as necessary on the second reading of such a Bill, and that the motion for the second reading was therefore lost.

PAPERS.—The Honorable W. H. F. Mitchell presented to the Council the following Paper:—

Electric Telegraph—Concluding Report of General Superintendent to 31st December, 1857.

Ordered to lie on the Table.

ADJOURNMENT.—The Honorable W. H. F. Mitchell moved, with leave of the Council, without notice, That the House, at its rising this day, adjourn until Tuesday next.

Question—put and passed.

POSTPONEMENTS.—The business on the Notice Paper for Thursday, the 4th instant, was ordered to be set down for Tuesday, the 6th instant.

The Council adjourned at five minutes to five o'clock until three o'clock on Tuesday the 9th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 9TH FEBRUARY.

1. The Hon. W. HIGHETT: To ask—

- (1.) Whether the line of the Richmond road was originally marked straight from end to end, or only straight from the angle of each suburban abutting on the same.
- (2.) Whether, by straightening the line from end to end, the title deeds to property contained in suburban allotments 24, 25, 26, 27, 28, 29, 30, 31, 32, 34, 35, 36 and 37, would not be most materially affected by thus setting aside the registered corner trees.
- (3.) How much the present fence of the Police Paddock diverges from a true east and west line; and whether this or the old line of trees inside the fence would best agree with the general line of Richmond road as originally marked out and defined by the registered corner trees.
- (4.) Whether the suburban allotments were in the first instance marked off sufficiently carefully to render the lengths in the ground in strict accordance with the land described and granted.

2. The Hon. J. HODGSON: To ask the Honorable the Postmaster General if the Portrait of Her Most Gracious Majesty has arrived in the Colony; and if so, what measures have been taken to place it in its proper position.

3. The Hon. J. H. PATTERSON: To ask the Honorable the Postmaster General if he will cause a copy of the contract entered into by the Government for the erection of the electric telegraph between Belfast and Portland to be laid upon the Table of this House.

### NOTICES OF MOTION:—

1. The Hon. A. R. CRUIKSHANK: To move, That a Select Committee be appointed to inquire and report whether an Insolvent Court, legally constituted, exists in this Colony; and if so, to further inquire and report as to the working of the Insolvent Law, with a view to its amendment, and that such Committee consist of the Honorables the Postmaster General, J. F. Strachan, J. Henty, T. H. Power, T. McCombie, J. Hood, J. H. Patterson, and the Mover, with power to take evidence and call for the production of documents.

2. The Hon. J. P. FAWKNER: To move—

- (1.) That there be laid upon the Table a Return of the gross amounts of money expended by the Commissioners of Sewerage and Water Supply, under the Act of Council 16 Victoria No. 31, up to the 1st August, 1857, including salaries, and specifying the amount of salaries and recipients paid annually.
- (2.) Setting forth the extent of ground acquired from each proprietor through whose lands the Commissioners carried the works; the names of the different proprietors; the amount of land obtained from each; the amount claimed by each proprietor under the notice of the said Act; the amount offered by the Commissioners to be paid in each case; the amount actually paid to each proprietor, and whether paid under treaty and agreement or under verdict of jury.
- (3.) A list of the actual costs paid in each case, either under treaty with the proprietor or under verdict of a jury, distinguishing the costs of action, or expenses paid to attorney, solicitor, or otherwise.
- (4.) The amount of costs charged to the Commissioners by their solicitor or attorney up to 31st July, 1857; setting forth whether the costs were taxed or not, and if so, particulars, distinguishing the costs incurred in completing the titles to each portion of land required by the Commissioners under the said Act from all other costs, and a gross amount of land acquired and total cost thereof, and the purposes for which such land was bought.
- (5.) A return of all transferred contracts; setting forth the original contract price in detail, together with the ultimate cost of the work and the names of both contractors.

3. The Hon. DR. TIERNEY: To move, That there be laid on the Table of this House a Return of—
- (1.) The amount of gold that has been deposited in the Treasury or Sub-Treasuries since the discovery of the Gold Fields; distinguishing the quantity deposited in each year.
  - (2.) If any of the gold that has not been claimed has passed to any other account or been in any way used for the public service.
  - (3.) If so, what has been the amount so passed or used; if sold, when, to whom, and at what per ounce.
  - (4.) To what purposes applied, and when.
  - (5.) By what authority.
  - (6.) The amount of gold or money unclaimed by next of kin lodged in the Treasury or Banks at the instance of the Curator of Intestate Estates.
4. The Hon. J. H. PATTERSON: To move, That a copy of all instructions given by Government to Mr. Stewart, Police Magistrate of Belfast, relative to the sale of the Crown Lands which took place there under his direction on the 27th and 28th December last, be laid on the Table of this House, together with a statement of all lots withdrawn before the commencement of the sale, and all lots during the sale by his authority, distinguishing those lots for which offers were made, and the prices offered, and by whom; and if subsequently disposed of, when, how, and to whom; and also a copy of all telegraphic messages, instructions, and correspondence which passed between the Government and the officer superintending the sale of Crown Lands at Lake Colac, relative to or during the last Government land sale there.
- Contingent upon these Papers being laid upon the Table, to move, That a Select Committee be appointed to take the whole subject into consideration, to take evidence and to report to this House; such Committee to consist of the Honorables W. H. F. Mitchell, H. Miller, T. H. Power, S. G. Henty, T. McCombie, and the Mover.*
5. The Hon. W. HIGHETT: To move, That there be laid upon the Table of the House any reports made to the Government by Mr. Surveyor Foot and others relative to the boundaries of the Richmond Bridge road from Hoddle-street to the Bridge.

ORDERS OF THE DAY:—

1. MARRIAGE BILL.—To be read a second time.
2. DURATION OF ASSEMBLY BILL.—To be read a second time.
3. CLOSING PARTS OF STREETS IN MELBOURNE BILL.—To be read a second time.

## MEETINGS

OF

## SELECT COMMITTEES.

*Friday, 5th February.*

TRANSFER OF LAND BILL—at 11 o'clock.

*Tuesday, 9th February.*

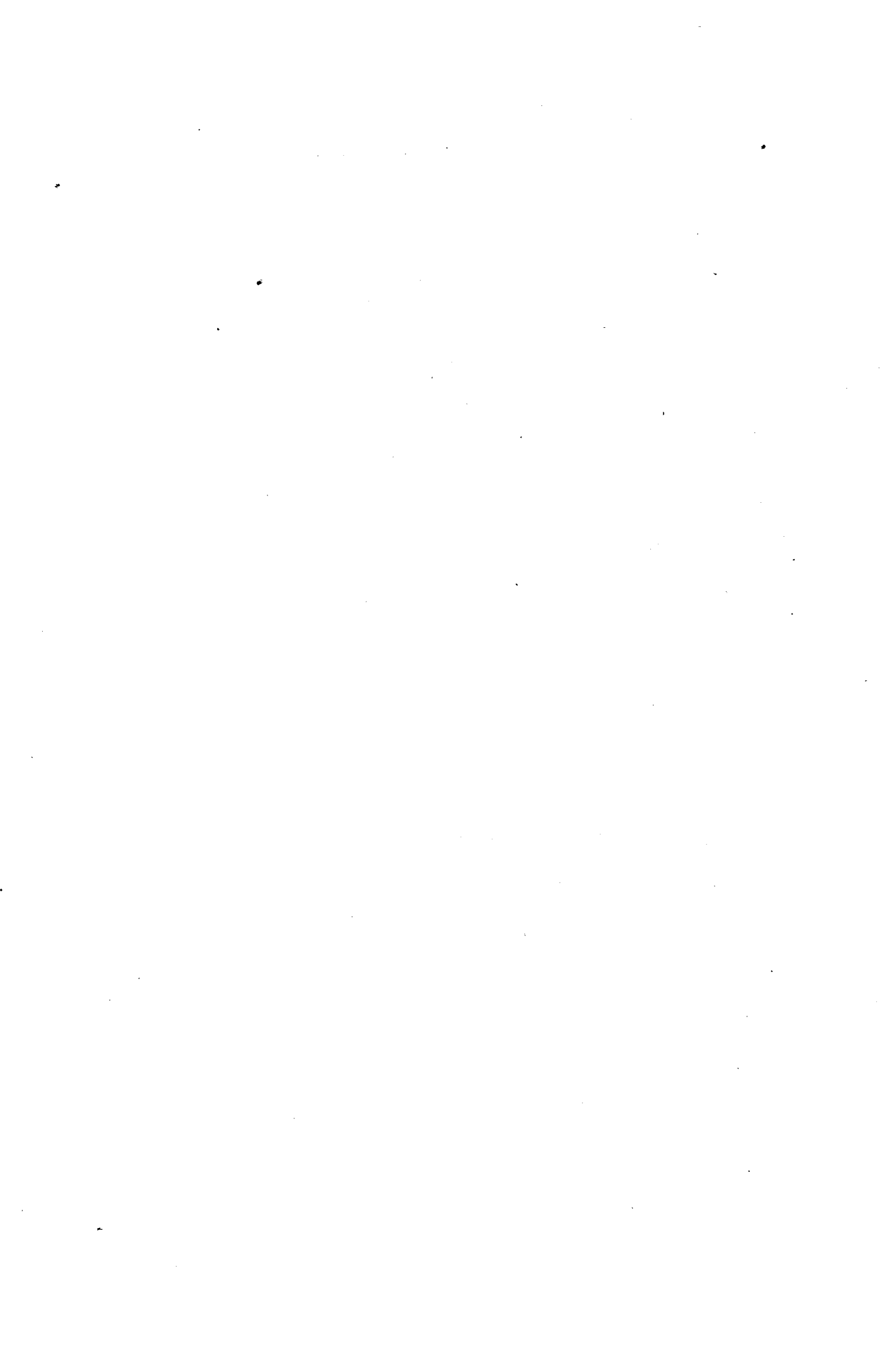
PRINTING COMMITTEE—at half-past 2 o'clock.

REFRESHMENT ROOMS—at half-past 2 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*





**Minutes of the Proceedings**  
OF THE  
**LEGISLATIVE COUNCIL.**

TUESDAY, 9TH FEBRUARY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

PAPERS.—The Honorable W. H. F. Mitchell presented to the Council the following papers—

1. Orders in Council—Maryborough Mining District Divisions (1st February, 1858).
2. Report on Yarra Bend Lunatic Asylum, 1857.
3. List of Pensions granted under Act 18 and 19 Victoria, cap. 55.

Ordered severally to lie on the Table.

CHINESE PASSENGERS, AND GOLD EXPORTED BY CHINESE.—The Clerk laid upon the Table a Return to an Order of the Council of the 3rd instant.

PAPERS.—The Honorable W. H. F. Mitchell presented to the Council a copy of the Contract entered into by the Government for the erection of the Electric Telegraph between Belfast and Portland.

Ordered to lie on the Table.

COMMISSION OF SEWERAGE AND WATER SUPPLY.—The Honorable J. P. Fawcner, in accordance with notice, moved—

- (1.) That there be laid upon the Table a Return of the gross amounts of money expended by the Commissioners of Sewerage and Water Supply, under the Act of Council 16 Victoria No. 31, up to the 1st August, 1857, including salaries, and specifying the amount of salaries and recipients paid annually.
- (2.) Setting forth the extent of ground acquired from each proprietor through whose lands the Commissioners carried the works; the names of the different proprietors; the amount of land obtained from each; the amount claimed by each proprietor under the notice of the said Act; the amount offered by the Commissioners to be paid in each case; the amount actually paid to each proprietor, and whether paid under treaty and agreement or under verdict of jury.
- (3.) A list of the actual costs paid in each case, either under treaty with the proprietor or under verdict of a jury, distinguishing the costs of action, or expenses paid to attorney, solicitor, or otherwise.
- (4.) The amount of costs charged to the Commissioners by their solicitor or attorney up to 31st July, 1857; setting forth whether the costs were taxed or not, and if so, particulars, distinguishing the costs incurred in completing the titles to each portion of land required by the Commissioners under the said Act from all other costs, and a gross amount of land acquired and total cost thereof, and the purposes for which such land was bought.
- (5.) A return of all transferred contracts; setting forth the original contract price in detail, together with the ultimate cost of the work and the names of both contractors.

Question—put and passed.

GOLD DEPOSITED IN TREASURY AND SUB-TREASURIES.—The Honorable Dr. Tierney, in accordance with notice, moved, That there be laid on the Table of this House a Return of—

- (1.) The amount of gold that has been deposited in the Treasury or Sub-Treasuries since the discovery of the Gold Fields; distinguishing the quantity deposited in each year.
- (2.) If any of the gold that has not been claimed has passed to any other account or been in any way used for the public service.
- (3.) If so, what has been the amount so passed or used; if sold, when, to whom, and at what per ounce.
- (4.) To what purposes applied, and when.
- (5.) By what authority.
- (6.) The amount of gold or money unclaimed by next of kin lodged in the Treasury or Banks at the instance of the Curator of Intestate Estates.

Question—put and passed.

SALES OF CROWN LANDS AT BELFAST AND AT COLAC.—The Honorable J. H. Patterson, in accordance with notice, moved, That a copy of all instructions given by Government to Mr. Stewart, Police Magistrate of Belfast, relative to the sale of the Crown Lands which took place there under his direction on the 27th and 28th December last, be laid on the Table of this House, together with a statement of all lots withdrawn before the commencement of the sale, and all lots during the sale by his authority, distinguishing those lots for which offers were made, and the prices offered, and by whom; and if subsequently disposed of, when, how, and to whom; and also a copy of all telegraphic messages, instructions, and correspondence which passed between the Government and the officer superintending the sale of Crown Lands at Lake Colac, relative to or during the last Government land sale there.

Question—put and passed.

SALES OF LAND AT BELFAST AND AT LAKE COLAC, SELECT COMMITTEE ON.—The Honorable J. H. Patterson, in accordance with *amended* notice, moved, That a Select Committee be appointed to take the whole subject into consideration, to take evidence and to report to this House; such Committee to consist of the Honorables W. H. F. Mitchell, H. Miller, T. H. Power, S. G. Henty, T. McCombie, J. P. Fawkner, J. Hood, and the Mover.

Debate ensued.

Question—put

Council divided.

Contents, 7.  
The Hon. T. H. Power  
M. Hervey  
S. G. Henty  
J. H. Patterson  
W. Highett  
A. R. Cruikshank  
G. Urquhart (*Teller*).

Not Contents, 18.  
The Hon. J. Hodgson  
C. Vaughan  
N. Guthridge  
W. H. F. Mitchell  
J. P. Fawkner  
D. Kennedy  
J. Henty  
J. Hood  
T. McCombie  
W. Roope  
D. P. Keogh  
H. Miller  
Dr. Hope  
J. Cowie  
W. J. T. Clarke  
J. B. Bennett  
Dr. Tierney  
J. F. Strachan (*Teller*).

The question was therefore negatived.

REFRESHMENT ROOMS COMMITTEE (JOINT), QUORUM OF.—The President announced to the Council that His Excellency the Governor had been pleased to approve of the Joint Standing Order No. XXIV., as adopted by both Houses of Parliament, on the subject of the Quorum of the Joint Refreshment Rooms Committee.

BOUNDARIES OF RICHMOND BRIDGE ROAD.—The Honorable W. Highett, in accordance with notice, moved, That there be laid upon the Table of the House any reports made to the Government by Mr. Surveyor Foot and others relative to the boundaries of the Richmond Bridge road from Hoddle-street to the Bridge.

Question—put and passed.

MARRIAGE BILL.—The Order of the Day for the second reading of this Bill was postponed until Tuesday, 16th instant.

DURATION OF ASSEMBLY BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable W. H. F. Mitchell moved, That the Bill be now read a second time.

Debate ensued.

The Honorable J. P. Fawkner moved, That this debate be adjourned until this day week.

Question—That this debate be adjourned until this day week—put and negatived.

Question—That the Bill be now read a second time—put.

The President pointed out that as it might be held that the Bill fell under the provisions of the LXth clause of the Constitutional Act, he would desire that the numbers voting respectively for and against the Bill should be taken down by the Clerk.

The number voting for the Bill was eighteen, against it six.

The President declared that the second reading of the Bill had passed by the requisite majority.

Bill read a second time.

Ordered—That the said Bill be now considered in Committee of the whole Council.

The President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same without amendments.

The Honorable W. H. F. Mitchell moved, That the Report of the Committee be now adopted.

Question—put and passed.

The President having reported that the Chairman of Committees had certified that the fair copy of the Bill was in accordance with the Bill as reported, the Bill, on the motion of the Honorable W. H. F. Mitchell, read a third time and *passed*; the number of members voting for the third reading being nineteen, and against it five.

The Honorable W. H. F. Mitchell moved, That the title of the Bill be "*An Act to shorten the duration of the Legislative Assembly.*"

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly, to acquaint them that the Council have passed the Bill without any amendment.

CLOSING PARTS OF STREETS IN MELBOURNE BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable J. P. Fawkner moved, That the Order of the Day be postponed until this day week.

Debate ensued.

Question—put and passed.

ADJOURNMENT.—The Honorable J. Hodgson, with leave of the Council, moved, without notice, That the House at its rising adjourn until Tuesday next.

Question—put and passed.

MEETINGS OF SELECT COMMITTEES.—The Select Committees of the Council were empowered to sit during the adjournment.

The Council adjourned at twenty-five minutes past five o'clock until three o'clock on Tuesday, the 16th instant.

## NOTICE OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 16TH FEBRUARY.

### NOTICE OF MOTION:—

1. The Hon. J. B. BENNETT: To move for leave to bring in a Bill to regulate the terms, sittings, and holidays of the Supreme Court.

### ORDERS OF THE DAY:—

1. MARRIAGE BILL.—To be read a second time.
2. CLOSING PARTS OF STREETS IN MELBOURNE BILL.—To be read a second time.

## MEETINGS

OF

## SELECT COMMITTEES.

*Wednesday, 10th February.*

FEDERATION—at a quarter to 2 o'clock.

*Thursday, 11th February.*

TRANSFER OF LAND BILL—at 1 o'clock.

*Tuesday, 16th February.*

PRINTING COMMITTEE—at half-past 2 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*



Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

TUESDAY, 16TH FEBRUARY, 1858.

The Council met in accordance with adjournment.

The President having written a letter to state that he was prevented by indisposition from attending at the House, the Clerk informed the Council accordingly.

The Chairman of Committees took the Chair as Deputy President.

The Deputy President read the Prayer.

BOUNDARIES OF RICHMOND BRIDGE ROAD.—The Honorable W. H. F. Mitchell laid upon the Council Table a Return to an Order of the Legislative Council, 9th February, 1858.

PETITION.—The Honorable H. Miller presented to the Council a Petition from certain persons against the Education Bill, and moved that the same be received.

Debate ensued.

Petition by leave withdrawn.

SALES OF CROWN LANDS AT BELFAST AND AT COLAC.—The Honorable W. H. F. Mitchell laid upon the Council Table a Return to an Order of the Legislative Council, 9th February, 1858.

The Honorable J. H. Patterson moved that the Return be referred to the Printing Committee.

Question—put and passed.

SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.—The Honorable J. B. Bennett, in accordance with notice, moved for leave to bring in a Bill to regulate the terms, sittings, and holidays of the Supreme Court.

Question—put and passed.

Bill brought in, read a first time, ordered to be printed and read a second time on Tuesday, 23rd instant.

MARRIAGE BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable J. Hood moved, That the Bill be now read a second time.

Debate ensued.

Amendment moved by the Honorable Dr. Tierney, That all the words after the word “be” be omitted, with a view to insert the words “referred to a Select Committee of this House.”

Debate ensued.

Question—That the word “now” proposed to be omitted stand part of the question—put and passed.

Question—That the Bill be now read a second time—put and passed.

Bill read a second time.

The Honorable J. Hood moved, That the Honorable T. H. Power do act as Chairman of Committees.

Question—put and passed.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—The Deputy President announced to the Council the receipt of the following Message from the Legislative Assembly:—

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill, intituled, “An Act to appropriate the Consolidated Revenue towards the service of the year One thousand eight hundred and fifty-eight, and for other purposes”; also, a Bill, intituled, “An Act to give further remedies to Creditors against Debtors removing from any other of the Australasian Colonies to the Colony of Victoria”; to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 16th February, 1858.

The Bills, on the motion of the Honorable W. H. F. Mitchell, severally read a first time, ordered to be printed and read a second time this day week.

**MARRIAGE BILL.**—The Honorable J. Hood moved, That the Bill be now considered in Committee of the whole Council.

The Deputy President left the Chair.

The Deputy Chairman of Committees reported progress and asked leave to sit again on Tuesday, the 23rd instant.

Ordered.

**CLOSING PARTS OF STREETS IN MELBOURNE BILL.**—The Order of the Day for the second reading of this Bill being read, the Honorable W. H. F. Mitchell moved, That the Bill be now read a second time.

Debate ensued.

Amendment moved by the Honorable J. P. Fawcner, That the word "now" be omitted, with a view to add the words "this day six months" after the word "time."

Debate ensued.

Question—That the word "now," proposed to be omitted, stand part of the question—put and negatived.

Question—That the words "this day six months" be added after the word "time"—put and passed.

Question—That the Bill be read a second time this day six months—put and passed.

**ADJOURNMENT.**—The Honorable W. H. F. Mitchell, with leave of the Council, moved, without notice, That the House at its rising adjourn until this day week.

Question—put and passed.

**MEETINGS OF SELECT COMMITTEES.**—The Honorable J. P. Fawcner, with leave of the Council, moved, without notice, That the Select Committees of the Council have power to meet during the adjournment.

Question—put and passed.

The Council adjourned at half-past six o'clock until three o'clock on Tuesday, the 23rd instant.

## ORDERS OF THE DAY.

TUESDAY, 23RD FEBRUARY.

### ORDERS OF THE DAY:—

1. SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.—To be read a second time.
2. APPROPRIATION BILL.—To be read a second time.
3. DEBTORS FROM NEIGHBORING COLONIES BILL.—To be read a second time.
4. MARRIAGE BILL.—To be further considered in Committee.

## MEETINGS

OF

## SELECT COMMITTEES.

*Wednesday, 17th February.*

PRINTING COMMITTEE—at 10 o'clock.

TRANSFER OF LAND BILL—at 1 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*



Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

TUESDAY, 23<sup>RD</sup> FEBRUARY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

PRINTING COMMITTEE—FIRST REPORT.—The Honorable J. P. Fawcner, as Chairman of the Select Committee on Printing, brought up the First Report of the Committee, and moved that the same be adopted.

Question—put and passed.

SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable J. B. Bennett moved, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

Ordered—That the said Bill be now considered in Committee of the whole Council.

The President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same with amendments.

The Honorable J. B. Bennett moved, That the adoption of the report of the Committee be made an Order of the Day for to-morrow.

Ordered.

PAPERS.—The Honorable W. H. F. Mitchell presented to the Council the following Paper :—  
Order in Council—Maryborough and Sandhurst Districts (22<sup>nd</sup> February, 1858).

POSTPONEMENTS.—The following Orders of the Day were severally postponed until Wednesday, the 24<sup>th</sup> instant :—

“ *Appropriation Bill* ”—to be read a second time.

“ *Debtors from Neighboring Colonies Bill* ”—to be read a second time.

MARRIAGE BILL.—The Order of the Day for the further consideration of this Bill in Committee of the whole Council being read, the President left the Chair.

The Chairman of Committees reported progress, and asked leave to sit again to-morrow.

Ordered.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—The President announced to the Council the receipt of the following Message from the Legislative Assembly :—

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill, intituled, “ *An Act for an Assessment on Stock,* ” to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chamber,  
Melbourne, 23<sup>rd</sup> February, 1858.

The Bill, on the motion of the Honorable W. H. F. Mitchell, read a first time, ordered to be printed, and read a second time on Thursday, 25<sup>th</sup> instant.

The Council adjourned at twenty minutes to six o'clock until three o'clock on Wednesday, 24<sup>th</sup> February.

## NOTICE OF MOTION AND ORDERS OF THE DAY.

---

 WEDNESDAY, 24TH FEBRUARY.

1. The Hon. DR. TIERNEY : To ask the Honorable the Postmaster General when the Government contemplate extending the electric telegraph to the Ararat gold fields.
  2. The Hon. DR. TIERNEY : To ask the Honorable the Postmaster General why the police and others were not paid their salaries and wages for the month of January.
- 

## ORDERS OF THE DAY:—

1. SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.—Adoption of Report.
  2. APPROPRIATION BILL.—To be read a second time.
  3. DEBTORS FROM NEIGHBORING COLONIES BILL.—To be read a second time.
  4. MARRIAGE BILL.—To be further considered in Committee.
- 

THURSDAY, 25TH FEBRUARY.

## ORDER OF THE DAY:—

1. ASSESSMENT ON STOCK BILL.—To be read a second time.
- 

TUESDAY, 2ND MARCH.

1. The Hon. G. URQUHART : To ask the Honorable the Postmaster General whether it is proposed, in the approaching competition for the Melbourne General Post Office, to carry out the rule of the Victorian Institute of Architects, which declares that a public exhibition of the designs in any competition shall be held for one week previous to the decision thereon, and for one week after the decision.
- 

## NOTICE OF MOTION:—

1. The Hon. G. URQUHART : To move, That the correspondence up to this date, between the Government and the Free Presbyterian Synod of Victoria, relative to grants of land and grants of money, for the year 1857, be laid upon the Table of this House.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*

Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

WEDNESDAY, 24TH FEBRUARY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.  
The President read the Prayer.

PAPERS.—The Honorable W. H. F. Mitchell presented to the Council the following Papers:—

1. Order in Council—Ballaarat District (15th February, 1858).
2. Return to an Order of the Council (2nd February, 1858)—Analysis of Water of Yan Yean and Yarra River.
3. Orders and Rules—Gold Fields and County Courts Acts.

Ordered severally to lie on the Table.

SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.—The Order of the Day for the adoption of the Report of the Committee of the whole Council on this Bill being read, the Honorable J. B. Bennett moved, That the Report be now adopted.

The Honorable J. P. Fawkner moved, That the further consideration of this Order of the Day be postponed until to-morrow.

Question—That the further consideration of this Order of the Day be postponed until to-morrow—put.

Council divided.

Contents, 8.  
The Hon. J. H. Patterson  
G. Urquhart  
J. P. Fawkner  
A. R. Cruikshank  
T. McCombie  
J. Hood  
W. Highett  
N. Guthridge (*Teller*).

Not Contents, 13.  
The Hon. J. Hodgson  
H. Miller  
W. H. F. Mitchell  
C. Vaughan  
J. B. Bennett  
T. H. Power  
W. Roope  
Dr. Hope  
Dr. Tierney  
D. Kennedy  
D. P. Keogh  
J. Cowie  
J. Henty (*Teller*).

The question was therefore negatived.

Question—That the Report of the Committee be now adopted—put and passed.

The Honorable J. B. Bennett moved, That the Standing Order which prevents any Bill from going through two stages in one day, be suspended.

Debate ensued.

Question—put and negatived.

Ordered—That the third reading of the Bill be made an Order of the Day for to-morrow.

APPROPRIATION BILL —The Order of the Day for the second reading of this Bill being read, the Honorable W. H. F. Mitchell moved, That the Bill be now read a second time.

Debate ensued.

Amendment moved by the Honorable J. P. Fawkner, That all the words after the word "be" be omitted, with a view to insert the words "referred to a Select Committee, consisting of the Honorables J. Henty, H. Miller, J. F. Strachan, T. H. Power, and the Mover."

Debate ensued.

Question—That the words proposed to be omitted stand part of the question—put and passed.

Question—That the Bill be now read a second time—put.  
Council divided.

Contents, 17.  
The Hon. J. F. Strachan  
W. H. F. Mitchell  
J. Hodgson  
H. Miller  
C. Vaughan  
D. Kennedy  
J. B. Bennett  
T. H. Power  
M. Hervey  
D. P. Keogh  
J. Henty  
T. McCombie  
W. Highett  
J. Cowie  
Dr. Hope  
Dr. Tierney  
J. H. Patterson (*Teller*).

Not Contents, 6.  
The Hon. N. Guthridge  
J. Hood  
J. P. Fawcner  
W. Roope  
A. R. Cruikshank  
G. Urquhart (*Teller*).

The question was therefore passed.

Ordered—That the said Bill be now considered in Committee of the whole Council.

The President left the Chair.

The Chairman of Committees reported progress, and asked leave to sit again to-morrow.

Ordered.

POSTPONEMENTS.—The following Orders of the Day were postponed until Thursday the 25th instant:—

“*Debtors from Neighboring Colonies Bill*”—to be read a second time.

“*Marriage Bill*”—to be further considered in Committee.

The Council adjourned at twenty-five minutes to seven o'clock until three o'clock on Thursday, 25th instant.

---

## NOTICE OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 25TH FEBRUARY.

1. The Hon. DR. TIERNEY: To ask the Honorable the Postmaster General why the police and others were not paid their salaries and wages for the month of January.

ORDERS OF THE DAY:—

1. ASSESSMENT ON STOCK BILL.—To be read a second time.
2. SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.—To be read a third time.
3. APPROPRIATION BILL.—To be further considered in Committee.
4. DEBTORS FROM NEIGHBORING COLONIES BILL.—To be read a second time.
5. MARRIAGE BILL.—To be further considered in Committee.

TUESDAY, 2ND MARCH.

1. The Hon. G. URQUHART: To ask the Honorable the Postmaster General whether it is proposed, in the approaching competition for the Melbourne General Post Office, to carry out the rule of the Victorian Institute of Architects, which declares that a public exhibition of the designs in any competition shall be held for one week previous to the decision thereon, and for one week after the decision.

NOTICE OF MOTION:—

1. The Hon. G. URQUHART: To move, That the correspondence up to this date, between the Government and the Free Presbyterian Synod of Victoria, relative to grants of land and grants of money, for the year 1857, be laid upon the Table of this House.

---

## MEETING

OF

## SELECT COMMITTEE.

Tuesday, 2nd March.

PRINTING COMMITTEE—at half-past 2 o'clock.

G. W. RUSDEN,  
*Clerk of the Council and Clerk of the Parliaments.*

**Minutes of the Proceedings**  
OF THE  
**LEGISLATIVE COUNCIL.**

THURSDAY, 25<sup>TH</sup> FEBRUARY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

ASSESSMENT ON STOCK BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable W. H. F. Mitchell moved, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

Ordered—That the said Bill be now considered in Committee of the whole Council.

The President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same without amendments.

The Honorable W. H. F. Mitchell moved, That the Standing Order which prevents any Bill from going through two stages in one day be suspended.

Debate ensued.

Question—put and passed.

The Honorable W. H. F. Mitchell moved, That the Report of the Committee be now adopted.

Question—put and passed.

Ordered—That the third reading of the Bill be made an Order of the Day for Tuesday, the 2nd March.

PETITION.—The Honorable H. Miller presented a Petition from N. Jervis, praying that a Select Committee, with power to take evidence, may be appointed, in order to take into consideration the Assessment Bill, and moved that the same be received.

The Petition was read at the Table by the Clerk.

Petition received.

POSTPONEMENT.—The Order of the Day for the third reading of the Supreme Court Terms, Sittings, and Holidays Bill was postponed until Tuesday, the 2nd proximo.

APPROPRIATION BILL.—The Order of the Day for the further consideration of this Bill being read, the President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same without any amendments.

The Honorable W. H. F. Mitchell moved, That the Report of the Committee be now adopted.

Question—put and passed.

The Honorable W. H. F. Mitchell moved, That the Standing Order which prevents any Bill from going through two stages in one day be suspended.

Question—put and passed.

The President having reported that the Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as reported, the Bill, on the motion of the Honorable W. H. F. Mitchell, read a third time and passed.

The Honorable W. H. F. Mitchell moved, That the title of the Bill be "*An Act to appropriate the Consolidated Revenue towards the Service of the year One thousand eight hundred and fifty-eight and for other purposes.*"

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly to acquaint them that the Council have agreed to the Bill without any amendment.

DEBTORS FROM NEIGHBORING COLONIES BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable J. F. Strachan moved, That the Bill be now read a second time.

Question—put and passed.

Bill read a second time.

Ordered—That the said Bill be now considered in Committee of the whole Council.

The President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same without any amendments.

The Honorable J. F. Strachan moved, That the Report of the Committee be now adopted.

Question—put and passed.

Ordered—That the third reading of the Bill be made an Order of the Day for Tuesday, the 2nd proximo.

MARRIAGE BILL.—The Order of the Day for the further consideration of this Bill in Committee being read, the President left the Chair.

The Chairman of Committees reported progress and asked leave to sit again on Tuesday next. Ordered.

The Council adjourned at fifteen minutes past six o'clock until three o'clock on Tuesday, the 2nd proximo.

## NOTICE OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 2ND MARCH.

1. The Hon. G. URQUHART : To ask the Honorable the Postmaster General whether it is proposed, in the approaching competition for the Melbourne General Post Office, to carry out the rule of the Victorian Institute of Architects, which declares that a public exhibition of the designs in any competition shall be held for one week previous to the decision thereon, and for one week after the decision.
2. The Hon. J. P. FAWKNER : To ask the Honorable the Postmaster General, what course it is the intention of the Government or of the President of the Board of Land and Works to take with respect to the streets which the late Bill contemplated shutting up, the fact being patent that the streets referred to are to the present time obstructed.

### NOTICE OF MOTION :—

1. The Hon. G. URQUHART : To move, That the correspondence up to this date, between the Government and the Free Presbyterian Synod of Victoria, relative to grants of land and grants of money, for the year 1857, be laid upon the Table of this House.

### ORDERS OF THE DAY :—

1. ASSESSMENT ON STOCK BILL.—To be read a third time.
2. SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.—To be read a third time.
3. DEBTORS FROM NEIGHBORING COLONIES BILL.—To be read a third time.
4. MARRIAGE BILL.—To be further considered in Committee.

## MEETING

OF

## SELECT COMMITTEE.

*Tuesday, 2nd March.*

PRINTING COMMITTEE—at half-past 2 o'clock.

G. W. RUSDEN,  
*Clerk of the Council and Clerk of the Parliaments.*

Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

TUESDAY, 2ND MARCH, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

he President read the Prayer.

PETITION.—The Honorable W. H. F. Mitchell presented to the Council a Petition from W. H. F. Mitchell and others, praying for the protection of capital invested at Kyneton, with regard to the Railway routes in that neighborhood, and moved that the same be received.

Petition received.

GRANTS OF LAND AND MONEY TO FREE PRESBYTERIAN CHURCH.—The Honorable G. Urquhart, in accordance with notice, moved, That the correspondence up to this date, between the Government and the Free Presbyterian Synod of Victoria, relative to grants of land and grants of money for the year 1857 be laid upon the Table of this House.

Question—put and passed.

LEAVE OF ABSENCE TO A MEMBER.—The Honorable J. P. Fawcner, with leave of the Council, moved without notice, That leave be given to the Honorable S. G. Henty to be absent from the deliberations of the Council during the remainder of the year.

Debate ensued.

Question—put and passed.

ASSESSMENT ON STOCK BILL.—The President having reported that the Chairman of Committees had certified that the fair print of this Bill was in accordance with the Bill as reported from a Committee of the whole Council, the Bill, on the motion of the Honorable W. H. F. Mitchell, was read a third time and *passed*.

The Honorable W. H. F. Mitchell moved, That the title of the Bill be "*An Act for an Assessment on Stock.*"

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly to acquaint them that the Council have agreed to the Bill without any amendment.

SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.—The President having reported that the Chairman of Committees had certified that the fair print of this Bill was in accordance with the Bill as reported from a Committee of the whole Council, the Bill, on the motion of the Honorable J. B. Bennett, was read a third time and *passed*.

The Honorable J. B. Bennett moved, That the title of the Bill be "*An Act to fix the Terms, Sittings, and Holidays of the Supreme Court.*"

Question—put and passed.

Ordered—That the Bill be carried to the Legislative Assembly, with a message desiring their concurrence therein.

DEBTORS FROM NEIGHBORING COLONIES BILL.—The President having reported that the Chairman of Committees had certified that the fair print of this Bill was in accordance with the Bill as reported from a Committee of the whole Council, the Bill, on the motion of the Honorable J. F. Strachan, was read a third time and *passed*.

The Honorable J. F. Strachan moved, That the title of the Bill be "*An Act to give further Remedies to Creditors against Debtors removing from any other of the Australasian Colonies to the Colony of Victoria.*"

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly to acquaint them that the Council have agreed to the Bill without any amendment.

MARRIAGE BILL.—The Order of the Day for the further consideration of this Bill in Committee being read, the President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same with amendments.

The Honorable J. Hood moved, That the adoption of the Report of the Committee be made an Order of the Day for to-morrow.

Ordered.

The Council adjourned at ten minutes past five o'clock until three o'clock on Wednesday, the 3rd instant.

---

## NOTICES OF MOTION AND ORDER OF THE DAY.

WEDNESDAY, 3RD MARCH.

1. The Hon. DR. TIERNEY: To ask the Honorable the Postmaster General, Will the Government take measures to obviate the inconvenience of the absence of the Police Magistrate at the Ararat Gold Fields?
2. The Hon. N. GUTHRIDGE: To ask the Honorable the Postmaster General—
  - (1.) Do the Ministers of the Crown consider that a resolution of the Legislative Assembly has the force of law, and do they hold themselves bound to act upon such resolution in administering the Government of the country.
  - (2.) If so, for how long a space of time do the Executive Government consider that such resolution continues to have the force of law after its having been passed by the Assembly.

---

### NOTICES OF MOTION:—

1. The Hon. J. HOOD: To move for a Return of the names of all Clerks receiving more than £200 a year salary dismissed the Public Service since the establishment of Responsible Government in this Colony; setting forth for what dismissed, &c., at whose instance, whether on the recommendation of a Board, Commission, or otherwise. And also if any of those parties so dismissed have subsequently been employed by the Government; and if so, in what capacity, at what salary, and the reason for being again employed.
2. The Hon. N. GUTHRIDGE: To move, That as the Executive Government have, since the passing of a resolution in the Legislative Assembly on the 28th May, 1857, as follows:—"Grants of Land for Religious and Educational Purposes.—Mr. Sargood moved, pursuant to amended notice, That, pending the settlement of the land question, this House deems it to be inexpedient to grant any further portion of the public lands either for religious or educational purposes, saving any promises that may now be in existence.—Question put and passed"—uniformly refused to grant any lands for the purposes of school establishments, in the opinion of this House it is inexpedient, and opposed to the best interests of the Colony, to retard the progress of education by withholding grants of land for school purposes.

### ORDER OF THE DAY:—

1. MARRIAGE BILL.—Adoption of Report.

G. W. RUSDEN,  
*Clerk of the Council and Clerk of the Parliaments.*



Minutes of the Proceedings  
OF THE  
**LEGISLATIVE COUNCIL.**

---

WEDNESDAY, 3RD MARCH, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

PRINTING COMMITTEE.—The Honorable J. P. Fawkner, with leave of the Council, moved, without notice, That the First Report of the Printing Committee be printed.

Question—put and passed.

REFRESHMENT ROOMS COMMITTEE.—The Honorable W. Highett, with leave of the Council, moved, without notice, That the Honorable J. Henty be appointed a Member of the Refreshment Rooms Committee, in lieu of the Honorable S. G. Henty, to whom leave of absence has been given by the Council.

Debate ensued.

Question—put and passed.

GRANTS OF LAND FOR RELIGIOUS AND EDUCATIONAL PURPOSES. — The Honorable N. Guthridge, in accordance with notice moved, That, as the Executive Government have, since the passing of a resolution in the Legislative Assembly on the 28th May, 1857, as follows:—"Grants of Land for Religious and Educational Purposes.—Mr. Sargood moved, pursuant to amended notice, That, pending the settlement of the land question, this House deems it to be inexpedient to grant any further portion of the public lands either for religious or educational purposes, saving any promises that may now be in existence.—Question put and passed."—uniformly refused to grant any lands for the purposes of school establishments, in the opinion of this House it is inexpedient, and opposed to the best interests of the Colony, to retard the progress of education by withholding grants of land for school purposes.

Amendment moved by the Honorable Dr. Tierney, That, in the last line but one after the words "progress of" the words "religion and" be inserted, and that after the word "for," in the last line, the words "religious and" be inserted.

Debate ensued.

Question—That the words "religion and," proposed to be inserted, be so inserted—put. Council divided.

Contents, 13.  
The Hon. W. H. F. Mitchell  
N. Guthridge  
W. Highett  
G. Urquhart  
H. Miller  
T. H. Power  
M. Hervey  
J. B. Bennett  
Dr. Tierney  
B. Williams  
D. P. Keogh  
T. McCombie  
J. Hodgson (*Teller*).

Not Contents, 5.  
The Hon. C. Vaughan  
J. P. Fawkner  
J. Hood  
W. Roope  
J. F. Strachan (*Teller*).

The question was therefore passed.

Question—That the words "religious and," proposed to be inserted, be so inserted—put and passed.

Question—That, as the Executive Government have, since the passing of a resolution in the Legislative Assembly on the 28th May, 1857, as follows:—"Grants of Land for Religious and Educational Purposes.—Mr. Sargood moved, pursuant to amended notice, That, pending the settlement of the land question, this House deems it to be inexpedient to grant any further portion of the public lands either for religious or educational purposes, saving any promises that may now be in existence.—Question put and passed."—uniformly refused to grant any lands for the purposes of school establishments, in the opinion of this House it is inexpedient, and opposed to the best interests of the Colony, to retard the progress of religion and education by withholding grants of land for religious and school purposes—put and passed.

VACATION OF SEAT BY A MEMBER.—The President announced to the Council that he had been apprised that the resignation by the Honorable A. R. Cruikshank of his seat as a Member of the Council had been received by His Excellency the Governor, and that a writ, returnable on the 5th proximo, had been issued for the return of a new Member.

DISMISSALS IN THE PUBLIC SERVICE.—The Honorable J. Hood, in accordance with *amended* notice, moved, That an Address be presented to His Excellency the Governor, praying that he will cause to be laid upon the Table of the House a Return of the names of all Clerks receiving more than £200 a year salary dismissed the Public Service since the establishment of Responsible Government in this Colony; setting forth for what dismissed, at whose instance, whether on the recommendation of a Board, Commission, or otherwise; and also, if any of those parties so dismissed have subsequently been employed by the Government; and if so, in what capacity, at what salary, and the reason for being again employed.

Debate ensued.

Question—put and passed.

ADJOURNMENT.—The Honorable W. H. F. Mitchell, with leave of the Council, moved without notice, That the House at its rising adjourn until Tuesday next.

Question—put and passed.

MARRIAGE BILL.—The Order of the Day for the adoption of the Report of the Committee of the whole Council being read, the Honorable J. Hood moved, That the Bill be now re-committed to a Committee of the whole Council.

Question—put and passed.

The President left the Chair.

The Chairman of Committees reported that notice had been taken of the fact that there was not a quorum of members present.

The President counted the House, and there being no quorum present, adjourned the Council at a quarter to six o'clock until three o'clock on Tuesday, the 9th instant.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*

**Minutes of the Proceedings**  
OF THE  
**LEGISLATIVE COUNCIL.**

TUESDAY, 9<sup>TH</sup> MARCH, 1858.

The Council met in accordance with adjournment.

The Clerk informed the Council that he had learned that the President was unavoidably detained from the Council Chamber.

The Chairman of Committees took the Chair as Deputy President.

The Deputy President read the Prayer.

ADJOURNMENT.—The Honorable W. H. F. Mitchell, with leave of the Council, moved, without notice, That the House at its rising to-morrow adjourn until Thursday, the eighth day of April next.

Question—put and passed.

The Council adjourned at twenty minutes past three o'clock until three o'clock on Wednesday, the 10th instant.

NOTICES OF MOTION.

WEDNESDAY, 10<sup>TH</sup> MARCH.

NOTICE OF MOTION:—

1. The Hon. J. HOOD: To move, The resumption of the Committee of the whole Council on the Marriage Bill.

THURSDAY, 8<sup>TH</sup> APRIL.

NOTICES OF MOTION:—

1. The Hon. J. H. PATTERSON: To move, That the interference in the Land Sales at Belfast by the late President of Land and Works, as exhibited in the Papers recently laid on the Table of this House, is, in the opinion of this Council, unconstitutional and highly reprehensible.
2. The Hon. J. H. PATTERSON: To move, For a Return of the names of all persons in the Public Service who were superseded or otherwise dispossessed of their offices by the arrangements consequent on the Estimates for 1858; the offices they held, the amount of salary they received, how now provided for, the salary they now receive, and whether the offices they at present hold are temporary or permanent.

MEETING  
OF  
**SELECT COMMITTEE.**

*Wednesday, 10th March.*

TRANSFER OF LAND BILL—at 1 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*



Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

---

WEDNESDAY, 10<sup>TH</sup> MARCH, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

SUSPENSION OF STANDING ORDER XLI.—The Honorable J. Hood moved, That the Standing Order XLI. be suspended.

Question—put and passed.

MARRIAGE BILL.—The Honorable J. Hood, in accordance with notice, moved, The resumption of the Committee of the whole Council on the Marriage Bill.

Debate ensued.

Question—put and passed.

Ordered—That the consideration of the Marriage Bill in Committee of the whole Council be now resumed at the point where it was interrupted by the counting out of the House on the 3rd instant.

The President left the Chair.

The Chairman of Committees reported that the Committee had instructed him to report to the House that the Committee deemed it expedient that the Marriage Bill should be referred to a Select Committee of the Council, consisting of the following members, viz. : The Honorables the President, J. Hood, J. B. Bennett, N. Guthridge, J. Hodgson, W. Roope, and Dr. Tierney, and that the said Committee should have power to sit during the recess.

The Honorable J. Hood moved, That the Report of the Committee be now adopted.

Question—put and passed.

The Honorable J. Hood moved, That the Select Committee have power to take evidence.

Question—put and passed.

The Honorable W. Roope moved, That the Honorable C. Vaughan be appointed a member of the Select Committee on the Marriage Bill.

Question—put and passed.

ROYAL ASSENT TO BILLS.—The approach of His Excellency the Governor was announced by the Usher.

His Excellency the Governor came into the Council Chamber and commanded the Usher to desire the attendance of the Legislative Assembly in the Council Chamber ;

Who being come with their Speaker, Mr. Speaker, after a speech to His Excellency, delivered the Appropriation Bill to the Clerk, who brought it to the Table

His Excellency was then pleased to assent, in the name of Her Majesty the Queen, to the following Bills :—

“ *An Act to appropriate the Consolidated Revenue towards the service of the year One thousand eight hundred and fifty-eight and for other purposes.*”

“ *An Act for an Assessment on Stock.*”

“ *An Act to give further Remedies to Creditors against Debtors removing from any other of the Australasian Colonies to the Colony of Victoria.*”

The Royal Assent being read severally by the Clerk of the Parliaments in the following words :—

“ In the name and on behalf of Her Majesty I assent to this Act.

“ HENRY BARKLY,

“ Governor.”

The Clerk of the Parliaments delivered to Mr. Speaker a schedule of the Acts assented to.

Mr. Speaker and the Legislative Assembly withdrew.

His Excellency the Governor left the Council Chamber.

The Council adjourned at twenty minutes to five o'clock until three o'clock on Thursday, the 8th April, 1858.

## NOTICES OF MOTION.

THURSDAY, 8TH APRIL.

## NOTICES OF MOTION:—

1. The Hon. J. H. PATTERSON: To move, That the interference in the Land Sales at Belfast by the late President of Land and Works, as exhibited in the Papers recently laid on the Table of this House, is, in the opinion of this Council, unconstitutional and highly reprehensible.
  2. The Hon. J. H. PATTERSON: To move, For a Return of the names of all persons in the Public Service who were superseded or otherwise dispossessed of their offices by the arrangements consequent on the Estimates for 1858; the offices they held, the amount of salary they received, how now provided for, the salary they now receive, and whether the offices they at present hold are temporary or permanent.
- 

## MEETING

OF

## SELECT COMMITTEE.

*Tuesday, 16th March.*

MARRIAGE BILL—at half-past 1 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*

**Minutes of the Proceedings**  
OF THE  
**LEGISLATIVE COUNCIL.**

THURSDAY, 8TH APRIL, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

**ELECTION OF MEMBER.**—The President notified to the Council that letters had been received from the Private Secretary of His Excellency the Governor reporting severally for the information of the President of the Council that a writ issued by the Governor on the twelfth day of March, 1858, for the election of one member to serve in the Legislative Council for the Central Province has been returned to His Excellency, by which it appears, upon the authority of W. M. Bell, Esq., the Returning Officer, that the Honorable Henry Miller was duly elected; and that a writ issued by the Governor on the first day of March, 1858, for an election of one member to serve in the Legislative Council for the Western Province has been returned to His Excellency, by which it appears, upon the authority of Robert Burke, Esq., the Returning Officer, that the Honorable Henry Miller was duly elected.

**NEW MEMBER.**—The Honorable Henry Miller being introduced, took and subscribed the oath of allegiance provided for by the thirty-second clause of the Constitutional Act, and delivered to the Clerk the declaration required by the seventh clause of the Constitutional Act, as hereunder set forth:—

“I, Henry Miller, do declare and testify that I am duly seised at law or in equity of an estate of freehold for my own use and benefit in lands or tenements in the colony of Victoria of the value of five thousand pounds, sterling money, above all charges and incumbrances affecting the same: And, further, that the lands and tenements out of which such qualification arises are situate in the parish of Barrabool, in the county of or reputed county of Grant, the descriptions of which lands and tenements are as follow:—One thousand acres, more or less, known as the Victoria Estate, on the Waurin Ponds, near Geelong. And I further declare that I have not collusively or colourably obtained a title to or become possessed of the said lands or tenements, or any part thereof, for the purpose of enabling me to be returned a Member of the Legislative Council of the Colony of Victoria.

“HENRY MILLER.”

**LAND SALES AT BELFAST.**—The Honorable J. H. Patterson, in accordance with notice, moved, That the interference in the Land Sales at Belfast by the late President of Land and Works, as exhibited in the Papers recently laid on the Table of this House, is, in the opinion of this Council, unconstitutional and highly reprehensible.

Debate ensued.

The Honorable M. Hervey moved, That this debate be adjourned until Tuesday next.

Question—That the debate be adjourned until Tuesday next—put and passed.

**PAPERS.**—The Honorable H. Miller, by command of His Excellency the Governor, presented to the Council the following Papers:—

1. Immigration from the United Kingdom.—Summary Report of Colonial Land and Emigration Commissioners (1857).
2. Report on the Sanitary Station (1857)
3. Health Officer's Report for half-year ending 31st December, 1857.
4. Federal Union of Australian Colonies.—Reports of Committees of Parliament of South Australia.
5. Order in Council (15th February, 1858).—Polling Places for Mining Board, Ballarat District.
6. Federal Union of Australian Colonies.—Letter from the Government of Tasmania.

Ordered severally to lie on the Table.

**GOLD DEPOSITED IN TREASURY AND SUB-TREASURIES.**—The Honorable H. Miller laid upon the Table a Return to an Order of the Council, 9th February, 1858.

Ordered to lie on the Table.

APPOINTMENT OF MEMBER ON SELECT COMMITTEES.—The Honorable H. Miller, with leave of the Council, without notice, moved, That he be re-appointed on the following Select Committees, of which he had been a member before his vacation of his seat in the Council, viz.:—The Standing Orders Committee, the Parliament Buildings Committee, the Federation Committee, the Transfer of Land Bill Committee, the Printing Committee.

Question—put and passed.

The Council adjourned at twenty-five minutes past four o'clock until three o'clock on Tuesday, the 13th April, 1858.

---

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 13TH APRIL.

1. The Hon. N. GUTHRIDGE: To ask the Honorable the Commissioner of Trade and Customs if the Government intend to present each of the Members of this House with a copy of the Continuation of Adamson's Acts.
2. The Hon. M. HERVEY: To ask the Honorable the Commissioner of Trade and Customs if a rule will be adhered to of excluding from competition all the plans submitted for the New Post Office which do not strictly adhere to the Printed Rules framed for the guidance of Competitors.

---

### NOTICES OF MOTION:—

1. The Hon. J. P. FAWKNER: To move, That an Address be presented to His Excellency the Governor, praying him to cause to be put in force by the Law Officers of the Crown the Penal Laws against those pests of all communities, Gambling Lotteries.
2. The Hon. J. P. FAWKNER: To move, That an Address be presented to His Excellency the Governor, requesting that he will order a Return in the following form to be furnished to this Council: An alphabetical and numerical Return from each department of the Colonial Government of all persons who drew or were entitled to draw Pay or Pension Money from the Treasury of Victoria upon the thirty-first day of January, 1858, showing the sum paid to the persons employed in each department, and the total amount paid in all the departments conjointly; to commence with the chief officer in each department or sub-division of department under each head; to state the date of entry of each person into the public service, the amount of daily, weekly, monthly, or yearly pay or pension; the name of the person who appointed him to the office he holds; the amount of security under which he is now or formerly was bound; the time each day at which he commences the business of the office, and the hour at which he quits his post or office; the country in which each employée was born, whether English, Irish, Scotch, Welsh, or from the islands depending upon Great Britain, or if foreigners, of what nation, and when naturalized.
3. The Hon. J. B. BENNETT: To move for leave to bring in a Bill to amend the Laws relating to particular Friendly Societies.
4. The Hon. J. HOOD: To move for leave to introduce a Bill to enable this Colony to take action upon and make available the provisions of the Imperial Act 10 and 11 Victoria, No. 95, relating to the Law of Copyright.
5. The Hon. J. HOOD: To move for the appointment of a Select Committee for the purpose of taking evidence and reporting to this House on the best means of providing for the external and internal Defences of the Colony.
6. The Hon. T. McCOMBIE: To move, That leave be given to the Honorable D. Kennedy to be absent from the deliberations of the Council during the remainder of the year.
7. The Hon. J. H. PATTERSON: To move, For a Return of the names of all persons in the Public Service who were superseded or otherwise dispossessed of their offices by the arrangements consequent on the Estimates for 1858; the offices they held, the amount of salary they received, how now provided for, the salary they now receive, and whether the offices they at present hold are temporary or permanent.

### ORDER OF THE DAY:—

1. LAND SALES AT BELFAST.—Adjourned Debate.

---

THURSDAY, 15TH APRIL.

### NOTICE OF MOTION:—

1. The Hon. G. URQUHART: To move, That the Correspondence between the Government and the Free Presbyterian Synod of Victoria, relative to grants of land and grants of money for 1857, moved for by himself on the 2nd March, be referred to the Printing Committee.



MEETING  
OF  
**SELECT COMMITTEE.**

*Tuesday, 13th April, 1858.*

PRINTING COMMITTEE—at half-past 2 o'clock.

G. W. RUSDEN,  
*Clerk of the Council and Clerk of the Parliaments.*



Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

TUESDAY, 13TH APRIL, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

**GAMBLING LOTTERIES.**—The Honorable J. P. Fawcner, in accordance with notice, moved, That an Address be presented to His Excellency the Governor, praying him to cause to be put in force by the Law Officers of the Crown the Penal Laws against those pests of all communities, Gambling Lotteries.

Question—put and passed.

The Honorable J. P. Fawcner moved, That the Address be prepared by the Honorables J. Hodgson, T. H. Power, J. B. Bennett, J. Henty, T. McCombie, and the Mover.

Question—put and passed.

**PERSONS DRAWING OR ENTITLED TO DRAW PAY OR PENSION MONEY ON 31ST JANUARY, 1858.**—The Honorable J. P. Fawcner, in accordance with *amended* notice, moved, That an Address be presented to His Excellency the Governor, requesting that he will order a Return in the following form to be furnished to this Council: An alphabetical and numerical Return from each department of the Colonial Government of all persons who drew or were entitled to draw Pay or Pension Money from the Treasury of Victoria upon the thirty-first day of January, 1858, showing the annual salary payable to each, commencing with the chief officer in each department or sub-division of department under each head; to state the date of entry of each person into the public service, the amount of daily, weekly, monthly, or yearly pension; the name of the person who appointed him to the office he holds; the amount of security under which he is now or formerly was bound; the time each day at which he commences the business of the office, and the hour at which he quits his post or office; the country in which each employé was born, whether English, Irish, Scotch, Welsh, or from the islands depending upon Great Britain; or if foreigners, of what nation, and when naturalized.

Debate ensued.

Question—put and passed.

**PARTICULAR FRIENDLY SOCIETIES.**—The Honorable J. B. Bennett, in accordance with notice, moved for leave to bring in a Bill to amend the laws relating to particular Friendly Societies.

Question—put and passed.

Bill brought in, read a first time, ordered to be printed and read a second time this day week.

**LAW OF COPYRIGHT.**—The Honorable J. Hood, in accordance with notice, moved for leave to introduce a Bill to enable this Colony to take action upon and make available the provisions of the Imperial Act, 10 and 11 Victoria No. 95, relating to the Law of Copyright.

Question—put and passed.

Bill brought in, read a first time, ordered to be printed and read a second time this day week.

**LEAVE OF ABSENCE TO A MEMBER.**—The Honorable T. McCombie, in accordance with notice, moved, That leave be given to the Honorable D. Kennedy to be absent from the deliberations of the Council during the remainder of the year.

Debate ensued.

**MESSAGE FROM THE LEGISLATIVE ASSEMBLY.**—The President announced to the Council the receipt of the following Message from the Legislative Assembly:—

MR. PRESIDENT—

The Legislative Assembly request that the Legislative Council will give leave to the Honorable William Henry Fancourt Mitchell, a member of that House, to attend to be examined as a witness and give evidence before the Select Committee of the Legislative Assembly appointed in the present session to consider the case of Captain Mac Mahon.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chamber,  
Melbourne, 13th April, 1858.

The Honorable H. Miller moved, That leave be given to the Honorable W. H. F. Mitchell to attend and give evidence, as requested by the Legislative Assembly.

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly, to acquaint them that the Council have given leave to the Honorable W. H. F. Mitchell to attend in the manner requested.

LEAVE OF ABSENCE TO A MEMBER.—

Debate resumed.

Question—That leave be given to the Honorable D. Kennedy to be absent from the deliberations of the Council during the remainder of the year—put.

Council divided.

Contents, 11.  
The Hon. H. Miller  
J. Hood  
J. Hodgson  
C. Vaughan  
J. H. Patterson  
D. P. Keogh  
M. Hervey  
J. Stewart  
Dr. Hope  
J. Henty  
T. McCombie (*Teller*).

Not Contents, 7.  
The Hon. J. B. Bennett  
J. P. Fawcner  
J. Cowie  
J. F. Strachan  
T. H. Power  
W. Highett  
Dr. Tierney (*Teller*).

The question was therefore passed.

ADJOURNMENT.—The Honorable H. Miller, with leave of the Council, moved, without notice, That the House, at its rising, adjourn until this day week.

Question—put and passed.

SUPERSEDED PERSONS IN THE PUBLIC SERVICE IN 1858.—The Honorable J. H. Patterson, in accordance with *amended* notice, moved, That an Address be presented to His Excellency the Governor, praying that he will cause to be laid upon the Table of this House a Return of the names of all persons in the Public Service who were superseded or otherwise dispossessed of their offices by the arrangements consequent on the Estimates for 1858; the offices they held, the amount of salary they received, how now provided for, the salary they now receive, and whether the offices they at present hold are temporary or permanent.

Question—put and passed.

LAND SALES AT BELFAST—ADJOURNED DEBATE.—

Debate resumed on the motion of the Honorable J. H. Patterson, That the interference in the Land Sales at Belfast by the late President of Land and Works, as exhibited in the Papers recently laid on the Table of this House, is, in the opinion of this Council, unconstitutional and highly reprehensible.

Question—put.

Council divided.

Contents, 9.  
The Hon. J. H. Patterson  
Dr. Tierney  
J. Stewart  
W. Highett  
Dr. Hope  
J. B. Bennett  
T. H. Power  
M. Hervey  
C. Vaughan (*Teller*).

Not Contents, 4.  
The Hon. J. P. Fawcner  
J. Hood  
J. Cowie  
J. Hodgson (*Teller*).

The question was therefore passed.

The Council adjourned at ten minutes to six o'clock until three o'clock on Tuesday, the 20th instant.

NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 20TH APRIL.

1. The Hon. J. P. FAWKNER: To ask the Officer in charge of the Customs Department whether the present holders of office in this Province, under Her Majesty Queen Victoria, intend to spend the money voted for the East Collingwood means of communication with Kew and the South Yarra District. If so, whether they ought not, in justice to the people of those places, and to find employment for those who say they are in want of work, forthwith to commence this useful and much required work. Whether they intend to carry out the original proposition of connecting this bridge by the direct road to Kew; or whether the public interests are to be sacrificed to the enrichment of a private company holding by Act of Council a proprietary bridge on the same river.  
Whether the present occupants of office are aware that the late officers of the Board of Land and Works promised, as soon as the necessary funds should be voted by Parliament, that this bridge and road should be completed.

Do the present holders of office intend to redeem this pledge, and at once commence expending the people's money on this bridge and road, it having been conceded to the united wishes of the municipal council and the ratepayers of East Collingwood conjointly. I ask these questions in consequence of a numerous deputation of East Collingwood ratepayers having waited upon me especially to bring this question before the present Ministry.

---

NOTICES OF MOTION :—

1. The Hon. G. URQUHART: To move, That the Correspondence between the Government and the Free Presbyterian Synod of Victoria, relative to grants of land and grants of money for 1857, moved for by himself on the 2nd March, be referred to the Printing Committee.
2. The Hon. N. GUTHRIDGE: To move, That a Return be laid on the Table of this House, showing the Amount of Tolls received by the Government from each toll-gate throughout the Colony from the 1st day of April, 1857, to the 31st day of March, 1858, inclusive. Also, a Return of all monies paid by the Government for Roads and Bridges during the same period, including grants to municipalities in aid of local rates, distinguishing the sums paid for forming and making roads and bridges, and those paid for repairs of same.
3. The Hon. M. HERVEY: To move for a Return of the annual expenditure of public and of subscribed money on Denominational Schools and on National Schools since their establishment respectively in the Colony; distinguishing the expenditure on each school in buildings, salaries, and books; showing the conditions in each case attached to the grant, and in what manner the several sites of each school building are vested, or held in trust; and showing also, in each case, whether any of such school buildings are used as places of public worship.
4. The Hon. J. HOOD: To move for the appointment of a Select Committee for the purpose of taking evidence and reporting to this House on the best means of providing for the external and internal Defences of the Colony.
5. The Hon. J. B. BENNETT: To move for leave to bring in a Bill intituled "An Act to make better provision for the punishment of Frauds committed by Trustees, Bankers, and other Persons intrusted with Property."

ORDERS OF THE DAY :—

1. PARTICULAR FRIENDLY SOCIETIES BILL.—To be read a second time.
2. SALE OF BRITISH COPYRIGHT PUBLICATIONS IN VICTORIA BILL.—To be read a second time.

---

MEETING

OF

SELECT COMMITTEE.

*Tuesday, 20th April.*

MARRIAGE BILL—at 1 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*



**Minutes of the Proceedings**  
OF THE  
**LEGISLATIVE COUNCIL.**

TUESDAY, 20<sup>TH</sup> APRIL, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

**RECEIPTS FROM TOLL-GATES, AND EXPENDITURE ON ROADS AND BRIDGES.**—The Honorable N. Guthridge, in accordance with *amended* notice, moved, That a Return be laid on the Table of this House, showing the Amount of Tolls received by the Government from each toll-gate throughout the Colony from the 1st day of April, 1856, to the 31st day of March, 1858, inclusive. Also, a Return of all monies paid by the Government for Roads and Bridges during the same period, including grants to municipalities in aid of local rates, distinguishing the sums paid for forming and making roads and bridges, and those paid for repairs of same.

Question—put and passed.

**APPROPRIATIONS FOR SCHOOL PURPOSES.**—The Honorable M. Hervey, in accordance with *amended* notice, moved, That there be laid on the Table of this House a Return of the annual expenditure of public and of subscribed money on Denominational Schools and on National Schools since their establishment respectively in the Colony; distinguishing the expenditure on each school in buildings and salaries; showing the conditions in each case attached to the grant and in what manner the several sites of each school building are vested, or held in trust; and showing also, in each case, whether any and which of such school buildings are or have been used as places of public worship.

Debate ensued.

Question—put and passed.

**EXTERNAL AND INTERNAL DEFENCES OF THE COLONY.**—The Honorable J. Hood, in accordance with *amended* notice, moved, That a Select Committee be appointed for the purpose of taking evidence and reporting to this House on the best means of providing for the external and internal defences of the Colony; such committee to consist of the Honorables H. Miller, M. Hervey, W. H. F. Mitchell, T. H. Power, J. Stewart, J. F. Strachan, and the Mover.

Debate ensued.

Question—put and negatived.

**PUNISHMENT OF FRAUDS BILL.**—The Honorable J. B. Bennett, in accordance with notice, moved for leave to bring in a Bill, intituled, “An Act to make better provision for the punishment of Frauds committed by Trustees, Bankers, and other Persons intrusted with Property.”

Question—put and passed.

Bill brought in, read a first time, ordered to be printed, and read a second time this day week.

**PETITION.**—The Honorable J. Hood presented to the Council a Petition from Archibald Simpson, Moderator of the Free Synod of Victoria, praying that the Marriage Bill now before the Council may be passed into law.

Petition received.

**PARTICULAR FRIENDLY SOCIETIES BILL.**—The Order of the Day for the second reading of this Bill being read, the Honorable J. B. Bennett moved, That the Bill be now read a second time.

Debate ensued.

The Honorable J. P. Fawcner moved, That this debate be adjourned until this day week.

Debate ensued.

Motion for adjournment, by leave, withdrawn.

Question—That the Bill be now read a second time—put and passed.

Bill read a second time.

Ordered—That the said Bill be now considered in Committee of the whole Council.

The President left the Chair.

The Chairman of Committees reported progress and asked leave to sit again on Thursday next.

Ordered.

POSTPONEMENT.—The Order of the Day for the second reading of the Sale of British Copyright Publications in Victoria Bill was postponed until Thursday next.

PAPERS.—The Honorable H. Miller presented to the Council the following Papers:—

1. Grants of Land and Money to Free Presbyterian Church.—Return to Order of the Legislative Council (2nd March, 1858).
2. Return of Disgases, 1857.

Ordered severally to lie on the Table.

ADJOURNMENT.—The Honorable H. Miller, with leave of the Council, moved, without notice, That the House, at its rising, adjourn until Thursday next.

Question—put and passed.

The Council adjourned at fifteen minutes past four o'clock until three o'clock on Thursday, the 22nd instant.

---

## NOTICES OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 22ND APRIL.

1. The Hon. M. HERVEY: To ask the Honorable the Commissioner of Trade and Customs for what reason and upon whose authority the notices giving permission to competitors to affix their names to their drawings was posted in the room where the designs for the New Post Office are exhibited.
2. The Hon. T. H. POWER: To ask the Honorable the Commissioner of Trade and Customs what delays the completion of the New Bridge at Hawthorn; whether the plans have been determined upon, and whether separate provision has been made in such plans for foot passengers.

ORDERS OF THE DAY:—

1. PARTICULAR FRIENDLY SOCIETIES BILL.—To be further considered in Committee.
2. SALE OF BRITISH COPYRIGHT PUBLICATIONS IN VICTORIA BILL.—To be read a second time.

TUESDAY, 27TH APRIL.

NOTICE OF MOTION:—

1. The Hon. G. URQUHART: To move, That the Correspondence between the Government and the Free Presbyterian Synod of Victoria, relative to grants of land and grants of money for 1857, moved for by himself on the 2nd March, be referred to the Printing Committee.

ORDER OF THE DAY:—

1. PUNISHMENT OF FRAUDS BILL.—To be read a second time.

---

## MEETINGS

OF

## SELECT COMMITTEES.

*Thursday, 22nd April.*

MARRIAGE BILL—at 10 o'clock.

GAMBLING LOTTERIES—at 2 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*



**Minutes of the Proceedings**  
 OF THE  
**LEGISLATIVE COUNCIL.**

THURSDAY, 22<sup>ND</sup> APRIL, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

COMMISSION OF SEWERAGE AND WATER SUPPLY.—The Honorable H. Miller laid on the Table of the House a Return to an Order of the Council (9th February, 1858).

DISMISSALS IN THE PUBLIC SERVICE.—The Honorable H. Miller laid on the Table of the House a Return to an Order of the Council (3rd March, 1858).

PARTICULAR FRIENDLY SOCIETIES BILL.—The Order of the Day for the further consideration of this Bill in Committee of the whole Council being read, the President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same without any amendment.

The Honorable J. B. Bennett moved, That the Report of the Committee be now adopted.

Question—put and passed.

Ordered—That the third reading of the Bill be made an Order of the Day for Tuesday, the 27th instant.

POSTPONEMENT.—The Order of the Day for the second reading of the Sale of British Copyright Publications in Victoria Bill was postponed until Tuesday, the 27th instant.

The Council adjourned at half-past three o'clock until three o'clock on Tuesday, the 27th instant.

NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 27<sup>TH</sup> APRIL.

1. The Hon. M. HERVEY: To ask the Honorable the Commissioner of Trade and Customs for what reason and upon whose authority the notice giving permission to competitors to affix their names to their drawings was posted in the room where the designs for the New Post Office are exhibited.
2. The Hon. J. P. FAWKNER: To ask the Honorable the Commissioner of Trade and Customs whether he considers that he is doing justice to this House and the community in general, by withholding one of the Seats of this House in not declaring which of the two provinces, the Central or Western, he intends to represent.

NOTICE OF MOTION:—

1. The Hon. G. URQUHART: To move, That the Correspondence between the Government and the Free Presbyterian Synod of Victoria, relative to grants of land and grants of money for 1857, moved for by himself on the 2nd March, be referred to the Printing Committee.

ORDERS OF THE DAY:—

1. PUNISHMENT OF FRAUDS BILL.—To be read a second time.
2. PARTICULAR FRIENDLY SOCIETIES BILL.—To be read a third time.
3. SALE OF BRITISH COPYRIGHT PUBLICATIONS IN VICTORIA BILL.—To be read a second time.

MEETINGS  
 OF  
**SELECT COMMITTEES.**

Tuesday, 27th April.

PRINTING—at 2 o'clock.

GAMBLING LOTTERIES—at half-past 2 o'clock.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.



Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

TUESDAY, 27<sup>TH</sup> APRIL, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

POSTPONEMENT.—The Order of the Day for the second reading of the Punishment of Frauds Bill was postponed until Wednesday, 28<sup>th</sup> instant.

MARRIAGE BILL.—REPORT OF SELECT COMMITTEE.—The Honorable J. Hood, as Chairman of the Select Committee on the Marriage Bill, brought up the Report of the Committee and moved that the same do lie on the Table.

Question—put and passed.

The Honorable Dr. Tierney moved, That the Report of the Committee be printed, together with the Minutes of Proceedings and Evidence.

Question—put and passed.

The Honorable J. Hood moved, That the consideration of the Report of the Select Committee be made an Order of the Day for to-morrow.

Debate ensued.

Motion by leave withdrawn.

The Honorable Dr. Tierney moved, That the Bill be referred back to the Select Committee for reconsideration.

Question—put and passed.

PARTICULAR FRIENDLY SOCIETIES BILL.—The Order of the Day for the third reading of this Bill being read, the Honorable J. B. Bennett moved, That the Bill be re-committed to the consideration of a Committee of the whole Council.

Question—put and passed.

The President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same with amendments.

The Honorable J. B. Bennett moved, That the Report of the Committee be adopted.

Question—put and passed.

Ordered—That the third reading of the Bill be made an Order of the Day for to-morrow.

SALE OF BRITISH COPYRIGHT PUBLICATIONS IN VICTORIA BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable J. Hood moved, That the Order of the Day be discharged.

Question—put and passed.

The Council adjourned during pleasure.

The President resumed the Chair.

The Honorable H. Miller moved, with leave of the Council, without notice, That the House at its rising adjourn until four o'clock to-morrow.

Question—put and passed.

MARRIAGES CELEBRATED BY CIVIL OFFICERS.—The Honorable Dr. Tierney, with leave of the Council, moved, without notice, That there be laid upon the Table of the House a Return of the number of marriages which have been celebrated by Deputy Registrars and Justices of the Peace or other civil officers during the past five years, specifying the dates and giving all the particulars in each case; the names of the Registrars and Justices and by what authority they performed the marriage contract.

Question—put and passed.

The Council adjourned at twelve minutes past five o'clock until four o'clock on Wednesday, the 28<sup>th</sup> instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 28TH APRIL.

1. The Hon. J. P. FAWKNER: To ask the Honorable the Commissioner of Trade and Customs, whether it is his intention, and that of the Honorable the Chief Secretary, to continue in Office as Bank Directors during their holding Executive appointments.

## NOTICE OF MOTION:—

1. The Hon. J. P. FAWKNER: To move, That this Council do conceive that the Judges of the land should be not only free from blame but above suspicion, and if charges are made publicly against any one placed in the seat of Justice, any and every such charge made openly should be openly investigated, so that, if true, the delinquent should be fairly punished, and if the charges are untrue, false, fictitious, or untruly colored, the accused should have the benefit of an open and fair acquittal or candid explanation upon the matter in dispute; they, therefore, respectfully request your Excellency, as Governor of the Province of Victoria, that you will order the matter charged against Dr. Mackay, officiating as Judge of the Court of General Sessions, at Ballarat, in the present month of April. The charge is made by the twelve jurymen who tried the prisoner Michael Ryan, and these twelve jurymen, by a public advertisement in one of the local journals, to which their names are affixed, openly charge Dr. Mackay with undue clemency, and they further state in a note to the advertisement, (this is copied from the *Herald* of April 26th) "All the other persons summoned as jurymen to attend on the occasion concur in the opinion expressed in the appended statement." *Contingent* upon this Motion being carried—That a Committee of five (5) members, including the Mover, be empowered to prepare an Address, embodying the foregoing resolutions, and that the President and the members of the Committee attend and present it to His Excellency the Governor—and that the Honorables J. B. Bennett, J. Cowie, Dr. Hope, J. H. Patterson, and the Mover, be members of the said Committee.

## ORDERS OF THE DAY:—

1. PUNISHMENT OF FRAUDS BILL.—To be read a second time.  
2. PARTICULAR FRIENDLY SOCIETIES BILL.—To be read a third time.

THURSDAY 29TH APRIL.

## NOTICE OF MOTION:—

1. MR. FAWKNER: To move, That the present system of assisted immigration do cease and determine immediately:
- 1st. Because it is importing many useless persons liable to become burdensome to the public Treasury.
  - 2nd. Because it is unfairly and unjustly and unduly increasing one sect—viz., Romanists—at the joint expense of all other sects.
  - 3rd. That such increase of one sect at the joint expense of all sects is improper and highly unjust, because the very numbers thus imported claim to have an extra share of money from the public purse, under the "State aid to Religion" clause, by virtue of their increased standing on the Census, thus taking a double sum out of the pockets of Protestants, and founding also further claims in the proportion their numbers bear to the whole population.
- Contingent* on the carrying of the above Motion—That a Committee of five Members be appointed to embody the above resolution in an Address to His Excellency, viz:—the Honorables J. Hodgson, C. Vaughan, J. Henty, M. Hervey, and the Mover.

TUESDAY, 4TH MAY.

## NOTICE OF MOTION:—

1. The Hon. G. URQUHART: To move, That the Correspondence between the Government and the Free Presbyterian Synod of Victoria, relative to grants of land and grants of money for 1857, moved for by himself on the 2nd March, be referred to the Printing Committee.

MEETINGS  
OF  
SELECT COMMITTEES.

*Wednesday, 28th April.*

MARRIAGE BILL—at 1 o'clock.

REFRESHMENT ROOMS—at half past 2 o'clock.

*Tuesday, 4th May.*

GAMBLING LOTTERIES—ADDRESS—at 2 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*

Minutes of the Proceedings  
OF THE  
**LEGISLATIVE COUNCIL.**

---

WEDNESDAY, 28TH APRIL, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

**ISSUE OF WRIT FOR RETURN OF MEMBER FOR CENTRAL PROVINCE.**—The President informed the Council that a letter had been received by the Clerk of the Parliaments from the Private Secretary, announcing that His Excellency the Governor had received the resignation of the Honorable Henry Miller as a Member of the Legislative Council for the Central Province, and had issued a writ returnable on the 15th May next for a new member.

**CHARGE MADE AGAINST DR. MACKAY.**—The Honorable J. P. Fawkner, in accordance with *amended* notice, moved, That this Council do conceive that the Judges of the land should be not only free from blame but above suspicion, and if charges are made publicly against any one placed in the seat of Justice, any and every such charge made openly should be openly investigated, so that, if true, the delinquent should be fairly punished; and if the charges are untrue, false, fictitious, or untruly colored, the accused should have the benefit of an open and fair acquittal or candid explanation upon the matter in dispute; they, therefore, respectfully request your Excellency, as Governor of the Province of Victoria, that you will order the matter charged against Dr. Mackay, officiating as Judge of the Court of General Sessions at Ballaarat in the present month of April, to be strictly inquired into before some authority duly appointed, and open to the public, at Ballaarat, where the offence, as charged, occurred. The charge is made by the twelve jurymen who tried the prisoner Michael Ryan, and these twelve jurymen, by a public advertisement in one of the local journals, to which their names are affixed, openly charge Dr. Mackay with undue clemency; and they further state in a note to the advertisement (this is copied from the *Herald* of April 24th), "All the other persons summoned as jurymen to attend on the occasion concur in the opinion expressed in the appended statement."

Debate ensued.

Question—put and negatived.

**MARRIAGE BILL.**—The Honorable J. Hood, as Chairman of the Select Committee on the Marriage Bill, brought up the Report, accompanied by the Bill as amended by the Select Committee, and moved that the consideration of the Bill be made an Order of the Day for to-morrow.

Question—put and passed.

**MESSAGE FROM THE LEGISLATIVE ASSEMBLY.**—The following Message was brought from the Legislative Assembly by Mr. Aspinall and another Member:—

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill, intituled, "*An Act to alter the Electoral Districts of Victoria and to increase the number of Members of the Legislative Assembly thereof;*" to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 27th April, 1858.

**MESSAGES FROM THE LEGISLATIVE ASSEMBLY.**—The President announced to the Council the receipt of the following Messages from the Legislative Assembly:—

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill, intituled, "*An Act to amend an Act intituled 'An Act to establish a Board of Commissioners for the better Sewerage and Drainage of the City of Melbourne, and for supplying Water thereto and to the Suburbs thereof;'*" to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 14th April, 1858.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill, intituled, "*An Act more effectually to facilitate Proceedings in the Colony of Victoria by and against a certain Banking Company called the 'Union Bank of Australia,' and for other purposes therein mentioned,*" to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 16th April, 1858.

ELECTORAL DISTRICTS ALTERATION BILL.—The Honorable H. Miller moved, That the Electoral Districts Alteration Bill be read a first time, printed, and read a second time on Tuesday next.

Amendment moved by the Honorable J. P. Fawkner, That the word "next" after the word "Tuesday" be omitted, with a view to insert the words "fortnight, and that there be a Call of the House for that day."

Debate ensued.

Original motion by leave withdrawn.

Amendment moved by the Honorable Dr. Tierney, That the word "Tuesday" be omitted, with the view to insert the word "Thursday."

Question—That the word proposed to be omitted stand part of the question—put.  
Council divided.

Contents, 8.  
The Hon. G. Urquhart  
J. P. Fawkner  
T. H. Power  
J. B. Bennett  
W. Highett  
J. H. Patterson  
W. Roope  
C. Vaughan (*Teller*).

Not Contents, 7.  
The Hon. H. Miller  
T. McCombie  
Dr. Tierney  
J. Hood  
M. Hervey  
D. P. Keogh  
J. Hodgson (*Teller*).

The question was therefore passed.

Question—That the Bill be read a first time, printed, and read a second time on Tuesday fortnight, and that there be a Call of the House for that day—put and passed.

SEWERAGE AND WATER ACT AMENDMENT BILL.—The Honorable H. Miller moved, That the Sewerage and Water Act Amendment Bill be read a first time, printed, and read a second time to-morrow.

Amendment moved by the Honorable J. P. Fawkner, That the word "to-morrow" be omitted, with the view to insert the words "on Tuesday next."

Question—That the word proposed to be omitted stand part of the question—put and negatived.

Question—That the Bill be read a first time, printed, and read a second time on Tuesday next—put and passed.

UNION BANK ACT AMENDMENT BILL.—The Honorable J. B. Bennett produced a certificate of the payment of the amount required to be paid to the Colonial Treasurer for the public uses of the Colony, and moved, That this Bill be read a first time and printed.

Ordered.

The Honorable J. B. Bennett moved, That a Message be carried to the Legislative Assembly, requesting that they will be pleased to communicate to the Council copies of the Report and Proceedings from the Select Committee of that House, appointed in the present Session of Parliament, on the Bill, together with the Minutes of Evidence taken before the said Committee.

Question—put and passed.

Ordered—That the second reading of the Bill be made an Order of the Day for Tuesday next.

POSTPONEMENT.—The Order of the Day for the second reading of the Punishment of Frauds Bill was postponed until Tuesday next.

PARTICULAR FRIENDLY SOCIETIES BILL.—The President having reported that the Chairman of Committees had certified that the fair print of this Bill was in accordance with the Bill as reported, the Bill, on the motion of the Honorable J. B. Bennett, read a third time and passed.

The Honorable J. B. Bennett moved, That the title of the Bill be, "*An Act to amend the Laws relating to Particular Friendly Societies.*"

Question—put and passed.

Ordered—That the Bill be carried to the Legislative Assembly, with a Message desiring their concurrence therein.

ADJOURNMENT.—The Honorable H. Miller, with leave of the Council, without notice, moved, That the Council at its rising adjourn until Tuesday next, and that the business standing on the Paper for to-morrow be set down for that day.

Question—put and passed.

The Council adjourned at a quarter past five o'clock until three o'clock on Tuesday, the 4th proximo.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 4TH MAY.

## NOTICES OF MOTION:—

1. The Hon. G. URQUHART: To move, That the Correspondence between the Government and the Free Presbyterian Synod of Victoria, relative to grants of land and grants of money for 1857, moved for by himself on the 2nd March, be referred to the Printing Committee.
2. The Hon. J. P. FAWKNER: To move, That the present system of assisted immigration do cease and determine immediately:
  - 1st. Because it is importing many useless persons liable to become burdensome to the public Treasury.
  - 2nd. Because it is unfairly and unjustly and unduly increasing one sect—viz., Romanists—at the joint expense of all other sects.
  - 3rd. That such increase of one sect at the joint expense of all sects is improper and highly unjust, because the very numbers thus imported claim to have an extra share of money from the public purse, under the “State aid to Religion” clause, by virtue of their increased standing on the Census, thus taking a double sum out of the pockets of Protestants, and founding also further claims in the proportion their numbers bear to the whole population.

*Contingent* on the carrying of the above Motion—That a Committee of five Members be appointed to embody the above resolution in an Address to His Excellency, viz:—the Honorables J. Hodgson, C. Vaughan, J. Henty, M. Hervey, and the Mover.

## ORDERS OF THE DAY:—

1. SEWERAGE AND WATER ACT AMENDMENT BILL.—To be read a second time.
2. UNION BANK ACT AMENDMENT BILL.—To be read a second time.
3. PUNISHMENT OF FRAUDS BILL.—To be read a second time.
4. MARRIAGE BILL.—Consideration of Report of Select Committee.

TUESDAY 18TH MAY.

## ORDER OF THE DAY:—

1. ELECTORAL DISTRICTS ALTERATION BILL.—To be read a second time.

MEETINGS  
OF  
SELECT COMMITTEES.

*Tuesday, 4th May.*

GAMBLING LOTTERIES—ADDRESS—at 2 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*





Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

TUESDAY, 4TH MAY, 1858.

The Council met in accordance with adjournment.

The Clerk informed the Council that he had been informed by the President, by letter, that the President was prevented by illness from attending in his place.

The Chairman of Committees took the Chair as Deputy President.

The Deputy President read the Prayer.

PETITION.—The Honorable J. H. Patterson presented a Petition from Horatio C. Ellerman, J.P., and others, inhabitants of the vicinity of Lake Hindmarsh, praying that the Council will not pass any Bill legalizing the sale of intoxicating liquors on Sundays.

Petition received.

The Honorable J. H. Patterson moved, with leave of the Council, without notice, That the Petition be referred to the Printing Committee.

Question—put and passed.

PETITION.—The Honorable J. Hood presented to the Council a Petition from the Mayor, Aldermen, Councillors, and Citizens of Melbourne, under their common seal, praying that the Council will refuse its concurrence in so much of the Sewerage and Water Act Amendment Bill as proposes to divest the Petitioners of their reversionary interest in lands, property, and rights now vested in or sought for by the Sewerage and Water Commissioners; and that the Petitioners may not be subjected to taxation by any other body than their own representatives.

Petition received.

ASSISTED IMMIGRATION.—The Honorable J. P. Fawcner, in accordance with *amended* notice, moved, That the present system of assisted immigration do cease and determine immediately.

Debate ensued.

Question—put and negatived.

SEWERAGE AND WATER ACT AMENDMENT BILL.—The Order of the Day for the second reading of this Bill was postponed until Tuesday, the 11th instant.

UNION BANK ACT AMENDMENT BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable J. B. Bennett moved, That the Standing Order No. C be suspended, in order to enable the Bill to be read a second time before the receipt of any Report and Proceedings in the Legislative Assembly on the Bill.

Debate ensued.

Question—put and passed.

The Honorable J. B. Bennett moved, That the Bill be now read a second time.

Question—put and passed.

Bill read a second time.

Ordered—That the consideration of the Bill in Committee be made an Order of the Day for Wednesday, the 5th instant.

POSTPONEMENT.—The Order of the Day for the second reading of the Punishment of Frauds Bill was postponed until Thursday, the 6th instant.

MARRIAGE BILL.—The Order of the Day for the consideration of the Report of the Select Committee on this Bill being read, the Honorable J. Hood moved, That the Bill as amended by the Select Committee be taken into consideration in a Committee of the whole Council.

Debate ensued.

Question—put and passed.

The Honorable J. Hood moved, That the Honorable T. H. Power do act as Chairman of the Committee.

Question—put and passed.

The Deputy President left the Chair.

The Chairman of the Committee reported progress, and asked leave to sit again immediately.  
Ordered.

The Deputy President left the Chair.

The Chairman of the Committee reported that the Committee had gone through the Bill, and had agreed to the Bill with amendments.

The Honorable J. Hood moved, That the adoption of the Report of the Committee be made an Order of the Day for Thursday next.

Ordered.

The Council adjourned at half-past five o'clock until three o'clock on Wednesday, the 5th instant.

---

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 5TH MAY.

### NOTICES OF MOTION :—

1. The Hon. J. F. STRACHAN : To move, That a Return, showing the Population and Occupations of the People in the several Electoral Districts of the Colony, laid on the Table of the Assembly on the 19th January last, be laid on the Table of this House.
2. The Hon. G. URQUHART : To move, That an Address be presented to His Excellency the Governor, requesting him to apply to the Imperial Government to send out six of the recently built Gun Boats (built for the shallow waters of the Baltic and carrying heavy guns) for the protection of our coast.  
*Contingent*—On the motion being carried—That the following members do form a Committee to draw up an Address to His Excellency for the above purpose, viz., The Honorables M. Hervey, T. H. Power, T. McCombie, J. H. Patterson, and the Mover.
3. The Hon. J. F. STRACHAN : To move, That the Electoral Roll, as compiled to the 31st March, be placed on the Table of this House.
4. The Hon. J. F. STRACHAN : To move, That a Return be laid on the Table of this House, showing the Area and Numbers of Inhabitants in each Electoral District named in the Schedule to the Increase of Members Bill now before the House.

### ORDER OF THE DAY :—

1. UNION BANK ACT AMENDMENT BILL.—To be considered in Committee.

THURSDAY, 6TH MAY.

### ORDERS OF THE DAY :—

1. PUNISHMENT OF FRAUDS BILL.—To be read a second time.
2. MARRIAGE BILL.—Adoption of Report.

TUESDAY, 11TH MAY.

### NOTICE OF MOTION :—

1. The Hon. H. MILLER : To move, That a humble Address from the Legislative Council of Victoria be presented to the Queen, congratulating Her Most Gracious Majesty on the auspicious Marriage of Her Daughter, the Princess Royal of England, with Prince Frederick William of Prussia.
2. The Hon. G. URQUHART : To move, That the Correspondence between the Government and the Free Presbyterian Synod of Victoria, relative to grants of land and grants of money for 1857, moved for by himself on the 2nd March, be referred to the Printing Committee.

### ORDER OF THE DAY :—

1. SEWERAGE AND WATER ACT AMENDMENT BILL.—To be read a second time.

TUESDAY, 18TH MAY.

### ORDER OF THE DAY :—

1. ELECTORAL DISTRICTS ALTERATION BILL.—To be read a second time.

---

## MEETING

OF

## SELECT COMMITTEE.

Tuesday, 11th May.

GAMBLING LOTTERIES—at half-past 2 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*

Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

WEDNESDAY, 5TH MAY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

POPULATION AND OCCUPATIONS OF THE PEOPLE.—The Honorable J. F. Strachan, in accordance with notice, moved, That a Return, showing the Population and Occupations of the People in the several Electoral Districts of the Colony, laid on the Table of the Assembly on the 19th January last, be laid on the Table of this House.

Question—put and passed.

The Honorable T. McCombie placed the said Return on the Table of the House, and moved, That the same be printed.

Question—put and passed.

PRINTING COMMITTEE—SECOND REPORT OF.—The Honorable J. P. Fawcner, as Chairman of the Select Committee on Printing, brought up the Second Report of the Committee, and moved, That it be received, adopted, and printed.

Question—put and passed.

GUN BOATS FOR THE PROTECTION OF THE COAST.—The Honorable G. Urquhart, in accordance with notice, moved, That an Address be presented to His Excellency the Governor, requesting him to apply to the Imperial Government to send out six of the recently built Gun Boats (built for the shallow waters of the Baltic, and carrying heavy guns) for the protection of our coast.

Debate ensued.

Amendment moved by the Honorable T. McCombie, That a Select Committee be appointed to enquire and report to this House upon the efficacy of the Baltic Gun Boats in the defence of our coast and harbor, and on the best artillery for such boats, with power to take evidence.

Original motion by leave withdrawn.

Question—That a Select Committee be appointed to enquire and report to this House upon the efficacy of the Baltic Gun Boats in the defence of our coast and harbor, and on the best artillery for such boats, with power to take evidence—put and passed.

The Honorable G. Urquhart moved, in accordance with *amended* notice, That the following members do form the Committee, viz.:—The Honorables M. Hervey, T. H. Power, T. McCombie, J. H. Patterson, J. P. Fawcner, J. Hood, and the Mover.

Question—put and passed.

ELECTORAL ROLL.—The Honorable J. F. Strachan moved, in accordance with notice, That the Electoral Roll, as compiled to the 31st March, be placed on the Table of this House.

Debate ensued.

Question—put and passed.

AREA AND POPULATION OF ELECTORAL DISTRICTS IN ELECTORAL DISTRICTS ALTERATION BILL.—The Honorable J. F. Strachan, in accordance with notice, moved, That a Return be laid on the Table of this House showing the Area and Numbers of Inhabitants in each Electoral District named in the Schedule to the Increase of Members Bill now before the House.

Debate ensued.

Question—put and passed.

UNION BANK ACT AMENDMENT BILL.—The Order of the Day for the consideration of this Bill in Committee being read, the President left the Chair.

The Chairman of Committees reported progress, and asked leave to sit again to-morrow.

Ordered.

The Council adjourned during pleasure.

The President resumed the Chair.

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.—The President announced to the Council the receipt of the following Messages from the Legislative Assembly :—

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill, intituled, "*An Act to fix the Terms Sittings and Holidays of the Supreme Court,*" and acquaint the Legislative Council that they have agreed to the same with the amendments thereunto annexed, to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 5th May, 1858.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill, intituled, "*An Act to amend an Act to establish a Board of Land and Works;*" also, a Bill, intituled, "*An Act to amend an Act, intituled, 'An Act to authorise the construction of a Main Trunk Line of Railway from Melbourne to the River Murray, and of a Main Trunk Line of Railway from Geelong to Ballaarat;'*" also, a Bill, intituled, "*An Act for preventing the careless Use of Fire;*" to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 5th May, 1858.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a copy of the Report and Evidence taken on the Bill, intituled, "*An Act more effectually to facilitate proceedings in the Colony of Victoria by and against a certain Banking Company called 'the Union Bank of Australia,' and for other purposes therein mentioned,*" in accordance with the request of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 5th May, 1858.

The Honorable T. McCombie moved, That the consideration of the amendments made by the Legislative Assembly in the Supreme Court Terms Sittings and Holidays Bill be made an Order of the Day for to-morrow.

Ordered.

The Board of Land and Works Act Amendment Bill, the Main Trunk Line of Railway Act Amendment Bill, and the Careless Use of Fire Bill, were severally read a first time on the motion of the Honorable T. McCombie, ordered to be printed, and read a second time on Tuesday next.

The Council adjourned at half-past four o'clock until three o'clock on Thursday, the 6th instant.

---

## NOTICES OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 6TH MAY.

ORDERS OF THE DAY :—

1. PUNISHMENT OF FRAUDS BILL.—To be read a second time.
2. MARRIAGE BILL.—Adoption of Report.
3. UNION BANK ACT AMENDMENT BILL.—To be further considered in Committee.
4. SUPREME COURT TERMS SITTINGS AND HOLIDAYS BILL.—Consideration of Amendments made by Legislative Assembly.

TUESDAY, 11TH MAY.

NOTICES OF MOTION :—

1. The Hon. H. MILLER: To move, That a humble Address from the Legislative Council of Victoria be presented to the Queen, congratulating Her Most Gracious Majesty on the auspicious Marriage of Her Daughter, the Princess Royal of England, with Prince Frederick William of Prussia.
2. The Hon. G. URQUHART: To move, That the Correspondence between the Government and the Free Presbyterian Synod of Victoria, relative to grants of land and grants of money for 1857, moved for by himself on the 2nd March, be referred to the Printing Committee.

ORDERS OF THE DAY :—

1. SEWERAGE AND WATER ACT AMENDMENT BILL.—To be read a second time.
2. BOARD OF LAND AND WORKS ACT AMENDMENT BILL.—To be read a second time.
3. MAIN TRUNK LINE OF RAILWAY ACT AMENDMENT BILL.—To be read a second time.
4. CARELESS USE OF FIRE BILL.—To be read a second time.

TUESDAY, 18TH MAY.

ORDER OF THE DAY :—

1. ELECTORAL DISTRICTS ALTERATION BILL.—To be read a second time.

MEETINGS  
OF  
SELECT COMMITTEES.

*Thursday, 6th May.*

PRINTING—at 10 o'clock.

*Tuesday, 11th May.*

GUN BOATS, FOR PROTECTION OF THE COAST—at 12 o'clock.

GAMBLING LOTTERIES—at half-past 2 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*



Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

THURSDAY, 6TH MAY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

OCCUPATIONS OF THE PEOPLE.—The Honorable T. McCombie presented to the Council the following Paper :—

“ Extracts from Part II. of Census Returns (Occupations of the People),” and moved that it be substituted for the Paper presented by him on the 5th instant, the Paper now presented being the one called for by the Honorable J. F. Strachan, and intended to be placed on the Table on that day.

Question—put and passed.

PUNISHMENT OF FRAUDS BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable J. B. Bennett moved, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

Ordered—That the said Bill be now considered in Committee of the whole Council.

The President left the Chair.

The Chairman of Committees reported progress, and asked leave to sit again on Tuesday next.

Ordered.

MARRIAGE BILL.—The Order of the Day for the adoption of the Report of the Committee of the whole Council on this Bill being read, the Honorable J. Hood moved, That the Report be now adopted.

The Honorable W. Roope moved, That the Order of the Day be discharged, and that the Bill be re-committed to the consideration of a Committee of the whole Council.

Question—That the Order of the Day be discharged, and that the Bill be re-committed to the consideration of a Committee of the whole Council—put and passed.

The President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same with further amendments.

The Honorable J. Hood moved, That the Report of the Committee be now adopted, and that the third reading of the Bill be made an Order of the Day for Tuesday next.

Question—put and passed.

ELECTORAL ROLL.—The Honorable T. McCombie laid on the Table, in part compliance with the Order of the House of the 5th instant, the Electoral Rolls of the following Electoral Districts, as compiled to the 31st March, 1858, viz. :—

Anglesey,	Kilmore,	Rodney,
Brighton,	Melbourne,	South Melbourne,
Colac,	North Grant,	South Grant,
Castlemaine Boroughs,	Ovens,	Wimmera.
Geelong,		

Ordered severally to lie on the Table.

MARRIAGES CELEBRATED BY CIVIL OFFICERS.—The Honorable T. McCombie laid on the Table of the House a Return to an Order of the Council, 27th April, 1858.

Ordered to lie on the Table.

UNION BANK ACT AMENDMENT BILL.—The Order of the Day for the further consideration of this Bill in Committee of the whole Council being read, the President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same without any amendments.

The Honorable J. B. Bennett moved, That the Report of the Committee be now adopted, and that the third reading of the Bill be made an Order of the Day for Tuesday next.

Question—put and passed.

SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.—The Order of the Day for the consideration of the amendments made by the Legislative Assembly in this Bill being read, the Honorable J. Hodgson moved, That the Order of the Day be postponed until Tuesday week.

Debate ensued.

Amendment moved by the Honorable J. Hood, That the word “week” be omitted, with the view to insert the word “next” in lieu thereof.

Question—That the word proposed to be omitted stand part of the question—put and negatived.

Question—That the word proposed to be inserted be so inserted—put and passed.

Question—That the Order of the Day be postponed until Tuesday next—put and passed.

The Council adjourned at ten minutes past five o'clock, until three o'clock on Tuesday, the 11th instant.

---

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 11TH MAY.

### NOTICES OF MOTION :—

1. The Hon. H. MILLER: To move, That a humble Address from the Legislative Council of Victoria be presented to the Queen, congratulating Her Most Gracious Majesty on the auspicious Marriage of Her Daughter, the Princess Royal of England, with Prince Frederick William of Prussia.
2. The Hon. G. URQUHART: To move, That the Correspondence between the Government and the Free Presbyterian Synod of Victoria, relative to grants of land and grants of money for 1857, moved for by himself on the 2d March, be referred to the Printing Committee.
3. The Hon. J. P. FAWKNER: To move, That it is detrimental to the individual holders of office, and highly dangerous to the public in general, and will eventually tend to serious injury in the public departments of this province, if, upon a vacancy occurring in any of them, men strange to the duties of the office, and who may require to be taught their duties by those men over whose heads they have been placed, shall be introduced over the heads of competent and useful men, particularly where those so thrown back have served their country diligently for various periods, more particularly that it causes a total disgust in old servants to see themselves and their services thrown aside to make way for those who have failed to carry on their own proper business; and this Council do recommend to His Excellency the Governor not to sanction the appointment made to fill up Mr. Hammond's place except by the advance of some one then serving in that department (the Customs), and that new men when introduced be placed in the lower departments, and so enabled to rise higher by sobriety, diligence, and ability.

### ORDERS OF THE DAY :—

1. SEWERAGE AND WATER ACT AMENDMENT BILL.—To be read a second time.
2. BOARD OF LAND AND WORKS ACT AMENDMENT BILL.—To be read a second time.
3. MAIN TRUNK LINE OF RAILWAY ACT AMENDMENT BILL.—To be read a second time.
4. CARELESS USE OF FIRE BILL.—To be read a second time.
5. PUNISHMENT OF FRAUDS BILL.—To be further considered in Committee.
6. MARRIAGE BILL.—To be read a third time.
7. UNION BANK ACT AMENDMENT BILL.—To be read a third time.
8. SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.—Consideration of Amendments made by Legislative Assembly.



WEDNESDAY, 12TH MAY.

NOTICE OF MOTION:—

1. The Hon. J. P. FAWKNER: To move, That the holding of any important office in the management or direction or government of any of the Colonial Banks, whether of honor or profit, conjointly with the office of Responsible Minister in the province of Victoria, is highly dangerous to the liberties of the people; and that an Address be presented to His Excellency the Governor, requesting him to call upon all Responsible Ministers of Victoria, to elect either to vacate their seats of honor or profit in the management, government, or direction of any and every of the Colonial Banks, or resign their posts in the Government of Victoria.

TUESDAY, 18TH MAY.

ORDER OF THE DAY:—

1. ELECTORAL DISTRICTS ALTERATION BILL.—To be read a second time.

---

MEETINGS  
OF  
**SELECT COMMITTEES.**

*Tuesday, 11th May.*

GUN BOATS FOR PROTECTION OF THE COAST—at 12 o'clock.

GAMBLING LOTTERIES—at half-past 2 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*



Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

TUESDAY, 11<sup>TH</sup> MAY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

PETITION.—The Honorable J. Hood presented to the Council a Petition from J. P. Richards, of Maldon, and moved that the same be received.

Debate ensued.

Petition by leave withdrawn, on the ground of informality.

PETITION.—The Honorable M. Hervey presented a Petition from Charles Williams, of Beechworth, praying that the Council will pass the Electoral Reform Bill now before the House, and moved that the same be received.

Debate ensued.

Petition received.

SEWERAGE AND WATER ACT AMENDMENT BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable H. Miller moved, That the Bill be now read a second time.

Debate ensued.

Question—put

Council divided.

Contents, 15.

The Hon. H. Miller

J. H. Patterson

R. Thomson

J. Hodgson

J. Henty

D. P. Keogh

M. Hervey

T. H. Power

B. Williams

Dr. Hope

W. Roope

W. Highett

J. Hood

Dr. Tierney

T. McCombie (*Teller*).

Not Contents, 5.

The Hon. G. Urquhart

J. F. Strachan

J. P. Fawkner

J. B. Bennett

N. Guthridge (*Teller*).

The question was therefore passed.

Bill read a second time.

Ordered—That the said Bill be now considered in Committee of the whole Council.

The President left the Chair.

The Chairman of Committees reported progress, and asked leave to sit again to-morrow.

Ordered.

POSTPONEMENT.—The Order of the Day for the second reading of the Board of Land and Works Act Amendment Bill was postponed until Wednesday, the 12<sup>th</sup> instant.

MAIN TRUNK LINE OF RAILWAY ACT AMENDMENT BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable H. Miller moved, That the Bill be now read a second time.

Question—put and passed.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same without amendments.

The Honorable H. Miller moved, That the Report of the Committee be now adopted.

Question—put and passed.

Ordered—That the Third reading of the Bill be made an Order of the Day for to-morrow.

POSTPONEMENT.—The Order of the Day for the second reading of the Careless use of Fire Bill was postponed until to-morrow.

GAMBLING LOTTERIES—ADDRESS.—The Honorable J. P. Fawcner, as Chairman of the Committee appointed on the 13th ultimo to prepare an Address to His Excellency the Governor, brought up the Report of the Committee, and moved, That the same be received and referred to the Printing Committee.

Question—put and passed.

PUNISHMENT OF FRAUDS BILL.—The Order of the Day for the further consideration of this Bill in Committee being read, the President left the Chair.

The Chairman of Committees reported progress and asked leave to sit again this day week.  
Ordered.

MARRIAGE BILL.—The President having reported that the Chairman of Committees had certified that the fair print of this Bill was in accordance with the Bill as reported, the Bill, on the motion of the Honorable J. Hood, read a third time and *passed*.

The Honorable J. Hood moved, That the title of the Bill be "*An Act to amend and consolidate the Laws affecting the Solemnization of Marriage.*"

Question—put and passed.

Ordered—That the Bill be carried to the Legislative Assembly, with a Message desiring their concurrence in the same.

UNION BANK ACT AMENDMENT BILL.—The President having reported that the Chairman of Committees had certified that the fair print of this Bill was in accordance with the Bill as reported, the Bill, on the motion of the Honorable J. B. Bennett, read a third time and *passed*.

The Honorable J. B. Bennett moved, That the title of the Bill be "*An Act more effectually to facilitate proceedings in the Colony of Victoria by and against a certain Banking Company called 'The Union Bank of Australia,' and for other purposes therein mentioned.*"

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly to acquaint them that the Council have agreed to the Bill without any amendment.

POSTPONEMENT.—The Order of the Day for the consideration of the amendments made by the Legislative Assembly in the Supreme Court Terms, Sittings, and Holidays Bill was postponed until Thursday next.

The Council adjourned at five minutes to five o'clock, until three o'clock on Wednesday, the 12th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 12TH MAY.

### *Government Business.*

#### ORDERS OF THE DAY:—

1. SEWERAGE AND WATER ACT AMENDMENT BILL.—To be further considered in Committee.
2. BOARD OF LAND AND WORKS ACT AMENDMENT BILL.—To be read a second time.
3. MAIN TRUNK LINE OF RAILWAY ACT AMENDMENT BILL.—To be read a third time.

#### *General Business:—*

4. CARELESS USE OF FIRE BILL.—To be read a second time.

#### NOTICES OF MOTION:—

1. The Hon. J. P. FAWKNER: To move, That the holding of any important office in the management or direction or government of any of the Colonial Banks, whether of honor or profit, conjointly with the office of Responsible Minister in the province of Victoria, is highly dangerous to the liberties of the people; and that an Address be presented to His Excellency the Governor, requesting him to call upon all Responsible Ministers of Victoria, to elect either to vacate their seats of honor or profit in the management, government, or direction of any and every of the Colonial Banks, or resign their posts in the Government of Victoria.
2. The Hon. J. P. FAWKNER: To move, That it is detrimental to the individual holders of office, and highly dangerous to the public in general, and will eventually tend to serious injury in the public departments of this province, if, upon a vacancy occurring in any of them, men strange to the duties of the office, and who may require to be taught their duties by those men over whose heads they have been placed, shall be introduced over the heads of competent and useful men, particularly where those so thrown back have served their country diligently for various periods, more particularly that it causes a total disgust in old servants to see themselves and their services thrown aside to make way for those who have failed to carry on their own proper business; and this Council do recommend to His Excellency the Governor not to sanction the appointment made to fill up Mr. Hammond's place except by the advance of some one then serving in that department (the Customs), and that new men when introduced be placed in the lower departments, and so enabled to rise higher by sobriety, diligence, and ability.

THURSDAY, 13TH MAY.

ORDER OF THE DAY:—

1. SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.—Consideration of Amendments made by Legislative Assembly.
- 

TUESDAY, 18TH MAY.

ORDERS OF THE DAYS:—

1. ELECTORAL DISTRICTS ALTERATION BILL.—To be read a second time.
  2. PUNISHMENT OF FRAUDS BILL.—To be further considered in Committee.
- 

MEETING  
OF  
SELECT COMMITTEE.

*Thursday, 13th May.*

GUN BOATS FOR PROTECTION OF THE COAST—at 11 o'clock.

G. W. RUSDEN,  
*Clerk of the Council and Clerk of the Parliaments.*



Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

WEDNESDAY, 12TH MAY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

SEWERAGE AND WATER ACT AMENDMENT BILL.—The Order of the Day for the further consideration of this Bill in Committee of the whole Council being read, the President left the Chair.

The Chairman of Committees reported progress, and asked leave to sit again to-morrow.

Ordered.

POSTPONEMENT.—The Order of the Day for the second reading of the Board of Land and Works Act Amendment Bill was postponed until Wednesday, the 19th instant.

MAIN TRUNK LINE OF RAILWAY ACT AMENDMENT BILL.—The President having reported that the Chairman of Committees had certified that the fair print of this Bill was in accordance with the Bill as reported, the Bill, on the motion of the Honorable H. Miller, read a third time and *passed*.

The Honorable H. Miller moved, That the title of the Bill be, "*An Act to amend an Act intituled 'An Act to authorise the construction of a Main Trunk Line of Railway from Melbourne to the River Murray and of a Main Trunk Line of Railway from Geelong to Ballaarat.'*"

Question—put and passed.

Ordered—That a Message be taken to the Legislative Assembly, to acquaint them that the Council have agreed to the Bill without any amendment.

CARELESS USE OF FIRE BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable N. Guthridge moved, That the Bill be now read a second time.

Question—put and passed.

Bill read a second time.

Ordered—That the said Bill be now considered in Committee of the whole Council.

The President left the Chair.

The Chairman of Committees reported progress, and asked leave to sit again to-morrow.

Ordered.

TENURE OF OFFICE IN DIRECTION OF BANKS BY RESPONSIBLE MINISTERS.—The Honorable J. P. Fawcner, in accordance with notice, moved, That the holding of any important office in the management or direction or government of any of the Colonial Banks, whether of honor or profit, conjointly with the office of Responsible Minister in the province of Victoria, is highly dangerous to the liberties of the people; and that an Address be presented to His Excellency the Governor, requesting him to call upon all Responsible Ministers of Victoria to elect either to vacate their seats of honor or profit in the management, government, or direction of any and every of the Colonial Banks, or resign their posts in the Government of Victoria.

The Honorable J. B. Bennett having seconded the motion, was addressing the House against it, and had declared his intention to vote against it, when the President ruled that the motion could not be held to be seconded except by a supporter of it.

The motion therefore dropped.

The Council adjourned at five minutes past six o'clock until three o'clock on Thursday, the 13th instant.

## NOTICE OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 13TH MAY.

## \* NOTICE OF MOTION:—

1. The Hon. J. P. FAWKNER: To move, That it is detrimental to the individual holders of office, and highly dangerous to the public in general, and will eventually tend to serious injury in the public departments of this province, if, upon a vacancy occurring in any of them, men strange to the duties of the office, and who may require to be taught their duties by those men over whose heads they have been placed, shall be introduced over the heads of competent and useful men, particularly where those thrown back have served their country diligently for various periods, more particularly that it causes a total disgust in old servants to see themselves and their services thrown aside to make way for those who have failed to carry on their own proper business; and this Council do recommend to His Excellency the Governor not to sanction the appointment made to fill up Mr. Hammond's place except by the advance of some one then serving in that department (the Customs), and that new men when introduced be placed in the lower departments, and so enabled to rise higher by sobriety, diligence, and ability.

## ORDERS OF THE DAY:

1. SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.—Consideration of Amendments made by Legislative Assembly.
2. SEWERAGE AND WATER ACT AMENDMENT BILL.—To be further considered in Committee.
3. CARELESS USE OF FIRE BILL.—To be further considered in Committee.

TUESDAY, 18TH MAY.

## ORDERS OF THE DAY:—

1. ELECTORAL DISTRICTS ALTERATION BILL.—To be read a second time.
2. PUNISHMENT OF FRAUDS BILL.—To be further considered in Committee.

WEDNESDAY, 19TH MAY.

## ORDER OF THE DAY:—

1. BOARD OF LAND AND WORKS ACT AMENDMENT BILL.—To be read a second time.

## MEETING

OF

## SELECT COMMITTEE.

*Thursday, 13th May.*

GUN BOATS FOR PROTECTION OF THE COAST—at 11 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*



Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

THURSDAY, 13TH MAY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

PAPERS.—The Honorable H. Miller presented to the Council the following Paper:—  
Denominational School Board.—Report of Proceedings, 1856–7.

AREA AND POPULATION OF ELECTORAL DISTRICTS IN ELECTORAL DISTRICTS ALTERATION BILL.—The Honorable H. Miller laid upon the Table the Return moved for by the Honorable J. F. Strachan on the 5th instant.

ELECTORAL ROLL.—The Honorable H. Miller laid on the Table, in part compliance with the Order of the House of the 5th instant, the Electoral Rolls of the following Electoral Districts, as compiled to the 31st of March, 1858:—

Richmond (St. James's and Jolimont Divisions)	Williamstown	South Bourke
Belfast	Murray District	West Bourke
Collingwood (Quarries, Glasshouse, Abbotsford, and St. Mark's Divisions)	North Grenville	Kyneton Boroughs
	United Counties	Central Province
	Talbot	South Western Province
	Sandhurst Boroughs	Eastern Province.

APPOINTMENTS TO VACANCIES IN THE PUBLIC SERVICE.—The Honorable J. P. Fawkner, in accordance with notice, moved, That it is detrimental to the individual holders of office, and highly dangerous to the public in general, and will eventually tend to serious injury in the public departments of this province, if, upon a vacancy occurring in any of them, men strange to the duties of the office, and who may require to be taught their duties by those men over whose heads they have been placed, shall be introduced over the heads of competent and useful men, particularly where those so thrown back have served their country diligently for various periods, more particularly that it causes a total disgust in old servants to see themselves and their services thrown aside to make way for those who have failed to carry on their own proper business; and this Council do recommend to His Excellency the Governor not to sanction the appointment made to fill up Mr. Hammond's place except by the advance of some one then serving in that department (the Customs), and that new men when introduced be placed in the lower departments, and so enabled to rise higher by sobriety, diligence, and ability.

Debate ensued.

Amendment moved by the Honorable J. H. Patterson, That all the words after the word "That" be omitted, with a view to insert the words "an Address be presented to His Excellency the Governor, praying that he will take steps to place the Civil Service in such a position as that promotion will alone go by seniority with competency for office, and that all new appointments will be made after competitive examination.

Original motion by leave withdrawn.

Debate ensued.

Question—That an Address be presented to His Excellency the Governor, praying that he will take steps to place the Civil Service in such a position as that promotion will alone go by seniority with competency for office, and that all new appointments will be made after competitive examination—put.

Council divided.

Contents, 7.  
The Hon. J. Hodgson  
T. H. Power  
J. P. Fawkner  
G. Urquhart  
M. Hervey  
B. Williams  
J. H. Patterson (*Teller*).

Not Contents, 13.  
The Hon. C. Vaughan  
H. Miller  
T. McCombie  
N. Guthridge  
Dr. Tierney  
J. Stewart  
J. Hood  
W. Roope  
Dr. Hope  
W. Highett  
D. P. Keogh  
J. B. Bennett  
R. Thomson (*Teller*).

The question was therefore negatived.

**ELECTION OF MEMBER.**—The President announced to the Council that a letter had been received from the Private Secretary of His Excellency the Governor, reporting, for the information of the President of the Council, that a Writ issued by the Governor on the 28th day of April, 1858, for an election of one member to serve in the Legislative Council for the Central Province, has been returned to His Excellency, by which it appears, upon the authority of William M. Bell, Esquire, the Returning Officer, that Thomas Howard Fellows, Esquire, was duly elected.

**PETITION.**—The Honorable J. B. Bennett presented to the Council a Petition from H. W. Farrar and Co., merchants, and others, praying that the Council will withhold their consent to such alterations in the Supreme Court Terms, Sittings, and Holidays Bill as tend to authorize the holding of two Courts simultaneously, and moved that the same be received.

Petition received.

**PETITION.**—The Honorable J. Hood presented to the Council a Petition signed by John Scarlett, of Snake Valley, praying that the Council will pass the Reform Bill now under consideration, and moved that the same be received.

Debate ensued.

Question—That the Petition be received—put and passed.

**SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.**—The Order of the Day for the consideration of the amendments made by the Legislative Assembly in this Bill being read, The Honorable J. Hodgson moved, That a message be carried to the Legislative Assembly requesting that they will be pleased to communicate to the Council copies of the Report and Proceedings from the Select Committee of that House, appointed in the present session of Parliament, together with the Minutes of Evidence taken before the said Committee.

Question—put and passed.

**POSTPONEMENT.**—The Order of the Day for the consideration of the Amendments made by the Legislative Assembly in the Supreme Court Terms, Sittings, and Holidays Bill was postponed until Wednesday, 19th instant.

**SEWERAGE AND WATER ACT AMENDMENT BILL.**—The Order of the Day for the further consideration of this Bill in Committee of the whole Council being read, the President left the Chair.

The Chairman of Committees reported progress, and asked leave to sit again on Wednesday next.

Ordered.

**POSTPONEMENT.**—The Order of the Day for the further consideration of the Careless Use of Fire Bill in Committee of the whole Council was postponed until Wednesday next.

The Council adjourned at half-past seven o'clock until three o'clock on Tuesday, 18th instant.

---

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 18TH MAY.

NOTICES OF MOTION :—

1. The Hon. G. URQUHART: To move, That the Select Committee on Gun-boats for Protection of the Coast be empowered to take evidence generally on the best means of protecting the Harbor and the entrance thereto.
2. The Hon. H. MILLER: To move, That a Message be sent to the Legislative Assembly, requesting them to appoint five members to confer with five members of this House in order to prepare an Address from the Parliament of Victoria to congratulate Her Most Gracious Majesty the Queen on the auspicious marriage of Her Royal Highness the Princess Royal of England with His Royal Highness Prince Frederick William of Prussia.

ORDERS OF THE DAY :—

1. CALL OF THE HOUSE.—ELECTORAL DISTRICTS ALTERATION BILL.—To be read a second time.
2. PUNISHMENT OF FRAUDS BILL.—To be further considered in Committee.

WEDNESDAY, 19TH MAY.

*Government Business.*

ORDERS OF THE DAY :—

1. BOARD OF LAND AND WORKS ACT AMENDMENT BILL.—To be read a second time.
2. SEWERAGE AND WATER ACT AMENDMENT BILL.—To be further considered in Committee.

*General Business :—*

3. SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.—Consideration of Amendments made by Legislative Assembly.
4. CARELESS USE OF FIRE BILL.—To be further considered in Committee.

MEETINGS  
OF  
**SELECT COMMITTEES.**

*Tuesday, 18th May.*

GUN-BOATS FOR PROTECTION OF THE COAST—at 11 o'clock.

*Wednesday, 19th May.*

PRINTING—at 11 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*



Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

TUESDAY, 18TH MAY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

PETITIONS.—The Honorable W. H. F. Mitchell presented to the Council a Petition signed by Francis Quinlan and others, of Dunolly, praying that the Council will pass the Reform Bill, and moved that the same be received.

Petition received.

The Honorable H. Miller presented a similar Petition, signed by P. Johnson and others, of Richmond.

Petition received.

The Honorable J. Hodgson presented a similar Petition, signed by Robert Mills, of Emerald Hill.

Petition received.

The Honorable H. Miller presented a similar Petition, signed by John Brown and others, of Sandhurst.

Petition received.

NEW MEMBER.—The Honorable Thomas Howard Fellows being introduced took and subscribed the Oath of Allegiance provided for by the thirty-second clause of the Constitutional Act, and delivered to the Clerk the declaration required by the seventh clause of the Constitutional Act, as hereunder set forth, viz. :—

“ I, Thomas Howard Fellows, do declare and testify that I am duly seised at law of an estate of freehold for my own use and benefit in lands in the Colony of Victoria of the annual value of five hundred pounds, sterling money, above all charges and incumbrances affecting the same : And, further, that the lands out of which such qualification arises are situate in the parish of South Melbourne, in the county of Bourke, the descriptions of which lands and tenements are as follow :—Part of allotment number “ Twenty-one ” in the said parish, with four dwelling-houses and out-buildings thereon. And I further declare that I have not collusively or colourably obtained a title to or become possessed of the said lands, or any part thereof, for the purpose of enabling me to be returned a Member of the Legislative Council of the Colony of Victoria.

“ THO. HOWARD FELLOWS.”

PETITIONS.—The Honorable J. Hood presented a similar Petition to those previously presented, as above set forth, signed by Henry J. Smith and others, of Pleasant Creek.

Petition received.

The Honorable H. Miller presented a similar Petition, signed by Geo. Russell, of Creswick Creek.

Petition received.

GUN BOATS FOR THE PROTECTION OF THE COAST.—EXTENSION OF POWERS OF SELECT COMMITTEE.—The Honorable G. Urquhart, in accordance with notice, moved, That the Select Committee on Gun Boats for Protection of the Coast be empowered to take evidence generally on the best means of protecting the Harbor and the entrance thereto.

Question—put and passed.

MARRIAGE OF THE PRINCESS ROYAL.—The Honorable H. Miller, in accordance with notice, moved, That a message be sent to the Legislative Assembly requesting them to appoint five members to confer with five members of this House, in order to prepare an Address from the Parliament of Victoria to congratulate Her Most Gracious Majesty the Queen on the auspicious marriage of Her Royal Highness the Princess Royal of England with His Royal Highness Prince Frederick William of Prussia.

Question—put and passed.

CALL OF THE HOUSE—ELECTORAL DISTRICTS ALTERATION BILL.—The Order of the Day for a Call of the House being called on, the names of the Members of the House were called over by the Clerk, by direction of the President, by Provinces, in the following order:—the Central Province, the South Province, the South-Western Province, the Western Province, the North-Western Province, the Eastern Province. It appeared that the Members absent were the Honorables D. Kennedy, W. J. T. Clarke, S. G. Henty, and B. Williams.

The Honorables D. Kennedy, and S. G. Henty, were absent by permission of the House.

The Honorable J. Stewart having stated, on behalf of the Honorable W. J. T. Clarke, that that Honorable Member was confined to his bed by ill health, the absence of the Honorable W. J. T. Clarke was excused.

ELECTORAL DISTRICTS ALTERATION BILL.—The Order of the Day for the second reading of this Bill having been read, the Honorable H. Miller moved, That this Bill be now read a second time.

Debate ensued.

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.—The President announced to the Council the receipt of the following Messages from the Legislative Assembly:—

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill, intituled “*An Act to explain to whom the term ‘Crown,’ as used in certain cases, shall apply,*” to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 5th May, 1858.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council copies of the Report and Proceedings from the Select Committee of the Legislative Assembly on the Bill intituled “*An Act to fix the Terms, Sittings, and Holidays of the Supreme Court,*” together with the Minutes of Evidence taken before such Committee, in accordance with the request of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 18th May, 1858.

CALL OF THE HOUSE.—APOLOGY OF MEMBER.—The Honorable B. Williams entered the House, and apologized for having been absent when the House was called.

The Crown Explanation Bill, on the motion of the Honorable H. Miller, read a first time and ordered to be printed.

PETITIONS.—The Honorable J. Hood presented to the Council a Petition, signed by Geo. Sherwood, of Heidelberg, praying that the Council will pass the Reform Bill now before the Council. Petition received.

The Honorable J. Hood presented a similar Petition, signed by John Everard and another, of Melbourne.

Petition received.

The Honorable J. Hood presented a similar Petition, signed by Abraham J. Cohen and others, of Prahran.

Petition received.

ELECTORAL DISTRICTS ALTERATION BILL.—

Debate resumed.

The Honorable J. Hood moved the adjournment of the debate for half-an-hour.

Question—put and passed.

The Council adjourned.

After the lapse of half-an-hour the President resumed the Chair.

ELECTORAL DISTRICTS ALTERATION BILL.—

Debate resumed.

Question—That the Bill be now read a second time—put.

Council divided.

Contents, 12.

The Hon. H. Miller  
D. P. Keogh  
J. Hodgson  
J. Stewart  
Dr. Tierney  
N. Guthridge  
B. Williams  
W. Highett  
J. Allan  
J. Hood  
J. Henty  
T. McCombie (*Teller*).

Not Contents, 14.

The Hon. G. Urquhart  
J. Cowie  
C. Vaughan  
J. P. Fawkner  
M. Hervey  
R. Thomson  
J. B. Bennett  
W. Roope  
J. F. Strachan  
Dr. Hope  
T. H. Power  
W. H. F. Mitchell  
T. H. Fellows  
J. H. Patterson (*Teller*).

The question was therefore negatived.

PUNISHMENT OF FRAUDS BILL.—The Order of the Day for the further consideration of this Bill in Committee of the whole Council being read, the President left the chair.

The Chairman of Committees reported progress, and asked leave to sit again on Thursday next.

Ordered.

The Council adjourned at nine o'clock until three o'clock on Wednesday the 19th instant.

## ORDERS OF THE DAY.

WEDNESDAY, 19TH MAY.

### *Government Business.*

#### ORDERS OF THE DAY :—

1. BOARD OF LAND AND WORKS ACT AMENDMENT BILL.—To be read a second time.
2. SEWERAGE AND WATER ACT AMENDMENT BILL.—To be further considered in Committee.

### *General Business :—*

3. SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.—Consideration of Amendments made by Legislative Assembly.
4. CARELESS USE OF FIRE BILL.—To be further considered in Committee.

THURSDAY, 20TH MAY.

#### ORDER OF THE DAY :—

1. PUNISHMENT OF FRAUDS BILL.—To be further considered in Committee.

## MEETING

OF

## SELECT COMMITTEE.

*Wednesday, 19th May.*

PRINTING—at 11 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*





**Minutes of the Proceedings**  
OF THE  
**LEGISLATIVE COUNCIL.**

WEDNESDAY, 19<sup>TH</sup> MAY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

**BOARD OF LAND AND WORKS ACT AMENDMENT BILL.**—The Order of the Day for the second reading of this Bill being read, the Honorable H. Miller moved, That this Bill be now read a second time.

Amendment moved by the Honorable J. P. Fawcner, That the word “now” be omitted, with a view to add the words “this day six months” after the word “time.”

Debate ensued.

Amendment, by leave, withdrawn.

Question—That this Bill be now read a second time—put and passed.

Bill read a second time.

Ordered—That the said Bill be now considered in Committee of the whole Council.

The President left the Chair.

The Chairman of Committees reported progress and asked leave to sit again to-morrow.

Ordered.

**SEWERAGE AND WATER ACT AMENDMENT BILL.**—The Order of the Day for the further consideration of this Bill in Committee being read, the President left the Chair.

The Chairman of Committees reported progress and asked leave to sit again to-morrow.

Ordered.

**PETITION.**—The President laid upon the Council Table a Petition, which had been presented to him, signed by Thomas T. a’Beckett and Martin H. Irving, praying that the vote of Martin Howy Irving may be received in favor of the Petitioner, Thomas Turner a’Beckett, and that the casting vote of the Returning Officer in favor of Thomas Howard Fellows may be cancelled, and that the name of the Petitioner, Thomas Turner a’Beckett may be substituted for the name of the said Thomas Howard Fellows, in the Return to the Writ issued on the 28th April, 1858, for the election of a Member for the Central Province.

The Petition, on the motion of the Honorable H. Miller, was referred to the “Elections and Qualifications Committee.”

**POSTPONEMENTS.**—The following Orders of the Day were severally postponed until Thursday, the 20th instant :—

Supreme Court Terms, Sittings, and Holidays Bill—consideration of amendments made by Legislative Assembly.

Careless Use of Fire Bill—to be further considered in Committee.

The Council adjourned at twenty-five minutes past six o’clock until three o’clock on Thursday, the 20th instant.

**ORDERS OF THE DAY.**

THURSDAY, 20<sup>TH</sup> MAY.

ORDERS OF THE DAY :—

1. **PUNISHMENT OF FRAUDS BILL.**—To be further considered in Committee.
2. **BOARD OF LAND AND WORKS ACT AMENDMENT BILL.**—To be further considered in Committee.
3. **SEWERAGE AND WATER ACT AMENDMENT BILL.**—To be further considered in Committee.
4. **SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.**—Consideration of Amendments made by Legislative Assembly.
5. **CARELESS USE OF FIRE BILL.**—To be further considered in Committee.

MEETING  
OF  
SELECT COMMITTEE.

*Wednesday, 26th May.*

GUN-BOATS FOR PROTECTION OF THE COAST—at 1 o'clock.

G. W. RUSDEN,  
*Clerk of the Council and Clerk of the Parliaments.*

Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

THURSDAY, 20<sup>TH</sup> MAY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

**SWEARING OF MEMBERS OF ELECTIONS AND QUALIFICATIONS COMMITTEE.**—The following Members of the Committee of Elections and Qualifications were sworn at the Table by the Clerk, in the manner prescribed by the Electoral Act of 1856 :—

The Honorable John Pascoe Fawkner  
" Charles Vaughan  
" Robert Culbertson Hope  
" John Barter Bennett  
" Thomas Herbert Power  
" William Henry Fancourt Mitchell.

The President appointed the first time and place of meeting of the Committee to be at Ten o'clock in the forenoon on Tuesday, the 25<sup>th</sup> instant, in the large Committee Room, south of the Council Chamber.

**PUNISHMENT OF FRAUDS BILL.**—The Order of the Day for the further consideration of this Bill in Committee being read, the President left the Chair.

The Chairman of Committees reported the following resolution from the Committee :—

That, in the opinion of this Committee, it is expedient that this Bill be referred to a Select Committee, to consist of the following members:—The Honorables T. McCombie, J. F. Strachan, T. H. Power, W. Highett, M. Hervey, and J. B. Bennett.

The Honorable J. B. Bennett moved, with leave of the Council, without notice, That the Report of the Committee be now adopted.

Question—put and passed.

The Honorable J. B. Bennett moved, That the Select Committee have power to take evidence, and be empowered to sit during the adjournment.

Question—put and passed.

**PAPERS.**—The Honorable H. Miller, by command of His Excellency the Governor, presented to the Council the following Paper :—

Friendly Societies—Return of, Registered in 1857.

Ordered to lie on the Table.

**PETITION.**—The Honorable J. B. Bennett presented to the Council a Petition, signed by Flower, McDonald, and Co., and others, praying the Council to withhold its consent to such alterations in the Supreme Court Terms, Sittings, and Holidays Bill as tend to authorise the holding of two Courts simultaneously.

Petition received.

**BOARD OF LAND AND WORKS ACT AMENDMENT BILL.**—The Order of the Day for the further consideration of this Bill in Committee being read, the Honorable H. Miller moved, That the consideration of this Order of the Day be postponed until after the consideration of the next Order of the Day.

Debate ensued.

Motion, by leave, withdrawn.

The President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same with amendments.

The Honorable H. Miller moved, That the adoption of the Report of the Committee be made an Order of the Day for Tuesday next.

Ordered.

SEWERAGE AND WATER ACT AMENDMENT BILL.—The Order of the Day for the further consideration of this Bill in Committee of the whole Council being read, the President left the Chair.

The Chairman of Committees reported progress, and asked leave to sit again on Wednesday next.

Ordered.

ADJOURNMENT.—The Honorable H. Miller, with leave of the Council, moved, without notice, That the House, at its rising, adjourn until Wednesday next.

Question—put and passed.

MEETINGS OF SELECT COMMITTEES.—The Honorable H. Miller, with leave of the Council, moved, without notice, That the meeting of the Select Committee appointed for Tuesday be postponed till Wednesday next; and that business set down for Tuesday be postponed until Wednesday next.

Question—put and passed.

POSTPONEMENTS.—The following Orders of the Day were severally postponed until Wednesday, the 26th instant:—

“*Supreme Court Terms, Sittings, and Holidays Bill*” — Consideration of Amendments made by Legislative Assembly.

“*Careless Use of Fire Bill*” — To be further considered in Committee.

The Council adjourned at five minutes to six o'clock until three o'clock on Wednesday, the 26th instant.

---

## ORDERS OF THE DAY.

WEDNESDAY, 26TH MAY.

*Government Business.*

ORDERS OF THE DAY:—

1. BOARD OF LAND AND WORKS ACT AMENDMENT BILL.—Adoption of Report.
2. SEWERAGE AND WATER ACT AMENDMENT BILL.—To be further considered in Committee.

*General Business.*

3. SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.—Consideration of Amendments made by Legislative Assembly.
4. CARELESS USE OF FIRE BILL.—To be further considered in Committee.

- 
1. The Hon. J. F. STRACHAN: To ask the Honorable the Commissioner of Trade and Customs what the duties of 14 tide-waiters, for which a vote is asked on the Supplementary Estimates of this year, will be, whether employed on board British or foreign ships or otherwise; and what circumstances have arisen to call for such a staff.

---

## MEETINGS

OF

## SELECT COMMITTEES.

*Friday, 21st May.*

PUNISHMENT OF FRAUDS BILL—at 2 o'clock.

*Wednesday, 26th May.*

ELECTIONS AND QUALIFICATIONS—at 10 o'clock.

GUN-BOATS FOR PROTECTION OF THE COAST—at 1 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*

**Minutes of the Proceedings**  
OF THE  
**LEGISLATIVE COUNCIL.**

WEDNESDAY, 26TH MAY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

**BOARD OF LAND AND WORKS ACT AMENDMENT BILL.**—The Order of the Day for the adoption of the Report of the Committee of the whole Council on this Bill being read, the Honorable H. Miller moved, That the Order of the Day be discharged with a view to the re-committal of the Bill.

Debate ensued.

Question—put and negatived.

The Honorable H. Miller moved, That the Report of the Committee be now adopted.

Question—put and passed.

Ordered—That the third reading of the Bill be made an Order of the Day for to-morrow.

**SEWERAGE AND WATER ACT AMENDMENT BILL.**—The Order of the Day for the further consideration of this Bill in Committee of the whole Council being read, the President left the Chair.

The Chairman of Committees reported progress, and asked leave to sit again immediately.

Ordered.

The President left the Chair.

The Chairman of Committees reported progress, and asked leave to sit again to-morrow.

Ordered.

**MESSAGES FROM THE LEGISLATIVE ASSEMBLY.**—The President announced to the Council the receipt of the following Messages from the Legislative Assembly:—

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill, intituled, "*An Act to restrict the boundaries of the Town of Geelong, and to make further provision for defining the Wards thereof,*" to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 20th May, 1858.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill, intituled, "*An Act to amend an Act, intituled, 'An Act for making and improving Roads in the Colony of Victoria,'*" to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 21st May, 1858.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill, intituled, "*An Act to incorporate a Company to be called the 'Geelong Gas Company,' and for other purposes,*" to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 21st May, 1858.

**GEELOG BOUNDARIES RESTRICTION BILL.**—The Honorable H. Miller moved, That the consideration of the Message from the Legislative Assembly with this Bill be made an Order of the Day for to-morrow.

Ordered.

**ROADS ACT AMENDMENT BILL.**—The Honorable H. Miller moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time.

The Honorable J. Hodgson moved, That the Bill be printed.

Ordered.

The Honorable T. H. Fellows moved, That the second reading of the Bill be made an Order of the Day for to-morrow.

Ordered.

PETITION.—The Honorable W. Roope presented to the Council a Petition signed by John Cumming and other householders on the Queenscliff road, praying that the Council will pass the Geelong Boundaries Restriction Bill.

Petition received.

GEELOG GAS COMPANY'S BILL.—The Honorable J. Cowie produced a Certificate of the payment of the amount required to be paid to the Colonial Treasurer for the public uses of the Colony, and moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time.

The Honorable J. Cowie moved, That a Message be carried to the Legislative Assembly requesting that they will be pleased to communicate to the Council copies of the Report and Proceedings from the Select Committee of that House appointed in the present Session of Parliament on the Bill, together with the Minutes of Evidence taken before the said Committee.

Ordered.

SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.—The Order of the Day for the consideration of the Amendments made by the Legislative Assembly in this Bill being read, the said Amendments were read as follows:—

Clause I., page 1, line 7—Omit "first," insert "tenth."

Same line—Omit "April," insert "June."

Clause II., page 1, line 16—Before "There," insert "until it shall be otherwise directed under the power in that behalf hereinafter contained."

Clause III., page 2, line 1—After "court," insert "or in the *Government Gazette*."

Clause V., page 2, line 10—Before "There," insert "until it shall be otherwise directed under the power in that behalf hereinafter contained."

Line 13—Strike out all the words after "March" to the first word "the" in line 14.

Line 15—Strike out all the words after "May" to the last word "the" in same line.

Line 16—Omit "fifteenth," insert "tenth."

Same line—Strike out all the words after "July" to "the" in line 17.

Line 18—Strike out all the words after "September" to "and" in line 19.

Line 20—After "and" insert "shall respectively continue as long as may be necessary or the Court shall think fit."

Same line—Strike out all the words after "and."

Line 22—After "on," omit the words "the last or."

Same line—Omit "earlier."

Same line—Strike out "some," insert "any."

At end of clause insert "and if more than one Judge shall be sitting at *vis à prius* under the power for that purpose hereinafter contained each Judge so far as concerns his own Court only shall and may adjourn as aforesaid."

Insert Clause A to stand as Clause VI. :—

*Terms and Civil Sittings may be altered by Order in Council.*—If the Legislative Council and Legislative Assembly respectively shall at any time or from time to time present an Address to the Governor praying that the sittings for the trial of issues in fact and the inquiry of damages in civil actions and the terms may be increased or decreased in number or that all or any of the days on which any such term or sitting (according to this Act or any Order in Council to be made in pursuance hereof) is to begin or end may be changed and specifying the days on which such new sittings might conveniently begin and such new terms might conveniently begin and end it shall be lawful for the Governor in Council to direct that such sittings shall begin and such terms shall begin and end on the days specified as aforesaid and the same shall thereupon begin and end accordingly Provided always that no such Order as aforesaid shall have any force or validity until the first day of January next after the publication thereof in the *Government Gazette*.

Old Clause VII., page 2, line 34, after "Act," insert "or any such order as aforesaid."

Clause X., page 3, at end of clause, insert "and when two judges shall be about to sit apart from each other for the business of trying issues in fact or enquiring of damages in civil actions under the power for that purpose hereinafter contained the prothonotary shall make out two separate lists of causes for trial before that class of jury if any which it is intended shall sit simultaneously and in one of such lists shall set down in the order in which he receives the record those causes in which the number of the action is an odd number and in the other of such lists shall set down in like manner those causes in which the number of the action is an even number and shall number the causes in each of such last mentioned lists respectively in regular arithmetical series."

Clause XI, (now Clause XII,) page 3, line 13, omit "on each day of every sittings."

Line 14, after "tried," insert "on any day."

Line 15, after "consent," insert "of the parties thereto their counsel or attornies and not more than three causes including all adjourned or postponed causes shall be tried on any Saturday except by the like consent."

Same line—After "Ten" insert "or five."

Same line—After "causes" insert "(as the case may be.)"

Line 17—Omit "twelve," insert "one."

Same line—Omit "at noon," insert "in the afternoon."

Line 19—After "consent" insert "of the parties thereto their counsel or attornies."

Old Clause XII., (now Clause XIII.,) page 3, line 25.—After “and” insert “when the said court is not sitting *in banco*.”

Same line—Omit the word “also.”

Line 26—After “damages” insert “in civil actions.”

Line 27—Before “criminal” insert “civil or.”

Line 28—Strike out all the words after “that” to “or,” insert “two trials (whether both or either be civil or criminal).”

Same line—Omit second word “criminal.”

Same line—After next word “trial” insert “(whether civil or criminal).”

Insert Clause B to stand as Clause XIV. :—

*Appointment of Judge in Equity.*—Notwithstanding the provisions hereinbefore contained it shall be lawful for the Governor in Council to direct which judge of the said court shall sit in equity and thereupon such judge until the Governor in Council shall revoke such direction shall be the only judge who shall sit alone in equity to hear and determine all suits and matters depending in the said court in its equity insolvency and ecclesiastical jurisdiction, and while such direction continues in force such judge shall not hold or preside at any Circuit Court Provided always that nothing herein contained shall in any manner prejudice or affect the title of any person to appeal from any decree decretal or other order made by such judge or prevent any other judge sitting in chambers from making any order of urgent and immediate importance which such judge may now make.

Insert Clause C to stand as Clause XV. :—

*Return of Judges' Summons.*—In order to secure uniformity of practice in the Judges' Chambers the judges of the said Court or any three of them shall by some order under their hands fix some hour at which all summonses shall be returnable in Term and also some hour at which such summonses shall be returnable in vacation and every such summons shall be made returnable accordingly until such order shall be rescinded by such judges or any three of them and a copy of every order made under this section shall be stuck up in the Office of the Prothonotary and in the Judges' Chambers.

And the said amendments being again read by the Clerk, were agreed to by the House with the following exceptions and amendments :—

The question was put, Whether this House do agree to the omission of the word “first” and the insertion of the word “tenth” in Clause I., page 1, line 7, and it was resolved in the negative.

The question was put, Whether this House do agree to the insertion of the word “June,” in place of the word “April,” in same line, and it was resolved in the negative.

The question was put, That the word “July” be inserted in place of the word “April,” and it was resolved in the affirmative.

The succeeding amendments were severally put and agreed to, so far as and inclusive of the substitution of the word “any” for the word “some,” in the fifth clause of the Bill.

The question was put, That this House do not agree to the amendment to insert the words, “and if more than one judge shall be sitting at *nisi prius* under the power for that purpose hereinafter contained each judge so far as concerns his own court only shall and may adjourn as aforesaid,” in the fifth clause.

Debate ensued.

Council divided.

Contents, 6.  
The Hon. J. Hood  
J. B. Bennett  
W. Highett  
J. Cowie  
N. Guthridge  
J. F. Strachan (*Teller*).

Not Contents, 6.  
The Hon. C. Vaughan  
T. H. Fellows  
J. H. Patterson  
J. Hodgson  
T. H. Power  
H. Miller (*Teller*).

The numbers being equal, the President declared that he gave his voice with the Contents.

The question was therefore resolved in the affirmative.

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.—The President announced to the Council the receipt of the following Messages from the Legislative Assembly :—

MR. PRESIDENT—

The Legislative Assembly acquaint the Legislative Council that they have appointed a Committee of five Members to confer with a Committee of the Legislative Council, in order to prepare an Address from the Parliament of Victoria to congratulate Her Most Gracious Majesty the Queen on the auspicious marriage of Her Royal Highness the Princess Royal with His Royal Highness Prince Frederick William of Prussia, and have empowered the Committee appointed by the Legislative Assembly to confer with the Committee of the Legislative Council on Thursday next, at half-past two o'clock, in the Library of the Parliament.

Legislative Assembly Chambers,  
Melbourne, 26th May, 1858.

FRANS. MURPHY,  
Speaker.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council copies of the Report and Proceedings from the Select Committee of the Legislative Assembly on the Bill, intituled, “*An Act to incorporate a Company to be called the 'Geelong Gas Company,' and for other purposes,*” together with the Minutes of Evidence taken before such Committee.

Legislative Assembly Chambers,  
Melbourne, 26th May, 1858.

FRANS. MURPHY,  
Speaker.

The Honorable H. Miller moved, That the following members be appointed as members of the Select Committee of this House to confer with the members of the Select Committee of the Legislative Assembly, in order to prepare an Address from the Parliament of Victoria to congratulate Her Most Gracious Majesty the Queen on the auspicious marriage of Her Royal Highness the Princess Royal of England with His Royal Highness Prince Frederick William of Prussia, as desired by this House on the 18th instant, viz., The Honorables the President, J. Henty, J. Cowie, T. McCombie, and the Mover.

Question—put and passed.<sup>9</sup>

**SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.**—The amendment to insert Clause A to stand as Clause V. being again read by the Clerk; the question was put—Whether to agree to the said amendment, and resolved in the affirmative.

The next amendment being read, was put and agreed to.

The question being put—Whether to agree to the amendment in Clause X. to insert at the end of the clause the words “and when two judges shall be about to sit apart from each other for the business of trying issues in fact or enquiring of damages in civil actions under the power for that purpose hereinafter contained the prothonotary shall make out two separate lists of causes for trial before that class of jury if any which it is intended shall sit simultaneously and in one of such lists shall set down in the order in which he receives the record those causes in which the number of the action is an odd number and in the other of such lists shall set down in like manner those causes in which the number of the action is an even number and shall number the causes in each of such last mentioned lists respectively in regular arithmetical series”—and an amendment being moved, That the consideration of the question be postponed until to-morrow, it was resolved that it should be so postponed.

The consideration of the succeeding amendments was postponed until to-morrow.

**CARELESS USE OF FIRE BILL.**—The Order of the Day for the further consideration of this Bill in Committee of the whole Council being read, the President left the Chair.

The Chairman of Committees reported progress, and asked leave to sit again to-morrow.

Ordered.

The Council adjourned at ten minutes past six o'clock until three o'clock on Thursday, the 27th instant.

---

## ORDERS OF THE DAY.

THURSDAY, 27TH MAY.

1. The Hon. N. GUTHRIDGE: To ask the Honorable the Commissioner of Trade and Customs—Does the Government intend to take any, and if so, what steps to provide for the maintenance, education, and more permanent employment of the destitute and deserted children now in the Immigrants' Home, as received from time to time under the orders of the Bench of Magistrates.

---

### ORDERS OF THE DAY:—

1. BOARD OF LAND AND WORKS ACT AMENDMENT BILL.—To be read a third time.
2. SEWERAGE AND WATER ACT AMENDMENT BILL.—To be further considered in Committee.
3. GEELONG BOUNDARIES RESTRICTION BILL.—Consideration of the Message from the Legislative Assembly.
4. ROADS ACT AMENDMENT BILL.—To be read a second time.
5. SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.—Consideration of Amendments made by Legislative Assembly.
6. CARELESS USE OF FIRE BILL.—To be further considered in Committee.

---

## MEETINGS

OF

# SELECT COMMITTEES.

Thursday, 27th May.

TRANSFER OF LAND BILL—at 1 o'clock.

STANDING ORDERS—at 2 o'clock.

CONGRATULATORY ADDRESS ON MARRIAGE OF PRINCESS ROYAL—at half-past 2 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*



Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

THURSDAY, 27<sup>TH</sup> MAY, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

MEETINGS OF SELECT COMMITTEES.—The Honorable G. Urquhart, with leave of the Council, without notice, moved, That all Select Committees of the House be empowered to sit to-morrow.

Question—put and passed.

BOARD OF LAND AND WORKS ACT AMENDMENT BILL.—The President having reported that the Chairman of Committees had certified that the fair print of this Bill was in accordance with the Bill as reported from the Committee of the whole Council, the Honorable H. Miller moved, That the Bill be now read a third time.

Amendment moved by the Honorable T. McCombie, That all the words after the word "That" be omitted, with the view to insert the words "this House do now put itself into Committee of the whole on the Bill."

Debate ensued.

Question—That the words proposed to be omitted stand part of the question—put.  
Council divided.

Contents, 14.

The Hon. T. H. Fellows  
J. Henty  
T. H. Power  
J. P. Fawkner  
G. Urquhart  
J. F. Strachan  
J. Stewart  
J. H. Patterson  
J. Cowie  
W. Roope  
J. B. Bennett  
M. Hervey  
N. Guthridge  
J. Hodgson (*Teller*).

Not Contents, 6.

The Hon. H. Miller  
T. McCombie  
J. Hood  
W. Highett  
Dr. Tierney  
C. Vaughan (*Teller*).

The question was therefore passed.

Question—That this Bill be now read a third time—put.

The President pointed out to the Council that, as it might be held that the Bill, as amended, fell under the operation of the LXth clause of the Constitutional Act, he would desire that the numbers voting respectively for and against the Bill should be taken down by the Clerk.

The number voting for the Bill was twenty; against it, none.

The question was therefore passed.

Bill read a third time.

Ordered—That the *passing* of the Bill be made an Order of the Day for Wednesday next.

SEWERAGE AND WATER ACT AMENDMENT BILL.—The Order of the Day for the further consideration of this Bill in Committee of the whole Council being read, the President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same with amendments, and asked leave to sit again immediately.

Ordered.

The President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same with further amendments.

The Honorable H. Miller moved, That the adoption of the Report be made an Order of the Day for Tuesday next.

Ordered.

**GEELONG BOUNDARIES RESTRICTION BILL.**—The Order of the Day for the consideration of the Message from the Legislative Assembly with this Bill being read, the Honorable H. Miller moved, That the Standing Orders No. C., CXII., and CXV., be suspended, in order to enable the Bill to be treated as a public Bill in this House.

Question—put and passed.

The Honorable H. Miller moved, That the Bill be now read a first time.

Question—put and passed.

Bill read a first time.

Ordered—That the second reading of the Bill be made an Order of the Day for Tuesday next.

**ROADS ACT AMENDMENT BILL.**—The Order of the Day for the second reading of this Bill being read, the Honorable H. Miller moved, That this Bill be now read a second time.

Question—put and passed.

Bill read a second time.

Ordered—That the said Bill be now considered in Committee of the whole Council.

The President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same with an amendment.

The Honorable H. Miller moved, That the Report of the Committee be now adopted.

Question—put and passed.

The President having reported that the Chairman of Committees had reported that the Bill was in accordance with the Bill as reported, the Bill on the motion of the Honorable H. Miller read a third time and *passed*.

The Honorable H. Miller moved, That the Title of the Bill be "*An Act to amend an Act intitled 'An Act for making and improving Roads in the Colony of Victoria.'*"

Question—put and passed.

Ordered—That the Bill be carried to the Legislative Assembly, with a Message acquainting them that the Council have agreed to the same with an amendment.

**SUPREME COURT TERMS, SITTINGS, AND HOLIDAYS BILL.**—The Order of the Day for the consideration of the amendments made by the Legislative Council in this Bill being read, the amendments postponed on the previous day were again read by the Clerk, and agreed to and amended as follows:—

Clause X. (now clause XI.), page 3, at end of clause, insert "and when two judges shall be about to sit apart from each other for the business of trying issues in fact or enquiring of damages in civil actions under the power for that purpose hereinafter contained the prothonotary shall make out two separate lists of causes for trial before that class of jury if any which it is intended shall sit simultaneously and in one of such lists shall set down in the order in which he receives the record those causes in which the number of the action is an odd number and in the other of such lists shall set down in like manner those causes in which the number of the action is an even number and shall number the causes in each of such last mentioned lists respectively in regular arithmetical series."

The question was put—That the word "manner" stand part of the question, and it was resolved in the negative.

The question was put—That the word "order" stand part of the question, in place of the word "manner," and it was resolved in the affirmative.

The question was put—Whether this House do agree to the amendment as amended, and it was resolved in the negative.

The question was put—Whether to agree to the amendment—omit the words "on each day of every sittings" in clause XI., now clause XII., and it was resolved in the affirmative.

It was moved to insert the following words—"All causes (except in case of adjournment or postponement) shall be tried in the order in which they stand in the list and not more than five causes in any list (including all adjourned and postponed causes) shall be tried on any day by a jury of twelve men except by consent of the parties thereto their counsel or attorneys and not more than five causes in any list (including all adjourned and postponed causes) shall be tried on any Saturday by a jury of four men except by such consent as aforesaid and"—before the words "not more than ten causes."

Question—put and passed.

It was moved to insert the words "in any list," after the words "not more than ten causes."

Question—put and passed.

It was moved to strike out the word "or" after the word "adjourned," with the view to insert the word "and."

Question—That the word "or," proposed to be omitted, stand part of the question—put and negatived.

Question—That the word "and," proposed to be inserted, be so inserted—put and passed.

The question was put—Whether to agree to the amendment, line 14,—after "tried" insert "on any day,"—and it was moved that the word "other" be inserted in the said amendment after the word "any."

Question—That the word proposed to be inserted be so inserted—put and passed.

The question was put—Whether to agree to the amendment as amended, and it was resolved in the affirmative.

The question was put—Whether to agree to the amendment, line 15,—after "consent" insert "of the parties thereto their counsel or attorneys and not more than three causes including all adjourned or postponed causes shall be tried on any Saturday except by the like consent;"—and it was moved to strike out the words "except by consent of the parties thereto their counsel or attorneys and not more than three causes including all adjourned or postponed causes shall be tried on any Saturday."

Question—That the words proposed to be omitted stand part of the question—put and negatived.

Question—That the amendment as now amended be agreed to—put and passed.

The question was put—Whether to agree to the amendment, same line—after “ten” insert “or five,”—and it was resolved in the negative.

The question was put—Whether to agree to the amendment, same line—after “causes” insert “as the case may be,”—and it was resolved in the negative.

It was moved to strike out the words “the first ten or five causes as the case may be remaining untried on any day shall be the causes for trial on that day and” after the words “except by the like consent and,” and it was resolved in the affirmative.

The question was put—Whether to agree to the amendment, line 17—omit “twelve,” insert “one,”—and it was resolved in the affirmative.

The question was put—Whether to agree to the amendment, same line—omit “at noon,” insert “in the afternoon,”—and it was resolved in the affirmative.

It was moved to insert the word “such” before the word “consent,” line 19, and it was resolved in the affirmative.

The question was put—Whether to agree to the amendment, line 19—after “consent” insert “of the parties thereto their counsel or attorneys,”—and it was resolved in the negative.

It was moved to insert the words “as hereinbefore mentioned but no part of this section shall extend or apply to any circuit court,” after the words “in the afternoon except by such consent,”—and it was resolved in the affirmative.

The question was put—Whether to agree to the amendment, old clause XII. now clause XIII., page 3, line 25—after “and” insert “when the said court is not sitting *in banco*,”—and it was resolved in the affirmative.

The question was put—Whether to agree to the amendment, same line—omit the word “also,”—and it was resolved in the affirmative.

The question was put—Whether to agree to the amendment, line 26—after “damages” insert “in civil actions,”—and it was resolved in the affirmative.

The question was put—Whether to agree to the amendment line 27—before “criminal” insert “civil or,”—and it was resolved in the negative.

The question was put—Whether to agree to the amendment, line 28—strike out all the words after “that” to “or,” insert “two trials (whether both or either be civil or criminal)”—and it was resolved in the negative.

The question was put—Whether to agree to the amendment, same line—omit second word “criminal,”—and it was resolved in the negative.

The question was put—Whether to agree to the amendment, same line—after next word “trial” insert “(whether civil or criminal),”—and it was resolved in the negative.

The question was put—Whether to agree to the amendment to stand as clause XIV. :—

*Appointment of Judge in Equity*—Notwithstanding the provisions hereinbefore contained it shall be lawful for the Governor in Council to direct which judge of the said court shall sit in equity and thereupon such judge until the Governor in Council shall revoke such direction shall be the only judge who shall sit alone in equity to hear and determine all suits and matters depending in the said court in its equity insolvency and ecclesiastical jurisdiction, and while such direction continues in force such judge shall not hold or preside at any circuit court Provided always that nothing herein contained shall in any manner prejudice or affect the title of any person to appeal from any decree decretal or other order made by such judge or prevent any other judge sitting in chambers from making any order of urgent and immediate importance which such judge may now make :—and it was resolved in the affirmative.

The question was put—Whether to agree to the amendment to stand as clause XV. :—

*Return of Judges' Summons.*—In order to secure uniformity of practice in the Judges' Chambers the judges of the said court or any three of them shall by some order under their hands fix some hour at which all summonses shall be returnable in Term and also some hour at which such summonses shall be returnable in vacation and every such summons shall be made returnable accordingly until such order shall be rescinded by such judges or any three of them and a copy of every order made under this section shall be stuck up in the office of the prothonotary and in the Judges' Chambers :—

And it was moved, That after the word “shall” in the second line the words “from time to time” be inserted.

Question—That the words proposed to be inserted be so inserted—put and passed.

It was moved—That the word “some,” in the second line, be omitted, with the view to insert the word “an” in place thereof.

Question—That the word “some,” proposed to be omitted, stand part of the question—put and negatived.

Question—That the word “an,” proposed to be inserted, be so inserted—put and passed.

It was moved, That the words “such order shall be rescinded by” be omitted.

Question—That the words proposed to be omitted be so omitted—put and passed.

It was moved to insert the words “shall fix some other hour in the manner and for the purpose aforesaid” before the words “and a copy of every order.”

Question—put and passed.

The question was put—Whether to agree to the amendment as amended—and it was resolved in the affirmative.

The Honorable T. H. Fellows moved, That the Bill as now amended be printed.

Question—put and passed.

CARELESS USE OF FIRE BILL.—The Order of the Day for the further consideration of this Bill in Committee being read, the President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same with amendments.

The Honorable N. Guthridge moved, That the adoption of the Report of the Committee be made an Order of the Day for Tuesday next.

Ordered.

PAPERS.—The Honorable H. Miller, by command of His Excellency the Governor, laid upon the Table the following Paper:—

Report of examination of Railway Tenders—Copies of Letters—23rd April, 1858, and 4th May, 1858.

The Honorable J. Hodgson moved, That the same be printed.

Question—put and passed.

ELECTORAL ROLL.—The Honorable H. Miller laid on the Table, in part compliance with the Order of the House of the 5th instant, the Electoral Rolls of the following Electoral Districts, as compiled to the 31st March, 1858, with maps relating thereto:—

Warrnambool	East Bourke
Collingwood (Fitz Roy Division)	South Province
Richmond (St. Stephen's Division)	North-Western Province
Evelyn and Mornington	Portland.
St. Kilda	

Ordered severally to lie on the Table.

The Council adjourned at six o'clock until three o'clock on Tuesday, the 1st proximo.

---

## NOTICE OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 1ST JUNE.

NOTICE OF MOTION:—

1. The Hon. J. B. BENNETT: To move, That the House adopt as a Joint Standing Order of both Houses of Parliament the following resolution:—"Any Act which shall, as a Bill, have been passed by both Houses of Parliament, but reserved by the Governor for the signification of Her Majesty's pleasure, and shall afterwards receive the Royal Assent, shall be numbered with the number next in arithmetical progression to the number already given to the last Act assented to by the Governor."

*Contingent*—On the adoption of the above Resolution—That the Resolution be transmitted to the Legislative Assembly, with a Message requesting their concurrence with the same as a Joint Standing Order of both Houses of Parliament.

ORDERS OF THE DAY:—

1. SEWERAGE AND WATER ACT AMENDMENT BILL.—Adoption of Report.
2. GEELONG BOUNDARIES RESTRICTION BILL.—To be read a second time.
3. CARELESS USE OF FIRE BILL.—Adoption of Report.

WEDNESDAY, 2ND JUNE.

*Government Business.*

ORDER OF THE DAY:—

1. BOARD OF LAND AND WORKS ACT AMENDMENT BILL.—To be passed.

---

## MEETINGS OF SELECT COMMITTEES.

*Friday, 28th May.*

GUN BOATS FOR PROTECTION OF THE COAST—at 10 o'clock.

PUNISHMENT OF FRAUDS BILL—at half-past 10 o'clock.

TRANSFER OF LAND BILL—at 1 o'clock.

*Tuesday, 1st June.*

ELECTIONS AND QUALIFICATIONS—at half-past 10 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*

# Minutes of the Proceedings

OF THE

# LEGISLATIVE COUNCIL.

TUESDAY, 1ST JUNE, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

**PETITIONS.**—The President laid upon the Council Table Petitions which had been presented to him, severally signed by William Parkinson Wilson and Thomas T. a'Beckett, praying that a vote of a certain elector may be received in favor of the said Thomas T. a'Beckett, and that the casting vote of the Returning Officer at the late Central Province Election may be disallowed, and that the said Thomas T. a'Beckett may be declared to be duly elected.

The Honorable J. B. Bennett moved, That the Petitions be referred to the Elections and Qualifications Committee.

Debate ensued.

Amendment moved by the Honorable J. Stewart, That the debate be adjourned until to-morrow.

Question—That the debate be adjourned until to-morrow—put and passed.

**CONGRATULATORY ADDRESS ON MARRIAGE OF PRINCESS ROYAL.**—The Honorable H. Miller as Chairman of the Select Committee appointed to confer with the members of a Select Committee of the Legislative Assembly, in order to prepare an Address from the Parliament of Victoria on the subject of the marriage of the Princess Royal, brought up the Address recommended by the Committee and moved that it be received.

The Address was read at the Table by the Clerk.

TO HER MOST GRACIOUS MAJESTY QUEEN VICTORIA—

We, Your Majesty's faithful and loyal subjects, the Members of the Legislative Council and Legislative Assembly of Victoria, in Parliament assembled, beg to approach Your Majesty's Throne with renewed assurances of our loyalty and affection.

It is with feelings of sincere gratification that we have heard of the marriage of Your Majesty's Daughter, Her Royal Highness the Princess Royal of England, with His Royal Highness Prince Frederick William of Prussia.

We offer to Your Majesty our sincere and loyal congratulations upon this auspicious event; and we beg, through Your Majesty, to convey to Her Royal Highness and Her Consort our earnest wishes for their happiness.

The Honorable H. Miller moved, That the Address be adopted.

Question—put and passed.

The Honorable H. Miller moved, That the Address be engrossed, and be presented to His Excellency the Governor for transmission to Her Majesty by the President of the Council and the Speaker of the Assembly, accompanied by such Members of both Houses as may desire to attend, on Thursday, the 3rd instant, at twelve o'clock.

Question—put and passed.

**PROROGATION.**—The Honorable H. Miller announced to the Council, That it is the intention of His Excellency the Governor to prorogue the Parliament on Friday next.

**PETITION.**—The Honorable J. H. Patterson presented a Petition signed by the Honorable Thomas Howard Fellows, praying that the vote of one John Richard Gill, tendered for the petitioner at the late election for the Central Province, may be received by the Elections and Qualifications Committee, and reckoned for the petitioner, and moved that the same be referred to the Elections and Qualifications Committee.

Debate ensued.

Motion by leave withdrawn.

Ordered—That the debate on the reference of the Petition be postponed until to-morrow.

**SEWERAGE AND WATER ACT AMENDMENT BILL.**—The Order of the Day for the adoption of the Report of the Committee of the whole Council on this Bill being read, the Honorable H. Miller moved, That the Report be now adopted.

Question—put and passed.

The President having reported that the Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as reported, the Bill, on the motion of the Honorable H. Miller, was read a third time and *passed*.

The Honorable H. Miller moved, That the title of the Bill be "*An Act to amend an Act intituled 'An Act to establish a Board of Commissioners for the better Sewerage and Drainage of the City of Melbourne and for supplying Water thereto and to the Suburbs thereof.'*"

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly to acquaint them that the Legislative Council have agreed to the Bill with amendments, and to desire their concurrence therein.

GEELONG BOUNDARIES RESTRICTION BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable H. Miller moved, That the Bill be now read a second time.

Question—put and passed.

Bill read a second time.

Ordered—That the said Bill be now considered in Committee of the whole Council.

The President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same without any amendment.

The Honorable H. Miller moved, That the Report of the Committee be now adopted.

Question—put and passed.

The President having reported that the Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as reported, the Bill, on the motion of the Honorable H. Miller, was read a third time and *passed*.

The Honorable H. Miller moved, That the title of the Bill be "*An Act to restrict the Boundaries of the Town of Geelong and to make further provision for defining the Wards thereof.*"

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly to acquaint them that the Legislative Council have agreed to the Bill without any amendment.

CARELESS USE OF FIRE BILL.—The Honorable N. Guthridge moved, That the Report of the Committee of the whole Council on this Bill be adopted.

Question—put and passed.

The President having reported that the Chairman of Committees had certified that the fair print of this Bill was in accordance with the Bill as reported, the Bill, on the motion of the Honorable N. Guthridge, was read a third time and *passed*.

The Honorable N. Guthridge moved, That the title of the Bill be "*An Act for preventing the careless use of Fire.*"

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly to acquaint them that the Legislative Council have agreed to the Bill with an amendment and to desire their concurrence therein.

RESERVED ACTS—JOINT STANDING ORDER—PROPOSED ADDITIONAL.—The Honorable H. Miller, in the absence of the Honorable J. B. Bennett, moved, That the House adopt as a Joint Standing Order of both Houses of Parliament the following resolution:—"Any Act which shall, as a Bill, have been passed by both Houses of Parliament, but reserved by the Governor for the signification of Her Majesty's pleasure, and shall afterwards receive the Royal Assent, shall be numbered with the number next in arithmetical progression to the number already given to the last Act assented to by the Governor."

Question—put and passed.

The Honorable H. Miller moved, That the resolution be transmitted to the Legislative Assembly, with a Message requesting their concurrence with the same, as a Joint Standing Order of both Houses of Parliament.

Question—put and passed.

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.—The President announced to the Council the receipt of the following Messages from the Legislative Assembly:—

MR. PRESIDENT—

The Legislative Assembly return to the Legislative Council a Bill, intituled, "*An Act to amend the Laws relating to Particular Friendly Societies,*" and acquaint them that they have agreed to the same without amendment.

Legislative Assembly Chambers,  
Melbourne, 1st June, 1858.

FRANS. MURPHY,  
Speaker.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill, intituled, "*An Act for the adoption of an Uniform Rate of Assessment in Road Districts on all Lands Messuages and Tenements not being Waste Lands of the Crown and to make better provision for the Assessment of Rates on Unoccupied Lands in certain cases and for other purposes,*" to which they desire the concurrence of the Legislative Council.

Legislative Assembly Chambers,  
Melbourne, 1st June, 1858.

FRANS. MURPHY,  
Speaker.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council, copies of the Report and Proceedings from the Select Committee of the Legislative Assembly, on the Bill intituled, "*An Act to restrict the Boundaries of the Town of Geelong and to make further provisions for defining the Wards thereof,*" together with the Minutes of Evidence taken before such Committee.

Legislative Assembly Chambers,  
Melbourne, 1st June, 1858.

FRANS. MURPHY,  
Speaker.

MR. PRESIDENT—

The Legislative Assembly return the Bill, intituled, "*An Act to amend an Act intituled 'An Act for making and improving Roads in the Colony of Victoria,'*" and acquaint the Legislative Council that they have agreed to the amendment made therein by the Legislative Council.

Legislative Assembly Chambers,  
Melbourne, 1st June, 1858.

FRANS. MURPHY,  
Speaker.

ROADS DISTRICT ASSESSMENT BILL.—The Honorable T. H. Fellows moved, That this Bill be read a first time, printed, and read a second time to-morrow.

Ordered.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—The President announced to the Council the receipt of the following Message from the Legislative Assembly:—

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill, intituled, "*An Act to facilitate the formation of Mining Associations and to amend and extend the provisions of an Act passed in the eighteenth year of the reign of Her present Majesty intituled 'An Act for the better Regulation of Mining Companies' and to render certain preferable Liens and Mortgages of Personalty by Miners and Mining Companies valid without delivery and for other purposes,*" to which they desire the concurrence of the Legislative Council.

Legislative Assembly Chambers,  
Melbourne, 1st June, 1858.

FRANS. MURPHY,  
Speaker.

PARTNERSHIPS BILL.—The Honorable T. McCombie moved, That the Bill be now read a first time, printed, and read a second time to-morrow.

Question—put and passed.

The Council adjourned at five o'clock until three o'clock on Wednesday, the 2nd instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 2ND JUNE.

### *Government Business.*

#### NOTICE OF MOTION:—

1. The Hon. H. MILLER: To move, when the Order of the Day for the passing of the Board of Land and Works Act Amendment Bill is called on, That after the word "Governor" in clause I. line 1, the words "in Council" be inserted, and that the second clause of the Bill be struck out.

#### ORDERS OF THE DAY:—

1. BOARD OF LAND AND WORKS ACT AMENDMENT BILL.—To be passed.
2. PARTNERSHIPS BILL.—To be read a second time.

### *General Business.*

#### NOTICES OF MOTION:—

1. The Hon. J. COWIE: To move, That the Standing Orders be suspended for the purpose of enabling the Geelong Gas Company Bill to be read a second time.  
*Contingent* on the passing of the above, that the Geelong Gas Company Bill be now read a second time.
2. The Hon. J. H. PATTERSON: To move the second reading of a Bill, intituled, "*An Act to explain to whom the term Crown as used in certain cases shall apply.*"

#### ORDERS OF THE DAY:—

1. ELECTION PETITIONS.—Adjourned debate on reference to Elections and Qualifications Committee.
2. ELECTION PETITION.—Reference to Elections and Qualifications Committee.
3. ROADS DISTRICT ASSESSMENT BILL.—To be read a second time.

MEETINGS  
OF  
SELECT COMMITTEES.

*Wednesday, 2nd June.*

ELECTIONS AND QUALIFICATIONS—at half-past 10 o'clock.

*Thursday, 3rd June.*

TRANSFER OF LAND BILL—at half past 1 o'clock.

PUNISHMENT OF FRAUDS BILL—at half-past 1 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*



Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

WEDNESDAY, 2ND JUNE, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

ELECTIONS AND QUALIFICATIONS COMMITTEE REPORT.—The Honorable J. P. Fawcner, as Chairman of the Committee of Elections and Qualifications, brought up the Report of the Committee on the Petition of Thomas Turner a'Beckett and Martin Howy Irving, referred to the said Committee, and moved that it be received and printed, together with the Proceedings of the Committee and the Evidence.

Question—put and passed.

The Report was read at the Table by the Clerk.

BOARD OF LAND AND WORKS ACT AMENDMENT BILL.—The Order of the Day for the *passing* of this Bill being read, the Honorable H. Miller moved, in accordance with notice, That after the word "Governor," in clause I., line 1, of the Bill, the words "in Council" be inserted.

Question—put and passed.

The Honorable H. Miller moved, "That all the words in the 1st clause, after the word "had," in the twelfth line of the Bill, be struck out.

Question—put and passed.

The Honorable H. Miller moved, in accordance with notice, That the second clause of the Bill be struck out.

Question—put and passed.

The Honorable H. Miller moved, That the Bill do now *pass*.

Question—put and passed.

The Honorable H. Miller moved, That the title of the Bill be, "*An Act to amend an Act to establish a Board of Land and Works.*"

Question—put and passed.

Ordered—That the Bill be carried to the Legislative Assembly, with a Message to acquaint them that the Council have agreed to the Bill with amendments, and to desire their concurrence therein.

PARTNERSHIPS BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable H. Miller moved, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

Ordered—That the said Bill be now considered in Committee of the whole Council.

The President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same without any amendment.

The Honorable H. Miller moved, That the Report of the Committee be now adopted.

Question—put and passed.

The President having reported that the Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as reported, the Bill, on the motion of the Honorable H. Miller, read a third time and *passed*.

The Honorable H. Miller moved, That the title of the Bill be, "*An Act to facilitate the formation of Mining Associations and to amend and extend the provisions of an Act passed in the eighteenth year of the reign of Her present Majesty intituled 'An Act for the better Regulation of Mining Companies' and to render certain preferable Liens and Mortgages of Personalty by Miners and Mining Companies valid without delivery and for other purposes.*"

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly to acquaint them that the Council have agreed to the Bill without any amendment.

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.—The President announced to the Council the receipt of the following Messages from the Legislative Assembly :—

MR. PRESIDENT—

The Legislative Assembly inform the Legislative Council that they have agreed to the Address of Congratulation to Her Majesty the Queen, on the auspicious Marriage of the Princess Royal of England, as reported from the Joint Committee of both Houses.

Legislative Assembly Chambers,  
Melbourne, 2nd June, 1858.

FRANS. MURPHY,  
Speaker.

MR. PRESIDENT—

The Legislative Assembly return to the Legislative Council an Act intituled “ *An Act to amend an Act intituled ‘An Act to establish a Board of Commissioners for the better Sewerage and Drainage of the City of Melbourne and for supplying Water thereto and to the Suburbs thereof,’*” and inform the Legislative Council that they have agreed to the amendments made by the Legislative Council in clauses V., VI., VII. of this Bill, and also to the second amendment in clause IX., and that they have disagreed to the amendments made by the Legislative Council in clause IV. and to the first amendment in clause IX. of this Bill, to which they desire the concurrence of the Legislative Council.

Legislative Assembly Chambers,  
Melbourne, 2nd June, 1858.

FRANS. MURPHY,  
Speaker.

SEWERAGE AND WATER ACT AMENDMENT BILL.—The Honorable H. Miller moved, That this House do not insist on the amendment made in clause IV. of the Sewerage and Water Act Amendment Bill.

Amendment moved by the Honorable J. P. Fawkner, That all the words after the word “That” be omitted, with the view to insert the words “the further consideration of the Message with this Bill be made an Order of the Day for to-morrow.”

Debate ensued.

Question—That the words proposed to be omitted be so omitted—put and passed.

Question—That the words proposed to be inserted be so inserted—put and passed.

Question—That the further consideration of the Message with this Bill be made an Order of the Day for to-morrow—put.

Council divided.

Contents, 10.  
The Hon. J. Hodgson  
G. Urquhart  
J. P. Fawkner  
J. F. Strachan  
• J. Cowie  
N. Guthridge  
M. Hervey  
T. H. Power  
Dr. Hope  
T. H. Fellows (*Teller*).

Not Contents, 7.  
The Hon. J. H. Patterson  
T. McCombie  
Dr. Tierney  
J. Hood  
C. Vaughan  
W. Highbett  
H. Miller (*Teller*).

The question was therefore passed.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill intituled “ *An Act to enable the Postmaster General to issue Money Orders in the Colony of Victoria;*” also

A Bill intituled “ *An Act to amend an Act to provide for the Collection and Payment of the Public Moneys the Audit of the Public Accounts and the Protection and Recovery of the Public Property;*” to which they desire the concurrence of the Legislative Council.

Legislative Assembly Chambers,  
Melbourne, 2nd June, 1858.

FRANS. MURPHY,  
Speaker.

POST OFFICE MONEY ORDERS BILL.—The Honorable H. Miller moved, That this Bill be read a first time.

Question—put and passed.

Bill read a first time, ordered to be printed, and read a second time to-morrow.

AUDIT ACT AMENDMENT BILL.—The Honorable H. Miller moved, That this Bill be read a first time.

Question—put and passed.

Bill read a first time, ordered to be printed, and read a second time to-morrow.

GEELONG GAS COMPANY BILL.—The Honorable J. Cowie, in accordance with notice, moved, That the Standing Orders be suspended, for the purpose of enabling the Geelong Gas Company Bill to be read a second time.

Question—put and passed.

The Honorable J. Cowie, in accordance with notice, moved, That the Bill be now read a second time.

Question—put and passed.

Bill read a second time.

Ordered—That the said Bill be now considered in Committee of the whole Council.

The President left the Chair.

The Chairman, of Committees reported progress, and asked leave to sit again this evening.

Ordered.

The Council adjourned for one hour.

After the lapse of an hour the President resumed the Chair.

GEELONG GAS COMPANY BILL.—

The President left the Chair.

Committee of the whole Council on the Bill resumed.

The Chairman of Committees reported progress, and asked leave to sit again immediately.

Ordered.

The President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same with amendments.

The Honorable J. Cowie moved, That the Standing Orders be suspended during the progress of the Bill through the House.

Question—put and passed.

The Honorable J. Cowie moved, That the Report of the Committee be now adopted.

Question—put and passed.

The Honorable J. Cowie moved, That the third reading of the Bill be made an Order of the Day after the disposal of the other Orders of the Day.

Ordered.

CROWN EXPLANATION BILL.—The Honorable J. H. Patterson, in accordance with notice, moved, That this Bill be now read a second time.

Question—put and passed.

Bill read a second time.

Ordered—That the said Bill be now considered in Committee of the whole Council.

The President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same without any amendment.

The Honorable J. H. Patterson moved, That the report of the Committee be now adopted.

Question—put and passed.

The President having reported that the Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as reported, the Bill, on the motion of the Honorable J. H. Patterson, read a third time and *passed*.

The Honorable J. H. Patterson moved, That the title of the Bill be, "*An Act to explain to whom the term 'Crown' as used in certain cases shall apply.*"

Question—put and passed.

Ordered—That a message be carried to the Legislative Assembly to acquaint them that the Council have agreed to the Bill without any amendment.

GEELONG GAS COMPANY BILL.—The Honorable J. Cowie moved, That the other Orders of the Day be now postponed until after the consideration of the Order of the Day for the third reading of this Bill.

Ordered.

The President having reported that the Chairman of Committees had certified that the copy of this Bill was in accordance with the Bill as reported from a Committee of the whole Council, the Bill, on the motion of the Honorable J. Cowie, read a third time and *passed*.

The Honorable J. Cowie moved, That the title of the Bill be, "*An Act to incorporate a Company to be called the 'Geelong Gas Company' and for other purposes.*"

Question—put and passed.

Ordered—That the Bill be carried to the Legislative Assembly, with a message to acquaint them that the Council have agreed to the Bill with amendments, and to desire their concurrence therein.

PETITIONS.—The Order of the Day for resuming the adjourned debate on the reference of the Petitions of W. P. Wilson and T. T. a'Beckett to the Elections and Qualifications Committee being read, the Honorable J. Hood moved, That the Petitions be referred to the Elections and Qualifications Committee.

Question—put and passed.

PETITION.—The Order of the Day for considering the reference of the Petition of the Honorable Thomas Howard Fellows to the Elections and Qualifications Committee being read, the Honorable J. H. Patterson moved, That the Petition be referred to the Elections and Qualifications Committee.

Question—put and passed.

ELECTIONS AND QUALIFICATIONS COMMITTEE.—The President fixed two o'clock on Thursday, the 3rd instant, as the first time of meeting of the Elections and Qualifications Committee, to consider the Petitions this day referred to them, in the large South Committee Room.

ROADS DISTRICT ASSESSMENT BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable T. H. Fellows moved, That the Bill be now read a second time.

Amendment moved by the Honorable J. P. Fawkner, That the word "now" be omitted, with the view to add the words "this day six months" after the word "time."

Debate ensued.

Question—That the word "now," proposed to be omitted, stand part of the question—put and negatived.

Question—That the words proposed to be added be so added—put and passed.

Question—That the Bill be read a second time this day six months—put and passed.

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.—The President announced to the Council the receipt of the following Messages from the Legislative Assembly :—

MR. PRESIDENT—

The Legislative Assembly acquaint the Legislative Council that they have adopted the additional Joint Standing Order proposed by the Legislative Council on the 1st day of June instant.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 2nd June, 1858.

MR. PRESIDENT—

The Legislative Assembly return to the Legislative Council the Bill intituled "*An Act for preventing the careless use of Fire*" and acquaint the Legislative Council that they have agreed to the amendment made by the Council, with the following addition, viz., "*And all warrants under this Act shall specify the places excepted by this proviso,*" to which they desire the concurrence of the Legislative Council.

FRANS MURPHY,  
Speaker.

Legislative Assembly Chambers,  
2nd June, 1858.

MR. PRESIDENT—

The Legislative Assembly return to the Legislative Council the Bill intituled "*An Act to incorporate a Company to be called the Geelong Gas Company and for other purposes,*" and acquaint them that they have agreed to the amendments made therein by the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
2nd June, 1858.

CARELESS USE OF FIRE BILL.—MESSAGE FROM LEGISLATIVE ASSEMBLY.—The Honorable J. F. Strachan moved, That this House do agree to the amendment made by the Legislative Assembly on the amendment made by the Council in this Bill.

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly to acquaint them that the Council have agreed to the amendment made by the Legislative Assembly.

The Council adjourned at a quarter past ten o'clock until three o'clock on Thursday, 3rd instant.

## ORDERS OF THE DAY.

THURSDAY, 3RD JUNE.

ORDERS OF THE DAY :—

1. SEWERAGE AND WATER ACT AMENDMENT BILL.—Further consideration of Message from Legislative Assembly.
2. POST OFFICE MONEY ORDERS BILL.—To be read a second time.
3. AUDIT ACT AMENDMENT BILL.—To be read a second time.

## MEETINGS OF SELECT COMMITTEES.

Thursday, 3rd June.

TRANSFER OF LAND BILL—at half-past 1 o'clock.

PUNISHMENT OF FRAUDS BILL—at half-past 1 o'clock.

ELECTIONS AND QUALIFICATIONS—at 2 o'clock.

GUN BOATS FOR PROTECTION OF THE COAST—at 2 o'clock.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

THURSDAY, 3RD JUNE, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

CONGRATULATORY ADDRESS ON MARRIAGE OF PRINCESS ROYAL.—The President announced to the Council that he had, with the Speaker of the Legislative Assembly, and accompanied by Members of both Houses of Parliament, presented to His Excellency the Governor the Joint Address agreed to by both Houses to congratulate Her Most Gracious Majesty the Queen on the marriage of the Princess Royal, and that His Excellency had been pleased to speak as follows on the occasion :—

MR. PRESIDENT AND HONORABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL,  
MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY,

I receive the loyal and dutiful Address, unanimously voted by the Parliament of Victoria, to Her Majesty on the auspicious Marriage of the Princess Royal of England with his Royal Highness Prince Frederick William of Prussia, and shall have much pleasure in transmitting it by the earliest opportunity, to be laid at the foot of the Throne.

HENRY BARKLY.

ROYAL ASSENT TO BILLS—The President announced to the Council that he had received an intimation from the Private Secretary, informing him that it is the intention of His Excellency the Governor to proceed to the Legislative Council Chamber on Friday, the fourth day of June, at three o'clock, to assent, in Her Majesty's name, to certain Bills passed by the Legislative Council and Legislative Assembly.

PAPERS.—The Honorable H. Miller presented to the Council the following Papers :—

Immigration—Report of Immigration Agent, 1857.

Pilot Board of Victoria—Accounts of, for year ended 31st August, 1857.

Ordered severally to lie on the Table.

SEWERAGE AND WATER ACT AMENDMENT BILL.—The Order of the Day for the further consideration of the Message from the Legislative Assembly, conveying their disagreement with amendments made by the Council in Clauses IV. and IX. of this Bill, being read, the Honorable H. Miller moved, That this House do not insist on the several amendments made in Clause IV. of the Sewerage and Water Act Amendment Bill.

Debate ensued.

Question—put.

Council divided.

Contents, 12.  
The Hon. T. McCombie  
J. H. Patterson  
J. Hodgson  
J. Henty  
W. Highett  
C. Vaughan  
J. Hood  
J. Cowie  
T. H. Fellows  
Dr. Tierney  
W. Roope  
H. Miller (*Teller*).

Not Contents, 7.  
The Hon. M. Hervey  
G. Urquhart  
J. F. Strachan  
J. P. Fawcner  
J. B. Bennett  
T. H. Power  
N. Guthridge (*Teller*).

The question was therefore passed.

The Honorable H. Miller moved, That this Council do not insist on the first amendment made in Clause IX. of the Sewerage and Water Act Amendment Bill.

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly, to acquaint them that the Council do not insist on the amendments made by the Council in Clause IV., and on the first amendment made in Clause IX. of the Bill.

PAPERS.—The Honorable H. Miller presented to the Council the following Paper:—

Memorandum of Distribution of the Public Account during the month of May, 1858.

Ordered to lie on the Table.

SUPERSEDED PERSONS IN THE PUBLIC SERVICE IN 1858.—The Honorable H. Miller laid on the Table, a Return to an Order of the Council on the 13th April.

POST OFFICE MONEY ORDERS BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable H. Miller moved, That the Bill be now read a second time.

Question—put and passed.

Bill read a second time.

Ordered—That the said Bill be now considered in Committee of the whole Council.

The President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same without any amendment.

The Honorable H. Miller moved, That the Report of the Committee be now adopted.

The President having reported that the Chairman of Committees had certified that the fair print of this Bill was in accordance with the Bill as reported, the Bill, on the motion of the Honorable H. Miller, read a third time and *passed*.

The Honorable H. Miller moved, That the title of the Bill be "*An Act to enable the Postmaster General to issue Money Orders in the Colony of Victoria.*"

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly, to acquaint them that the Council have agreed to the Bill without any amendment.

PUNISHMENT OF FRAUDS BILL.—SELECT COMMITTEE.—The Honorable J. B. Bennett, as Chairman of the Select Committee, appointed on the 20th May, on the Punishment of Frauds Bill, brought up the Report of the Committee, and moved that the same be printed, with the evidence taken before the said Committee.

Question—put and passed.

SUPERSEDED PERSONS IN THE PUBLIC SERVICE IN 1858.—The Honorable J. H. Patterson, with leave of the Council, without notice, moved, That the Return to the Order of this House of the 13th April last, laid on the Table this day, be printed, excepting such portions as are returned *nil*.

Question—put and passed.

TRANSFER OF LAND BILL.—SELECT COMMITTEE.—The Honorable J. B. Bennett, as Chairman of the Select Committee, appointed on the 23rd December, 1857, on the Transfer of Land Bill, brought up the Report of the Committee, and moved that the same be printed, with the evidence taken before the said Committee.

Question—put and passed.

AUDIT ACT AMENDMENT BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable H. Miller moved, That the Bill be now read a second time.

Amendment moved by the Honorable T. H. Fellows, That the word "now" be omitted, with the view to add the words "this day six months" after the word "time."

Debate ensued.

Amendment and motion, by leave, withdrawn.

ADJOURNMENT.—The Honorable H. Miller, with leave of the Council, moved, without notice, That the House at its rising adjourn until a quarter to three o'clock to-morrow.

Question—put and passed.

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.—The President announced to the Council the receipt of the following Messages from the Legislative Assembly:—

MR. PRESIDENT—

The Legislative Assembly return to the Legislative Council a Bill intituled "*An Act to amend an Act intituled 'An Act to establish a Board of Land and Works,'*" and acquaint the Legislative Council that they have agreed to the amendments made therein by the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chamber,  
Melbourne, 3rd June, 1858.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill intituled "*An Act to abolish Imprisonment for Debt in certain cases and to alter and amend the Law relating to Common Assaults,*" to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chamber,  
Melbourne, 3rd June, 1858.

IMPRISONMENT FOR DEBT ABOLITION BILL.—The Honorable J. Hood moved, That this Bill be now read a first time.

Question—put.

Council divided.

Contents, 5.  
The Hon. J. Henty  
Dr. Tierney  
J. Hood  
J. H. Patterson  
T. McCombie (*Teller*).

Not Contents, 12.  
The Hon. C. Vaughan  
G. Urquhart  
M. Hervey  
J. P. Fawkner  
J. Cowie  
T. H. Power  
J. F. Strachan  
J. Hodgson  
N. Guthridge  
W. Highett  
W. Roope  
T. H. Fellows (*Teller*).

The question was therefore negatived.

The Council adjourned at twenty minutes past five o'clock until a quarter to three o'clock on Friday, the 4th instant.

## MEETING

OF

# SELECT COMMITTEE.

*Tuesday, 8th June.*

ELECTIONS AND QUALIFICATIONS—at 10 o'clock.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*





Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

FRIDAY, 4TH JUNE, 1858.

The Council met in accordance with adjournment.—The President took the Chair.

The President read the Prayer.

NUMBERING OF RESERVED ACTS.—APPROVAL OF JOINT STANDING ORDER.

The President announced to the Council that His Excellency had been pleased to approve of the Joint Standing Order adopted by both Houses of Parliament on the subject of numbering Reserved Acts.

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.—The Honorable H. Miller laid upon the Table, by command of His Excellency the Governor, the following Message:—

VICTORIA.

*Act of Parliament.—Royal Assent.*

HENRY BARKLY,  
Governor.

*Message, No.*

Pursuant to the Act of the Imperial Parliament, 5 and 6 Victoria, chapter 76, sec. 33, the Governor acquaints the Legislative Council that the Right Honorable the Secretary of State for the Colonies has transmitted in a Despatch, bearing date the 14th of February, 1858, No. 14, the accompanying Order of the Queen in Council, confirming an Act passed by the Parliament of Victoria in the twenty-first year of Her Majesty's Reign, intituled, "*An Act for the Enforcement of Claims against the Crown.*"  
Government Offices, Melbourne,  
4th June, 1858.

*At the Court at Buckingham Palace, the 3rd day of February, 1858.*

PRESENT:

The Queen's Most Excellent Majesty.  
His Royal Highness the Prince Consort.

Lord Chancellor  
Lord President  
Lord Privy Seal  
Duke of Argyll  
Lord Chamberlain  
Marquis of Abercorn  
Lord Steward  
Earl of Clarendon

Viscount Palmerston  
Lord Panmure  
Mr. Labouchere  
Sir George Grey, Bt.  
Mr. Vernon Smith  
Sir Charles Wood, Bt.  
Mr. Baines.

Whereas by an Act passed in the fifth and sixth years of Her Majesty's reign, entitled, "*An Act for the Government of New South Wales and Van Diemen's Land,*" it is amongst other things enacted, that no Bill which shall be reserved for the signification of Her Majesty's pleasure thereon shall have any force or authority within the Colony of New South Wales until the Governor of the said Colony shall signify, either by speech or message to the Legislative Council of the said Colony, or by proclamation as therein aforesaid, that such Bill has been laid before Her Majesty in Council, and that Her Majesty has been pleased to assent to the same: And whereas by another Act passed in the thirteenth and fourteenth years of Her Majesty's reign, entitled, "*An Act for the better Government of Her Majesty's Australian Colonies,*" it was provided, among other things, that the provisions of the said former Act concerning the reservation of Bills for the signification of Her Majesty's pleasure thereon should apply to and be in force in the Colony of Victoria: And whereas the said provisions were maintained in force as regards Bills passed by the Legislative Council and Legislative Assembly of the said Colony by a subsequent Act passed in the eighteenth and nineteenth years of the Reign of Her said Majesty, entitled, "*An Act to enable Her Majesty to assent to a Bill as amended of the Legislature of Victoria to establish a Constitution in and for the Colony of Victoria:*"

And whereas on the 27th of August, 1857, the Governor of the said Colony of Victoria reserved a certain Bill passed by the Legislative Council and Legislative Assembly of the said Colony, entitled, "*An Act for the Enforcement of Claims against the Crown*," for the signification of Her Majesty's pleasure thereon: And whereas the said Bill so reserved as aforesaid has been laid before Her Majesty in Council, and it is expedient that the said Bill should be assented to by Her Majesty: Now, therefore, Her Majesty, in pursuance of the said Acts, and in exercise of the powers thereby reserved to Her Majesty as aforesaid, doth by this present Order, by and with the advice of Her Majesty's Privy Council, declare her assent to the said Bill.

And the Right Honorable Henry Labouchere, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

WM. L. BATHURST.

The Message and the Order in Council were read.

APPROACH OF HIS EXCELLENCY THE GOVERNOR.—The approach of His Excellency the Governor was announced by the Usher.

PAPERS.—The Honorable H. Miller presented to the Council the following Paper:—

Railway Loan—Correspondence respecting the negotiation of the proposed Railway Loan,—and moved that the same be printed.

Question—put and passed.

The Honorable J. P. Fawkner moved, That the correspondence be now read.

Motion by leave withdrawn.

WITHHOLDING THE ROYAL ASSENT FROM A BILL, RESERVATION OF A BILL FOR THE SIGNIFICATION OF HER MAJESTY'S PLEASURE, AND ROYAL ASSENT TO BILLS.—His Excellency the Governor came into the Council Chamber and commanded the Usher to desire the attendance of the Legislative Assembly in the Council Chamber;

Who, being come with their Speaker, Mr. Speaker made a speech to His Excellency.

His Excellency was then pleased to withhold the Royal Assent from the following Bill, viz., a Bill intituled—

*"An Act to shorten the duration of the Legislative Assembly,"*

The withholding of the Royal Assent being read by the Clerk of the Parliaments in the following words:—

"In the name and on behalf of Her Majesty I withhold the Royal Assent from this Bill.  
"HENRY BARKLY,  
"Governor."

His Excellency was then pleased to reserve for the signification of Her Majesty's pleasure thereon the following Bill, viz., a Bill intituled—

*"An Act to explain to whom the term 'Crown' as used in certain cases shall apply."*

His Excellency was then pleased to assent in the name of Her Majesty the Queen to the following Bills:—

*"An Act to amend an Act intituled 'An Act to authorize the construction of a*

*"Main Trunk Line of Railway from Melbourne to the River Murray and of a*

*"Main Trunk Line of Railway from Geelong to Ballaarat."*

*"An Act more effectually to facilitate proceedings in the Colony of Victoria by and*

*"against a certain banking Company called the 'Union Bank of Australia' and*

*"for other purposes therein mentioned."*

*"An Act to amend an Act intituled 'An Act for making and improving Roads in*

*"the Colony of Victoria."*

*"An Act to amend the Laws relating to Particular Friendly Societies."*

*"An Act to restrict the Boundaries of the Town of Geelong and to make further*

*"provision for defining the Wards thereof."*

*"An Act for preventing the careless use of Fire."*

*"An Act to facilitate the formation of Mining Associations and to amend and extend*

*"the provisions of an Act passed in the eighteenth year of the reign of Her*

*"present Majesty intituled 'An Act for the better regulation of Mining*

*"Companies and to render certain Preferable Liens and Mortgages of*

*"Personalty by Miners and Mining Companies valid without delivery and*

*"for other purposes."*

*"An Act to incorporate a Company to be called the 'Geelong Gas Company' and*

*"for other purposes."*

*"An Act to amend 'An Act to establish a Board of Land and Works.'"*

*"An Act to amend an Act intituled 'An Act to establish a Board of Commissioners*

*"for the better Sewerage and Drainage of the City of Melbourne and for*

*"supplying Water thereto and to the Suburbs thereof."*

*"An Act to enable the Postmaster General to issue Money Orders in the Colony*

*"of Victoria."*

The Royal Assent being read severally by the Clerk of the Parliaments in the following words :—

“ In the name and on behalf of Her Majesty I assent to this Act.

“ HENRY BARKLY,  
“ Governor.”

The Clerk of the Parliaments delivered to Mr. Speaker schedules, of the Bill from which the Royal Assent was withheld, of the Bill reserved, and of the Acts assented to.

His Excellency was then pleased to speak as follows :—

MR. PRESIDENT AND HONORABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL,

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY,

I rejoice that I am at length enabled to release you from your attendance in Parliament. Owing to the short duration of the recess, after a very protracted Session, you have been called upon to attend to your Parliamentary duties, with very little intermission, for upwards of nineteen months. Upon the inauguration of a new Constitution, and with the Ministerial changes that have taken place, this was, perhaps, unavoidable. Moreover, the great and continued increase of the population of this country, and the rapid development of its resources, under circumstances almost unprecedented, necessarily gave birth to a large amount of legislation, of a new and experimental character. This could not be effected without a more than ordinary demand upon your time and labor. The cheerfulness with which you have applied yourselves to the legislative business of the country during the lengthened period to which I have alluded, claims from me an expression of the very high sense I entertain of the zealous assiduity with which you have devoted yourselves to the Public Service.

It will be within your recollection that the principal object which I had in view in calling you together in December last, was that of laying before you certain measures for the amendment of the Constitution. I then announced that it was not the intention of my advisers to submit for your consideration any subjects in respect of which legislation was not immediately required. My present advisers upon taking office concurred in that view, the more especially as the recent extension of the franchise rendered it both just and necessary that measures of importance affecting the interests and welfare of the whole community should be considered by a Parliament elected upon the broader basis of the extended franchise. This view has been as far as practicable observed. The Bill for altering the Electoral Districts of the country and for increasing the number of Members of the Assembly, passed by the House into which it was introduced, and the constitution of which it exclusively affected, has not secured the concurrence of the Legislative Council. I have no desire to interfere with the deliberations of either House of Parliament on the subject. It must, however, be obvious to you that in the present state of the constitution representation is very unequally distributed, whilst the present Legislative Assembly is too limited in point of numbers for the proper conduct of the legislative business of the country; it will therefore be the duty of my responsible advisers immediately upon the re-assembling of Parliament, again to introduce the Bill in question for your consideration.

The Bill for shortening the duration of Parliament was passed by the Assembly without the concurrence of a majority of the whole House. I have been advised that such a majority was necessary under the Constitution Act, and that it was also requisite that it should be reserved for the signification of Her Majesty's pleasure.

To have transmitted to the Secretary of State a Bill which had been irregularly passed, would have been to incur the risk of having it returned to me for re-introduction. As a means of avoiding this delay, I have disallowed it, with a view to its early introduction in the ensuing Session. As it could not take effect, even with the present Parliament, until the end of next year, this delay will be of no consequence, and it can be re-enacted, reserved, and received back from England, long before the earliest possible period for its operation can arise.

The other Bills which have been passed during the present Session, and to which I have given Her Majesty's assent, though not involving questions of constitutional importance, are nevertheless of a valuable character.

The Bill for the Simplification of the Oaths of Office places persons of all religious denominations on a footing of equality, and its enactment will, I have no doubt, promote, as intended, the harmony and welfare of Her Majesty's subjects in this Colony.

The Bill to facilitate the formation of Mining Associations has been framed with especial reference to the requirements of the mining community, and will, I trust, be found to promote that co-operation of capital and labor without which no productive industry can flourish.

The Bill to enable me to appoint a Vice-President of the Board of Land and Works has been rendered necessary by the great increase which has taken place in the business of the departments under the control of that Board, consequent upon the commencement of the great trunk lines of railway. I trust it will be found to relieve the responsible head of that department from a portion of his arduous labors.

The other Bills to which I have assented, in Her Majesty's name, though of a highly useful character, need no particular observation from me. They bear witness, however, to the care with which you have considered the public welfare.

Since the passing of the Acts of the last Session for the construction and maintenance of Railways, active measures have been adopted for carrying their provisions into immediate operation.

A contract has been taken for the construction of the main trunk line from Melbourne to Sandhurst, and the works will be commenced and prosecuted without delay.

The tenders for the line from Geelong to Ballarat were, in the first instance, such as it was not deemed advisable to accept, and the line and sections were re-advertised. New tenders have been opened, and there seems no reason to doubt that the Government will be enabled to carry on this important line concurrently with that from Melbourne to Sandhurst.

Negotiations have been for some time pending for the disposal of the debentures, which you have authorised to be issued. A communication was addressed in December last to the eminent house of Baring Brothers, inviting them to state the terms on which they might be disposed to negotiate the whole of the loan. A communication was received from them in reply, which reached me in April last, to the effect that they would send a confidential agent to this country with full powers to treat with this Government on the subject. In consequence of this communication, my advisers suspended all action in the matter until the arrival of the agent, which took place in May, when he immediately placed himself in communication with the Government. The terms he was enabled to offer were, however, deemed by my advisers to be not of a sufficiently advantageous character to justify them in recommending their acceptance.

In the mean time certain proposals were made by our principal Banking institutions, and after some negotiations an arrangement has been finally concluded, upon a basis which will, I hope, prove very satisfactory. I have directed that the whole of the correspondence on the subject should be laid before both Houses of Parliament. You will find that precautions have been taken to secure ample means for the purpose of carrying on the great works you have authorised, without interruption or delay, and to effect this with as little disturbance as possible to the ordinary relations of commerce.

The importance of these measures cannot be over estimated; they will receive the unremitting attention of myself and my advisers during the recess, and the fullest information as to their progress will be from time to time communicated to Parliament.

The line of Electric Telegraph has been completed from Melbourne to Adelaide, and would have been opened to the public but for an accident to a portion of the line on the Adelaide side, the exact particulars of which have not yet reached this Government. The line to Sydney is nearly completed, and both will be opened to the public in a few weeks. Negotiations have also been brought to a successful issue for the telegraphic connection of Victoria with Tasmania, but from the difficulties in the way of determining the most safe line of deposit for the submarine cable some time must necessarily elapse before the work itself can be brought to a successful termination. No labor will be spared by my advisers in carrying forward these great public improvements, so essential to our material and social progress.

During the recess I shall otherwise avail myself of the powers which I possess to effect all such improvements as I am competent to carry out without further legislative aid from you. It will be my earnest endeavor to urge upon the Imperial Government the necessity of enforcing a more faithful performance of the contract for the mail service between England and Australia.

GENTLEMEN OF THE LEGISLATIVE ASSEMBLY,

I thank you for the readiness and liberality with which you have voted the supplies necessary for the public service. It will be my duty to administer the expenditure with due regard to economy and the efficiency of the public departments.

I am happy to be able to inform you that the revenue and the public credit are in a most satisfactory condition. The large proportion of the consolidated revenue which you have felt yourselves justified in devoting to public works of a beneficial nature, bears witness to the extent of the available surplus over and above the ordinary expenditure of the Government.

It is gratifying to find that the temporary check to our commercial prosperity, caused by the embarrassment which recently prevailed in England, has passed rapidly away, and there seems every reason to hope that our present satisfactory financial condition will be long maintained.

HONORABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY,

I now dismiss you to your homes and your private affairs. In future it will be my earnest endeavor to fix the periods of the meeting of Parliament at such a period of the year as will conduce, as much as possible, to your convenience. At the same time, it will be the duty of my advisers to present the measures of Government for your consideration, in such manner as to afford you the opportunity of reducing the Sessions within reasonable limits.

The evils of a protracted Session are not confined to the exacting of sacrifices from you which may operate very seriously upon your private affairs. An almost perpetual Session operates most injuriously on the administrative business of the country, scarcely

second in importance to that of legislation. Time is necessary not merely for the preparation of those legislative measures which the growing wants of the community require, but for the successful execution of those great measures of material and social improvement which your legislation has initiated. In the arduous duty of carrying these improvements into execution, I need hardly assure you that my advisers will receive at my hands the most active and earnest co-operation and support.

I now, in Her Majesty's Name, declare this Parliament to be prorogued to the 8th day of July.

HENRY BARKLY.

Which being concluded, a copy of the Speech was delivered to the President of the Council, and to Mr. Speaker, and the Legislative Assembly withdrew.

His Excellency the Governor left the Council Chamber.

G. W. RUSDEN,

*Clerk of the Council and Clerk of the Parliaments.*

# SELECT COMMITTEES

## APPOINTED DURING SESSION 1857-8.

---

### 1.—ADDRESS IN REPLY TO THE GOVERNOR'S OPENING SPEECH.

Appointed 3rd December, 1857.

The Hon. W. H. F. Mitchell „ T. McCombie „ T. H. Power „ W. Highett		The Hon. J. Hood „ J. B. Bennett „ H. Miller ( <i>Mover</i> ).
--	--	--

### 2.—REFRESHMENT ROOMS.—(JOINT COMMITTEE.)

Appointed 3rd December, 1857.

The Hon. W. Highett „ J. Stewart „ S. G. Henty		The Hon. J. H. Patterson „ J. Hodgson.
--	--	---

### 3.—ELECTIONS AND QUALIFICATIONS.

Appointed by "President's Warrant," 15th December, 1857.

The Hon. J. B. Bennett „ J. P. Fawcner „ S. G. Henty „ Dr. Hope		The Hon. W. H. F. Mitchell „ T. H. Power „ C. Vaughan.
--	--	--

### 4.—STANDING ORDERS.

Appointed 15th December, 1857.

The Hon. The President „ J. B. Bennett „ J. Hood		* The Hon. H. Miller „ T. McCombie ( <i>Mover</i> ).
--	--	---

\* Re-appointed 8th April, 1858.

### 5.—PARLIAMENT BUILDINGS.—(JOINT COMMITTEE.)

Appointed 15th December, 1857.

The Hon. The President „ J. Hodgson „ * H. Miller		The Hon. J. Hood „ W. H. F. Mitchell ( <i>Mover</i> ).
---	--	---

\* Re-appointed 8th April, 1858.

### 6.—LIBRARY.—(JOINT COMMITTEE.)

Appointed 15th December, 1857.

The Hon. The President „ W. H. F. Mitchell „ J. P. Fawcner		The Hon. Dr. Hope „ J. Hodgson ( <i>Mover</i> ).
--	--	---

### 7.—FEDERATION.

Appointed 22nd December, 1857.

The Hon. W. H. F. Mitchell „ J. F. Strachan „ * H. Miller „ G. Urquhart		The Hon. J. H. Patterson „ J. Hood „ † The President „ T. McCombie ( <i>Mover</i> ).
--	--	---

\* Re-appointed 8th April, 1858. † Appointed 23rd December, 1857.

8.—TRANSFER OF LAND BILL.

Appointed 23rd December, 1857.

The Hon. W. H. F. Mitchell	The Hon. T. H. Power
„ T. McCombie	„ Dr. Hope
„ W. Highett	„ J. Henty
„ J. F. Strachan	„ J. B. Bennett
„ J. Hood	„ * H. Miller ( <i>Mover</i> ).

\* Re-appointed 8th April, 1858.

9.—PRINTING.

Appointed by Ballot, 27th January, 1858.

The Hon. T. H. Power	The Hon. * H. Miller
„ W. H. F. Mitchell	„ J. P. Fawcner ( <i>Mover</i> ).
„ J. Henty	

\* Re-appointed 8th April, 1858.

10.—MARRIAGE BILL.

Appointed 10th March, 1858.

The Hon. The President	The Hon. W. Roope
„ J. B. Bennett	„ Dr. Tierney
„ N. Guthridge	„ C. Vaughan
„ J. Hodgson	„ J. Hood ( <i>Mover</i> ).

11.—GAMBLING LOTTERIES.—ADDRESS.

Appointed 13th April, 1858.

The Hon. J. Hodgson	The Hon. J. Henty
„ T. H. Power	„ T. McCombie
„ J. B. Bennett	„ J. P. Fawcner ( <i>Mover</i> ).

12.—GUN BOATS FOR THE PROTECTION OF THE COAST.

Appointed 5th May, 1858.

The Hon. M. Hervey	The Hon. J. P. Fawcner
„ T. H. Power	„ J. Hood
„ T. McCombie	„ G. Urquhart ( <i>Mover</i> ).
„ J. H. Patterson	

13.—PUNISHMENT OF FRAUDS BILL.

Appointed 20th May, 1858.

The Hon. T. McCombie	The Hon. W. Highett
„ J. F. Strachan	„ M. Hervey
„ T. H. Power	„ J. B. Bennett ( <i>Mover</i> ).

14.—MARRIAGE OF PRINCESS ROYAL.—ADDRESS.

Appointed 26th May, 1858.

The Hon. The President	The Hon. T. McCombie
„ J. Henty	„ H. Miller ( <i>Mover</i> ).
„ J. Cowie	

VICTORIA.

# LEGISLATIVE COUNCIL.

SESSION 1857-8.

## WEEKLY REPORT OF DIVISIONS

IN

## COMMITTEE OF THE WHOLE COUNCIL.

No. 1.

Extracted from the Minutes.

TUESDAY, 23RD FEBRUARY, 1858.

### No. 1.—SUPREME COURT, TERMS, SITTINGS, AND HOLIDAYS BILL.—

Motion made and question put—That the Chairman report progress and ask leave to sit again to-morrow.—(*Honorable J. P. Fawkner.*)

Committee divided.

Contents, 9.  
The Hon. The President  
J. P. Fawkner  
D. P. Keogh  
J. Stewart  
T. McCombie  
Dr. Tierney  
J. Hood  
J. Cowie  
J. F. Strachan (*Teller*).

Not Contents, 14.  
The Hon. H. Miller  
G. Urquhart  
W. H. F. Mitchell  
M. Hervey  
J. H. Patterson  
T. H. Power  
D. Kennedy  
J. B. Bennett  
W. Highett  
N. Guthridge  
W. Roope  
Dr. Hope  
B. Williams  
C. Vaughan (*Teller*).

### No. 2.—MARRIAGE BILL.—Clause II.—No marriages shall be celebrated except by some minister of religion ordinarily officiating as such whose name designation usual residence and the church or chapel in which he officiates shall have been registered and shall then continue registered in the office of the registrar general for births deaths and marriages in Victoria.

Motion made and question put—That this clause be postponed.—(*Honorable J. B. Bennett.*)

Committee divided.

Contents, 9.  
The Hon. J. B. Bennett  
H. Miller  
D. P. Keogh  
J. H. Patterson  
T. H. Power  
W. Highett  
J. Stewart  
N. Guthridge  
W. H. F. Mitchell (*Teller*).

Not Contents, 10.  
The Hon. C. Vaughan  
G. Urquhart  
M. Hervey  
Dr. Hope  
J. Hood  
J. P. Fawkner  
J. Cowie  
W. Roope  
Dr. Tierney  
J. F. Strachan (*Teller*).



No. 3.—MARRIAGE BILL.—Clause II.—No marriages shall be celebrated except by some minister of religion ordinarily officiating as such whose name designation usual residence and the church or “*chapel*” in which he officiates shall have been registered and shall then continue registered in the office of the registrar general for births deaths and marriages in Victoria.

Motion made and question put—That after the word “*chapel*,” in the third line of the above clause, the following words be inserted, “*or other place of public worship*.”—  
(*Honorable J. B. Bennett.*)

Committee divided.

Contents, 7.  
The Hon. J. B. Bennett  
H. Miller  
D. P. Keogh  
W. Highett  
J. Stewart  
Dr. Tierney  
W. H. F. Mitchell (*Teller.*)

Not Contents, 13.  
The Hon. J. Hood  
G. Urquhart  
J. H. Patterson  
M. Hervey  
C. Vaughan  
J. P. Fawcner  
J. F. Strachan  
J. Cowie  
W. Roopo  
T. H. Power  
N. Guthridge  
The President  
Dr. Hope (*Teller.*)

VICTORIA.

---

LEGISLATIVE COUNCIL.

---

SESSION 1857-8.

---

WEEKLY REPORT OF DIVISIONS  
IN  
COMMITTEE OF THE WHOLE COUNCIL.

---

No. 2.

---

Extracted from the Minutes.

---

---

WEDNESDAY, 3RD MARCH, 1858.

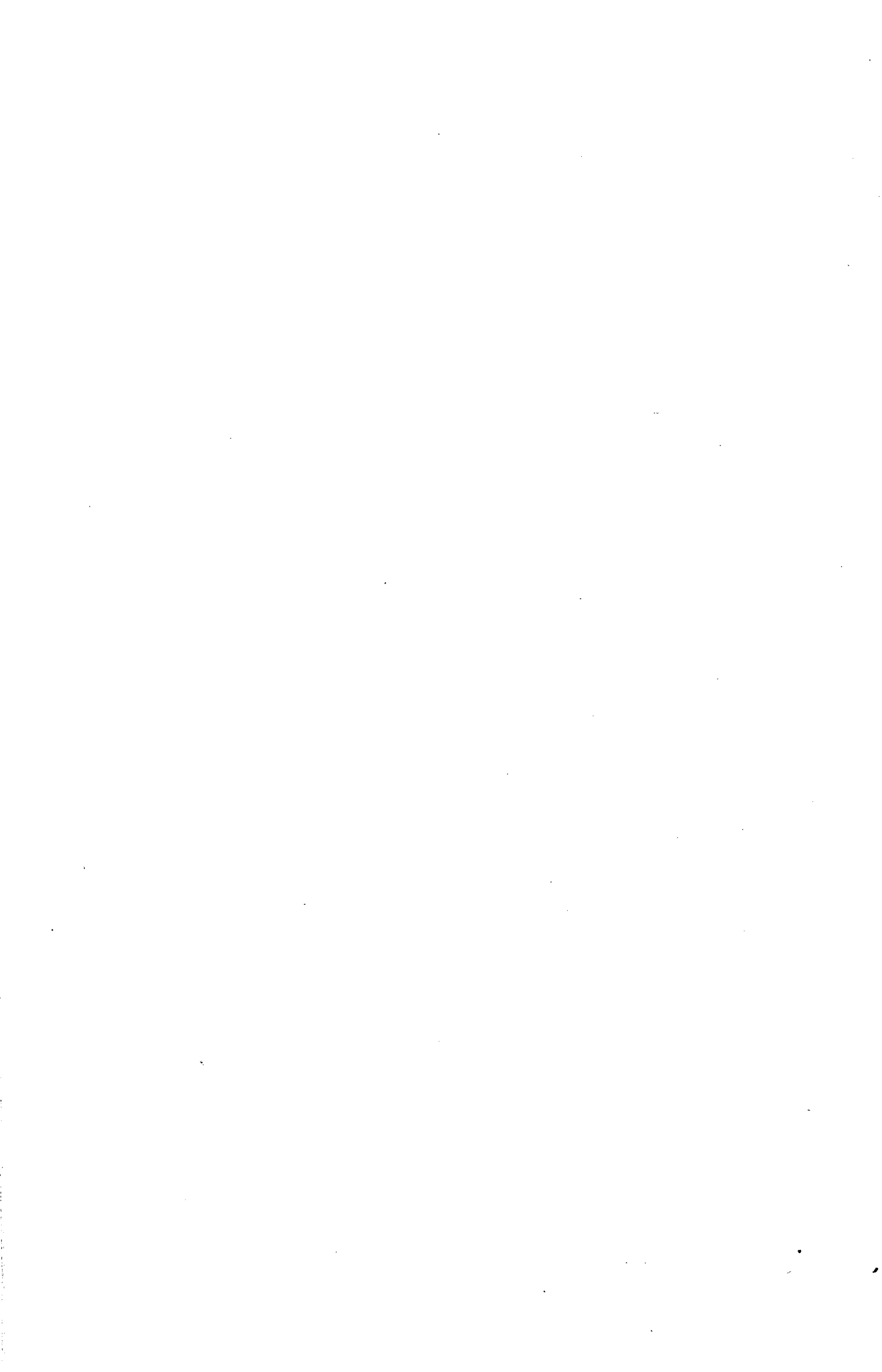
No. 1.—MARRIAGE BILL.—Clause IV.—No marriage shall be “*celebrated*” until after a declaration (upon oath or solemn affirmation) shall have been made before the minister registrar or deputy registrar who are hereby severally authorized and required to administer such oath or affirmation celebrating the marriage by each of the parties to be married in the form set forth in the schedule hereto marked D.

Motion made and question put—That after the word “*celebrated*,” in the first line of the above clause, the following words be inserted, “*by a registrar or deputy registrar.*”—  
(*Honorable J. B. Bennett.*)

Committee divided.

Contents, 4.  
The Hon. The President  
J. B. Bennett  
Dr. Tierney  
N. Guthridge (*Teller.*)

Not Contents, 6.  
The Hon. G. Urquhart  
J. Hood  
C. Vaughan  
J. P. Fawkner  
W. Roope  
J. F. Strachan (*Teller.*)



VICTORIA.

# LEGISLATIVE COUNCIL.

SESSION 1857-8.

## WEEKLY REPORT OF DIVISIONS

IN

## COMMITTEE OF THE WHOLE COUNCIL.

No. 3.

Extracted from the Minutes.

TUESDAY, 4TH MAY, 1858.

No. 1.—MARRIAGE BILL.—Clause VI.—And it shall not be lawful for any civil officer appointed under the provisions of this Act to celebrate any marriage on Sundays or holidays or on week days except between the hours of eight o'clock in the forenoon and four in the "afternoon" nor unless the parties about to be married shall have given him written notice of their intended marriage and such notice shall have been posted in his office or the nearest police office at least fourteen days before the performance of such marriage and any such officer neglecting or refusing to post such notice shall be declared guilty of a misdemeanor and punishable accordingly.

Motion made—That all the words after the word "afternoon," in the fourth line of the above clause, be struck out.—(*Honorable J. P. Fawcner.*)

Question—That the words proposed to be struck out be so struck out—put.

Committee divided.

Contents, 7.  
The Hon. R. Thomson  
Dr. Hope  
G. Urquhart  
M. Hervey  
J. P. Fawcner  
C. Vaughan  
J. Hood (*Teller*).

Not Contents, 7.  
The Hon. T. McCombie  
J. B. Bennett  
N. Guthridge  
J. H. Patterson  
W. Roope  
Dr. Tierney  
J. Hodgson (*Teller*).

The Tellers having declared that the numbers for the Contents and for the Not Contents were respectively 7, or equal, the Deputy Chairman gave his vote for the Contents and declared the question to have passed.

THURSDAY, 6TH MAY, 1858.

No. 2.—MARRIAGE BILL.—Clause VI.—And it shall not be lawful for any civil officer appointed under the provisions of this Act to celebrate any marriage on Sundays or holidays or on week days except between the hours of eight o'clock in the forenoon and four in the "afternoon."

Motion made and question put—That after the word "*afternoon*," in the last line of the above clause, the following words be added, "*or unless the parties about to be married shall have given him written notice of their intended marriage and such notice shall have been posted in his office at least three days before the performance of such marriage and any such officer neglecting or refusing to post such notice shall be declared guilty of an illegal act and punished accordingly.*"—(Hon. W. Roope.)

Committee divided.

Contents, 7.  
 The Hon. J. Henty  
 The President  
 J. H. Patterson  
 J. B. Bennett  
 W. Roope  
 Dr. Tierney  
 T. McCombie (*Teller*).

Not Contents, 5.  
 The Hon. J. P. Fawkner  
 M. Hervey  
 T. H. Power  
 J. F. Strachan  
 J. Hood (*Teller*).

VICTORIA.

LEGISLATIVE COUNCIL.

SESSION 1857-8.

WEEKLY REPORT OF DIVISIONS  
IN  
COMMITTEE OF THE WHOLE COUNCIL.

No. 4.

Extracted from the Minutes.

THURSDAY, 13TH MAY, 1858.

No. 1.—SEWERAGE AND WATER ACT AMENDMENT BILL.—Clause IV.

Motion made and question put—That the Chairman report progress and ask leave to sit again on Tuesday.—(*Honorable J. Hood.*)

Committee divided.

Contents, 7.  
The Hon. T. McCombie  
J. P. Fawkner  
J. Stewart  
M. Hervey  
N. Guthridge  
G. Urquhart  
J. Hood (*Teller*).

Not Contents, 7.  
The Hon. T. H. Power  
J. H. Patterson  
J. B. Bennett  
B. Williams  
The President  
Dr. Tierney  
H. Miller (*Teller*).

The Tellers having declared that the numbers for the Contents and for the Not Contents were respectively 7, or equal, the Chairman gave his vote with the Not Contents, and declared the question to be negatived.

No. 2.—SEWERAGE AND WATER ACT AMENDMENT BILL.—Clause IV.

Motion made and question put—That the Chairman report progress and ask leave to sit again on Wednesday.—(*Honorable J. P. Fawkner.*)

Committee divided.

Contents, 7.  
The Hon. The President  
J. P. Fawkner  
G. Urquhart  
N. Guthridge  
B. Williams  
J. B. Bennett  
T. H. Power (*Teller*).

Not Contents, 5.  
The Hon. H. Miller  
J. Hood  
C. Vaughan  
Dr. Tierney  
J. H. Patterson (*Teller*).



VICTORIA.

---

# LEGISLATIVE COUNCIL.

---

SESSION 1857-8.

---

## WEEKLY REPORT OF DIVISIONS IN COMMITTEE OF THE WHOLE COUNCIL.

---

No. 5.

---

Extracted from the Minutes.

---

---

THURSDAY, 20<sup>TH</sup> MAY, 1858.

No. 1.—BOARD OF LAND AND WORKS ACT AMENDMENT BILL.—Clause II.—The Vice-President “*shall*” be liable to retire from office on political grounds and may be a member of either House of Parliament but shall not act as a member of the Executive Council and he shall receive in addition to any other annual sum that may be legally applied to his use an annual salary of one thousand pounds and such last-mentioned salary shall be a charge upon and paid out of the consolidated revenue after and subject to the payment and satisfaction of all other charges now by law permanently charged thereon.

Motion made and question put—That the word “*not*” be inserted after the word “*shall*” in the first line of the above clause.—(*Honorable J. F. Strachan.*)

Committee divided.

Contents, 11.  
The Hon. J. P. Fawcner  
T. H. Power  
M. Hervey  
W. H. F. Mitchell  
J. Cowie  
R. Thomson  
G. Urquhart  
W. Roope  
Dr. Hope  
N. Guthridge  
J. F. Strachan (*Teller*).

Not Contents, 9.  
The Hon. T. McCombie  
J. H. Patterson  
C. Vaughan  
J. Stewart  
J. Hood  
B. Williams  
W. Highett  
Dr. Tierney  
H. Miller (*Teller*).



1857-8.

---

VICTORIA.

---

# PATENT SLIP.

---

RETURN TO AN ORDER OF THE LEGISLATIVE COUNCIL.

THE HONORABLE J. HOOD.—10<sup>TH</sup> NOVEMBER, 1857.

---

“THAT the Report of the Board appointed some time since to inquire into and report upon the Capabilities of the Patent Slip, together with all Evidence or Correspondence relating thereto, be laid on the table of this House.”

---

LAI<sup>D</sup> UPON THE COUNCIL TABLE BY THE HONORABLE W. H. F. MITCHELL, AND  
ORDERED BY THE COUNCIL TO BE PRINTED, 23<sup>RD</sup> DECEMBER, 1857.

---

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

REGISTER NUMBER.	SUBJECT.
No. 1.	President of the Board of Land and Works requests the opinion of the Chief Harbor Master as to the expediency of the Patent Slip and the Marine Yard being made one establishment.
2.	Chief Harbor Master—Report in reference to the combination of the two establishments.
3.	President of the Board of Land and Works forwarding a further report from Mr. Birnie relative to the working of the Slip.
4.	Chief Harbor Master's reply to Mr. Birnie's report.
5.	Chief Harbor Master's report upon Graving Dock.
6.	Plan of the proposed arrangement of the Slip Yard and adjoining allotments.
7.	President of the Board of Land and Works appointing Mr. McCulloch as President of the Board, appointed to inquire into the best method of working the Slip.
8.	President of the Board of Land and Works appointing Charles Ferguson, Esq., a member of the above Board.
9.	President of the Board of Land and Works appointing Charles Ferguson, Esq., Chairman, <i>vice</i> James McCulloch, Esq., resigned.
10.	Chairman to G. Abernethy, Esq., Adelaide, inviting him to come to Melbourne for the purpose of personally inspecting the works in progress, and to furnish the Board with his professional opinion.
11.	Mr. Abernethy expressing his regret that his engagements will not permit him to accede to the request of the Board at present.
12.	{ Scale of Rates proposed by Mr. Birnie. George Birnie's report upon the capabilities and best method of working the Patent Slip.
13.	George Ross.—Reply to list of Queries.
14.	C. J. Perry. Ditto.
15.	B. R. Mathews. Ditto.
16.	William White. Ditto.
17.	Robert Wright. Ditto.
18.	A. Dove. Ditto.
19.	John Turpie. Ditto.
20.	J. Matheson. Ditto.
21.	Report of the Board.

# P A T E N T   S L I P .

---

No. 1.

57 | 759.

Public Works Office,  
Melbourne, 19th March, 1857.

SIR,

With reference to the works which you have represented to be necessary at the marine yard, Williamstown, I have the honor to inform you that it has been suggested that the patent slip and dock yard should be one establishment, and to request that you will favor Mr. Duffy with your opinion on such proposition; and should it be adopted, what alteration it will involve in carrying out the work applied for.

I have the honor to be,

Sir,

Your most obedient Servant,  
(Signed) THOS. C. BALMAIN.

The Chief Harbor Master.

---

No. 2.

57 | 50.

Port and Harbor Office,  
Williamstown, 25th March, 1857.

SIR,

I have the honor to acknowledge the receipt of your letter 759, dated 19th instant, having reference to certain repairs applied for by me to be effected at the marine yard here, and stating that a suggestion had been made to attach the dock yard to the patent slip, and requesting my opinion thereon.

Having in March and April, 1853, first brought the subject of a patent slip under the notice of the Government, and ever since that time taken a deep interest in furthering its progress by correspondence and otherwise, I am satisfied that, looking at the nature of the two establishments, it would be injudicious to attempt such a combination as that suggested. In the first place, the Government has been at a heavy expense in fencing in the present dock yard, and erecting various buildings thereon for the purpose of carrying on the repairs to Government vessels, boats, constructing of buoys, beacons, &c., custody of stores for lighthouses and outposts. These are all works connected with the Harbor Department, and in full operation at this moment, at least, as far as the state of the yard will permit; and to remove these buildings, even if the ground around the slip were in a condition to receive them, which it will not be for at least six months, would be a serious expense and no advantage gained, but, on the contrary, mischief done; as I am of opinion that, to hamper such a large establishment as the patent slip (from which the public expect so much) with the Government dock yard, would tend very much to prevent the former as a reproductive public work from realising so large a return as it ought.

I submit that the slip, with all the establishment connected therewith, should be leased say for a period of from three to five years, the lessee to be bound by regulations not to charge over a certain rate per ton for vessels on the slip, and bound to hand over the work in good order at the expiration of his lease. I think also that plans of the slip, with full particulars of works, conditions of lease, &c., should be drawn up and made public fully three months before the slip is finished, in order to allow capitalists and private companies to arrange their plans for competing for the lease.

For the foregoing reasons I beg that the repairs applied for in my letter may be authorised, as they are urgently required now that winter is approaching.

(Signed) CHARLES FERGUSON,  
Chief Harbor Master.

The Honorable the  
Commissioner of Public Works.

No. 3.

57 | 1172

Public Works Office,  
Melbourne, 29th April, 1857.

Sir,

Referring to my letter of the 19th March, and to your reply thereto of the 24th of that month, respecting a proposition of Mr. Birnie to attach the marine yard to the patent slip, I have now the honor to forward a further report of Mr. Birnie on the same subject, and to request your opinion thereon.

I have the honor to be,

Sir,

Your most obedient Servant,

(Signed) THOS. C. BALMAIN.

The Chief Harbor Master, Williamstown.

Sir,

Williamstown, 9th April, 1857.

I have carefully read Capt. Ferguson's letter, dated the 24th March, and inspected the marine dockyard, Williamstown, and have now the honor to report that the suggestion to attach the marine yard to the slip yard appears to me to offer many advantages.

The erection of a slip in any part of Hobson's Bay, and especially at the otherwise most suitable site now chosen, entailed such a considerable outlay as to preclude private enterprise undertaking such a work with any expectation of obtaining an adequate return; when therefore the Government undertook to supply such a desideratum, the public naturally expect the fullest advantage. This can only, in my opinion, be secured by allowing every applicant the use of the establishment in rotation at such a rate of charges as shall secure a sufficient income to keep the slip in efficient working order.

The charges of docking or hauling up a vessel on a slip form by no means the heaviest item incidental to her repairs, in fact are frequently only a small per centage; thus far, then, a monopoly, which the lease of the slip would certainly grant, would not be seriously felt, but the leasing of the slip would prohibit and totally exclude all competition amongst shipwrights for the repairs of the ship, as no one could effect the repairs but the fortunate leaseholder.

A monopoly would thus be created suicidal to public expectations and arising from a public expenditure.

In many of the ports of England and Scotland, where the erection of private docks and slips can be effected at a comparatively much less expense than in this port, the authorities have found it necessary for the protection of the ship owners and the advancement of their several ports to erect graving docks, which on the payment of certain fees they throw open to all. I submit the above as a strong argument against leasing the slip under our present circumstances, and thus prevent the existence of a monopoly which might tend to the prejudice of the Colony almost as much as the total want of facilities for effecting repairs. In the absence of the Harbor Trust, I would place the slip under the control of the Harbor Master, who should have an efficient staff, say one superintendent (a thorough carpenter) one engineer, eight shipwrights, four laborers, and one blacksmith, ready for the hauling up or launching of every vessel using the slip. When not thus employed, work might be found for them in the marine yard, where a nearly similar number of workmen are constantly employed, and if adjoining the slip yard no considerable loss of time would accrue in passing from one to the other.

I would separate the yards by a strong fence, and ample accommodation can be found in both for all their requirements, even when thus separated, and still leave a large portion of the reclaimed ground available for leasing to the public for the purpose of erecting blacksmiths', joiners', and sailmakers' establishments.

As the present marine yard could be very advantageously leased for a term of years, I would not advise the removal of either sheds or fence erected there, but would recommend the addition of the roof applied for, estimated at £162, and devote the remaining amount requisitioned for, amounting to £1181, to forming the new marine yard, where the near proximity to deep water would much facilitate the receiving and delivery of buoys constantly requiring repairs, render the laying down of the tramway for hauling up boats much less expensive, and offer many other advantages over the old yard too obvious to need mentioning.

I have the honor to be,

Sir,

Your most obedient Servant,

(Signed)

GEORGE BIRNIE,

Clerk of Works, Williamstown.

No. 4.

57. | 85.

Port and Harbor Office,  
Williamstown, 18th May, 1857.

Sir,

I have the honor to acknowledge the receipt of your letter, No. 1172, dated the 29th April, forwarding a report from Mr. Birnie embodying his views of the system to be adopted in working the patent slip at this place. Mr. Birnie's principal objection to the slip being leased,

as suggested in my letter No. 50, dated 25th March, seemed to arise from a dread that the lessee would have a complete monopoly of all repairs to vessels, which monopoly would work injuriously both to the ship owners using the slip and the ship owners of the port. I think these results might easily be guarded against in drawing up the conditions of the lease, by limiting the lessee's right to certain dues arising from hauling up, launching, &c., and a rate for each day while they remain on the slip, leaving the owner, master, or agent of vessels free to employ whomsoever they thought proper to effect the repairs, the lessee to be bound to allow such persons so employed free access to the slip yard. By a condition of this kind being inserted in the lease, full scope would be given to shipwrights and others to compete for the work required to vessels on the slip, as well as the lessee. By adopting this course, the objections raised by Mr. Birnie will be met, and the purpose for which this slip was undertaken be satisfactorily carried out, namely, affording secure and prompt means for vessels of large tonnage effecting repairs under water, without having, as hitherto, to proceed to Sydney or India for that purpose. This arrangement will, I believe, be found to work more satisfactorily than the method proposed by Mr. Birnie, which would throw the entire responsibility of the ship's safety upon the Government from the time she enters the cradle until she is again launched. Work of this nature is better adapted for a private company or person to undertake than the Government, and I can conceive many difficulties which would beset the latter in so doing, that the former would not have to contend with.

(Signed)

CHARLES FERGUSON,  
Chief Harbor Master.

The Hon. the President of the Board of Land and Works,  
Public Works Office.

---

No. 5.

Port and Harbor Office,  
Williamstown, 1st April, 1857.

SIR,

As it is probable that, at this particular time, the Government have under consideration the re-adjustment of the system of working the prisoners at Point Gellibrand, I beg to suggest that the subject of excavating the ground at the quarries there, so as to form the basin of a large graving dock hereafter, may be taken into consideration. The necessity for such a dock has been for years apparent, and in 1855 I forwarded a very able report furnished me by a Mr. Adams, now I believe engaged in the Survey Department, on the subject of docks, including a graving dock at the opposite side of the Point, and although the patent slip will, when finished, meet to a certain extent the wants of the port, yet I am certain that there will be a large proportion of the heavy vessels which the slip will not take up; and in the event of a casualty occurring to the slip under water, much time would necessarily be lost in effecting repairs, &c. As the sea frontage is very limited and is rapidly being appropriated at Gellibrand's Point, I respectfully submit that the ground now opened up as quarries is well situated, and adapted for the site of a large graving dock, and would suggest that it be surveyed, and a plan prepared, showing the amount of space required for the dock and necessary works, the whole space should then be enclosed either with stone or corrugated iron wall sufficiently high and strong to remain as a permanent enclosure round the works hereafter, and answer the purpose of confining the prisoners during the progression of the works; the inshore wall or fence to be continued right down from the quarries to the stone wharf now being constructed by the prisoners, so as to divide penal from railway works, and towers erected for the sentries, elevated so as to enable them to command the works.

I am aware that the construction of a graving dock, which I have briefly drawn your attention to, is a work of great magnitude, involving heavy expenditure and many points of engineering skill, all calling for careful consideration; but seeing that, whatever may be the ultimate decision of the Government as to keeping the prisoners in hulks or otherwise, a considerable length of time must elapse before any material change can be effected, and by removing all the incorrigibly bad and really disaffected prisoners from the other three hulks to the *President* and mooring her in her former position at the head of the bay as a punishment hulk, I am of opinion that the other prisoners might be landed and worked as hitherto on shore; and therefore have at this time brought the subject of a graving dock before the Government, as I cannot look upon the growing increase of our shipping interests, and the strenuous exertions made both by public and private enterprise in Sydney to increase facilities for repairing and refitting ships of all classes, especially those of heavy tonnage, without earnestly soliciting the attention of the Government to a matter of such importance to our future maritime interests.

In Sydney the Government have constructed a large graving dock capable of docking a ship 300 feet long; this dock has been principally built by convict labor. There is also another large private graving dock and two or three patent slips, one belonging to the A. S. Navigation Company, nearly as large as the one we are now laying down.

The fact of Sydney possessing these docks, and our want of them, it is well known, decided the mail contractors to select Sydney as the head quarters in these waters, and there are innumerable instances on record of vessels which, at a great expense, have had to leave

this port and go to Sydney to repair and refit, for these reasons; and the fact that, with the exception of the space between the railway and stone wharf, there is no other site in Hobson's Bay adapted for a large graving dock. I most respectfully urge this subject upon the consideration of the Government.

(Signed) CHARLES FERGUSON,  
Chief Harbor Master.

The Hon. the Commissioner of Trade and Customs.

Referred to the Honorable the Commissioner of Public Works.  
9th April, 1857.

I believe the prisoners will be more usefully employed for a long time to come in the extension of the jetties; but I would suggest that this be referred for the consideration of the board recently appointed to make inquiries relative to the patent slip.

6th July, 1857. (Signed) C. PASLEY.

Referred to the board appointed to report on the patent slip.

10th July, 1857. J. McCULLOCH.  
The Chief Harbor Master.

That portion of the report having reference to the necessity for immediate measures being taken to construct a graving dock, the Board entirely concur with. Upon the question of site for such dock they are not prepared to give an opinion, but beg to refer to their report forwarded this day to the Honorable the President of the Board of Land and Works.

(Signed) CHARLES FERGUSON,  
Chairman.  
20th July, 1857.  
24th October, 1857.  
J. McCULLOCH.

[No. 6 not printed.]

No. 7.

[COPY.]

57 | 1771.

Public Works Office,  
Melbourne, 24th June, 1857.

SIR,

The Hon. J. McCulloch,  
Chairman.  
J. G. Francis, Esq.  
Capt. Ferguson.

I have the honor to inform you that His Excellency the Governor has been pleased to appoint you to be Chairman of a Board, composed of the gentlemen named in the margin, for the purpose of inquiring into and reporting on the best method of conducting the management of the patent slip, and as to the capabilities of the slip to meet the requirements of this port.

I have the honor to request you will place yourself in communication with the members of the board, and name the days on which it may be convenient for you to sit, and to be,

Sir,

Your most obedient Servant,  
(Signed) DAVID MOORE,  
President of the Board of Land and Works.

The Hon. J. McCulloch, M.P.,  
Commissioner of Trade and Customs.

No. 8.

*President of Board of Land and Works. Chief Harbor Master appointed on Board on Patent Slip.*

No. 56 | 6. 26th June, 1857.  
57 | 1773.

Public Works Office,  
Melbourne, 24th June, 1857.

SIR,

The Hon. J. McCulloch,  
M.P., Chairman.  
J. G. Francis, Esq.  
Capt. Ferguson.

I have the honor to inform you that His Excellency the Governor has been pleased to appoint you a member of the board formed for the purpose mentioned in the accompanying copy of a letter addressed to the Honorable J. McCulloch as chairman of such board.

I have the honor to be,

Sir,

Your most obedient Servant,  
DAVID MOORE,  
President of Board of Land and Works.

The Chief Harbor Master,  
Williamstown.

## No. 9.

*Commissioner of Public Works forwarding appointment to Chief Harbor Master as Chairman of the Patent Slip Board.*

No. 57 | 84.

57 | 2284. 1st August, 1857.

Public Works Office,  
Melbourne, 30th July, 1857.

SIR,

Referring to a letter addressed to you from this office, dated 24th June last, I have the honor to inform you that the Honorable James McCulloch has represented that he is under the necessity of resigning his seat as chairman of the patent slip board.

I have therefore to acquaint you that His Excellency the Governor has been pleased to appoint you to be chairman of such board.

I have the honor to be,

Sir,

Your most obedient Servant,

C. Ferguson, Esq.,  
Chief Harbor Master.

C. PASLEY.

## No. 10.

Port and Harbor Office,  
Williamstown, 20th August, 1857.

SIR,

The Government of Victoria are now laying down a large patent slip at Gellibrand's Point, in Hobson's Bay, and have appointed a board to inquire into and report upon the best method of conducting the management of the slip, and its capability to meet the maritime requirements of this port; for which purpose the board are desirous to obtain, in addition to the evidence already received, your professional opinion, believing that your past experience in England will have put you in possession of valuable information upon the subject referred to them.

I have been requested to ask whether you can, consistently with your engagements in Adelaide, come here and personally inspect the works now in progress in connection with the patent slip, and furnish the Board with your professional opinion upon the aforementioned subject referred to them.

I may remark that the slip is one of Morton's patent, the machinery part on the ground and part on board a hulk; the earthwork above high-water is all prepared, the engine-house in course of erection, the piles upon which the sunken frame will rest are all driven from high-water mark out to extreme end of slipway, and as the season advances the works under water are expected to progress rapidly. You will therefore be good enough to answer this letter as early as possible, in order that, if it is not in your power to come, the board may not delay their report.

(Signed)

CHARLES FERGUSON,

G. Abernethy, Esq., Adelaide.

Chairman.

## No. 11.

[COPY.]

Port Adelaide, 29th August, 1857.

SIR,

I have the honor to acknowledge the receipt of your letter No. 205, dated 20th August, and beg in reply to state that we are just about prepared with a dredging-machine to test the possibility of removing the bar of this harbor, and it would just at present interfere with my engagements to be absent at this particular time; but in course of a few weeks this would not be the case, and I would then be able to comply with the request of your Board. In the meantime, I shall be happy to furnish a report on the slip, if the ways, &c., and plan of site, with a brief description, were forwarded to me. I shall be glad to learn from you if this would meet the views of the Board.

I have the honor to be,

Sir,

Your most obedient Servant,

GEORGE ABERNETHY.

Charles Ferguson, Esq.,  
Chief Harbor Master, Williamstown.

NOTE.—The Board decided that it would not be advisable to delay the report until Mr. Abernethy had seen the plans, or was able to come here and inspect the slip.

CHARLES FERGUSON,

Chairman.

Office of Ports and Harbors,  
Williamstown, 20th October, 1857.

No. 12.

PROPOSED RATES, GOVERNMENT PATENT SLIP AT WILLIAMSTOWN.

From 2 to 12 Tides.—From 50 to 2,000 Tons.

	Vessels under 50 Tons.	50 and under 100 Tons.	100 and under 150 Tons.	150 and under 200 Tons.	200 and under 250 Tons.	250 and under 300 Tons.	300 and under 350 Tons.	350 and under 400 Tons.	400 and under 450 Tons.	450 and under 500 Tons.	500 and under 550 Tons.	550 and under 600 Tons.	600 and under 650 Tons.	650 and under 700 Tons.	700 and under 750 Tons.	750 and under 800 Tons.	800 and under 850 Tons.	850 and under 900 Tons.	900 and under 950 Tons.	950 and under 1,000 Tons.
For 2 tides, the tide on and next tide off .. ..	£ s. 9 0	£ s. 10 10	£ s. 12 0	£ s. 13 10	£ s. 15 0	£ s. 16 10	£ s. 18 0	£ s. 19 10	£ s. 21 0	£ s. 22 10	£ s. 24 0	£ s. 25 10	£ s. 27 0	£ s. 28 10	£ s. 30 0	£ s. 31 10	£ s. 33 0	£ s. 34 10	£ s. 36 0	£ s. 37 10
4 ditto, including going on and coming off .. ..	12 0	14 0	16 0	18 0	20 0	22 0	24 0	26 0	28 0	30 0	32 0	34 0	36 0	38 0	40 0	42 0	44 0	46 0	48 0	50 0
6 ditto .. ..	15 0	17 10	20 0	22 10	25 0	27 10	30 0	32 10	35 0	37 10	40 0	42 10	45 0	47 10	50 0	52 10	55 0	57 10	60 0	62 10
8 ditto .. ..	18 0	21 0	24 0	27 0	30 0	33 0	36 0	39 0	42 0	45 0	48 0	51 0	54 0	57 0	60 0	63 0	66 0	69 0	72 0	75 0
10 ditto .. ..	21 0	24 10	28 0	31 10	35 0	38 10	42 0	45 10	49 0	52 10	56 0	59 10	63 0	66 10	70 0	73 10	77 0	80 10	84 0	87 10
12 ditto .. ..	24 0	28 0	32 0	36 0	40 0	44 0	48 0	52 0	56 0	60 0	64 0	68 0	72 0	76 0	80 0	84 0	88 0	92 0	96 0	100 0

	1,000 and under 1,050 Tons.	1,050 and under 1,100 Tons.	1,100 and under 1,150 Tons.	1,150 and under 1,200 Tons.	1,200 and under 1,250 Tons.	1,250 and under 1,300 Tons.	1,300 and under 1,350 Tons.	1,350 and under 1,400 Tons.	1,400 and under 1,450 Tons.	1,450 and under 1,500 Tons.	1,500 and under 1,550 Tons.	1,550 and under 1,600 Tons.	1,600 and under 1,650 Tons.	1,650 and under 1,700 Tons.	1,700 and under 1,750 Tons.	1,750 and under 1,800 Tons.	1,800 and under 1,850 Tons.	1,850 and under 1,900 Tons.	1,900 and under 1,950 Tons.	1,950 and under 2,000 Tons.
For 2 tides, the tide on and next tide off .. ..	£ s. 39 0	£ s. 40 10	£ s. 42 0	£ s. 43 10	£ s. 45 0	£ s. 46 10	£ s. 48 0	£ s. 49 10	£ s. 51 0	£ s. 52 10	£ s. 54 0	£ s. 55 10	£ s. 57 0	£ s. 58 10	£ s. 60 0	£ s. 61 10	£ s. 63 0	£ s. 64 10	£ s. 66 0	£ s. 67 10
4 ditto, including going on and coming off .. ..	52 0	54 0	56 0	58 0	60 0	62 0	64 0	66 0	68 0	70 0	72 0	74 0	76 0	78 0	80 0	82 0	84 0	86 0	88 0	90 0
6 ditto .. ..	65 0	67 10	70 0	72 10	75 0	77 10	80 0	82 10	85 0	87 10	90 0	92 10	95 0	97 10	100 0	102 10	105 0	107 10	110 0	112 10
8 ditto .. ..	78 0	81 0	84 0	87 0	90 0	93 0	96 0	99 0	102 0	105 0	108 0	111 0	114 0	117 0	120 0	123 0	126 0	129 0	132 0	135 0
10 ditto .. ..	91 0	94 10	98 0	101 10	105 0	108 10	112 0	115 10	119 0	122 10	126 0	129 10	133 0	136 10	140 0	143 10	147 0	150 10	154 0	157 10
12 ditto .. ..	104 0	108 0	112 0	116 0	120 0	124 0	128 0	132 0	136 0	140 0	144 0	148 0	152 0	156 0	160 0	164 0	168 0	172 0	176 0	180 0

1st September, 1857.

GEORGE BIRNIE,  
Clerk of Works, Williamstown.



SIR,

Williamstown, 1st September, 1857.

I have the honor to enclose answers to the various questions forwarded to me by you as chairman of the board appointed by the Government to report on the capabilities and the best method of working the patent slip now in course of erection at Williamstown.

I attach a tracing of the plan of ground around the slip, and also a graduated scale of charges carefully computed from the Liverpool rates. Should the scheme of working the slip as proposed be deemed worthy of further attention, I shall be happy to submit rules and details of management for your consideration.

I have the honor to be,

Sir,

Your most obedient Servant,

GEORGE BIRNIE,

Clerk of Works, Williamstown.

To Charles Ferguson, Esq.,  
Williamstown.

## QUESTION.

No. 1. What appointment do you hold in connection with the Department of Public Works?

No. 2. How long have you had charge of the works connected with laying down the patent slip?

No. 3. Had you any experience of laying down patent slips before receiving your present appointment? If so, state the size of slip, place where laid down, and your connection with the work.

No. 4. Be good enough to give a general description of the patent slip you are now engaged in laying down?

No. 5. What length of slip room will there be available from lower part of engine-house to high water mark.

No. 6. Will the slip accommodate more than one vessel at a time? If so, state how many, giving approximate lengths and tonnage.

## ANSWER.

No. 1. Clerk of Works for the erection of the patent slip at Williamstown, under the control of Capt. Pasley, Chief Commissioner of Public Works, and assisted by Mr. Woods, C.E., of the same department.

No. 2. I have held my present appointment for the last seventeen months.

No. 3. My knowledge of the subject is derived from an apprenticeship of five years to Mr. John Wood, of the Clyde, well known as one of the most scientific and practical shipbuilders of Great Britain. During that time many ships were built and some of the largest sea-going steamers, and to launch the same temporary foundations had to be laid over a mud flat extending several hundred feet. A further experience of nine years in the practice of my profession in the Australian Colonies, in the course of which I built and launched several vessels, and had at different periods the entire control of three separate ship-building establishments; and subsequently, in 1854, I remained ten months in Great Britain, and not only selected the machinery and plant for the slip now in course of erection, but visited several seaports and inspected the three largest slips then erected, and endeavoured to make myself acquainted with the difficulties encountered and the remedies applied, having numerous conferences with several eminent shipbuilders and engineers on the subject, among others Mr. Robert Napier, of Glasgow, with whom I have been long and intimately acquainted, and also with Mr. Walker, the Chief Government Engineer of the Ports and Harbors in the United Kingdom, to whom I was expressly and personally introduced by my esteemed friend and former master, Mr. John Wood.

No. 4. The plant and machinery are calculated to bear and to draw a weight of 2,000 tons up an incline of five feet in 100 feet. A 35-horse power condensing steam engine, working expansively, will set in motion three force pumps connected with a hydraulic ram, having a stroke of 15 feet. The cradle will be 200 feet in length, made in two parts of 100 feet each, which can be drawn up either separately or together with a double or single set of traction rods, as occasion may require.

No. 5. The distance is 263 feet.

No. 6. The entire hull of every vessel will be out of the water when the heel is 383 feet from the engine house, therefore that space may be said to be available for the effecting repairs; and the Chief Harbor Master, as a practical man, will be able at once to judge how many vessels could be berthed in that space.

No. 7. What is the largest sized vessel that the slip when finished will be able safely to take up, distinguishing between iron and wooden vessels, having special reference to iron steamers with their machinery on board?

No. 8. What length of time upon an average would it take to place a vessel of the largest tonnage upon the cradle, haul her up, remove the cradle, and have the vessel shored up ready for such work to her bottom as might be required, and what would be the number of men employed on the operation?

No. 9. What space is there round about the slip available for timber yards, repairing boats, mast, and spar making, &c.? What accommodation will be afforded for effecting repairs in the shape of blacksmiths' shops, sawpits, rigging, and sail lofts, shears for lifting out boilers, masts, &c.

No. 10. When do you expect the slip to be finished, and ready to take up a vessel?

No. 11. When the slip is finished, what method would you consider best adapted for working it?

No. 7. Any vessel that would weigh 2,000 tons or less could be safely taken up; and from a careful comparison of many British-built vessels and iron steamers with their machinery on board, I believe that they usually weigh as much as their register tonnage; whilst wooden steamers with their machinery on board weigh about one quarter or one-third more, and American soft wood ships about one quarter less.

No. 8. A vessel weighing 2,000 tons should be placed on the cradle, hauled up to the engine house, and have all necessary shores fixed in less than six hours. The number of men requisite for the above operation would be seventeen, viz., one superintendent, one engineer, one stoker, four laborers, and ten shipwrights, and these would not be constantly engaged during the whole six hours. For a vessel of 400 tons, three hours would be sufficient. The cradle should remain under the vessel, unless it were necessary to remove it for the purpose of facilitating repairs, or for hauling up other vessels. The majority of repairs could be effected without removing more than the arms of the cradle, and those only as the work progressed; this would save much time, and be a great convenience to parties repairing; but if the cradle is to be freed from under the vessel, then let the parties repairing do so, they replacing it again when ready for launching.

No. 9. The total area of ground reclaimed around the slip is nearly seven acres, and as shown on the tracing enclosed five allotments of land are marked off as available for leasing to parties desirous of erecting sail lofts, blacksmiths' shops, &c., leaving over two and a half acres for a slip yard, around which a smithy, sawpits, sheds, &c., will be erected; though it has never to my knowledge been contemplated to erect any shears for lifting out masts, boilers, &c., the shallowness of the water preventing vessels approaching sufficiently near to the slip yard.

No. 10. At the commencement of 1853.

No. 11. I consider that the Government should keep the slip in working order, and to insure its being so kept they should haul up and launch every vessel for which a request has been registered and the fee paid; but when a vessel is hauled up, it seems to me that the public should be allowed to compete for the repairs, with the arrangement as advised in my answer No. 8, namely, that if the cradle should require removal for the hauling up of any other vessel, or for facilitating repairs, the parties repairing should be required to remove it and to re-place the same when their vessel is ready for launching, and to make good any blocks, shores, &c., that they may have destroyed. A large staff of shipwrights is already constantly engaged by the Government in their marine yard, and if their number was but slightly increased, certain of them, when required, might be told off for attendance at the slip yard. Accidents would then be less likely to occur, the same persons being acquainted with their duties and means of avoiding danger, and accustomed to act under the orders of a professional superintendent, who would require to be daily in attendance; and it would also be desirable that a mechanical engineer should reside on the premises. Should this arrangement be entertained, I would further suggest that the allotment of land marked No. 1 on the enclosed tracing be occupied by the Government as a marine yard, it being infinitely better suited for the duties required to be performed in it. Proximity to the slip would also save much time in passing from the one to the other, and the present marine yard site could with its buildings be advantageously leased by auction. The Government working the slip in the manner suggested would effectually prevent any monopoly injurious to the public interests.

No. 12. What scale of charges for the use of the slip would in your opinion be desirable? Have you had any experience to guide you on this head?

No. 12. I enclose a scale of charges that I believe would amply cover the working expenses, the slip being worked in the manner suggested in my answer No. 11. These charges are exactly five times heavier than those at the graving docks, Liverpool, and as far as I can learn from inquiry the highest charges at Bristol and other seaports in Great Britain do not amount to more than an increase of one-half the Liverpool charges, which latter, however, are exclusive of labor. I would here remark that the home charges do not appear to have detrimentally affected private establishments, numbers of which have lately been formed, the inducement having evidently been the almost certainty of securing the repairs, and not the prospect of realizing a reasonable profit on the charges for docking or hauling up vessels.

No. 13. Are you aware of the rates charged at other ports for the use of slips such as this one?

No. 13. I have visited many ports, and have become cognizant of others, but know none where any slip exists in other than private hands; but many ports in Great Britain have dry docks in the hands of corporate and other public bodies, and the scale of charges is rarely made higher than is necessary to cover working expenses.

No. 14. Can you furnish the Board with any information as to the mode of management of patent slips at other ports? If so, be good enough to state as fully as possible.

No. 14. I have already stated that I know of no patent slips other than those in the hands of private parties, who although apparently making a regular charge are always open to private arrangement, and invariably obtain as high prices as they can.

In conclusion, I beg to state that all my remarks and proposed charges have been made under the belief that the Government have no wish whatever to make a profit on the patent slip, but merely to cover working expenses, such being the opinion of the mercantile community; in short, that the object of the Victorian Government in erecting the slip is to give a guarantee to ship owners and ship masters having vessels unfortunately requiring repairs, that every facility will be afforded for effecting the same economically, expeditiously, and thoroughly, by means of open competition, and the use of the professional ability in the Colony, instead of throwing them into the hands of any party or parties monopolizing the slip.

GEORGE BIRNIE,  
Clerk of Works, Williamstown.

P.S. I have been informed that the Old Council in March, 1856, consented to £50,000 for the erection of a slip being paid out of the first loan effected by the Government, but that the present Council have authorized this expenditure from the general revenue.

G. B.

No. 13.

Patent Slip, Battery Point,  
Hobarton, 7th September, 1857.

Sir,

At length I have the pleasure to enclose your communication of August last, relative to the patent slip, now in course of erection at Williamstown, with answers annexed, the brevity of which you will please excuse.

I am sorry to state that, having mislaid the rules of the Montrose patent slip, I am unable at present to forward them, but should they soon be found I shall have much pleasure in transmitting them to you.

I have the honor to be,  
Sir,

Your most obedient Servant,  
JOHN ROSS,

To C. Ferguson, Esq.,  
&c., &c., &c.,  
Chairman of the Board.

SIR,

Port and Harbor Office,  
Williamstown, August 1857.

The Government being desirous of obtaining information respecting the capabilities of, and best method of working, the patent slip, now in course of erection at Williamstown, the board appointed to report upon the subject will feel obliged by your answering the following questions as fully as possible, as far as lies in your power.

I have the honor to be,  
Sir,

Your most obedient Servant,  
CHARLES FERGUSON,  
Chairman.

— Ross, Esq.,  
Hobart Town.

## QUESTION.

No. 1. Have you had any experience with patent slips, graving or floating dry docks? If so, state where and when, and what your connection was with said works.

No. 2. Have you examined the patent slip now in course of formation at Williamstown? and if so, what is the largest sized vessel you think it capable of taking up?

No. 3. Do you think that this patent slip will, when finished, meet the requirements of the port? If so, state your reasons. If not, what further accommodation would you recommend as necessary?

No. 4. When the slip is finished, what method would you consider best adapted for working it, so as to secure the largest amount of benefit to the shipping interest, whether by leasing the slip, retaining it in the hands of the Government, or otherwise?

No. 5. What scale of charges for the use of the slip would in your opinion be desirable? Have you had any experience to guide you on this head?

No. 6. Are you aware of the rates charged at other ports for the use of slips such as this one?

No. 7. Can you furnish the board with any information as to the management of patent slips at other ports? If so, be good enough to state as fully as possible.

## ANSWER.

I have never been interested in patent slips, &c., &c., except the patent slip in Hobartton, constructed by me, and of which I am proprietor.

I have not examined or even seen the patent slip now in course of construction at Williamstown.

I will not be able to give you much information on this head, as I am quite in the dark as to the strength of ironwork, length of carriage, and draught of water.

I think the greatest amount of benefit to the shipping interest would be secured by leasing the slip to a competent person, the Government fixing a scale of charges.

The following is the scale of charge at my slip, viz.:—Taking on, 2s. per registered ton; for the first four clear working days, 6d. per registered ton; for the next four clear working days, 3d. per registered ton, after which I make no charge.

NOTE.—The above charges include blocking, shoring, staging for carpenters, &c., &c.

About two years ago I received from proprietors of patent slip, &c., in Sydney, a scale of the charges made by them, which were as follows, viz.:—Taking on, 2s. per registered ton, and 1s. per registered ton for every clear working day whilst on the slip, including days of going on and off.

At Adelaide slip.—For small vessels, say 100 to 150 tons, twenty-four pounds for taking on, and three guineas per day for every clear working day whilst on.

With regard to the management of slips, I enclose copy of the regulations of the patent slip at Montrose, Scotland.

P.S. After writing the above, I am sorry to say that I have been unable to find the Montrose slip rules.

No. 14.

Williamstown, 14th September, 1857.

SIR,

I have the honor to acknowledge the receipt of your letter on the subject of the patent slip now in course of erection at Williamstown, and enclosing a form of questions relating thereto, with a request that I would fill up replies according to my opinion and experience of such matters. I have now filled them up and do herewith return the form, regretting that so much delay has attended its transmission, but I had no opportunity to inspect the plans and specifications till last Wednesday evening and had necessarily to look over the works afterwards.

I have the honor to be,

Sir,

Your very obedient servant,

C. J. PERRY.

The Chief Harbor Master,  
Williamstown.

## QUESTION.

No. 1. Have you had any experience with patent slips, graving or floating dry docks? If so, state where and when, and what your connection was with said works.

No. 2. Have you examined the patent slip now in course of formation at Williamstown, and if so, what is the largest sized vessel you think it capable of taking up?

No. 3. Do you think that this patent slip will, when finished, meet the requirements of the port? If so, state your reasons. If not, what further accommodation would you recommend as necessary?

No. 4. When the slip is finished, what method would you consider best adapted for working it, so as to secure the largest amount of benefit to the shipping interest; whether by leasing the slip, retaining it in the hands of the Government, or otherwise?

No. 5. What scale of charges for the use of the slip would, in your opinion, be desirable? Have you had any experience to guide you on this head?

No. 6. Are you aware of the rates charged at other ports for the use of slips such as this one?

## ANSWER.

I have had experience in the use of graving docks in England and of patent slips in India during twenty-two years, and on one occasion took part in the construction of a dock expressly for the ship I was attached to as chief officer. The ship was 400 tons, the dock was made, the ship hauled in, re-coppered, and undocked in one month. This took place at Coringa, on the Coromandel Coast. When last in England, in 1851, my own ship, the *Caroline*, 330 tons o.m., was fifteen days in the graving dock of Messrs. Dowson and Son. When in the country service commanding the barque *Sumatra*, I used to employ Beauchamp's Patent Slip on the Howrah side of the Hooghly.

I have examined the specifications of the patent slip and machinery, also those of the works now in progress, as well as the works themselves, and am of opinion that the slip will take up a vessel of 2000 tons.

I think the patent slip, when finished, will generally speaking meet the requirements of the port; the great desideratum hitherto felt being the means of repairing large ships. Private enterprise, I believe, will provide ample dock accommodation for the smaller classes of ships.

If the chief object of consideration be to secure the largest amount of benefit to the shipping interest, I am of opinion that the slip should not be leased, but retained in the hands of the Government, and committed to a board of management of seven, constituted as follows:—1. the Colonial Engineer. 2. The President of the Chamber of Commerce. 3. The Vice President of the Chamber of Commerce. 4. The Harbor Master. 5. The Slip Master (an experienced ship master). 6. The Slip Engineer. 7. A Master Shipwright.—The three last to be salaried officers and to work the slip; the board to meet once a quarter, at which meeting the Slip Master should always attend, and at every alternate meeting present a half-yearly financial report. Four members to form a quorum.

I am of opinion that the scale of charges for the use of the slip should be fixed at very low rates, say 1s. 6d. per ton for the first day, including heaving the ship up, and 1s. per ton per diem for three following days, and 6d. per ton per diem for the remainder of the time the vessel remains on the slip; these charges to include launching. Ships putting in from sea for repairs, being either in ballast or bound to other ports with cargo, should have the port charges remitted, or else be charged only two-thirds of the above rates.

Yes; the above rates are an approximation to the docking and slip charges of the neighboring colonies; but they are greatly in excess, say three times the amount of the Liverpool slip or London docking charges; and so I conceive they need to be, to meet the difference of the working expenses.

No. 7. Can you furnish the board with any information as to the mode of management of patent slips at other ports? If so, be good enough to state as fully as possible.

In India I have known the management of a middling sized slip to devolve simply upon three individuals, viz., the slip master or superintendent, a master shipwright, and an engineer; these, with two or three ship carpenters, constituted the permanent staff. When a ship was to be hauled up, the slip carpenters would prepare the blocks before the slip was let down, modifying them according to the estimated form of the ship's bottom. In the meantime, a gang of mechanics would be employed to heave the ship up and to repair her. As soon as the vessel's keel would take the slip, the arm blocks would be drawn close and the ship hove up. The mechanics were all paid by the day, and the ship charged 20 per cent. beyond that amount; timber and other materials separately charged for. There was never any delay in procuring mechanics, as they generally resided in the locality of the docks. The procedure of management and working the slip, as here recommended, would require at the commencement a grant of money, say about £3,000, for the purchase of timber and appliances, and for the payment of wages; this sum, placed to the credit of the slip, to be duly accounted for by the slip master in his first half-yearly account of expenditure and income. The amount would probably be repaid to the Government at the end of the first year.

C. J. PERRY,  
Williamstown.

September 12th, 1857.

No. 15.

Lloyds' Agency,  
Melbourne, 17th September, 1857.

Sir,

I beg to return you herewith the form filled up, to the best of my knowledge and opinion against the several questions submitted by the Board of Public Works, which I received in due course on the 21st ultimo, and I trust any remarks of mine may be of service.

I have the honor to be,

Sir,

Your most obedient Servant,

B. R. MATHEWS.

Chas. Ferguson, Esq.,  
Chief Harbor Master, &c., &c.,  
Williamstown.

QUESTION.

No. 1. Have you had any experience with patent slips, graving or floating dry docks? If so, state where and when, and what your connection was with said works?

No. 2. Have you examined the patent slip now in course of erection at Williamstown? and if so, what is the largest sized vessel you think it capable of taking up?

No. 3. Do you think that this patent slip will, when finished, meet the requirements of the port? If so, state your reasons. If not, what further accommodation would you recommend as necessary?

ANSWER.

The only experience I have had has been in dry docks, chiefly in Liverpool, where my ships, or those I have commanded, varying from 500 tons to 3,500, have been docked, on an average, every eight months, at which times I have observed the system of docking and undocking, which is generally done by the persons who have the business of repairs to carry out, under my superintendence chiefly.

As far as it has progressed. I am not capable of judging the power of the slip in its present state; but, from what I hear from the party who has the management under the Government to erect it, I am of opinion it will not take up a ship above 1,600 tons with safety.

Decidedly not. We have ships trading to this port upwards of 3000 tons, many of which are steam ships, and would be a great weight with their machinery, &c. I would strongly recommend a good graving dock, of sufficient length and other dimensions—say one that would take in the *Great Eastern*, or so divided by caissons to take in two of the largest ships that trade to this port, viz., *Great Britain* and *Royal Charter*. In addition to which, a good graving dock near Melbourne, for coasting vessels, two lengths, 400 or 500-ton each, with a division in it.

No. 4. When the slip is finished, what method would you consider best adapted for working it, so as to secure the largest amount of benefit to the shipping interest; whether by leasing the slip, retaining it in the hands of the Government, or otherwise.

Retain it in the hands of the Government, and let it out to the public at rates, similar to the corporation of Liverpool, the parties occupying it being responsible for any damage done to it during the time it is in their possession; persons employed by the Government to take care of the machinery, and to assist in raising and floating the ships, which should be included in the charge for its use.

No. 5. What scale of charges for the use of the slip would, in your opinion, be desirable? Have you had any experience to guide you on this head?

I cannot give an opinion as regards the scale of charges in this country. In England the dock dues are regulated by builders' tonnage or measurement, reducing the scale as the ships advance in size, in proportion. I have not had much experience in these matters.

No. 6. Are you aware of the rates charged at other ports for the use of slips, such as this one?

I have not seen any of the rates of charges for the use of patent slips, having had the benefit of a good graving dock, which I consider far preferable for a ship to get her repairs in.

No. 7. Can you furnish the board with any information as to the management of patent slips at other ports? If so, be good enough to state as fully as possible.

I am not acquainted with the management of patent slips, not having been on one, or in the neighborhood where it was in existence.

B. R. MATHEWS,  
Agent for Lloyds, Melbourne.

---

No. 16.

Williamstown, 31st August, 1857.

SIR,

I am in receipt of your's of the 20th inst., and enclose you my answers. I shall at all times feel it a pleasure to render any information which I may possess for the good of this port.

I have the honor to be,

Sir,

Your most obedient Servant,  
WILLIAM WHITE.

To C. Ferguson, Esq.,  
Chief Harbor Master, Williamstown.

---

QUESTION.

No. 1. Have you had any experience with patent slips, graving or floating dry docks? and if so, state where and when, and what your connection was with said works?

ANSWER.

I have had ten years' experience in the working of a patent slip, during which period I took all the degrees, from oiling the wheels of the cradle to every post of charge excepting that of slip master. I have been engaged in fitting the cradle and hauling up and launching of I may say 200 ships and vessels of various sizes, sometimes taking two up at the same time. In 1847 the slip which belonged to a relative of mine (Mr. Joseph White, at East Cowes, Isle of Wight) was relaid by building a cofferdam round it. I then was engaged in leading various parts of the work. It was laid on piles, in the same manner as that at Williamstown, but with less descent. I think this at Williamstown has too great a declivity. In floating docks I have had no experience. In graving docks I have had experience—in building a graving dock at West Cowes, Isle of Wight. This was built by Messrs, Thomas and John White. It is now 350 feet long, and capable of docking a ship drawing seventeen feet of water. It is built of wood, with stone pier heads for the gates. This I inspected through its course of building for my own information, as also the graving docks belonging to the Dock Company of Southampton.

No. 2. Have you examined the patent slip now in course of formation at Williamstown? and if so, what is the largest sized vessel you think it capable of taking up?

I have examined it, and think that, for strength, it would take any ship which I have seen in the Bay, excepting the *Great Britain*. But the strength of a slip is ascertained better by practice than theory.

No. 3. Do you think that this patent slip will, when finished, meet the requirements of the port? If so, state your reasons. If not, what further accommodation would you recommend as necessary?

I do not think it will meet the requirements of the port:—1st. Because it is too short and has too much descent; thus at the outer end we have twenty-four feet of water on the rails. Supposing the cradle and keel blocks to take up four feet, we then have twenty feet; but supposing we were taking up the *Tudor*, which ship is 240 feet long, then, at her bow, when the stern was on the cradle, we should only have seven feet of water, unless the cradle was run over the end of the slip, which is a dangerous practice. A rise of one in twenty instead of one in sixteen would have given more water forward and would have been safer both in hauling up and launching a heavy ship. 2nd. As we are to have the *Great Eastern* coming here, and as she is only the pioneer of a class of such ships, we should build a dock so as to be ready to remove her or them. A sectional floating dock would be best, supposing the demand was great, as more ships could be docked with the sections than with a graving dock of the same dimensions; but if a graving dock is built, I would suggest that it be done alongside the slip, and that the earthwork from the Ann-street wharf to the slip yard be filled up with the excavations. This I think would be all we should require in shape of dry dock accommodation.

No. 4. When the slip is finished, what method would you consider best adapted for working it, so as to secure the largest amount of benefit to the shipping interest; whether by leasing the slip, retaining it in the hands of the Government, or otherwise?

I think that if the slip is let by tender it will at once become a monopoly, and thus defeat the object of its construction, viz., the economy and facility of docking ships in this port. After much thought on the subject, I am of opinion that it should be retained by the Government, under the charge of the Harbor Master, that the dues be fixed, and that every shipwright tendering for the repairs of a ship should fit the cradle, heave up the ship, and launch her again at his own risk. The Government would then have to appoint an engineer and stoker, their duties to be to keep the engine and cradle in perfect order, so far as the iron parts thereof are concerned. The deputy Harbor Master could issue and receive shores, blocks, ropes, and staging, which, if cut or damaged, should be made good. The shipwright or slip master, *pro tem.*, should reserve one-third of the dues as remuneration for his risk, and for his knowledge of working the slip. Should any accident happen, he should be the loser, unless the same was traceable to a want of strength in the slip to carry the ship.

No. 5. What scale of charges for the use of the slip would in your opinion be desirable? Have you had any experience to guide you on this head?

As the slip is built for accommodation and not gain, I think the scale of charges should be low enough to induce repairs; yet not so low as to interfere with private enterprise. I have not had sufficient experience to warrant me in proposing a scale.

No. 6. Are you aware of the rates charged at other ports for the use of slips such as this one?

I am not aware of the rates charged at ports on this side of the equator, and I think that we cannot compare this with docks in England.

No. 7. Can you furnish the board with any information as to the mode of management of patent slips at other ports? If so, be good enough to state as fully as possible.

The slip at Ramsgate is the property of the Trinity Board, and is let to any shipbuilder who may get a ship to heave up. As I have suggested for this one, the dues are fixed. The docks at Southampton are open to all; every shipwright puts his ship in the dock and is answerable for her while there. Shores are formed by the dock company, and if they are cut to fit are charged for at the rate of 1s. each. The dues are fixed at so much per ton for docking, and so much per day for laying days.

WILLIAM WHITE,  
Ship and Boat Builder, Williamstown.

To Captain C. Ferguson,  
Harbor Master, Williamstown.

August 31st, 1857.



No. 17.

Williamstown, 31st August, 1857.

SIR,

I have the honor to enclose answers to the questions forwarded to me by you as chairman of the board appointed by the Government to report upon the capabilities of, and the best method of working, the patent slip, now in course of erection at Williamstown.

I have the honor to be,

Sir,

Your most obedient Servant,

ROBERT WRIGHT,

Shipbuilder.

To Charles Ferguson, Esq.,  
Williamstown.

## QUESTION.

No. 1. Have you had any experience with patent slips, graving or floating dry docks? If so, state where and when, and what your connection was with said works.

No. 2. Have you examined the patent slip now in course of formation at Williamstown; and if so, what is the largest sized vessel you think it capable of taking up?

No. 3. Do you think that this patent slip will, when finished, meet the requirements of the port? If so, state your reasons. If not, what further accommodation would you recommend as necessary?

No. 4. When the slip is finished, what method would you consider best adapted for working it, so as to secure the largest amount of benefit to the shipping interest; whether by leasing the slip, retaining in the hands of the Government, or otherwise?

No. 5. What scale of charges for the use of the slip would in your opinion be desirable? Have you had any experience to guide you on this head?

No. 6. Are you aware of the rates charged at other ports for the use of slips such as this one?

No. 7. Can you furnish the board with any information as to the mode of management of patent slips at other ports? If so, be good enough to state as fully as possible.

## ANSWER.

For the last twenty years of my life I have followed my profession of shipwright and shipbuilder, building and repairing numerous vessels, and consequently wrought both in dry docks, floating docks, and on patent slips at home and in other countries.

I have examined the patent slip now in course of formation at Williamstown, and in the present unfinished state, and not having seen the designs of the machinery, or knowing the plans of the officer in charge, it is impossible for me or any other person to give an opinion as to the capabilities of the slip until completed.

I have never heard that the slip when finished could pull up any larger vessels than those registering 2,000 tons; consequently, I consider some further provision is absolutely necessary to accommodate the many vessels of a larger tonnage visiting our port, and should prefer a stone graving dock to any floating or sectional dock, with the exception of this new principle of graving dock now in course of construction on the Thames, by a hydraulic lift, which is in my opinion the most suitable for our shallow approaches to deep water in Hobson's Bay.

Let the working of the slip remain in the hands of the Government until further accommodation either by the Government or private parties is provided, the repairs being thrown open to public competition.

The scale of charges that I would recommend should be made as low as possible, but sufficient to cover all working expenses. The experience I have had of the charges made by the owners of other slips confirms in my mind that, whilst having a nominal rate, they always vary the same according to the amount of work likely to be executed on the vessels requiring repairs.

All the slips I know of are in the hands of private parties. The charges of the graving docks with which I have been acquainted have always been as low as possible, and I consider the Government slip is in a similar position with regard to this port, as other docks were to the towns to which they belong.

I have already said that all the slips I know of belong to private parties, but graving docks belonging to towns are always thrown open to the public to vessels of all nations according to their turns, and managed by a dock master, engineer, a few shipwrights, and laborers when wanted. The repairs of the vessels docked are left entirely to the option of the captain and owners.

ROBERT WRIGHT,

Shipbuilder.

Williamstown,  
31st August, 1857.

No. 18.

## QUESTION.

No. 1. Have you had any experience with patent slips, graving or floating dry docks? If so, state where and when, and what your connection was with said works.

## ANSWER.

What experience I have had with slips or docks is having, as shipmaster on many occasions, been on slips and graving docks with my vessels, and being for the last two years a proprietor, and managing the present floating dock off Williamstown.

No. 2. Have you examined the patent slip now in course of formation at Williamstown? and if so, what is the largest sized vessel you think it capable of taking up?

No. 3. Do you think that this patent slip will, when finished, meet the requirements of the port? If so, state your reasons. If not, what further accommodation would you recommend as necessary?

No. 4. When the slip is finished, what method would you consider best adapted for working it, so as to secure the largest amount of benefit to the shipping interest; whether by leasing the slip, retaining it in the hands of the Government, or otherwise?

No. 5. What scale of charges for the use of the slip would in your opinion be desirable? Have you had any experience to guide you on this head?

No. 6. Are you aware of the rates charged at other ports for the use of slips, such as this one?

No. 7. Can you furnish the board with any information as to the management of patent slips at other ports? If so, be good enough to state as fully as possible.

I have examined the patent slip at Williamstown, and am of opinion that the only means of testing or proving the slip will be by actual weight of ship on the foundation; if the foundation stand good with a ship of 1700 tons register, I am of opinion that it will be the extreme weight to trust upon it.

My opinion is, the slip is not sufficient to meet the requirements of this port. I am satisfied, from the experience I have had, and other information regarding the present slip at Williamstown, of its being unable to carry the largest class of ships trading to this port; and I think further accommodation is necessary, such as a graving dock of the largest dimensions, which could be made on the ground between the patent slip and the railway pier.

I am of opinion that works of this description should not be conducted by the Government.

Being a proprietor of the present floating dock, I must decline answering this question.

I believe the following rates are charged at the respective ports named:—Mauritius, 4s. per register ton, taking up and launching. Adelaide, 2s. 6d. do., including four days. Sydney, 2s. per ton, taking up and launching, and 1s. per day while on.

I am aware that the slips in all the following ports are conducted by private persons.

ALEX. DOVE.

#### No. 19.

##### QUESTION.

No. 1. Have you had any experience with patent slips, graving or floating dry docks? If so, state where and when, and what your connection was with said works.

No. 2. Have you examined the patent slip now in course of formation at Williamstown, and if so, what is the largest sized vessel you think it capable of taking up?

No. 3. Do you think that this patent slip will, when finished, meet the requirements of the port? If so, state your reasons. If not, what further accommodation would you recommend necessary.

No. 4. When the slip is finished, what method would you consider best adapted for working it, so as to secure the largest amount of benefit to the shipping interest; whether by leasing the slip, retaining it in the hands of the Government, or otherwise?

No. 5. What scale of charges for the use of the slip would, in your opinion, be desirable? Have you had any experience to guide you on this head?

##### ANSWER.

I have had experience with patent slips, graving docks, and floating docks, in Dundee, Scotland, for seven years before coming to this Colony, in which time I have had under my charge ships, steam boats, &c., but generally of small dimensions. Amongst the last I had was the *Hercules* steam tug, at present plying in the Yarra Yarra, undergoing repairs in the graving dock. I had the *London* steam ship, now trading between this port and Sydney, in the spring of 1852, undergoing repairs in the patent slip, Dundee. I have had charge of Messrs. Dove and Oswald's floating dock for some time, and have at present.

I have not examined the patent slip now in erection more than a passing view of it, neither have I seen the plans; but by the appearance of it, I think it ought to take up a vessel of about 1800 tons register.

I do not think it will meet all the requirements of the port. If larger vessels should require the use of the slip, you cannot accommodate them. For further accommodation I would have had the engine at least two hundred yards farther from the margin of the sea and less incline, which would make the vessel easier to haul up, and easier for the vessel at launching.

I would recommend the slip to be kept in the hands of the Government for one or two years, than to lease it to the highest bidder for any term of years as agreed upon.

I would be guided by the charges in the neighboring colonies, so as to be able to compete with them—say Sydney.

No. 6. Are you aware of the rates charged at other ports for the use of slips such as this one?

No. 7. Can you furnish the board with any information as to the mode of management of patent slips at other ports? If so, be good enough to state as fully as possible.

No.

As regards the patent slip and graving dock at Dundee, they are under the power of the Harbor Trust, and the slip master, who is elected by them, has the full power of the slip. When any vessel wants the slip they must first go and enter them for turn, and pay a deposit of so much per ton, and then the ship is at the risk of the party that undertakes the repairs.

JOHN TURPIE.

No. 20.

QUESTION.

No. 1. Have you had any experience with patent slips, graving or floating dry docks? If so, state where and when, and what your connection was with said works.

No. 2. Have you examined the patent slip now in course of formation at Williamstown, and if so, what is the largest sized vessel you think it capable of taking up?

No. 3. Do you think that this patent slip will, when finished, meet the requirements of the port? If so, state your reasons. If not, what further accommodation would you recommend as necessary?

No. 4. When the slip is finished, what method would you consider best adapted for working it, so as to secure the largest amount of benefit to the shipping interest; whether by leasing the slip, retaining in the hands of the Government, or otherwise?

No. 5. What scale of charges for the use of the slip would, in your opinion, be desirable? Have you had any experience to guide you on this head?

No. 6. Are you aware of the rates charged at other ports for the use of slips, such as this one?

No. 7. Can you furnish the board with any information as to the management of patent slips at other ports? If so, be good enough to state as fully as possible.

ANSWER.

I have had practical experience for twenty-five years in the principal ports of Great Britain, and was manager of Walker Slipway, River Tyne, for some time previous to my arrival in this Colony—was shipwright-superintendent of three of the principal dockyards, Calcutta.

Having only casually seen the slipway now in course of erection at Williamstown, cannot give my candid opinion at present—would require to have a minute survey of said works.

I consider the slipway in course of erection will be deficient to accommodate the great portion of ships trading to Hobson's Bay. Am not aware of any slip in any part of the world capable of taking up with safety the immense size of vessels at present in the port of Melbourne. Would say that floating or graving docks, or rather that a dock on shore, at Williamstown, capable of admitting a floating, would be the most available.

Would recommend a practical ship builder, of tried experience, as manager, and consider it too heavy a risk for any single individual to meddle with. No doubt a joint stock company might undertake it.

Would consider, from the great expense of labor here, that 2s. per ton for taking up and launching, and 6d. per ton the first eight days the vessel remains on the slipway, and 4d. per ton for the remaining days vessels might require to remain on the ways (I mean register tonnage).

From 6d. to 9d. per register ton in the greater part of the ports of Great Britain, and 3d. per ton for the days vessels require to remain on the slipway.

There is a practical shipwright as manager, and he is considered liable for any damage vessels may sustain whilst under his control; and it is expressly understood that commanders of vessels are to abide by the orders of the manager in charge of the slipway.

J. MATHESON.

No. 21.

No. 176.

Office of Ports and Harbors,  
Williamstown, 20th October, 1857.

SIR,

The board, consisting of the gentlemen named in the margin, appointed for the purpose of inquiring into the best method of conducting the management of the patent slip, its capabilities to meet the requirements of this port, after carefully considering the evidence of various practical men, both in this and the neighboring colonies, with whom they have communicated upon the subject referred to them, have the honor to report:—

First, as regards the best method of conducting the management of the patent slip, that, when it is finished and ready for actual service, it should be well tested, by hauling up and launching a vessel of as large a tonnage as it can bear; and when so tested, the slip to be leased upon the following principles:—

1. The slip and slip yard, with all works connected therewith, to be put up to public tender, and leased to the person tendering to pay the highest rate, per ton, for all vessels using the slip.

2. The lessee not to charge vessels using the slip more than two shillings per ton for hauling up and launching, and nine pence per ton for every day the vessel remains on the slip, exclusive of the day of hauling up and launching.

J. G. Francis, Esq.,  
—Hawthorne, Esq.,  
Capt. Ferguson, Chairman.

3. Government vessels, men of war, and mail steamers, to have a preference of turn ; all other vessels to be taken up in rotation, according to their application.

4. The slip and slip yard to be leased for a term of two years.

5. Condition of the works to be agreed upon between the Government and lessee, before the latter takes possession.

6. Guarantee to be given by lessee to keep the slip and works connected therewith in sound working order during the term or his lease.

7. The lessee to hand over, on the expiration of his lease, the entire works, in like good order as he received them ; allowance being made for such deterioration as may fairly be traceable to ordinary wear.

8. The lessee to keep a sufficient number of men ready at all times to haul up and launch such vessels as require the use of the slip with the utmost dispatch, and to guarantee their safety from the time the vessel enters the slipway until she is again afloat.

9. The slip to be inspected every three months by the Government and lessee.

10. The owner, master, or agents of all vessels using the slip to have the right of employing whomsoever they think proper to effect such repairs as the vessel may require.

11. The slip and slip yard to be open to all shipwrights and others employed in effecting repairs to vessels on the slip.

The board also recommend that a portion of the reclaimed ground adjoining the slip be enclosed and leased, to be used exclusively by persons engaged in the repairs of vessels, such as shipwrights, mast and sail makers, engineers, boiler makers, blacksmiths, &c. Plans of the whole ground and slip to be lithographed, with terms of lease printed thereon, and circulated three months before the slip is ready to be put up for competition.

Secondly.—With reference to the capabilities of the slip to meet the requirements of this port, the board have the honor to report the means now in use and in course of construction for effecting repairs to vessels are as follows:—

1. Chessell's slip, situated on the south bank of the river Yarra, capable of taking up a vessel of four hundred tons.

2. Dove's floating dock, moored off Williamstown, capable of taking in a vessel of eight hundred tons.

3. Isbister's slip, now in course of construction at Williamstown, estimated to take up a vessel of one thousand tons, will be finished in about ten months.

4. The Government slip, estimated by Mr. Birnie, the clerk of the works in charge, to take up a vessel of two thousand tons, will be finished in about five months ; and with reference thereto, the board would earnestly urge that every effort be made to hasten on its completion before the above specified time, and would bring under notice that within these few weeks the ship *Mermaid* had to proceed to Sydney to be docked ; the disabled ship *Tudor*, now lying in Hobson's Bay must also leave this port to be repaired ; the auxiliary screw steamship *Istamboul* will have considerable difficulty in getting her screw repaired here for want of the means of docking ; and the board has ascertained that nearly every large iron ship which has entered this port lately would have availed themselves of the slip, had it been completed.

It appears, from the Custom House returns, that one thousand seven hundred and thirty-five vessels, whose aggregate tonnage amounted to five hundred and six thousand one hundred and forty-three tons, entered the ports of Melbourne and Geelong during 1856, amongst whose number are many regular traders of larger tonnage than the slip, when finished, will be capable of taking up (to which may now be added the mail steamers) ; so that, should they unfortunately sustain damage under water, they would have to leave the port to be repaired elsewhere. The board are, therefore, of opinion, that whilst the completion of the slip will, to a certain extent meet the requirements of this port, yet considering the large class of vessels now frequenting it, and the fact that vessels of a larger size may hereafter be expected within our waters, they submit that, fully to meet the requirements of the port, give confidence to all interested in shipping, and place it upon an equal footing with other large ports throughout the world, that a graving dock be constructed within Hobson's Bay, capable of docking in the first instance, vessels of three thousand five hundred tons, and the side of the dock so chosen, that ample space could be obtained for its further extension to admit vessels of a much larger tonnage ; and considering the time it must necessarily occupy to construct such a dock, the board would respectfully urge that this subject be taken into consideration at as early a period as possible, and conclude the report by remarking that, although beyond the letter of their instructions, they cannot withhold the expression of their opinion, that fully to develop the resources of the port, both as regards the means of effecting every description of repairs to and building of slips, also providing sufficient dock and wharfage accommodation to meet its present and future maritime wants, that plans and suggestions be at once publicly invited, and that liberal provision be made to meet the necessary expense of such propositions—and further, that a sufficient sum be placed on the Estimates for the ensuing year, to carry into effect such of these works as may be approved of by the Government.

I have, &c.,  
(Signed) CHARLES FERGUSON,  
Chairman.

The Honorable the  
President of the Board of Land and Works.

1857-8.

VICTORIA.

---

## COLLISION BETWEEN THE STEAMERS "CHAMPION" AND "LADY BIRD."

---

RETURN TO AN ORDER OF THE LEGISLATIVE COUNCIL,  
DATED 5TH JANUARY, 1858—for

"A COPY of the REPORT of the STEAM NAVIGATION BOARD on the Collision of the *Lady Bird*  
"and *Champion* Steamers."—(The Honorable Dr. Tierney.)

---

ORDERED BY THE COUNCIL TO BE PRINTED 26TH JANUARY, 1858.

---

Office of Ports and Harbors,  
Williamstown, 31st August, 1857.

SIR,

With reference to your letter No. 509, dated 25th instant, calling upon the Steam Navigation Board to take steps to ascertain the causes which led to the collision between the *Lady Bird* and *Champion* steamers, I have the honor to report that, immediately on receipt of the intelligence of the loss of the *Champion*, an inspector was instructed to examine the *Lady Bird*, and report the particulars to the board.

Enclosure No. 1 is the inspector's report, upon the receipt of which the board decided to hold the inquiry on board the *Lady Bird* into the whole circumstances. Accordingly, they met on board the aforementioned vessel, and sat on Thursday, Friday, and Saturday, during which time the witnesses enumerated in enclosure No. 2 were examined.

The board, after carefully weighing the evidence, find as follows:—

1. That the screw steamer *Lady Bird*, of 248 tons and 70-horse power, Alexander White, commander, sailed from Hobson's Bay, bound to Warrnambool, Belfast, and Portland, with cargo and passengers, on Monday, the 24th instant, at 2 p.m., and passed out clear of the Heads at 5.30 p.m., when a course was shaped for Cape Otway, which light was seen by the mate then in charge of the vessel at a quarter past ten; the ship was then steering W. by S., which course was never altered until immediately before the collision.

About ten minutes past eleven the mate saw the *Champion's* mast head light about two points on the *Lady Bird's* starboard bow, in which position it was kept until the vessels were within five hundred yards of each other, when he saw the *Champion's* red light, as well as her mast head light. He then ordered the engine to be stopped, and the helm to be put hard a-port, but too late to prevent the *Lady Bird* running stem on into the *Champion's* port quarter, sinking the *Champion*, and damaging herself seriously on the starboard bow.

2. The *Champion* screw steamer, of 306 tons and 60-horse power, Benjamin Francis Helpman, commander, sailed from Warrnambool, bound to Melbourne (with cargo and passengers), about 5 p.m. on Monday, the 24th instant, and a course was shaped for Cape Otway. The master left the deck at 8 p.m. in charge of the first officer, with instructions to keep a good look-out, and to call him if he saw anything.

About twenty minutes to eleven Cape Otway bore N., distant three miles, after which an E. by S.  $\frac{1}{2}$  S. course was steered until within fifteen minutes of the collision, at which time the mast head light of the *Lady Bird* was seen about two points on the port bow, when the helm was put to port, then steadied for some time, and then put hard a-port, but too late to prevent the collision. All the evidence goes to show that the night, although cloudy, was sufficiently clear to admit of a steamer's ordinary side lights being seen from one to two miles.

We have thus, from the evidence of the officers in charge of both steamers, the helmsmen, and men on the look-out, the relative positions of these vessels and the courses they were steering when their mast head lights were first seen from each other; and find that, when first seen, they were about seven miles apart, with ample sea-room on either side, and were approaching each other rapidly from nearly opposite directions, the *Champion's* course being E. by S.  $\frac{1}{2}$  S., the *Lady Bird's*, W. by S.

The opinion of the board is, that Mr. McDougall, mate of the *Lady Bird*, was principally to blame; inasmuch as, after making the *Champion's* mast head light, he continued his course without alteration, until the vessels were within five hundred yards of each other, when the collision became inevitable.

His duty was, when he saw the *Champion's* mast head light and could not make out her side lights, instead of keeping it two points on his starboard bow, to have ported his helm and brought the light broad on his port bow, and thus have shown the approaching vessel his red light, and passed her on his port side.

Secondly. Mr. Campbell, the mate of the *Champion*, was also to blame for not calling Capt. Helpman when he first saw the *Lady Bird's* mast head lights, and in withdrawing the look-out man from the bridge when the vessel was rapidly approaching another vessel, whose position he had not made out, a time when a good look-out was especially needed.

In reference to the sea-worthiness of the ships, the board have every reason to believe that the requirements of the Steam Navigation Act had generally been complied with.

The hull, machinery, and equipments of both vessels, it has been proved, were most satisfactory, and it has been shown that the boats were promptly lowered to the water and did efficient service, while the evidence as to a third boat is contradictory and less satisfactory.

The conduct of Captain White, of the *Lady Bird*, after the collision, has been shown as most cool, energetic, and creditable to him as a seaman.

This important inquiry has brought prominently under observation some deficiencies in the Act, which this board will bring under your notice at an early day, with the view of rendering it more effective for the purpose for which it was designed.

I have, &c.,  
(Signed) CHARLES FERGUSON,  
Chairman of the Steam Navigation Board.

The Honorable the Commissioner of  
Trade and Customs,  
&c, &c., &c.

[ENCLOSURE No. 1.]

Melbourne, 26th August, 1857.

SIR,

I have the honor to make the following report for the information of the Steam Navigation Board, and in accordance with the chairman's order of the 29th:—

I inspected the steamer *Champion* on the 17th of this month, and found the hull, machinery, boats, and other equipments in good order and sea-worthy condition. I have always found Captain Helpman anxious to meet the requirements of the Steam Navigation Act, and any suggestions that I have made to him, from time to time, have been carried out to my satisfaction. I may state that the above-named ship was docked a short time ago, and had a thorough overhaul.

I inspected the steamer *Lady Bird* on the 22nd of this month, and found the hull, machinery, boats, and other equipments in good sea-going order and condition.

The master of this ship has, at all times, rendered every assistance in carrying out the provisions of the Steam Navigation Act. The *Lady Bird* was docked a short time since, and put in good repair, and, with the exception of the damage sustained in the late collision, is in a sea-worthy condition.

I have, &c.,  
(Signed) THOS. OULTRAM,  
Inspector, &c., Steam Navigation Board.

To John Shillinglaw, Esq.,  
Secretary to the Steam Navigation Board.

[ENCLOSURE No. 2.]

Evidence taken before the Steam Navigation Board:—

*Lady Bird.*

Alexander White, master.  
John McDougall, chief mate.  
John Chesney, chief engineer.  
Thos. Wilson, A.S. (look-out.)  
Henry Risk, A.S. (on watch.)

John Jenkins, A.S., helmsman.  
Edmund Smith, passenger.  
Henry Woodward, "  
Hugh R. Thomas, "  
Wm. Plummer, "

*Champion.*

Benjamin F. Helpman, master.  
Thos. Campbell, chief officer.  
Geo. Fitzgerald, A.S. (look-out.)  
John Sutherland, A.S., helmsman.  
Laurence Matthewson, A.S. (watch.)  
Alfred Turner, chief engineer.

John Milborn, second engineer.  
Albert A. C. Le Soeuf, passenger.  
Joseph Botterill, "  
George Johnston, "  
Andrew Hutchinson, "

## VICTORIA.

## SALE OF LAND ON CAPTAIN HEPBURN'S RUN.

## REPLIES TO QUESTIONS OF THE HONORABLE J. HOOD.

LAI'D UPON THE COUNCIL TABLE BY THE HONORABLE W. H. F. MITCHELL, AND  
ORDERED TO BE PRINTED 27TH JANUARY, 1858.

1. \* Was there a petition presented to the President of the Board of Land and Works complaining of the conduct of the District Surveyor in changing what were originally two allotments of land into one, immediately previous to the sale in Captain Hepburn's run?—No such petition was ever presented to the President of the Board of Land and Works, and no lot in the survey of Captain Hepburn's run has ever been altered; the plan has always been the same before the public.

2. \* Were these allotments withdrawn in consequence of such petition?—The land on Captain Hepburn's run (first sale in 1856) was all withdrawn on a petition, but again advertised in exactly the same manner, with the exception of lots 54 and 56, which two lots were withheld in consequence of a contemplated alteration in line of road towards Castlemaine, and at Mr. Skene's suggestion [this officer was instructed to proceed to Smeaton and report on the statements set forth in the petition], any alteration was subsequently found unnecessary.

3. \* Were the same lots gazetted for sale one month afterwards, with compensation to the extent of £960 put on them, and was the land finally sold in one lot or two, and who was the purchaser?—These lots 54 and 56, parish of Smeaton, were not offered again one month after, but twelve months after, in July, 1857; a valuation of £250 for a two-story mill and a dam being allowed, Captain Hepburn was the purchaser. Valuation made and approved in February, 1856.

4. \* On what grounds were other two lots withdrawn from sale, and why were they put up at a sale in another district?—No other lots were withdrawn than the two previously mentioned, and these were so for the reasons above stated (alteration contemplated in the Castlemaine road). They were not put up for sale in another district, but at Ballarat.

5. Why was the petition of the inhabitants of Creswick against the removal of the sale from that place to Castlemaine disregarded?—The day of sale was so close at hand when the petition was received, that there was not sufficient time to make the removal public. Even should such have been deemed advisable, such removal would however have delayed the sale for five or six weeks, to the disappointment of many intending purchasers.

6. Is it true, as stated in a letter bearing the signature of F. Longmore, that a fence placed between private and Crown lands was valued, and compensation allowed, in direct contravention to the second section of the Fences Act?—(See Adamson, page 665.)—The fence alluded to is on a portion of Captain Hepburn's pre-emptive section, and being a substantial three-railed fence, the portion adjoining lands surveyed for sale was valued according to the usual practice of the department, and one-half the value added to the upset price.

7. Is it true, that Captain Hepburn was allowed compensation for fences removed from a public road, and put up between land previously purchased by him, and that then about to be offered for sale, although such removal took place only two days previous to the sale?—Captain Hepburn was not allowed compensation for fencing removed from a public road and put up between land previously purchased by him, but was allowed a valuation for about fifty perches, which, in consequence of its crossing the proposed line of road, was removed to the surveyed line.

8. Is it true, that the lots were of a larger size close to Captain Hepburn's pre-emptive right (or wrong) than on the remainder of the survey?—The lots immediately around Captain Hepburn's pre-emptive section are under the average size of the rest of the survey, being on the east side 108, 124, and 127 acres, and on the north side, where the land is only fit for pastoral purposes, 340, 388, and 183 acres.

\* These four questions (1 to 4) relate to a sale which took place *nearly two years since*, being the first sale of land on Captain Hepburn's run.

C. HODGKINSON,  
Acting Surveyor General.





1857-8.

---

VICTORIA.

---

# SURVEYORS' FIELD WORK

IN

1857.

---

ORDERED BY THE COUNCIL TO BE PRINTED 26<sup>TH</sup> JANUARY, 1858. SUBSEQUENTLY REFERRED TO THE PRINTING COMMITTEE; THE REPORT OF WHICH COMMITTEE—"PRINTING RECOMMENDED TO BE DEFERRED TILL RETURN MADE COMPLETE BY REPORT OF INSPECTOR OF FIELD WORK"—WAS ADOPTED BY THE COUNCIL ON THE 23<sup>RD</sup> FEBRUARY, 1858.

---

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

1857-8.

VICTORIA.

---

SITE FOR NEW GOVERNMENT  
OFFICES.

---

PROGRESS REPORT

OF THE

COMMISSIONERS APPOINTED TO ENQUIRE AND REPORT UPON THE BEST MODE  
OF PROVIDING OFFICES FOR THE CIVIL SERVICE OF THE COLONY,

AND THE

MOST ELIGIBLE SITES FOR ANY NEW BUILDINGS THAT MAY BE NECESSARY  
FOR SUCH PURPOSE.

---

LAI'D UPON THE COUNCIL TABLE BY THE HONORABLE W. H. F. MITCHELL, AND  
ORDERED BY THE COUNCIL TO BE PRINTED 2<sup>ND</sup> FEBRUARY, 1858.

---

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

COMMISSION OF ENQUIRY RESPECTING NEW GOVERNMENT OFFICES.

By His Excellency SIR HENRY BARKLY, Knight Commander of the Most Honorable Order of the Bath, Captain-General and Governor-in-Chief of the Colony of Victoria, and Vice-Admiral of the (L.S.) same, &c., &c., &c.

To the Honorable David Moore; the Honorable Charles Hotson Ebdon; the Honorable Henry Miller, M.L.C.; the Honorable Charles Gavan Duffy, Esquire, M.L.A.; the Honorable Augustus Frederick Adolphus Greeves, Esquire, M.L.A.; the Honorable Charles Pasley, Captain R.E.; and William Montgomerie Bell, Esquire, all of Melbourne, in the colony of Victoria,

GREETING—

WHEREAS it has been deemed expedient by His Excellency the Governor, by and with the advice of the Executive Council of the said colony, that a Commission should forthwith issue to enquire and report upon the best mode of providing offices for the civil service of the colony, and the most eligible sites for any new buildings that may be necessary for such purpose: Now know ye, that I, the Governor, with the advice aforesaid, reposing great trust and confidence in your knowledge and ability, have authorised and appointed, and do by these presents authorise and appoint, you, David Moore, Charles Hotson Ebdon, Henry Miller, Charles Gavan Duffy, Augustus Frederick Adolphus Greeves, Charles Pasley, and William Montgomerie Bell, to be the Commissioners for the purpose aforesaid: And for the better effecting the object of this Commission, I do give and grant full power and authority to call before you such persons as you shall judge likely to afford you any information upon the subject of this Commission, and to enquire of and concerning the premises by all other lawful means and ways whatsoever: And this Commission shall continue in full force and virtue, and you the said Commissioners may, from time to time, and at any place or places, proceed in the execution thereof, and of every matter and thing therein contained, although the same be not continued from time to time by adjournment, and also that the beforenamed David Moore be the chairman of you the said Commissioners: And lastly, that you do, with as little delay as possible, report to the Governor of the said colony, in writing under your hands and seals, your opinion as to the best mode of providing offices for the civil service of the colony, and the most eligible sites for any new buildings that may be necessary for such purpose.

Given under my Hand and the Seal of the Colony, at Melbourne, in the said colony, this twenty-eighth day of September, in the year of Our Lord One thousand eight hundred and fifty-seven, and in the twenty-first year of Her Majesty's Reign.

HENRY BARKLY.

By His Excellency's Command,  
DAVID MOORE.

# PROGRESS REPORT

OF THE

COMMISSIONERS APPOINTED TO ENQUIRE AND REPORT UPON THE  
BEST MODE OF PROVIDING OFFICES FOR THE CIVIL SERVICE OF  
THE COLONY, AND THE MOST ELIGIBLE SITES FOR ANY NEW  
BUILDINGS THAT MAY BE NECESSARY FOR SUCH PURPOSE.

---

*To His Excellency SIR HENRY BARKLY, Knight Commander of the Bath, Captain-General and Governor-in-Chief of the Colony of Victoria, and Vice-Admiral of the same, &c., &c., &c.*

WE, the Commissioners appointed by Your Excellency "to enquire and report upon the best mode of providing offices for the Civil Service of the Colony, and the most eligible sites for any new buildings that may be required for such purpose," beg leave to submit the following Progress Report:—

We are of opinion that it is very desirable that the public offices generally should be placed in as close vicinity as possible to the Houses of Parliament and to each other, and that a piece of land of some extent should be at once set apart for this purpose.

Having ascertained that there is no unappropriated land in the neighborhood of the Houses of Parliament of sufficient extent, with the exception of that lying between Spring-street and Lansdowne-street, FitzRoy-square, which is intersected by several streets, or reputed streets, the existence of which would interfere very seriously with the carrying out of any comprehensive plan for public buildings, we placed ourselves in communication with the Right Worshipful the Mayor, with the view of learning whether the Corporation of Melbourne would have any objection to the streets being closed, and a new road opened in lieu of them, in order to provide for the communication between Melbourne and Collingwood.

After some correspondence, the City Council came to a resolution (copy appended) accepting our propositions on certain conditions, which appear to us reasonable.

We therefore beg leave to submit to Your Excellency the following recommendations, viz. :—

1. That a new road, one chain in width, be opened and made, extending from the intersection of Collins and Spring streets, into Gisborne-street, in a direct line towards the southern end of Brunswick-street, Collingwood.
2. That the following streets be closed :—Gisborne-street (south of Gipps-street west), Hotham-street west, George-street west, and the road connecting Gisborne-street with Collins-street.
3. That the land included between Spring-street and the new road on the west, Gipps-street on the north, Lansdowne-street on the east, and the Wellington-parade on the south, amounting to about twenty-three acres, be at once enclosed and reserved for the erection of public offices.

(Signed)	DAVID MOORE.	(L.S.)
	C. H. EBDEN.	(L.S.)
	HENRY MILLER.	(L.S.)
	C. GAVAN DUFFY.	(L.S.)
	AUGUSTUS F. A. GREEVES.	(L.S.)
	C. PASLEY.	(L.S.)
	WILLIAM M. BELL.	(L.S.)

---

At a meeting of the City Council, held this sixth day of November, 1857,

*It was resolved—*

That the proposed closing of Hotham-street, George-street west, the extension of Collins-street east, and Gisborne-street southward of Gipps-street, to afford a site for Government Offices, and the substitution of a new street extending in a direct line from Collins-street to Brunswick-street as shown on the plan furnished to the City Council by the Acting Surveyor-General, and described in the letter transmitting the same, be adopted, subject to the following conditions, viz. :—

That the Government bear the cost and liability of the proposed alterations of reducing the level of Spring-street, of forming, metalling, kerbing, and channelling the new street, of accommodating to the new levels the streets communicating with or intersecting those streets, of making the footways and planting them as proposed, and of removing and re-building the market erections affected by the new line of street, and that the city fund be re-imbursed the amount expended by the City Council on the metalled streets which it is proposed to close up.

(Signed) E. G. FITZGIBBON,  
Town Clerk.

1857-8.

VICTORIA.

CHINESE PASSENGERS, AND GOLD SHIPPED  
BY THE CHINESE.

- (1.) RETURN of the Number of CHINESE PASSENGERS entered out at the Port of Melbourne for all Ports and Places in China and Singapore during the year ending 30th June, 1857.
- (2.) RETURN of the Number of CHINESE entered out of the Port of Melbourne for all Ports and Places in China during the half-year ending 31st December, 1857.
- (3.) RETURN of the Quantity of GOLD in ounces shipped by the Chinese from the Port of Melbourne to China and Singapore during the year ending 30th June, 1857.
- (4.) RETURN of the Quantity of COINED GOLD and CRUDE GOLD in ounces shipped by the Chinese from the Port of Melbourne during the half-year ending 31st December, 1857.

LAI D UPON THE COUNCIL TABLE BY THE HONORABLE W. H. F. MITCHELL, AND ORDERED BY THE COUNCIL TO BE PRINTED 23RD FEBRUARY, 1858.

No. 1.

RETURN of the Number of CHINESE PASSENGERS entered out at the Port of Melbourne for all Ports and Places in China and Singapore during the year ending 30th June, 1857.

Month.	Chinese Ports.	Singapore.	Other Ports.	No. of Chinese.	Total per Month.
1856.					
July ... ..	Hong Kong ... ..	... ..	Adelaide ... ..	337	340
	... ..	... ..	Sydney ... ..	1	
	... ..	... ..	... ..	2	
August ... ..	Hong Kong ... ..	... ..	Sydney ... ..	1	99
	... ..	... ..	... ..	98	
September ... ..	Hong Kong ... ..	... ..	... ..	279	279
October ... ..	Hong Kong ... ..	... ..	Calcutta ... ..	457	458
	... ..	... ..	... ..	1	
November ... ..	Hong Kong ... ..	... ..	Adelaide ... ..	1	79
	... ..	... ..	... ..	78	
December ... ..	Hong Kong ... ..	... ..	Sydney ... ..	1	188
	... ..	... ..	Launceston ... ..	185	
	... ..	... ..	... ..	2	
1857.					
January ... ..	Hong Kong ... ..	... ..	Batavia ... ..	6	235
	... ..	... ..	... ..	229	
February ... ..	Hong Kong ... ..	... ..	... ..	174	174
March ... ..	Hong Kong ... ..	Singapore ... ..	... ..	3	227
	... ..	... ..	Sydney ... ..	220	
	... ..	... ..	... ..	4	
April ... ..	Hong Kong ... ..	... ..	... ..	280	280
May ... ..	Hong Kong ... ..	... ..	... ..	203	203
June ... ..	Hong Kong ... ..	... ..	Adelaide ... ..	387	392
	... ..	... ..	Sydney ... ..	1	
	... ..	... ..	... ..	4	
Total Chinese departed for twelve months					2,954

## No. 2.

RETURN of the Number of CHINESE who have departed for Melbourne for Ports in China during the half-year ending 31st December, 1857.

Date.	Name of Vessel.	Port of Destination.	Number of Chinese.
July ... ..	Nil... ..	Nil ... ..	Nil
August 8th ... ..	Daniel Ross ... ..	Hong Kong ... ..	221
August 23rd ... ..	Kitty Simpson ... ..	Hong Kong ... ..	278
August 25th ... ..	Texas ... ..	Hong Kong ... ..	173
September 4th ... ..	Eleanora ... ..	Hong Kong ... ..	121
October 2nd ... ..	Star of the South ... ..	Hong Kong ... ..	455
November 3rd ... ..	Gellert ... ..	Hong Kong ... ..	279
November 6th ... ..	City of Palaces ... ..	Hong Kong ... ..	168
December 10th ... ..	Beatrice ... ..	Hong Kong ... ..	297
Total ... ..	... ..	... ..	1,992

JAMES McCULLOCH.

Department of Trade and Customs,  
8th February, 1858.

## No. 3.

RETURN, showing the Amount of GOLD exported to China during each month from the 1st July, 1856, to the 30th June, 1857, both inclusive, and distinguishing the Amounts shipped by Chinese and those forwarded by British Merchants.

Date.	By Chinese.		By British Merchants.	
	ozs.	dwts.	ozs.	dwts.
1856.				
July ... ..	8,403	10	1,759	0
August ... ..	10,485	10	2,314	14
September ... ..	14,964	0	888	0
October ... ..	12,184	5		
November ... ..	11,714	5		
December ... ..	1,407	15		
1857.				
January ... ..	11,579	6	530	0
February ... ..	7,230	0		
March ... ..	9,756	0	303	5
April ... ..	9,217	15	1,357	0
May ... ..	10,935	10		
June ... ..	9,026	0		
Totals ... ..	116,903	16	7,151	19

N.B.—No gold has been exported to Singapore for the above period, the whole of the above gold having been shipped for Hong Kong.

## No. 4.

RETURN, showing the Quantity of COINED AND CRUDE GOLD shipped by the Chinese from the Port of Melbourne during the half-year ending 31st December, 1857.

Coined Gold ... ..	£3,466
Crude Gold ... ..	78,581 ounces.

Department of Trade and Customs,  
8th February, 1858.

JAMES McCULLOCH.

## SALE 31st DECEMBER, 1857.

LOT.	A.	R.	P.
4	160	3	14
13	161	3	27
18	217	2	26
23	169	2	33
30	232	2	15
31	226	1	8
34	273	2	26
39	372	0	23
40	395	3	1
41	290	3	34
43	357	0	26
	2,858	2	33

Total area withdrawn, 7,585a. 3r. 8p.

No. 3.

STATEMENT of all Lots withdrawn from the Sales held at Belfast on 30th and 31st December, 1857, during the time of sale, &c.

Date of Sale.	No. of Lot.	Area.	Amount offered per Acre.	Remarks.
December 30th, 1857...	12	A. 41 R. 2 P. 17	£ s. d. No offer.	The parties' names who offered for these lots have not been reported to the Government.
	23	97 0 29	1 0 0	
	38	91 3 0	1 0 0	
		230 2 6		
December 31st, 1857...	2	90 1 10	1 0 0	
	6	142 0 39	1 0 0	
	7	146 0 11	1 0 0	
	8	124 0 21	1 0 0	
	12	177 0 13	1 0 0	
	17	155 3 21	1 0 0	
	24	155 0 31	1 1 0	
	25	160 3 14	1 0 0	
	26	156 3 14	1 0 0	
	27	177 0 5	1 0 0	
	28	222 2 7	1 3 0	
	35	156 0 23	1 0 0	
36	152 3 27	1 0 0		
	2,017 0 36			
December 30th, 1857...	19	209 2 17	1 8 0	Appears to have been withdrawn from sale and re-offered, when it was purchased by R. H. Woodward at 31s. per acre.
December 31st, 1857...	22	156 3 27	1 3 0	Same as above, but afterwards purchased by John Twomey at 25s. per acre.



## No. 4.

*Telegraphic Messages, Instructions, &c., relative to the Sale of Land in the Parish of Birregurra, at Rickett's Marsh, Colac District, held at Geelong on the 21st December last and two following days.*

1 *Telegraphic Message to A. J. Skene, Esq., District Surveyor, Geelong.*

21st December, 1857.

Immediately the sale of Birregurra land is over to-day, report fully and carefully the result, and also who will be the probable purchasers to-morrow.

For the President, &c.,  
H. DAVIDSON.

*Telegraphic Message to the Honorable the President of Board of Land and Works.*

Geelong, 21st December, 1857.

Lot 2 of sale of country lands this day, £1 10s. per acre; lot 3, £1 6s.; lot 4, £1 12s.; lot 5, £1 12s.; lots 6 and 7, withdrawn from sale; lot 8, £1 13s.; lot 9, £1 17s.; lot 10, £2 11s.; lot 11, withdrawn from sale; lot 12, £2 2s.; lot 13, £2; lot 14, £2 5s.; lot 15, £2 12s.; lot 16, £1 14s.; lot 17, £1 7s. per acre; all purchased by Geo. Armytage, junior, after brisk competition. Mr. Armytage is likely to purchase six allotments in to-morrow's sale. There will be great competition for the remainder, which will probably fall into the hands of different individuals.

(Signed) A. M. MASON,  
For the District Surveyor.

*Telegraphic Message to A. J. Skene, Esq., District Surveyor, Geelong.*

22nd December, 1857.

This day's sale to proceed, but report by telegraphic message as every five or six lots are sold.

For the President, &c.,  
H. DAVIDSON.

*Telegraphic Messages to the President of the Board of Land and Works.*

Geelong, 22nd December, 1857.

## MESSAGE No. 1.

Lot 1, £2 2s. per acre; lot 2, £2 11s.; lot 3, £3 11s.; lot 4, £4 1s.; lot 5, £2 1s.; lot 7, £2 17s.; all purchased by Geo. Armytage, junior. Competition for each lot.

(Signed) A. M. MASON,  
For District Surveyor.

## MESSAGE No. 2.

Lot 7, £3 per acre, Jas. North; lot 8, withdrawn; lot 9, £4 6s. per acre, J. F. Strachan; lot 10, withdrawn; lot 11, £2 9s. per acre, Beale and Trebeck; lot 12, £3 1s. per acre, J. McCaig and J. McGonigal; lot 13, withdrawn.

(Signed) A. M. MASON,  
For District Surveyor.

## MESSAGE No. 3.

Lot 16, £3 6s. per acre, Beale and Trebeck; lot 17, £3 1s. per acre, do.; lot 19, £2 4s., Richd. Armstrong; lot 20, £2 5s., John Troy; lot 21, £2 5s., F. M. Clark. Brisk competition for each lot.

(Signed) A. M. MASON,  
For District Surveyor.

## MESSAGE No. 4.

Lot 22, £3 1s. per acre, Jno. Macdonald; lot 23, £3, F. M. Clark; lot 24, £5 10s., Thos. Vaughan; lot 25, £3 10s., Thos. Vaughan; lot 26, £3 2s., W. Price; lot 27, £3 1s., McCaig and McGonigal. Brisk competition for each lot.

(Signed) A. M. MASON,  
For District Surveyor.

## MESSAGE No. 5.

Lot 28, £3 1s. per acre, J. D. Bloomfield; 29, £3 7s., Geo. Armytage, junior; 30, £3 9s., Geo. Armytage; 31, £3 10s., Geo. Armytage, junior; 32, £5 1s., Geo. Armytage, junior;

**A 7.—a.**

# LAND SALES AT BELFAST, ETC.

(COPY.)

S.B. 57 | 2657.

No. 1.

PUBLIC LANDS, VICTORIA.

Surveyor General's Office,  
Melbourne, 22nd December, 1857.

SIR,

I have the honor to forward herewith the description books of the Crown lands to be offered for sale at Belfast on the 30th and 31st instant.

2. Returns of allotments to be withdrawn from sale.
3. Return allowing time for the removal of improvements situate on two allotments.
4. Returns showing alterations in the areas of certain lots.

I have to request that in conducting this sale you will be good enough to take particular notice as regards the prices the lots may realize, in order that, if the land is likely to be sold without competition, or there is any chance of its falling into the hands of one or two parties, you may at once withdraw it from sale.

These instructions were issued in accordance with a decision of the Board of Land and Works.

(Signed)

C. HODGKINSON,  
Acting Surveyor General.

To the Sub-Treasurer, Belfast.

No. 2.

RETURN of Lots withdrawn from the Belfast Land Sales previous to the sales taking place.

SALE 30TH DECEMBER, 1857.

LOT.	A.	B.	P.
6	212	3	34
7	203	3	21
8	209	2	20
9	222	3	33
10	356	0	0
17	298	0	9
18	334	3	15
21	235	0	0
22	194	2	24
26	236	3	12
28	200	0	0
29	200	0	0
30	310	3	8
31	325	1	9
32	170	3	4
33	365	3	35
34	318	0	15
35	331	1	16
	4,727	0	15

33, £7, J. F. Strachan; 34, £5 15s., J. F. Strachan; 35, £6 9s., J. F. Strachan. Very spirited competition for the last lots. Will the President want telegraphic messages during to-morrow's sale?  
(Signed) A. M. MASON,  
For the District Surveyor.

22nd December, 1857.

Telegraphic reports to be sent up during to-morrow's sale in same manner as to-day.  
(Signed) H. DAVIDSON,  
For the President, &c.

*Telegraphic Messages to the President of the Board of Land and Works.*

Geelong, 23rd December, 1857.

MESSAGE No. 1.

Lot 1, £3 18s. per acre, J. T. Strachan; lot 2, £2 12s. do., Geo. Armytage, junior; lot 3, £4 6s. do., Geo. Armytage, junior; lot 4, £2 8s. do., Geo. Armytage, junior; lot 5, £3 6s. do., Geo. Armytage, junior; lot 6, £2 2s. do., Geo. Armytage, junior.

(Signed) A. M. MASON,  
For District Surveyor.

MESSAGE No. 2.

Lot 7, £3 3s. per acre, Geo. Armytage, junior; lot 8, £4 2s. do, Geo. Armytage, junior; lot 9, £4 18s. do., Geo. Armytage, junior; lot 10, withdrawn; lot 11, £3 11s. per acre, T. Vaughan; lot 12, £4 3s. do., J. Lamont.

(Signed) A. M. MASON,  
For District Surveyor.

MESSAGE No. 3.

Lot 13, £5 1s. per acre, J. F. Strachan; lot 14, £4 11s. do., J. F. Strachan; lot 15, £3 8s. do., D. McRae and Sons; lot 16, £5 do., J. F. Strachan; lot 17, £5 2s. do., J. S. Coulter; lot 18, £5 6s. do., J. S. Coulter.

(Signed) A. M. MASON,  
For District Surveyor.

MESSAGE No. 4.

Lot 19, £4 2s. per acre, Beale and Trebeck; lot 20, £3 15s. do., Beale and Trebeck; lot 21, £3 13s. do., Beale and Trebeck; lot 22, £2 19s. do., Hodgson, Vaughan, and Browning; lot 23, £3 3s. do., Hodgson, Vaughan, and Browning; lot 24, £2 14s. do., D. Broomfield.

MESSAGE No. 5.

Lot 25, £3 11s. per acre, J. D. Broomfield; lot 26, £1 do., William Sherren; lot 27, £2 5s. do., William Sherren; lot 28, £2 11s. do., William Sherren; lot 29, £2 5s. do., William Sherren; lot 30, £2 do., William Sherren.

(Signed) A. M. MASON,  
For District Surveyor.

MESSAGE No. 6.

Lot 31, £2 10s. per acre, W. Sherren; lot 32, £3 12s. do., E. Neil; lot 33, £4 do., D. McRae and Sons; lot 34, £2 10s. do., J. G. Trainer; lot 35, £3 10s. do., John Aulett.

C. HODGKINSON,  
Acting Surveyor General.

Department of Public Lands, Melbourne,  
9th February, 1858.

1857-8.

---

VICTORIA.

---

DISMISSALS

IN

THE PUBLIC SERVICE.

---

Return to Address:

THE HONORABLE J. HOOD.—3RD MARCH, 1858.

---

LAI D UPON THE COUNCIL TABLE BY THE HONORABLE H. MILLER, AND ORDERED  
BY THE COUNCIL TO BE PRINTED 5TH MAY, 1858.

---

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.



A RETURN of the Names of all Clerks receiving more than £200 a year salary dismissed the public service since the establishment of responsible Government in this Colony, setting forth for what dismissed, at whose instance, whether on the recommendation of a Board, Commission, or otherwise; and also if any of those parties so dismissed have subsequently been employed by the Government; and if so, in what capacity, at what salary, and the reason for being again employed.

### CHIEF SECRETARY'S DEPARTMENT.

NAME.	CAUSE OF DISMISSAL.	AT WHOSE INSTANCE.	RE-EMPLOYED.	AT WHAT SALARY.	REASON FOR BEING AGAIN EMPLOYED.
Keane, Michael, Clerk and Storekeeper	Absence from duty ... ..	Inspector-General of Penal Establishments	No.		
Phipson, J. Bond, Clerk of Local Court	Intoxication ... ..	Local Court, Avoca ... ..	Yes—Keeper of Powder Magazine, Castlemaine (since resigned)	£300 ... ..	On recommendation of Chief Secretary.

Chief Secretary's Office,  
Melbourne, 20th April, 1858.

J. MOORE,  
Under Secretary.

### ATTORNEY GENERAL'S DEPARTMENT.

NAME.	CAUSE OF DISMISSAL.	AT WHOSE INSTANCE.	RE-EMPLOYED.	AT WHAT SALARY.	REASON FOR BEING AGAIN EMPLOYED.
Augustus Farley ... ..	Embezzlement ... ..	Attorney General ... ..	No.		
H. B. C. Marley ... ..	General misconduct ... ..	Police Magistrate and Attorney General	No.		
F. H. Probert ... ..	Mental aberration ... ..	Police Magistrate ... ..	Yes ... ..	£300 ... ..	Restored health.
O. F. B. Bonne ... ..	Misconduct ... ..	Police Magistrate ... ..	No.		
B. S. Homan ... ..	Misconduct ... ..	Police Magistrate and Warden	Yes, by Chief Secretary		Not known.
James Allison ... ..	Neglect in preparation of Returns; disobedience to instructions	Attorney General ... ..	Yes ... ..	£300 ... ..	Case re-considered.
Frank Hasleham ... ..	Improper disposal of moneys collected	Board of Inquiry ... ..	No.		
H. Poole ... ..	Misconduct ... ..	Board of Inquiry ... ..	No.		
Andrew Strachan ... ..	Embezzlement ... ..	Attorney General ... ..	No.		
E. H. Sirr ... ..	Misconduct ... ..	Attorney General ... ..	No.		
D. G. Small ... ..	Embezzlement ... ..	Attorney General ... ..	No.		
John Barlow ... ..	Irregularity in accounts ... ..	Attorney General and Treasurer	No.		
C. H. Hemming ... ..	Misconduct ... ..	On report of Prothonotary ... ..	No.		
John J. Daly ... ..	Misconduct ... ..	On report of Crown Solicitor ... ..	No.		

HENRY G. ARCHER,  
Secretary.

TREASURER'S DEPARTMENT.

NAME.	CAUSE OF DISMISSAL.	AT WHOSE INSTANCE.	RE-EMPLOYED.	AT WHAT SALARY.	REASON OF BEING AGAIN EMPLOYED.
William Westgarth, Clerk, Audit Office	Intoxication in public and improper conduct while in that state	The recommendation of the Treasurer	Not again employed.		

Treasury, Melbourne,  
13th April, 1858.

E. S. SYMONDS.

PRESIDENT OF THE BOARD OF LAND AND WORKS DEPARTMENT.

NAME.	CAUSE OF DISMISSAL.	AT WHOSE INSTANCE.	RE-EMPLOYED.	AT WHAT SALARY.	REASON OF BEING AGAIN EMPLOYED.
Francis M. Hill, Clerk and Draftsman	Inattention to duties and non-attendance at office	Upon report of the District Surveyor, Sandhurst ...	No.		
Charles James Poole, Clerk, Occupation Branch	Withholding public moneys from the Treasury for an unnecessarily long period	On report of a Board composed of Messrs. Sturt, Hackett, and Griffiths	No.		
John Trevor Jones, Lithographer	Incompetency and ungentlemanly behaviour	On report of a Board composed of Messrs. Ward and Hodgkinson	No.		
Robert Meikle, Lithographer...	Insubordination and ungentlemanly conduct	Ditto ... ..	No.		
Charles A. C. Baley, Draftsman	Inattention to duties and non-attendance at office	Ditto ... ..	No.		
George Morton, Clerk ...	Reduction in Staff of Office ...	President of the Board of Land and Works	Yes ... ..	C.P.S., Heidelberg, salary £350	Mr. Morton had always discharged his duties efficiently and diligently, and was only reduced in consequence of a reduction in the expenditure of the department being required; he was therefore appointed to the first available vacancy.
Richard Jones, Clerk and Draftsman	Ditto ... ..	Ditto ... ..	No.		

C. HODGKINSON,  
Acting Surveyor General.

## TRADE AND CUSTOMS DEPARTMENT.

NAME.	CAUSE OF DISMISSAL.	AT WHOSE INSTANCE.	RE-EMPLOYED.	AT WHAT SALARY.	REASON OF BEING AGAIN EMPLOYED.
Nil.	Nil.	Nil.	Nil.	Nil.	Nil.

Department of Trade and Customs, Melbourne,  
14th April, 1858.

HENRY MILLER.

## POST OFFICE DEPARTMENT.

DATE.	NAME.	OFFICE.	PLACE.	SALARY.	CAUSE OF DISMISSAL.	AT WHOSE INSTANCE.	REMARKS.
1856.							
May 27 ...	W. B. Campbell ...	Clerk ...	Melbourne	£300 ...	Neglect of duty ...	The Postmaster General	None of these officers have been re-employed.
August 5 ..	A. L. Keane ...	Ditto ...	Ditto ...	£325 ...	Mental aberration ...	Ditto ...	
1857.							
April 24 ...	J. A. Walpole ...	Ditto ...	Geelong ...	£400 ...	Age and incapacity ...	Ditto ...	
June 22 ...	J. P. Jones Parry ...	Ditto ...	Beechworth	£300 ...	Neglect of duty ...	Ditto ...	
July 28 ...	Wm. Fuller ...	Postmaster ...	Belfast ...	£300 ...	Ditto ...	Ditto ...	
July 30 ...	H. H. J. Vaughan ...	Clerk ...	Melbourne	£350 ...	Ditto ...	Ditto ...	

General Post Office, Melbourne,  
8th March, 1858.

WILLIAM TURNER,  
Secretary.



1857-8.

---

VICTORIA.

---

SEWERAGE AND WATER COMMISSION.

---

RETURN TO AN ORDER OF THE LEGISLATIVE COUNCIL.

THE HONORABLE J. P. FAWKNER.—9<sup>TH</sup> FEBRUARY, 1858.

---

1. THE gross amounts of money expended by the Commissioners of Sewerage and Water Supply, under the Act of Council 16 Victoria, No. 31, up to the 1st August, 1857, including and specifying the amount of salaries and recipients paid annually.
2. Setting forth the extent of ground acquired from each proprietor through whose lands the Commissioners carried the works; the names of the different proprietors; the amount of land obtained from each; the amount claimed by each proprietor under the notice of the said Act; the amount offered by the Commissioners to be paid in each case; the amount actually paid to each proprietor, and whether paid under treaty and agreement or under verdict of jury.
3. A list of the actual costs paid in each case, either under treaty with the proprietor or under verdict of a jury, distinguishing the costs of action, or expenses paid to attorney, solicitor, or otherwise.
4. The amount of costs charged to the Commissioners by their solicitor or attorney up to 31st July, 1857; setting forth whether the costs were taxed or not, and if so, particulars, distinguishing the costs incurred in completing the titles to each portion of land required by the Commissioners under the said Act from all other costs, and a gross amount of land acquired and total cost thereof, and the purposes for which such land was bought.
5. A return of all transferred contracts; setting forth the original contract price in detail, together with the ultimate cost of the work and the names of both contractors.

---

LAI'D UPON THE COUNCIL TABLE BY THE HONORABLE H. MILLER, AND  
ORDERED BY THE COUNCIL TO BE PRINTED 5<sup>TH</sup> MAY, 1858.

---

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.



SEWERAGE AND WATER COMMISSION.

---

**Return.**

A RETURN of GROSS AMOUNTS of Money expended by the COMMISSIONERS of SEWERAGE AND WATER SUPPLY up to the 1st of August, 1857.

				£	s.	d.	£	s.	d.
1853.									
Gross amount expended, including Salaries	...	...	...	...	...	...	10,055	16	5
SALARIES—									
Commissioners...	...	...	...	1,142	4	0			
Secretary	...	...	...	377	13	8			
Chief Engineer	...	...	...	443	6	8			
Consulting Engineer	...	...	...	60	9	7			
Clerk and Messenger	...	...	...	44	0	0			
				2,067	13	11			
1854.									
Gross amount expended, including Salaries	...	...	...	...	...	...	392,632	10	4
SALARIES—									
Commissioners...	...	...	...	1,103	11	2			
Secretary	...	...	...	716	13	4			
Chief Engineer	...	...	...	1,016	13	4			
Consulting Engineer	...	...	...	50	0	0			
Clerks	...	...	...	171	10	0			
Draftsmen	...	...	...	1,977	5	6			
Assistant Engineers	...	...	...	1,506	0	2			
Turncocks	...	...	...	362	16	8			
Overseers and Inspectors	...	...	...	941	7	4			
Surveyors	...	...	...	377	6	0			
				8,223	3	6			
1855.									
Gross amount expended, including Salaries	...	...	...	...	...	...	133,600	3	4
SALARIES—									
Commissioners...	...	...	...	1,500	0	0			
Secretary and Clerks	...	...	...	1,010	13	4			
Engineers	...	...	...	1,596	15	6			
Draftsmen	...	...	...	1,535	11	2			
Surveyors	...	...	...	25	4	0			
Turncocks	...	...	...	1,009	14	6			
Overseers, &c., at Yan Yean	...	...	...	739	19	9			
Inspector of pipes, &c.	...	...	...	872	10	10			
				8,090	9	1			
1856.									
Gross amount expended, including Salaries	...	...	...	...	...	...	155,839	3	10
SALARIES—									
Commissioners...	...	...	...	1,597	2	7			
Secretary, Accountant, Collector, &c.	...	...	...	1,349	6	6			
Engineer and Assistants...	...	...	...	2,383	6	8			
Draftsmen	...	...	...	1,096	9	4			
Surveyors	...	...	...	126	19	6			
Turncocks	...	...	...	1,018	4	6			
Overseers, &c., Yan Yean	...	...	...	668	14	7			
Inspectors of Pipes	...	...	...	2,113	13	4			
				10,353	17	0			
Up to the first of August, 1857.									
Gross amount expended, including Salaries	...	...	...	...	...	...	67,045	5	6
SALARIES—									
Commissioners...	...	...	...	602	7	0			
Secretary, Accountant, and Clerks	...	...	...	793	6	8			
Engineer and Assistants	...	...	...	1,300	0	0			
Draftsmen	...	...	...	638	16	8			
Surveyors	...	...	...	37	10	0			
Turncocks	...	...	...	700	0	0			
Overseers	...	...	...	606	3	1			
Rate Valuers	...	...	...	197	16	7			
Rate Collector	...	...	...	140	12	4			
Inspector of Service Pipes	...	...	...	186	5	0			
Inspector of Pipe-laying	...	...	...	1,276	10	10			
				6,479	8	2			
Carried forward				...	...	...	759,172	19	5

## RETURN—continued.

	£	s.	d.	£	s.	d.
Brought forward ... ..	...	...	...	759,172	19	5
<i>Deduct—</i>						
Value of the undermentioned works, which are either unconnected with, or being no longer necessary, may be disposed of:—						
Amount expended on temporary supply of water to Melbourne, Sandridge, Emerald Hill, &c., including cost of engines, pumps, buildings, tanks, pipes, salaries, &c. ...	85,544	6	3			
Value of nineteen miles of tramway, from Melbourne to Yan Yean, to be handed over to Government, or otherwise disposed of ... ..	150,000	0	0			
Amount expended on the sewerage of Melbourne, including cost of iron plates for covering the main sewer ...	38,317	17	4			
Cost of forming portion of the Plenty-road, which should be re-paid by the Central Road Board ... ..	4,663	12	4			
Value of superfluous land, travelling crane, plant, &c. ...	2,000	0	0			
Value of service pipes, &c., to be repaid by the citizens ...	15,000	0	0			
Value of 1000 fire plugs, to be repaid by the corporation ...	9,000	0	0			
Value of cranes, &c. ... ..	1,400	0	0			
				305,925	15	11
Nett cost of permanent water supply of Melbourne from Yan Yean ... ..	...	...	...	£453,247	3	6

RETURN IN REPLY TO QUESTION No. 2.

Proprietor.	Occupant.	Quantity of Land.			Amount claimed.			Amount offered.			Amount paid for Land.			Amount to Occupant.			Amount for damage by severance.			TOTAL.			Whether under treaty and agreement, or verdict of Jury.	
		A.	R.	P.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.		
Thomas and Sons ...	W. Lansdown ...	0	0	16	150	0	0	100	0	0	125	0	0	...	...	125	0	0	...	...	125	0	0	
W. Lansdown ...	...	0	2	3	1,000	0	0	...	...	...	294	0	0	...	170	10	0	...	...	464	10	0		
Private Road ...	...	0	0	14 $\frac{3}{4}$	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...		
Francis Lokie ...	John Davidson ...	0	2	0	1,500	0	0	500	0	0	400	0	0	100	0	0	...	...	500	0	0	Under treaty and agreement.		
David Moore ...	...	2	2	28	1,902	0	0	1,150	0	0	1,150	0	0	...	...	1,150	0	0	...	...	1,150	0	0	
Private Road ...	...	0	0	14 $\frac{3}{4}$	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...		
John Guthrie ...	...	0	0	7	2,000	0	0	580	0	0	580	0	0	...	...	580	0	0	...	...	580	0	0	Under treaty and agreement.
Merri Creek ...	...	0	0	9 $\frac{1}{2}$	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...		
William Walker ...	Lokie and Corcoran ...	0	1	22	290	12	6	200	0	0	200	0	0	40	0	0	...	...	240	0	0	...		
Captain Clarke ...	...	1	1	0	625	0	0	150	0	0	312	10	0	...	30	0	0	...	...	342	10	0	Under treaty and agreement.	
William Degraives ...	Captain Clarke ...	1	1	30	718	15	0	200	0	0	287	10	0	50	0	0	...	...	337	10	0	...		
Private Road ...	...	0	0	8 $\frac{1}{4}$	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...		
J. H. Ross ...	...	0	2	37	450	0	0	...	...	150	0	0	...	300	0	0	...	...	450	0	0	Under treaty and agreement.		
Private Road ...	...	0	0	7	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...		
John Clarke ...	...	0	3	3	1,075	0	0	96	2	6	450	0	0	...	...	450	0	0	...	...	450	0	0	By arbitration.
Dr. McArthur ...	...	1	1	0	1,000	0	0	182	10	0	500	0	0	...	100	0	0	...	...	600	0	0	Under treaty and agreement.	
Mrs. A. McArthur ...	Shutting up a road and injury to house	...	...	...	...	...	...	...	...	...	...	...	...	250	0	0	...	...	250	0	0	...		
Minnethorpe ...	A. McArthur ...	0	3	16	800	0	0	68	4	6	462	10	0	50	0	0	...	...	512	10	0	...		
Robert Duff ...	...	2	1	6	...	...	...	161	6	0	150	0	0	...	500	0	0	...	...	650	0	0	By verdict of jury.	
John Bullen ...	...	2	0	1 $\frac{3}{4}$	...	...	...	200	0	0	100	0	0	...	300	0	0	...	...	400	0	0	...	
J. H. Patterson ...	...	1	3	37	...	...	...	128	14	9	515	0	0	...	...	515	0	0	...	...	515	0	0	...
Captain Hutton ...	Wm. Smith ...	1	3	32	...	...	...	...	...	97	13	0	30	0	0	150	0	0	...	...	277	13	0	...
Richard Huggett ...	...	1	1	18	100	0	0	...	...	125	0	0	...	...	125	0	0	...	...	125	0	0	Under treaty and agreement	
Private Road ...	...	0	0	8 $\frac{1}{4}$	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...		
Vaughan and Leigh ...	...	2	1	10	1,000	0	0	120	0	0	300	0	0	...	...	300	0	0	...	...	300	0	0	Under arbitration.
Isaac Berry ...	...	0	0	33	20	12	6	...	...	25	0	0	...	...	25	0	0	...	...	25	0	0	...	
Government Roads ...	...	0	0	16 $\frac{1}{4}$	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...		
Mitchell's ...	Timothy Shepherd ...	4	0	5	...	...	...	...	...	161	0	0	50	0	0	120	0	0	...	...	331	0	0	...
J. O'Sullivan ...	...	2	0	11	300	0	0	250	0	0	250	0	0	...	...	250	0	0	...	...	250	0	0	...
D. Donovan ...	...	0	1	0	...	...	...	...	...	60	0	0	...	...	60	0	0	...	...	60	0	0	...	
C. Palmer ...	S. Plummer ...	0	2	2	290	0	0	100	0	0	150	0	0	50	0	0	...	...	200	0	0	Under treaty and agreement.		



RETURN IN REPLY TO QUESTION No. 2.—*continued.*

Proprietor.	Occupant.	Quantity of Land.			Amount claimed.			Amount offered.			Amount paid for Land.			Amount to Occupant.			Amount for damage by severance.			TOTAL.	Whether under treaty and agreement, or verdict of Jury.	
		A.	R.	P.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.			£
	Brought forward																					
Stockdale ...	...	4	0	7																		
Public Road ...	...	0	1	12 <sup>3</sup> / <sub>4</sub>																		
No owner. Disputed title	...	0	0	19 <sup>3</sup> / <sub>4</sub>																		
J. Wilton ...	F. and J. Ovens	7	0	24	100	0	0	...		100	0	0	52	10	0	...			152	10	0	Under treaty and agreement.
Moses Thomas ...	...	1	3	4	266	5	0	35	10	0	86	0	0	...	...	...	...	...	86	0	0	
A. Serjeantson ...	...	3	1	0	...			...		125	0	0	...	...	...	...	...	...	125	0	0	
River Plenty ...	...	0	0	16 <sup>1</sup> / <sub>4</sub>																		
T. Bear ...	Barber	6	3	9	2,516	13	4	...		346	17	6	102	10	0	583	0	0	1,032	7	6	
A. Bear ...	Barber and Co.	3	0	32	104	18	0	...		104	18	0	40	0	0	...	...	...	144	18	0	
Winter ...	Nelson	4	2	3 <sup>1</sup> / <sub>4</sub>	500	0	0	90	8	9	200	0	0	...	...	...	...	...	200	0	0	Under treaty and agreement.
Road ...	...	0	0	12 <sup>3</sup> / <sub>4</sub>																		
G. Taylor ...	...	2	3	26	...			...		90	0	0	...	...	...	...	...	...	90	0	0	
Wm. Walker ...	McPherson	333	3	24	1,669	10	0	1,000	0	0	1,502	0	0	1,000	0	0	...	...	2,502	0	0	
Mrs. A. Bear ...	T. H. Bear	241	2	29	...			1,998	0	0	2,048	0	0	...	...	...	...	...	2,048	0	0	
T. H. Bear, sub-leased to	H. Barber	193	3	9	1,550	0	0	...		...	...	...	681	16	8	...	...	...	681	16	8	
	(and to)																					
H. Barber, sub-leased to	Ratcliffe	30	0	0	255	0	0	150	0	0	...	...	150	0	0	...	...	...	150	0	0	Under treaty and agreement.
	G. Taylor	26	3	20	216	0	0	...		...	...	...	95	0	0	...	...	...	95	0	0	
J. Cooke ...	...	2	0	25	123	18	0	78	18	0	53	18	0	...	25	0	0	...	78	18	0	
H. Cooke ...	...	2	0	25	123	18	0	78	18	0	58	18	0	...	20	0	0	...	78	18	0	Under treaty and agreement.
H. Wright ...	Small and Boyd...	1	3	3	...			...		60	0	0	30	0	0	90	0	0	180	0	0	
Wm. Walker ...	O. McPherson	8	0	8	304	3	9	...		161	0	0	185	0	0	...	...	...	346	0	0	
J. McCarthy ...	...	2	0	0	200	0	0	60	0	0	60	0	0	...	...	...	...	...	60	0	0	
R. Gemmel ...	...	2	0	0	100	0	0	60	0	0	60	0	0	...	...	...	...	...	60	0	0	
	H. Ludeman, an interest in	1	0	7	...			...		...	...	...	42	0	0	...	...	...	42	0	0	
Alex. Thompson ...	J. McKinnie	-1	2	0	...			...		41	5	0	...	...	50	0	0	...	91	5	0	
	TOTALS ...	729	0	32 <sup>1</sup> / <sub>4</sub>						£14,675	19	3	£3,732	7	11	£3,732	0	0	£22,140	7	2	



## RETURN IN REPLY TO QUESTION No. 3.

Costs of Valuation of Lands.			Costs of Arbitration.		
		£ s. d.			£ s. d.
Bear, A., Mrs. ... ..		12 10 0	Brock, John ... ..		16 16 0
Walker, T. ... ..		12 10 0	Vaughan and Leigh ... ..		56 5 10
Brewster, E. ... ..		16 8 0	Bear, T. H. ... ..		275 0 0
Bear ... ..		10 10 0	Clark, J. ... ..		15 0 0
Sundry parties ... ..		478 14 2			
TOTAL ... ..		530 12 2	TOTAL ... ..		363 1 10

Costs of Survey of Lands.					
		£ s. d.			£ s. d.
McCarthy ... ..		2 2 0	Brought forward ... ..		47 5 0
Gemmel ... ..		2 2 0	Berry ... ..		1 11 6
Barber ... ..		2 2 0	Wilde ... ..		1 11 6
Wilton ... ..		2 2 0	Crawley ... ..		1 11 6
Bussell ... ..		4 4 0	Hurry ... ..		1 11 6
Thomas ... ..		2 2 0	Thomas, W. ... ..		1 11 6
Cooke, H. ... ..		2 2 0	Bailey, T. ... ..		1 11 6
Cooke, J. ... ..		2 2 0	Chandler, S. ... ..		1 11 6
Bruce and others ... ..		2 2 0	Donovan ... ..		1 11 6
Bussell and McKenzie ... ..		2 2 0	Allen and Green ... ..		1 11 6
Miller, H. ... ..		2 2 0	Lansdown, W. ... ..		30 0 0
Bowker... ..		1 1 0	Tyler ... ..		1 11 6
Tomkins ... ..		1 1 0	Sawyer, A. ... ..		1 11 6
Lewis ... ..		1 1 0	Brock ... ..		1 1 0
Thomas, A. ... ..		1 1 0	Lokey ... ..		9 11 6
Argus, T. ... ..		1 1 0	Christie ... ..		1 11 6
Anderson, Col. ... ..		1 1 0	Smiley ... ..		1 11 6
Banbury, T. ... ..		1 1 0	Vaughan and Leigh ... ..		1 11 6
McPherson, D. ... ..		1 1 0	Walker... ..		1 11 6
McKinnie ... ..		1 1 0	McKinnon, Colin ... ..		1 11 6
McKinnie ... ..		1 1 0	McGregor, Colin ... ..		8 0 0
Clelland ... ..		1 11 6	Ross, J. H. ... ..		10 0 0
Winter... ..		1 1 0	Degraves, Wm. ... ..		1 11 6
Ludeman ... ..		1 11 6	Clarke, A. ... ..		2 12 6
Wright, H. ... ..		1 1 0	Bear, T. H. ... ..		1 1 0
McPherson, E. ... ..		1 1 0	Splatt, W. F. ... ..		2 12 6
Huggett ... ..		1 11 6	Bullen and Duff ... ..		2 2 0
Walker and Gardiner ... ..		2 2 0	McArthur ... ..		1 11 6
Bishop, J. ... ..		1 11 6	Sundry parties ... ..		6 6 0
Forward ... ..		47 5 0	TOTAL ... ..		148 18 6

Particulars of the Amount of Taxed Law Costs charged to the Commissioners by the Solicitors and Attorneys.

Proprietors, &c., of Land.			Proprietors &c. of Land.		
		£ s. d.			£ s. d.
Thomas... ..		116 13 3	Brought forward ... ..		2,045 14 0
Thomas, W. ... ..		31 6 2	Bullen, J. ... ..		323 8 5
Lansdown ... ..		182 3 10	Patterson, J. H. ... ..		140 19 2
Lokey and Corcoran ... ..		168 6 6	Hutton, Captain ... ..		25 4 6
Davidson ... ..		9 3 5	Smith, Wm. ... ..		28 15 6
Moore, D. ... ..		99 11 8	Huggett, R. ... ..		20 4 2
Guthrie ... ..		39 17 2	Vaughan and Leigh ... ..		78 10 10
Walker, Wm. ... ..		97 12 11	Berry, J. ... ..		15 9 10
Clarke, A. ... ..		96 12 2	Mitchell ... ..		2 2 0
Degraves, Wm. ... ..		57 3 4	Shepherd, Timothy ... ..		11 13 0
Ross, J. H. ... ..		89 17 2	O'Sullivan ... ..		78 16 6
Clarke, J. ... ..		573 17 4	Donovan, D. ... ..		15 18 11
McArthur, Dr. ... ..		16 8 6	Palmer, C. ... ..		75 10 3
McArthur, P. ... ..		99 14 6	Plummer ... ..		15 4 6
Duff, Robt. ... ..		367 6 1	Bishop, J. ... ..		31 8 5
Forward ... ..		2,045 14 0	Forward ... ..		2,909 0 0

## RETURN IN REPLY TO QUESTION No. 3—continued.

Particulars of the amount of taxed Law Costs charged to the Commissioners by the Solicitors and Attorneys.								
Proprietors, &c., of Land.				Proprietors, &c., of Land.				
		£	s.	d.		£	s.	d.
Brought forward ...		2,909	0	0	Brought forward ...	3,793	8	0
Sawyer, A. ...		27	7	1	Bruce and Morrison ...	42	2	10
Greene, J. ...		3	14	7	McKaye ...	2	12	8
Allen, D. ...		3	14	7	Thomson ...	19	7	8
Bailey, T. ...		19	19	4	Bussell ...	42	9	6
Chandler, S. ...		14	11	4	Brewster, E. ...	32	17	8
Christie, R. ...		33	10	6	Patterson, J. ...	2	2	0
Smiley, T. ...		19	9	4	Coterill ...	46	5	6
Wilde, T. ...		14	12	10	Stockdale ...	4	8	8
Splatt, W. F. ...		58	13	9	Wilton, J. ...	20	5	4
Crawley, C. ...		25	13	8	Tyler, J. ...	16	3	10
Edwards, T. D. ...		87	12	9	Owens, F. and J. ...	28	17	10
Bowker, C. H. ...		12	12	4	Serjeantson ...	42	3	0
Argus, T. ...		13	8	10	Bear, T. H. ...	477	0	5
Campbell, R. ...		51	7	0	Barber, H. ...	73	15	7
McPherson, D. ...		1	15	6	Bear, Mrs. A. ...	245	19	5
Tomkins, J. ...		15	8	4	Winter, T. ...	11	18	6
Thomas, A. ...		18	2	7	Nelson, P. ...	4	7	8
Anderson, Col. ...		13	14	10	Taylor, G. ...	36	15	0
Lewis, J. ...		13	4	10	McPherson, J. ...	11	5	10
Brock, John ...		66	17	4	Minnethorpe, Wm. ...	65	15	2
Brock, H. ...		21	17	6	Cooke, J. ...	37	0	7
Brock, A. ...		9	4	10	Cooke, H. ...	29	9	1
Weaver, W. ...		1	4	0	Wright, H. ...	41	16	0
Banbury, T. ...		12	13	10	Small and Boyd ...	5	17	0
Clelland, W. ...		25	16	10	McPherson, O. ...	36	10	6
McKinnie ...		41	10	8	McCarthy and Gemmel ...	70	12	0
McKinnon, Colin ...		75	13	6	Ludeman ...	12	6	10
McDonald, D. ...		17	14	4	Allen and Green ...	24	14	6
Hurry, T. ...		59	15	4	General Costs ...	1,763	14	11
Miller, H. ...		103	5	10				
Forward ...		3,793	8	0	TOTAL ...	7,032	3	6

## RETURN IN REPLY TO QUESTION No. 4.

Law Costs.	Total quantity of Land.			Total Cost of Land.						
	£	s.	d.	A.	R.	P.	£	s.	d.	
Mr. Armstrong (taxed costs) ...	4,900	16	8	729	0	32 $\frac{1}{4}$	For Land ...	22,140	7	2
Costs in particular cases ...	5,268	8	7				„ Valuation ...	530	12	2
							„ Arbitration ...	363	1	10
							„ Survey ...	148	18	6
							„ Law costs ...	5,268	8	7
<i>N.B. The costs of the Attorneys of the vendors, &amp;c., are included in the above.</i>								28,451	8	3

## RETURN IN REPLY TO QUESTION No. 5.

PARTICULARS OF TRANSFERRED CONTRACTS.		£	s.	d.
<i>Burning Trees off Reservoir.</i>				
Martindale and Steel, contractors, transferred to William McNamara, 15th May, 1854, 1436a. 3r. 12p. of land, site of Reservoir, £9 per acre ... ..		12,933	8	6
Deduct for wages to six men, six days at 10s. per day, for work not performed as per agreement ... ..		18	0	0
Amount paid ... ..		£12,913	8	6
<i>Pipe-laying Contract for Streets west of Elizabeth-street.</i>				
Thomas Miles, contractor, transferred to Holmes and Co., 30th November, 1855.				
Original Contract Prices.				
			s.	d.
4 inch pipes ... ..		4	0	per pipe.
5 " " ... ..		5	0	"
6 " " ... ..		5	6	"
7 " " ... ..		6	0	"
8 " " ... ..		6	6	"
9 " " ... ..		7	6	"
10 " " ... ..		8	0	"
An additional amount of 1s. per lineal yard was allowed, in consequence of the necessity of increasing the depths at which the pipes were intended to be laid at the time the contract was let, owing to the Gas Company obtaining a start in the laying down of their pipes, whereby the water pipes were obliged to be laid at a lower level.				
Amount paid for the contract, including the additional amount ... ..		1,669	13	9
Extras for making open crossings, box drains, &c. ... ..		421	18	10
Cartage of pipes ... ..		77	7	2
Making flange joints for sluice valves cutting pipes &c. ... ..		106	15	6
		£2,245	15	3
<i>Fencing Reservoir.</i>				
Martindale and Steel, contractors, transferred to William McNamara, 15th May 1854, Amount paid for 3040 rods, at 8s. 6d. ... ..		£1,292	0	0

1857-8.

VICTORIA.

---

# OCCUPATIONS OF THE PEOPLE.

---

RETURN TO AN ORDER OF THE LEGISLATIVE COUNCIL.

THE HONORABLE J. F. STRACHAN.—6TH MAY, 1858.

---

LAI'D UPON THE COUNCIL TABLE BY THE HONORABLE T. McCOMBIE, AND ORDERED  
BY THE COUNCIL TO BE PRINTED 6TH MAY, 1858.

---

By Authority :

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.



**EXTRACTS**

**FROM**

**PART II. OF CENSUS RETURNS,**

**PRINTED FOR THE USE OF MEMBERS OF PARLIAMENT.**



TABLE.

DISTRICTS, exclusive of Chinese not in the employment of the other Colonists, and of the unemployed Aborigines.

INHABITANTS OF																Totals in Classified Arrangement.	
Follett.	Grant (including Geelong).	Grenville.	Hampden.	Heytesbury.	Mornington.	Normanby.	Polworth.	Ripon.	Talbot.	Villiers.	Gipps' Land.	The Loddon.	The Murray.	Rodney (unproclaimed county).	The Wimmera.		
1	92	32	4	...	5	18	4	4	41	20	18	59	28	1	7	3916	Ministering to Government.
...	20	3	...	...	...	1	...	...	5	2	...	8	3	...	...		
1	170	128	...	...	8	16	2	25	111	27	19	320	94	13	24		
...	66	30	15	...	15	4	8	...	20	32	34	43	25	5	...		
1	49	9	1	...	2	7	1	2	13	9	5	15	7	1	2	286	Ministering to Religion.
...	4	1	...	...	...	...	...	...	...	...	...	2	2	...	...		
1	74	20	2	...	3	7	3	7	61	8	6	68	28	5	8	889	Ministering to Health.
...	51	11	...	...	...	5	...	2	35	3	1	39	19	1	1		
...	28	20	...	...	...	4	...	1	15	6	2	20	12	...	...	719	Ministering to Justice.
...	41	14	...	...	...	3	...	...	9	12	2	13	3	...	...		
2	129	15	2	1	8	10	3	3	30	24	13	45	31	...	5	699	Ministering to Education.
...	40	16	...	1	...	4	...	1	12	8	2	20	13	1	...		
...	116	19	1	...	...	6	...	14	100	13	3	108	71	7	...	1087	Ministering to Science and Literature.
...	108	14	...	...	2	9	1	3	42	7	3	37	35	1	...		
2	690	248	14	1	2	37	6	95	699	44	29	791	344	12	48	6045	Traders.
...	194	46	...	...	...	16	1	6	68	26	9	68	44	...	...		
1	572	117	3	...	2	36	5	25	334	57	12	406	146	8	11	5429	Assisting in the Exchange of Commodities.
4	323	75	5	1	9	31	5	20	212	43	22	283	184	21	28		
7	486	61	10	1	7	56	6	19	230	80	22	211	89	8	15	5182	Ministering to Entertaining and Clothing.
8	555	142	20	5	30	43	23	51	337	96	60	410	368	20	49		
...	33	6	1	...	5	3	1	1	16	7	1	31	7	...	...	392	Contractors and Overseers.
...	10	3	4	...	2	2	1	...	7	6	2	11	7	...	...		
1	389	67	28	6	15	81	6	15	179	105	15	202	46	6	15	21444	Ministering to Lodging, Furniture and Machinery.
...	581	53	4	2	146	96	6	7	176	160	26	241	52	1	4		
2	554	127	5	3	8	34	13	41	378	63	30	420	134	28	23		
8	1228	289	41	17	56	181	41	73	592	175	129	818	380	33	52		
1	164	17	2	...	...	7	...	5	39	10	3	64	8	...	1	3042	Miscellaneous Arts and Manufactures.
1	210	30	1	2	7	20	4	7	59	31	19	75	27	6	3		
...	357	42	...	...	...	26	3	7	159	39	13	169	88	2	2		
...	127	15	...	...	...	11	1	2	32	13	8	46	19	...	1		



## SUMMARY

SHOWING the OCCUPATIONS in classified arrangement of MALES of all ages in COUNTIES and PASTORAL

OCCUPATIONS.	Total of Victoria.	Total of Shipping and Travellers including an Estimate for migratory population.	Total of Counties and Pastoral Districts.	INHABITANTS OF				
				Anglesey.	Bourke (including Melbourne).	Dalhousie.	Dundas.	Evelyn.
Brought forward ... ..								
<b>CLASS VII.—Gold Mining—Persons engaged in digging for, and washing out Gold:—</b>								
Sub-Class 1. Miners—puddling ... ..	3382	35	3347	...	34	120	...	1
„ 2. Miners—sluicing ... ..	2264	2	2262	...	114	1	...	1
„ 3. Miners—quartz crushing ... ..	3036	13	3023	...	76	99	...	50
„ 4. Miners—alluvial sinking ... ..	21562	724	20838	...	150	288	...	91
„ 5. Miners, Diggers (branch of mining undefined) ...	31761	987	30774	30	805	137	1	80
„ 6. Carters of Washing Stuff, Slabbers, Engine Drivers, &c. ... ..	231	15	216	...	3	1	...	2
<b>CLASS VIII.—Agricultural and Pastoral—Persons working Land, and engaged in growing Grain, Fruits, Animals and other Products:—</b>								
Sub-Class 1. Squatters, Stockholders, Graziers, Sheepfarmers, Settlers, &c. ... ..	918	9	909	23	148	27	39	19
„ 2. Overseers on Stations, Stockmen, Shepherds, Station Laborers, &c. ... ..	7148	102	7046	110	290	195	485	33
„ 3. Farmers and Market Gardeners (Masters) ... ..	7956	75	7881	39	2562	540	41	181
„ 4. Farm Laborers and Farm Servants, Gardeners, (Laborers), &c. ... ..	14756	130	14626	66	4689	1124	62	283
„ 5. Cattle Dealers, Horse Repository Keepers, Farriers, Poundkeepers, &c. ... ..	1469	13	1456	10	743	47	13	6
<b>CLASS IX.—Carrying—Persons engaged in the conveyance of Men and Goods:—</b>								
Sub-Class 1. Carriers, Draymen, Bullock-drivers, &c., on roads, Lightermen, &c. ... ..	7429	114	7315	41	2894	521	27	30
„ 2. Owners and Drivers of Coaches, Cabs, &c., Watermen, Railway Employés, &c. ... ..	966	83	883	...	639	5	1	2
„ 3. Water Carters ... ..	79	...	79	...	47	...	...	...
„ 4. Wood Carters, Woodmen, Firewood Splitters, &c. ...	356	2	354	...	256	1	...	...
„ 5. Porters and Messengers (not assistants in Shops or Stores) ... ..	430	...	430	...	297	1	...	...
„ 6. Sailors—all engaged in Shipping and Sea Navigation	3850	2353	1497	1	1141	12	1	...
<b>CLASS X.—Persons dealing in Food and Drinks:—</b>								
Sub-Class 1. Butchers, Poulterers, Fishmongers, &c. [Animal Food] ... ..	4155	88	4067	2	1271	59	7	3
„ 2. Bakers, Confectioners, Greengrocers. [Vegetable Food, and Drinks] ... ..	3920	26	3894	4	1741	90	2	3
<b>CLASS XI.—Miscellaneous Pursuits—Persons engaged in Occupations not embraced in other Classes:—</b>								
Sub-Class 1. Laborers (branch of labor undefined) ... ..	6718	52	6666	12	3577	231	27	87
„ 2. Wood Splitters, Fencers, Bushmen, Grubbers (undefined)... ..	1614	62	1552	11	287	118	21	15
„ 3. Other Occupations—Proprietors of Labor Markets, Billiard-Table Keepers, &c. ... ..	652	10	642	4	229	16	14	1
<b>CLASS XII.—Independent Means—Persons of Property and Rank, not returned under any office, or occupation:—</b>								
Sub-Class 1. Householders, House Proprietors, Persons deriving Income from Houses ... ..	338	1	337	...	264	2	1	1
„ 2. Annuitants, "Independent Means," Persons of Rank (not otherwise defined) ... ..	270	1	269	...	179	6	2	1
„ 3. Gentlemen (not otherwise defined) ... ..	200	1	199	3	134	2	...	2
<b>CLASS XIII.—Persons engaged in Domestic Offices or Duties, and of no specified Occupation, Scholars, &amp;c.:—</b>								
Sub-Class 2. Children, Relatives, Visitors (not otherwise returned)	35036	578	34458	83	12261	894	299	261
„ 3. Scholars, whether in public or private schools, or at home ... ..	17351	146	17205	33	8411	543	74	119
<b>CLASS XIV.—Persons maintained at Public Cost, or by the Community:—</b>								
Sub-Class 1. Prisoners ... ..	1857	500	1357	...	1054	9	...	...
„ 2. Patients in Hospitals, Asylums, Depots, &c. ... ..	749	...	749	...	531	3	...	...
<b>CLASS XV.—Persons whose pursuits have not been specified, or who were unemployed, &amp;c.:—</b>								
Sub-Class 1. Unemployed, "No Occupation at present," Paupers, &c. ... ..	2566	37	2529	4	1496	58	22	6
„ 2. Occupation not stated ... ..	1406	5	1401	11	315	40	4	6
„ 3. Doubtful or Indefinite Pursuits ... ..	236	73	163	...	86	8	...	1
TOTAL MALES, exclusive of Chinese and Aborigines not in the employment of the other Colonists ...	238040	6944	231096	573	73013	6473	1361	1545

CENSUS OF VICTORIA, 1857.—OCCUPATIONS OF THE PEOPLE.

TABLE—continued.

DISTRICTS, exclusive of Chinese not in the employment of the other Colonists, and of the unemployed Aborigines.

INHABITANTS OF																Totals in Classified Arrangement.			
Follett.	Grant (including Geelong).	Grenville.	Hampden.	Heytesbury.	Mornington.	Normanby.	Polworth.	Ripon.	Talbot.	Villiers.	Gipp's Land.	The Loddon.	The Murray.	Rodney (unproclaimed country).	The Wimmera.				
...	142	79	...	...	...	...	...	32	608	...	...	2158	79	80	14	62236	Gold Diggers.		
...	12	5	...	...	...	...	...	...	310	...	...	18	1787	14	...				
...	503	30	...	...	...	...	...	...	681	...	...	1277	51	97	159				
...	2042	1669	...	...	...	1	...	553	6499	...	...	7270	1479	418	378				
1	4347	2818	2	...	1	1	2	898	7849	2	34	9994	3493	60	219				
...	45	59	...	...	...	1	...	5	33	...	...	56	8	...	3				
15	93	24	34	3	21	39	13	18	24	41	70	57	96	18	87			8066	Pastoral Pursuits.
106	423	308	362	32	65	307	93	412	287	351	413	667	654	129	1324				
1	1516	207	48	41	239	194	61	157	669	574	141	419	222	15	14			22712	Cultivating Land.
3	2793	331	97	102	367	308	125	357	1089	1366	213	722	393	94	42				
2	161	60	7	...	12	14	1	3	108	22	9	123	78	17	20	1469	Pursuits subsidiary to Grazing and Agriculture.		
6	1486	344	40	14	43	98	25	51	502	86	70	385	567	34	51				
1	104	16	1	...	1	14	4	9	22	8	2	25	24	1	4	9260	Land Carriage.		
...	13	...	...	...	...	...	...	...	7	...	...	10	2	...	...				
...	44	13	...	1	8	...	...	...	10	1	...	17	2	...	1				
...	74	9	...	...	...	4	1	2	9	4	2	23	4	...	...	3850	Sea Navigation.		
...	154	7	1	...	13	13	9	3	28	27	17	34	29	4	3				
3	613	235	11	6	50	25	7	59	581	56	24	700	294	23	38	8075	Dealing in Food.		
...	619	147	...	1	2	17	5	34	434	53	16	519	188	8	11				
4	1088	102	34	7	48	131	115	30	250	266	83	328	196	34	16	8332	Laborers.		
3	231	129	26	6	24	43	46	34	184	34	65	137	99	8	31				
6	71	32	3	2	2	4	...	10	79	12	2	69	71	3	12				
...	40	3	...	...	...	4	...	...	3	4	2	8	5	...	...	808	Independent means, &c.		
...	37	4	...	...	1	2	1	...	6	10	1	13	5	1	...				
...	8	9	...	...	...	...	...	...	17	4	...	17	3	...	...				
66	5928	1584	196	65	286	667	238	503	3697	1238	334	3977	1332	115	434	52387	Children, Relatives, &c.		
31	3377	470	68	26	143	337	39	95	1011	558	174	1161	440	9	86				
...	92	28	...	...	...	23	...	1	15	9	...	90	34	...	2	2606	Public Burden.		
...	74	34	...	...	...	8	...	...	8	8	...	63	20	...	...				
6	272	49	13	1	17	31	10	14	131	33	24	153	116	14	59	4208	Unspecified, &c.		
2	192	105	5	...	4	3	9	15	310	9	5	238	116	3	9				
...	19	10	...	...	...	...	...	2	7	4	1	21	3	...	1				
297	34074	10590	1111	347	1679	3063	948	3733	29479	5906	2210	35792	14204	1380	3318	238040			



TABLE.

exclusive of Chinese not in the employment of the other Colonists, and of the unemployed Aborigines.

INHABITANTS OF																										
Warrnambool.	Colac.	Kilmore.	The Kyneton Boroughs.	The Murray Boroughs.	Alberton.	The Castlemaine Boroughs.	The Sandhurst Boroughs.	North Grant.	North Grenville.	The Ovens.	Rodney.	The Loddon.	Tabbot.	East Bourke.	West Bourke.	South Bourke.	South Grant.	Evelyn and Mornington.	Anglesey.	Dundas and Follett.	Normanby.	Yilliers and Heytesbury.	Polworth, Ripon, Hampden, and South Grenville.	Murray.	Gipps Land.	The Wimmera.
5	2	5	5	7	9	18	25	15	32	18	5	24	33	33	17	43	16	6	1	6	1	6	10	3	9	7
2	...	...	...	...	...	2	5	3	3	3	...	3	3	4	1	4	1	11	...	...	...	...	...	...	...	...
9	2	18	24	36	12	122	133	15	127	57	23	76	100	112	34	10	24	16	2	8	1	6	26	8	7	24
4	5	...	9	...	21	5	1	15	30	7	8	39	18	46	19	5	27	15	5	4	...	19	18	18	1	...
3	1	4	5	2	3	7	7	10	9	5	3	7	7	10	7	4	10	4	2	3	4	4	3	...	2	2
...	...	...	2	...	...	...	...	...	1	2	...	2	...	1	...	...	...	...	...	...	...	...	...	...	...	...
4	2	4	4	5	3	8	21	25	18	21	9	46	54	17	14	5	13	6	1	2	2	1	12	2	...	8
1	...	2	2	1	1	6	19	22	11	16	1	20	29	8	1	2	2	...	1	...	2	...	2	2	...	1
2	...	3	4	...	1	9	15	5	20	10	...	5	6	7	4	13	5	...	2	1	...	1	1	2	1	...
7	...	1	4	...	1	9	9	4	14	2	...	2	2	5	2	11	4	...	2	...	...	2	...	1	1	...
1	3	6	4	7	4	6	13	26	14	17	4	31	25	37	30	20	44	11	3	4	3	21	6	8	9	5
2	...	2	6	4	1	5	10	8	16	6	1	10	7	11	14	8	3	3	...	...	1	5	1	3	1	...
9	...	...	3	1	1	31	28	82	19	69	9	79	70	4	3	4	3	2	...	7	4	2	15	1	2	...
3	1	3	2	1	1	14	12	23	13	34	1	25	28	19	8	22	9	7	...	...	...	3	4	...	2	...
20	4	23	29	24	15	58	191	376	243	295	31	600	641	83	96	33	64	20	8	16	10	8	116	26	14	48
9	...	5	6	1	5	35	47	46	45	39	1	20	34	17	10	36	3	...	...	2	2	6	8	4	4	...
26	3	11	30	12	11	76	195	175	115	129	19	210	259	31	52	35	37	8	2	9	5	9	32	8	1	11
7	5	13	28	23	7	36	81	118	70	146	31	201	177	56	95	31	65	17	4	11	18	27	30	20	15	28
21	6	21	27	33	12	50	94	203	60	49	22	116	181	72	62	32	49	19	14	29	16	31	30	11	10	15
14	15	34	71	53	25	96	144	184	134	236	41	256	251	163	215	109	131	52	29	46	25	63	87	90	35	49
5	...	2	7	1	1	8	17	9	6	4	1	12	10	10	9	7	4	8	3	...	3	1	3	3	...	...
...	...	...	1	1	...	1	8	2	3	4	1	3	6	5	6	5	3	4	...	...	2	6	5	2	2	1
28	3	20	38	12	4	82	110	54	63	23	12	72	117	78	47	33	55	36	14	14	22	51	50	14	11	15
47	6	23	82	26	19	41	157	62	53	15	6	65	154	825	350	117	239	218	9	10	53	88	11	26	7	4
15	5	30	41	24	15	65	154	176	121	92	42	265	314	99	116	47	75	18	10	14	9	33	60	24	15	23
56	20	43	127	85	40	147	325	553	277	218	73	483	455	122	180	126	112	95	78	59	87	91	147	87	89	52
3	...	5	5	1	3	13	29	46	17	7	1	35	26	4	3	16	12	...	...	2	1	2	7	...	...	1
12	3	12	21	6	9	18	38	38	29	18	10	37	41	48	48	16	12	9	7	4	3	11	10	3	10	3
17	3	12	19	8	8	70	116	134	42	77	7	48	94	34	31	25	11	...	2	5	1	7	7	4	5	2
5	...	4	...	...	7	4	16	46	15	14	1	29	29	5	40	11	6	7	...	3	2	4	3	5	1	1

OCCUPATIONS.	Total of Electoral Districts.	INHABITANTS OF											
		Melbourne.	St. Kilda.	Collingwood.	South Melbourne.	Rtehnond.	Williamstown.	Brighton.	Geelong.	Portland.	Belfast.		
Brought forward ... ..													
<b>CLASS VII.—Gold Mining—Persons engaged in digging for, and washing out Gold:—</b>													
Sub-Class 1. Miners—puddling ... ..	3347	9	...	2	...	...	...	...	...	...	...	...	...
" 2. Miners—sluicing ... ..	2262	...	...	1	...	...	...	...	1	...	...	...	...
" 3. Miners—quartz crushing ... ..	3023	20	4	2	2	2	...	2	13	...	...	...	...
" 4. Miners—alluvial sinking ... ..	20838	8	9	9	2	...	...	...	9	...	...	...	...
" 5. Miners, Diggers (branch of mining undefined) ... ..	30774	421	36	71	43	24	13	3	84	1	...	...	...
" 6. Carters of Washing Stuff, Slabbers, Engine Drivers, &c.	216	...	...	...	...	1	...	...	...	1	...	...	...
<b>CLASS VIII.—Agricultural and Pastoral—Persons working Land, and engaged in growing Grain, Fruits, Animals, and other Products:—</b>													
Sub-Class 1. Squatters, Stockholders, Graziers, Sheepfarmers, Settlers, &c. ... ..	909	47	20	12	1	5	...	8	33	6	2		
" 2. Overseers on Stations, Stockmen, Shepherds, Station Laborers, &c. ... ..	7046	29	8	7	5	2	6	6	21	5	6		
" 3. Farmers and Market Gardeners (Masters), &c. ... ..	7881	121	74	61	10	45	17	260	240	11	10		
" 4. Farm Laborers and Farm Servants, Gardeners, (Laborers), &c. ... ..	14626	137	170	60	10	89	37	312	443	39	28		
" 5. Cattle Dealers, Horse Repository Keepers, Farriers, Poundkeepers, &c. ... ..	1456	270	67	65	32	20	2	13	91	6	7		
<b>CLASS IX.—Carrying—Persons engaged in the conveyance of Men and Goods:—</b>													
Sub-Class 1. Carriers, Draymen, Bullock-drivers on roads, Lightermen, &c. ... ..	7315	770	163	498	90	177	94	29	643	46	11		
" 2. Owners and Drivers of Coaches, Cabs, &c., Watermen, Railway Employés, &c. ... ..	883	153	104	59	166	53	61	6	74	13	4		
" 3. Water Carters... ..	79	27	4	7	3	5	...	...	7	...	...		
" 4. Wood Carters, Woodmen, Firewood Splitters, &c. ... ..	354	1	16	15	...	14	...	10	16	...	...		
" 5. Porters and Messengers (not assistants in Shops or Stores)	430	156	21	59	13	30	9	2	50	4	1		
" 6. Sailors—all engaged in Shipping and Sea Navigation ...	1497	411	28	49	406	41	158	8	115	4	13		
<b>CLASS X.—Persons dealing in Food and Drinks:—</b>													
Sub-Class 1. Butchers, Poulterers, Fishmongers, &c. [Animal Food]	4067	344	174	189	143	68	35	36	235	21	17		
" 2. Bakers, Confectioners, Greengrocers [Vegetable Food, and Drinks] ... ..	3894	752	160	353	127	126	32	27	348	12	16		
<b>CLASS XI.—Miscellaneous Pursuits—Persons engaged in Occupations not embraced in other Classes:—</b>													
Sub-Class 1. Laborers (branch of labor undefined) ... ..	6666	1335	190	444	374	232	189	62	725	60	97		
" 2. Woodsplitters, Fencers, Bushmen, Grubbers (undefined)	1552	9	12	2	...	1	1	6	16	2	...		
" 3. Other Occupations, Proprietors of Labor Markets, Billiard Table Keepers, &c. ... ..	642	98	10	30	12	13	3	1	27	3	3		
<b>CLASS XII.—Independent Means—Persons of Property and Rank, not returned under any Office or Occupation:—</b>													
Sub-Class 1. Householders, House Proprietors, Persons deriving Income from Houses ... ..	337	101	29	52	18	25	6	9	33	3	3		
" 2. Annuitants, "Independent means," Persons of Rank (not otherwise defined) ... ..	269	37	48	29	7	16	2	9	24	2	2		
" 3. Gentlemen (not otherwise defined)... ..	199	51	19	25	7	4	6	3	5	...	...		
<b>CLASS XIII.—Persons engaged in Domestic Duties or Offices, and of no specified Occupation, and Scholars:—</b>													
Sub-Class 2. Children, Relatives, Visitors (not otherwise returned) ...	34458	2872	1301	2233	834	969	362	316	2231	282	230		
" 3. Scholars, whether in public or private schools, or at home	17205	2050	1063	1604	573	798	183	346	1915	221	134		
<b>CLASS XIV.—Persons maintained at Public Cost or by the Community:—</b>													
Sub-Class 1. Prisoners ... ..	1357	599	...	...	...	...	...	...	91	23	6		
" 2. Patients in Hospitals, Asylums, Depots, &c. ... ..	749	294	...	...	43	...	...	...	74	8	...		
<b>CLASS XV.—Persons whose pursuits have not been specified or who were unemployed, &amp;c.:—</b>													
Sub-Class 1. Unemployed, "No Occupation at present," Paupers, &c.	2529	568	189	279	104	113	19	32	168	13	4		
" 2. Occupation not stated ... ..	1401	108	15	27	25	7	5	6	29	2	1		
" 3. Doubtful or Indefinite Pursuits ... ..	163	57	4	3	10	3	...	...	16	...	1		
<b>TOTAL MALES, exclusive of Chinese and Aborigines not in the employment of the other Colonists ...</b>	<b>231096*</b>	<b>21502</b>	<b>6966</b>	<b>10790</b>	<b>4651</b>	<b>4958</b>	<b>1928</b>	<b>1919</b>	<b>11724</b>	<b>1235</b>	<b>917</b>		

\* The Totals of the Electoral Districts differ from the Totals of Victoria, by the number

TABLE.—continued.

INHABITANTS OF																										
Warrnambool.	Colac.	Kilmore.	The Kyneton Boroughs.	The Murray Boroughs.	Albion.	The Castlemaine Boroughs.	The Sandhurst Boroughs.	North Grant.	North Grenville.	The Ovens.	Rodney.	The Loddon.	Talbot.	East Bourke.	West Bourke.	South Bourke.	South Grant.	Evelyn and Mornington.	Anglesey.	Dundas and Fohlett.	Normanby.	Villiers and Heytesbury.	Folworth, Ripon Hampton, and South Grenville.	Murray.	Gipps Land.	The Wimmera.
...	...	...	...	...	...	54	924	142	79	79	200	1234	554	...	23	...	...	1	...	...	...	...	32	...	...	14
...	...	...	1	...	...	...	11	10	5	1558	14	7	310	...	113	...	1	1	...	...	...	...	...	229	...	...
...	...	...	6	...	...	33	407	132	30	50	188	868	650	7	35	2	358	50	2	...	...	...	1	...	159	
...	...	...	2	...	...	90	931	2029	1669	1442	688	6335	6413	...	121	1	4	91	16	...	1	...	553	37	378	
1	2	4	37	25	2	203	1743	4086	2817	3246	115	8234	7663	21	169	4	177	81	67	2	...	1	901	226	32	219
...	...	...	...	...	...	1	13	41	59	8	1	43	32	...	2	...	4	2	...	...	...	...	5	...	...	3
...	3	2	5	3	9	...	3	16	20	14	23	54	24	18	29	8	44	40	36	54	33	42	66	81	61	87
4	15	12	9	12	25	4	9	56	208	51	167	657	284	29	188	10	346	98	244	591	302	373	952	593	388	1324
6	26	126	255	57	107	37	28	70	169	48	26	368	655	784	624	566	1206	420	178	42	183	599	278	126	34	14
36	31	197	572	75	121	75	21	95	289	54	167	649	1066	1484	1425	965	2255	650	324	65	269	1404	590	288	92	42
3	1	4	26	15	3	35	34	41	57	32	29	88	74	183	76	15	29	18	12	15	8	12	13	34	6	20
23	15	64	129	112	23	55	112	454	307	191	89	266	454	323	634	116	389	73	287	33	52	66	138	291	47	51
1	1	4	...	5	1	12	5	8	16	12	2	20	10	11	16	10	22	3	...	2	1	3	13	7	1	4
...	...	...	...	1	...	2	...	5	...	...	...	10	5	...	1	...	1	...	...	...	...	...	...	1	...	...
...	...	1	...	1	...	2	2	3	13	1	...	15	8	15	2	183	25	8	...	...	...	2	...	...	...	1
3	1	...	...	...	2	5	14	22	9	4	1	8	5	3	2	2	2	...	...	...	...	...	2	...	...	...
12	...	1	4	5	6	4	13	12	7	21	6	21	24	12	22	6	27	13	5	1	9	2	13	4	11	3
10	3	8	30	32	19	35	120	283	234	228	41	578	548	82	118	82	95	53	5	10	4	35	75	34	5	38
25	4	19	63	15	11	92	243	236	147	170	15	274	344	65	66	33	35	5	1	2	5	13	35	7	5	11
39	47	108	92	79	24	52	179	135	93	57	45	141	206	373	296	82	228	135	23	31	71	137	141	69	59	16
3	10	12	40	13	9	15	13	160	127	30	21	113	180	71	112	73	55	39	60	24	41	37	98	60	56	31
3	...	...	12	2	1	12	22	29	30	19	6	47	67	27	33	2	15	3	4	20	1	8	15	51	1	12
1	...	1	...	...	...	1	3	6	3	5	...	5	2	11	4	9	1	1	1	1	1	...	...	...	2	...
4	1	2	...	2	1	1	5	4	4	3	3	8	5	7	10	14	9	2	2	2	...	4	...	...	...	...
...	...	...	2	...	...	6	4	2	8	2	...	13	11	18	1	...	1	2	3	...	...	4	1	1	...	...
159	134	237	333	159	139	352	968	1990	1488	838	246	2958	3396	1384	1222	768	1707	547	256	365	385	914	899	355	195	434
103	24	190	206	126	99	132	318	729	452	264	89	824	898	750	503	541	733	262	90	105	116	347	196	60	75	86
3	...	7	2	2	...	41	40	1	28	32	...	9	15	454	1	...	...	...	...	...	...	...	1	...	...	2
8	...	...	3	...	...	33	30	...	34	20	...	...	8	192	1	...	...	...	...	...	...	...	...	...	...	...
19	3	14	22	14	9	20	58	65	39	60	24	95	111	83	61	48	39	23	15	28	18	11	44	43	15	59
...	5	4	18	9	...	13	23	104	103	96	16	214	298	58	48	16	59	10	12	6	1	8	26	15	5	9
...	...	1	2	...	...	3	...	3	10	2	...	21	4	6	1	2	...	1	5	...	...	3	2	1	1	1
803	415	1324	2477	1138	850	2462	8316	13444	10174	10270	2585	26998	27495	8437	7473	4389	8906	3224	1847	1658	1778	4533	5793	2989	1360	3318

of Persons in Ships, and the population on the move at the time of the Census.

BY AUTHORITY:  
JOHN FERRIS, GOVERNMENT PRINTER, MELBOURNE.

# EXAMINATION OF RAILWAY TENDERS.

## CORRESPONDENCE.

23RD APRIL AND 4TH MAY, 1858.

LAI'D UPON THE COUNCIL TABLE BY THE HONORABLE H. MILLER, AND ORDERED BY  
THE COUNCIL TO BE PRINTED 27TH MAY, 1858.

[COPY.]

Melbourne, 23rd April, 1858.

Sir,

In compliance with our instructions, we have carefully considered the various tenders which have been received for the proposed railway works, and have now the honor to submit for your information the result of our examination, together with the calculations upon which our opinion is founded.

The documents before us comprised tenders for the execution of the whole of the proposed works according to four different arrangements, viz. :—

1. In twenty-one separate contracts.
2. In three do. do.
3. In two do. do.
4. In one large contract.

(See Appendix .)

in which order we proceeded to consider them.

1. Letting the works in twenty-one separate contracts. (See Appendix .)

By accepting the lowest tender for each section, the result would be a total cost of £5,596,492 0s. 4½d. The number of contractors would be seven, and in most instances each of them would have his work spread over the country in detached sections.

As letting the works to so many contractors would of necessity cause great competition for capital, labor, and every kind of material, and would in all probability lead to great embarrassment, we cannot recommend the adoption of a course which might endanger the carrying out to completion of works of such magnitude and importance to the future welfare of this country. The same objections would in a great degree apply to any mode of grouping the sections into more than three contracts.

2. Dividing the works into three contracts :—

1. Melbourne to Sandhurst.
2. Sandhurst to the River Murray.
3. Geelong to Ballaarat.

The result of this division, if the lowest tenders be accepted, would be a total cost of £5,682,395 2s. 2d., and the contractors for

- Section 1. Messrs. Cornish and Co.  
 " 2. " Musson and Co.  
 " 3. " Musson and Co.

(See Appendix .)

3. Dividing the works into two sections :—

1. Melbourne to the River Murray.
2. Geelong to Ballaarat.

The total cost of this mode would be £5,826,223, Messrs. Musson and Co. being the lowest tenderers for both. (See Appendix .)

4. Taking the whole in one contract (No. 28).

Only three tenders were sent in for the two lines as a whole contract, viz. :—

Musson and Co. ...	£5,826,223	0	0
Cornish and Co. ...	5,988,134	8	11
Randle and Holmes ...	7,010,324	19	1½



Messrs. Cornish and Co.'s tender was at first understood to be for £5,449,202 8s. 2d., but as explained in a letter which accompanied it, this amount did not include "the Provision;" and we have since received a letter from them stating that the above amount of £5,988,134 8s. 11d. is to be taken as their tender. (See Appendix .)

5. Taking into consideration all the circumstances, we are of opinion that if the whole of the work is to be now let, the course pointed out in paragraph No. 2. with letting the works from Melbourne to Sandhurst, to Messrs Cornish and Co., and those from Sandhurst to the River Murray, and Geelong to Ballarat, to Messrs. Musson and Co., will be the best one to be adopted, but it would perhaps be preferable not to let the portion from Sandhurst to the River Murray at present, for the following reasons, viz. :—

All the works are of a light and inexpensive character; the comparatively heaviest item being that for "permanent way," of which the carriage of material forms a considerable portion; and should the acceptance of any tender for this section of the trunk line be deferred until there is some assurance of the line to Sandhurst being completed within a comparatively limited time, the anticipated reduction in the transport of material arising therefrom, and the increase of population and consequent abundance of labor, which may reasonably be expected within the next two years, will, we are convinced, enable the Government to let the construction of the line from Sandhurst to the River Murray, at a very considerable reduction on any of the present tenders.

Should this latter suggestion be approved, there will be two contractors, viz. :—

Melbourne to Sandhurst ... Messrs. Cornish and Co., £3,356,937 2s. 2d.

Geelong to Ballarat ... Messrs. Musson and Co., £1,310,797 0s. 0d.

6. We think it right to remark that we have examined and compared the prices given in by the different tenderers, in the Supplementary Schedules for substituted or additional works, and we are unable to perceive that any advantage would be obtained by recommending any other tenderers than those whose names we have selected. (See Appendix .)

7. Before these or any other tenders are accepted, however, we consider that it will be essential that the contractors satisfy the Government that they possess sufficient assurances of pecuniary support, to enable them to overcome the difficulties and embarrassments which must be expected from time to time to arise in the prosecution of works of this magnitude, owing to the fluctuations in the market for labor and materials.

The cash deposit required by the conditions of contract can only be considered sufficient security for the *bonâ fides* of the tenderers, and the determination of the contractor to use his best endeavors to carry out the work.

We have the honor to be,

Sir,

Your most obedient servants,

(Signed) { C. PASLEY, Captain, R.E.  
CHAS. W. LIGAR, Surveyor-General.  
GEO. C. DARBYSHIRE, Engineer-in-Chief.

The Honorable the President  
of the Board of Land and Works.

May 4th, 1858.

Sir,

Subsequent to the date of our former report on the railway tenders, Messrs. Randle and Holmes represented to us that, if certain substitutions and alterations in the character of the works were carried out and paid for at the prices given in their supplementary schedule, their tender would be very much reduced in amount; in support of which they handed us a schedule of the various substitutions proposed by them. (See Appendix .)

Although, as stated in paragraph 6 of our report, we had already considered the question of substitution, we caused a calculation to be made of the actual reduction in price that the substitutions recommended by them would cause, in the tenders of Messrs. Cornish and Co. and Messrs. Musson and Co. respectively.

The result, which is shown in Appendix , shows that even, if the whole of these alterations were effected, there would be no reason for reversing our former opinion.

We do not consider it at all probable, however, that any very large proportion of these substitutions will ever be required, and many of them are such as would very materially reduce the permanence and stability of the works, and such, therefore, as we could not recommend.

We have the honor to be,

Sir,

Your most obedient servants,

(Signed) { C. PASLEY, Captain, R.E.  
CHAS. W. LIGAR, Surveyor-General.  
GEO. C. DARBYSHIRE, Engineer-in-Chief.

The Honorable the President  
of the Board of Land and Works.

1857-8.

---

VICTORIA.

---

# SUPERSEDED PERSONS

IN THE

## PUBLIC SERVICE IN 1858.

---

Return to Address:

THE HONORABLE J. H. PATTERSON.—13<sup>TH</sup> APRIL, 1858.

---

LAI'D ON THE COUNCIL TABLE BY THE HONORABLE H. MILLER, AND ORDERED BY  
THE COUNCIL TO BE PRINTED, EXCEPT SUCH PORTIONS AS ARE RETURNED *NIL*,  
3<sup>RD</sup> JUNE, 1858.

---

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.



A RETURN of the Names of all persons in the Public Service who were superseded or otherwise dispossessed of their offices by the arrangements consequent on the Estimates for 1858; the Offices they held; the Amount of Salary they received; how now provided for; the Salary they now receive; and whether the offices they at present hold are temporary or permanent.

### DEPARTMENT OF THE REGISTRAR GENERAL.

NAME.	OFFICE HELD.	SALARY.	HOW NOW PROVIDED FOR.	PRESENT SALARY.	OFFICE PERMANENT OR TEMPORARY.
George Dorset Owen, reduced in consequence of the amalgamation of the Registrar General's and the Supreme Court Registry Offices	Clerk in the Supreme Court Registry ...	£ s. d. 250 0 0	Employed by the month in clerical assistance in this office, until a vacancy occurs on the staff to which he can be appointed	£21 per month	Temporary.
George Shovelbottom ...	Ditto ... ..	250 0 0	Appointed Curator of Intestate Estates	5 per cent. commission on receipts, out of which has to defray office, &c., expenses	Permanent.

N. CAMPBELL,  
Registrar General.

### DEPARTMENT OF RESIDENT WARDEN, CASTLEMAINE.

NAME.	OFFICE HELD.	SALARY.	HOW NOW PROVIDED FOR.	PRESENT SALARY.	OFFICE PERMANENT OR TEMPORARY.
John Maguire ...	Keeper of Powder Magazine... ..	£ s. d. 300 0 0	Out of the Service.	£ s. d.	
Richard Waller Bates ...	Clerk and Issuer; and also Clerk in Gold Department, at £200 per annum	100 0 0	Clerk in Gold Department ... .. and Keeper of Powder Magazine ...	300 0 0 50 0 0	Permanent.

J. M. BULL,  
Resident Warden.

DEPARTMENT OF RESIDENT WARDEN, BEECHWORTH.

NAME.	OFFICE HELD.	SALARY.	HOW NOW PROVIDED FOR.	PRESENT SALARY.	OFFICE PERMANENT OR TEMPORARY.
Samuel Upton Brown ...	Clerk to Warden at Yackandandah; also, Clerk to Local Court there and acting Clerk to Petty Sessions	£ s. d. 300 0 0	As Clerk to Warden at Beechworth District	£ s. d. 300 0 0	Permanent.
William Lawrence Zincke	Clerk to Local Court, Beechworth ...	300 0 0	Not provided for. This office abolished, in consequence of the Local Courts having ceased to exist.		

M. PRICE,  
Resident Warden.

DEPARTMENT OF SHERIFF.

NAME.	OFFICE HELD.	SALARY.	HOW NOW PROVIDED FOR.	PRESENT SALARY.	OFFICE PERMANENT OR TEMPORARY.
Frederick Call ...	Deputy Sheriff, Melbourne ...	£ s. d. 800 0 0	Police Magistrate at Maryborough and Carisbrook	£ s. d. 800 0 0	Permanent.
H. S. Mackeson ...	Gaoler at Eastern Hill Gaol...	250 0 0	Not provided for, and left the Colony.		
John Gray ...	Turnkey ...	10s. per day	Removed to Western Gaol ...	10s. per day	Permanent.
John Fox ...	Ditto ...	10s. per day	Ditto ...	10s. per day	Permanent.
Jeremiah O'Connor ...	Ditto ...	10s. per day	As Constable in charge of prisoners at the University	10s. per day	Temporary.

CLAUD FARIE,  
Sheriff.

ATTORNEY GENERAL'S DEPARTMENT.

A 12.—a.

NAME.	OFFICE HELD.	SALARY.			HOW NOW PROVIDED FOR.	PRESENT SALARY.			OFFICE PERMANENT OR TEMPORARY.
		£	s.	d.		£	s.	d.	
Tomlins, P. S. ...	First Clerk to Crown Law Officers ...	600	0	0	Clerk in Census Office ...	500	0	0	Temporary.
Weigall, Theyre ...	Second ditto ditto ...	500	0	0	Clerk in the Treasury ...	450	0	0	Permanent.
Call, F. ...	Deputy Sheriff, Melbourne ...	800	0	0	Police Magistrate, Maryborough ...	800	0	0	Ditto.
Atkins, John ...	Commissioner of Insolvent Estates, Geelong	400	0	0	Crown Prosecutor ...	600	0	0	Ditto.
McLure, J. ...	Clerk in County Court, Melbourne ...	300	0	0	Clerk of Petty Sessions, Pleasant Creek	300	0	0	Ditto.
Morgan, R. C....	Clerk in Insolvent Court, Geelong ...	250	0	0	Ditto ditto Wedderburne...	300	0	0	Ditto.
Woods, J. U. ...	Bailiff, County Court, Melbourne ...	300	0	0	Ditto ditto Yackandandah	300	0	0	Ditto.
Hillman, R. ...	Ditto ditto ...	300	0	0	Unprovided for.				
Mulcahy, Corns. ...	Ditto ditto ...	300	0	0	Ditto.				
Maynard, Geo. ...	Ditto Geelong ...	300	0	0	Ditto.				
Davison, Thos. ...	Ditto Ballaarat ...	250	0	0	Ditto.				
Kelsall, Edwd. ...	Ditto Alberton ...	300	0	0	Clerk of Petty Sessions of Peace and County Court	400	0	0	Ditto.
Martin L'Espinasse ...	Ditto, Insolvent Court, Geelong ...	250	0	0	Ditto Buckland ...	300	0	0	Ditto.

And £300 per annum travelling expenses.

H. S. CHAPMAN.

DEPARTMENTS OF THE TREASURER.

NAME.	OFFICE HELD.	SALARY.			HOW NOW PROVIDED FOR.	PRESENT SALARY.			OFFICE PERMANENT OR TEMPORARY.
		£	s.	d.		£	s.	d.	
George Buckley ...	Clerk in the Audit Office ...	600	0	0	Not re-appointed.				
A. M. Dick ...	Ditto ditto ...	400	0	0	Clerk in Audit Office	250	0	0	Permanent.
D. G. Stobie ...	Ditto ditto ...	400	0	0	{ Clerk of Petty Sessions ... and Acting Gold Receiver ...	300	0	0	
C. Cruickshank ...	Ditto ditto ...	350	0	0	Clerk of Petty Sessions ...	100	0	0	Ditto.
F. E. Perrot ...	Ditto ditto ...	350	0	0	Ditto ditto	300	0	0	
G. G. MacCrae ...	Ditto ditto ...	300	0	0	Clerk in Chief Secretary's Department	300	0	0	Ditto.
Richard J. Smith. ...	Clerk in the Gold Office ..	350	0	0	Clerk in the Revenue and Pay Office, Melbourne	300	0	0	Ditto.

Treasury, 26th April, 1858.

GEO. HARKER.

PUBLIC LANDS DEPARTMENT.

NAME.	OFFICE HELD.	SALARY.	HOW NOW PROVIDED FOR.	PRESENT SALARY.	OFFICE PERMANENT OR TEMPORARY.
Melville G. H. W. Ross	Marine Surveyor ... ..	£ s. d. 500 0 0 <small>And an allowance of £150 per annum.</small>	Marine Surveyor ... ..	£ s. d. 680 0 0	Permanent.
George P. Morton ...	Clerk, Deed Branch ... ..	300 0 0	Clerk to the Bench, Warringal ...	350 0 0	Ditto.
Richard Jones... ..	Clerk and Draftsman ... ..	250 0 0	Unprovided for.		
James D. Brown ...	Temporarily employed as Engraver ...	400 0 0	Unprovided for.		

C. HODGKINSON,  
Deputy Surveyor General.

TRADE AND CUSTOMS.

NAME.	OFFICE HELD.	SALARY.	HOW NOW PROVIDED FOR.	PRESENT SALARY.	OFFICE PERMANENT OR TEMPORARY.
Charles Edward Strutt ...	Assistant Immigration Agent, Geelong	£ s. d. 700 0 0	Police Magistrate, Echuca ... ..	£ s. d. 800 0 0	Permanent.
Henry Ford ... ..	Assistant Emigration Officer, Geelong	300 0 0	Clerk, Master in Equity's Office ...	250 0 0	Ditto.
Townsend Somerville ...	Clerk in charge, Portland Immigration Department	350 0 0	Clerk of Petty Sessions, Keilor ...	350 0 0	Ditto.
Peter Allsop ... ..	Clerk in charge Belfast Immigration Department	300 0 0	Clerk, Sub-Treasury, Belfast... ..	350 0 0	Ditto.
Garlies C. Maitland ...	Clerk in Immigration Office, Melbourne	250 0 0	Clerk of Petty Sessions, Echuca ...	300 0 0	Ditto.
Henry A. Bruce ... ..	Ditto ditto ... ..	250 0 0	Clerk, Harbor Master's Office, Melbourne	250 0 0	Ditto.
William Graburn ...	Ditto ditto ... ..	250 0 0	Clerk in Treasury ... ..	200 0 0	Ditto.

HENRY MILLER.

1857-8.

---

VICTORIA.

---

# RAILWAY LOAN CORRESPONDENCE.

---

LAI'D UPON THE COUNCIL TABLE BY THE HONORABLE H. MILLER, AND  
ORDERED BY THE COUNCIL TO BE PRINTED 4<sup>TH</sup> JUNE, 1858.

---

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.





1857-8.

---

VICTORIA.

---

R A I L W A Y L O A N .

---

CORRESPONDENCE RESPECTING THE NEGOTIATION OF THE  
PROPOSED RAILWAY LOAN.

---

PRESENTED TO BOTH HOUSES OF PARLIAMENT BY HIS EXCELLENCY'S COMMAND.

---



## CORRESPONDENCE.

[COPY.]

Extract from Minutes of Executive Council,  
Min. 57 | 93. J. H. Kay.

Draft Letter addressed to the firm of Messrs. Baring Brothers and Co.

Treasury, Victoria, Melbourne, 15th December, 1857.

GENTLEMEN,

I am commanded by His Excellency the Governor in Council to enclose for your information copies of certain Acts of the Legislature of Victoria, passed during the last Session of Parliament, viz.:—

Railway Loan Act,  
Main Trunk Railways Act,  
Railway Construction Act,  
Audit Act;

Also, copies of the following documents:—

A Statement of the Liabilities already contracted by this Colony.  
The Estimates of the Revenue and Expenditure of 1858; and  
A Memorandum of the state of the Finances laid before the Assembly, when introducing the Budget.

2. It is the intention of this Government to carry out, with all due despatch, the several railway works referred to in the "Main Trunk Railway Act," as soon as they shall have negotiated the loan in the English market, referred to in the "Railway Loan Act;" and it will be seen that, for these purposes, an amount of seven millions (£7,000,000) sterling, during the next five years, will be required to be raised on debentures or bonds, bearing interest at the rate of six pounds (£6) per centum per annum.

3. In placing these matters before you, I am to state that it is the desire of this Government to invite your firm either to take up the loan on your own account, or to undertake its negotiation on behalf of this Government, thus placing the whole management and control of the loan in one house of business; and with such view, it is not the intention of this Government to open a correspondence with any other firm than your own, until your reply to the present communication shall have been received, and then only in the event of such reply being unfavorable—a circumstance the Government are not prepared to anticipate.

4. You will have been made aware, by the correspondence which passed between His Excellency the late Sir Charles Hotham and a member of your firm, of the position and prospects of the Colony; and the statements which I have enclosed will, I trust, bring down to the present time such information as you may require. It will not therefore be necessary that I should do more than point to the fact, that the Revenue now exceeds the expenditure (including the interest on the first £1,500,000 of the Railway Loan) by the sum of £187,000, and that the present liabilities of the colony have been so contracted, that they will be discharged by the year 1876—several years before the Railway Bonds fall due.

5. I should be glad, therefore to be informed:—

- (1.) Whether your firm are willing to contract, as principals, for the whole loan of £7,000,000, extending over a period of five years, from the 1st of January, 1858, the monies to be drawn for by this Government as required, not, however, exceeding £1,500,000 in any one year, and on what terms; or—
- (2.) Whether you are willing to undertake as agents the sale on consignment of the bonds; and in such case, whether you would be prepared to honor the drafts of this Government in anticipation of sales of bonds, to the extent of the amount required, and not exceeding in any one year the sum of £1,500,000; and on what terms? Also, what premium the debentures would probably realize by this method?
- (3.) In either case, what will be the charge for paying the half-yearly interest and eventually the principal?
- (4.) It will be seen, by reference to the Loan Act, that the bonds may be issued in any sums, not less than one hundred pounds; it is therefore desirable that the Government should be in possession of the fullest information as to the amount with which the bonds should be filled up, and the number of each; and also, whether the bonds should be engraved on parchment or paper, and made payable at your office. It is proposed to use steel engravings, and different plates will have to be prepared.

6. I should be glad also to be informed whether, apart from the question of the Railway Loan, your firm would be willing to act as agents for this colony in procuring and shipping all such articles, and transacting all such matters (including the payment of the half-yearly interest upon the bonds already issued) as have hitherto been performed by Mr. Edward Barnard, the Agent General for these colonies; and on what terms?

7. I have to request that your earliest and best consideration may be given to the subject matter of this letter, as the Government are desirous of receiving a reply by the return mail, and of being in a position to commence forthwith these important public works.

I have, &c., &c.,  
(Signed)

C. H. EBDEN,  
Treasurer.

London, 16th February, 1858.

SIR,

We had the honor of receiving, on 9th instant, your letter dated 15th December, together with several Acts of Parliament and other documents relative to the future loans of the Colony of Victoria, for railway purposes.

You will readily understand, Sir, that the time which has elapsed since the receipt of this communication has not been sufficiently long to allow us thoroughly to mature our answers to the various enquiries contained in your letter, and we must, therefore, confine ourselves to the assurance, by this steamer, that we feel highly honored by the proposal made to us, and that we trust to be able to submit to your consideration and approval arrangements which, we believe, may be considered favorable to the interests of the colony. For that purpose, and from the conviction that, at this distance, a negotiation by correspondence would involve such inconvenience and delay as would be prejudicial to all concerned, we have resolved to send by the next steamer, a confidential representative of our firm, who would thus be able, without further procrastination, to ascertain fully your views, and arrange the mode in which our services may be made most useful to the colony. This resolution, by facilitating the attainment of our mutual object, renders any detailed answer by this mail to your letter unnecessary, and we may therefore, on this occasion, limit ourselves to the expression of our thanks for the complimentary tenor of its contents, and of the respect with which we have the honor to be,

Sir,

Your obedient Servants,  
 BARING BROTHERS AND CO.

The Honorable H. Ebden,  
 Treasurer, &c., &c., Melbourne.

SIR,

With reference to the letter which we addressed to you on 16th February, we have now the honor to inform you that Mr. H. Childers, who takes charge of these lines, who is personally known to you, carries with him our full power to treat for the negotiation of the projected issue of Colonial Bonds, as well as to state the terms on which we think that we could take charge of the agency here to mutual convenience.

In entrusting Mr. Childers with this mission, we have considered that we make a selection agreeable to yourself and the other members of the Government, as well as adopt the course most calculated to ensure a speedy and satisfactory settlement of the matter under discussion. As Mr. Childers will fully communicate with you, we have need only to subscribe ourselves,

Sir,

Your most obedient Servants,  
 BARING BROTHERS AND CO.

The Honorable H. Ebden,  
 Treasurer, &c., &c., &c., Melbourne.

Melbourne, 19th May, 1858.

SIR,

With reference to your predecessor's letter to Messrs. Baring Brothers and Co., of the 15th December, 1857, inviting them to take up or to negotiate on behalf of the Government of Victoria, the loan of seven millions, authorised to be raised in London by the Local Act, 21 Victoria No. 36, and further to act as agents for the Colony in London, I had the honor on the 14th instant, of presenting to His Excellency the Governor and to yourself, letters and a power of attorney, authorising me to act on behalf of Messrs. Baring Brothers and Co., in replying to this invitation, and I have now to submit to you their proposals, which I trust will be satisfactory to the Government of Victoria.

2. Messrs. Baring Brothers and Co. will undertake the agency for the sale of the entire amount of the bonds, Seven millions sterling, at a commission of one per cent. on the amount of sale, one quarter per cent. of brokerage, and the repayment of any other incidental expenses actually disbursed by them for account of the Government in the operation; but on these terms they would not consent to be drawn upon in anticipation of sales.

3. They will, however, agree to grant to the Government the power of so drawing upon them to the extent of one hundred thousand pounds (£1,000,000), in anticipation of advices received in Melbourne, at an additional banking commission of one per cent. on the amount so drawn. In this case the bonds for the amount required in the succeeding twelve months should have been forwarded to them.

4. With reference to the purchase of the bonds by contract, they are not prepared to tender now for the entire sum of seven millions (£7,000,000), extending over a period of five years as proposed in Mr. Ebden's communication. If the contractors were to receive the bonds as payments were being made, they would run great risks of variations in the money market, caused by political and other circumstances over which they have no control. On the other hand they could not expect that the Government would transmit to them the whole of the amount of bonds at once, and allow during so long a period interest at the rate of six per cent., whilst it could not receive more than three per cent. until the money would be required for railroad purposes.

5. They are, however, willing to tender for the full amount which I have been given to understand that the Government are desirous to dispose of during the first year, that is to say, one million and a half (£1,500,000), and the rate at which I, on their behalf, tender for this amount is one hundred and three pounds ten shillings (103½) per cent., the bonds for one moiety, £750,000, to bear interest from the date of their issue, the 1st day of July, 1858, the bonds for the other moiety £750,000, to bear interest from the 1st day of January, 1859, the bonds to be one one-eighth (⅛) in sums of one thousand pounds each, three-eighths (⅜) in sums of five hundred pounds each, and one-half in sums of one hundred pounds each, the whole to be remitted to London by the mails of July, August, September, and October (I name these periods, understanding that the bonds could not be sooner prepared), the Government drawing upon Messrs. Baring Brothers and Co. in fifteen equal monthly instalments,

commencing on the 1st day of July, 1858, being the periods at which I understand that the proceeds will be required by the Government, the drafts to be at the usual currency of sixty days sight. The remainder of the loan to be negotiated on commission by the tenderers upon the terms already stated, but such sales not to commence until the expiry of the above-named fifteen months.

6. In the event of the bonds being dated and issued on the first day of October (if this be required by the Schedule to the Act), the dates of drawing of the commencing of interest, &c., would have to be respectively three months later than those in the last paragraph.

7. I further, on behalf of Messrs. Baring Brothers and Co., make an alternative tender for the same sum payable at the same dates and on the same terms at the rate of one hundred and four pounds (104) per cent., subject to the following condition, that the tenderers have the option of taking at the same rate, 104 per cent., an additional amount of one million and a half (£1,500,000) in bonds dated on the 1st day of July, 1859, and bearing interest from the 1st day of January 1860, to be drawn for in twelve equal monthly instalments, commencing on the 1st day of October, 1859, the bonds to be in sums of £100, £500, and £1,000 in the same proportion as before, and to be forwarded to London not later than in October, 1859, the drafts to be at sixty (60) days sight. The remainder of the loan to be negotiated by the tenderers on commission, but not until the expiry of the last named twelve months, the tenderers to declare by letter, not later than the mail leaving London in March, 1859, whether they exercise this option. In the event of the bonds for the first £1,500,000 being dated on the 1st day of October, 1858 (as in paragraph 6), the dates of the bonds and drafts under this option, and of its exercise must be also three months later.

8. These proposals, whether for purchase or for sale on commission, are made on the further conditions that no other debentures, payable in London, are sold by the Government until the present loan has been raised; that the dividend and principal of the whole loan are made payable at the counting-house of Messrs. Baring Brothers and Co., subject to the respective charges of one per cent. on the amounts paid for dividends, and one-half per cent. for reimbursements of principal, and that provision is made for the payment of dividends and principal at least two months before they fall due. When any dividend falls due during the period in which any part of the loan is being drawn for by instalments, the amount of the bills which would arrive at maturity in the month appointed for the payment of such dividend, must be less than the authorised instalment by the total amount of the dividend.

9. The tenderers will open to the Government an interest account, allowing three per cent. on cash balances in hand and charging six per cent. on cash advances. Should the total amount of the bills drawn on them in any month be less than the amount authorised under the terms of the contract, the balance will be placed to the credit of the Government at the maturity of those drawn.

10. I have further, on behalf of Messrs. Baring Brothers and Co., to acquaint you, in reply to the sixth paragraph of Mr. Ebdens's letter, that they will be happy, if employed for the negotiation of the present loan, to act as agents for the Colony in procuring and shipping articles, and transacting all such matters that have hitherto been performed by the Colonial Agent General.

Their commission for payments out of funds in hand as directed by the Government would be one per cent. They would make purchases of stores, rails, or other goods, for the commission of one and a-half per cent.

Their commission for insurance would be one-half per cent., but this would not be charged when their purchases bore a commission.

The agency for these purposes would have to be the subject of a separate contract, and determinable at six or twelve months' notice.

11. In conclusion I beg to state that I shall have much pleasure in giving the Government any further information or explanation in my power relative to the present proposals which, knowing the anxiety of the Government to complete their arrangement under the Railway Loan Act, I have made with the least possible delay.

Awaiting an early reply to this tender,

I remain, Sir,

Your most obedient servant,

(Signed) HUGH C. E. CHILDERS.

The Honorable George Harker,  
Treasurer of Victoria.

Treasury, Melbourne, 20th May, 1858.

SIR,

I have the honor to acknowledge the receipt of your letter of the 19th instant, written with reference to a letter of my predecessor to Messrs. Baring Brothers and Co. dated 14th December, 1857, inviting them to take up or negotiate on behalf of the Government of Victoria, the loan of seven millions, authorised to be raised in London by the Act of 21 Vic., No. 36.

I have also to acknowledge the receipt of a letter dated ———, addressed by Messrs. Baring Brothers and Co., introducing you as their agent, duly appointed by power of attorney.

I have now the honor to communicate to you the view of my colleagues on the several proposals contained in your letter of yesterday, which I am prepared to submit for the consideration of His Excellency the Governor in Council.

The appointment of Messrs. Baring Brothers and Co. as the agents in London of the Government of Victoria, for the sale, under instructions to be issued to them, of the seven millions of railway bonds, at a commission of one per cent. on the amount of the sale, this Government to repay any actual and incidental expenses necessarily disbursed by them in negotiating the said bonds, but I am not prepared to submit a charge of more than *one-eighth* per cent. for brokerage.

I am also ready to submit that, in the event of its being found necessary to draw in anticipation of advices received in Melbourne to the extent of £100,000, that an additional banking commission of one per cent. on the amount so drawn for shall be charged to this Government.

In such a case, however, I would submit that this Government should not consent to forward bonds to the amount required for the succeeding twelve months, but should transmit bonds to the amount of £250,000 by each monthly mail.

With reference to the fourth paragraph of your letter, I agree with your remarks to a certain extent, and think it unnecessary to treat for the sale of the entire loan of seven millions. I am, how-

ever, prepared to submit the acceptance of your tender for £1,500,000 provided you will alter the rate of premium from  $3\frac{1}{2}$  to 5 per cent., and also to alter the provision as to dates and interest in the following manner.

The whole of the bonds to bear date on the 1st of October, 1858, and to be transmitted in six equal instalments of £250,000 each, by six consecutive monthly mails in the months of October, November, and December, 1858, and January, February, and March, 1859; and the proceeds of each instalment to be placed to the credit of this Government in London, on the first day of the months of January, February, March, April, May, and June, as follows, namely, first, the amount of the bonds; second, the premium as agreed; third, the accrued interest on the bonds, if any.

The bonds to be issued as desired in the following proportions, one-eighth in sums of one thousand pounds; three-eighths in sums of five hundred pounds, and one-half in sums of one hundred pounds,—the Government drawing on Messrs. Baring Brothers and Co. in fifteen monthly instalments, commencing by the mail of September, 1858.

It is understood that the proposal for the purchase of the first £1,500,000 is made in contemplation of the whole of the remainder of the loan being negotiated on commission on the terms hereinafter mentioned—the sales on commission not to commence until the end of the first fifteen months from the 1st day of October, 1858.

Under the above proposed arrangement it is unnecessary to answer the contingency contemplated in the sixth paragraph of your letter.

With reference to the alternative tenders mentioned in the seventh paragraph of your letter, I am under the necessity of declining to recommend the same for the consideration of the Governor in Council, and I cannot agree to the option of your taking a further amount at the same rate.

With regard to your eighth paragraph it will be submitted to the Government to pledge themselves not to issue during a period of fifteen months, from the 1st day of October next, any debentures payable in London except those tendered for.

Beyond this, I cannot recommend the Government to give a pledge, but it is not in contemplation to issue any further debentures payable in London until the present loan shall have been raised.

I see no objection to your proposal that the dividends and principal of the whole loan should be payable at the counting-house of Messrs. Baring Brothers and Co., subject, however, to the termination of this arrangement by either party giving two years' notice at any time after the loan shall have been raised. The proposed charge on the payment of dividends and principal should, I think, be reduced to one-half per cent. on the amount paid for dividends, and one-quarter per cent. on the reimbursement of principal. I am quite prepared to recommend that provision be made for the payments of dividends two months before they fall due, but I think that the arrangement for payment of principal should be left to the Government of that day.

As to the proposal contained in the ninth paragraph of your letter, namely, that this Government should be allowed interest at the rate of three per cent., and be charged interest at the rate of six per cent. on the general account current, the Government will be advised to accept your proposal.

As to the offer for a general agency, contained in tenth paragraph of your letter, I would wish to postpone the consideration of the same until the question relating to the financial arrangements has been decided.

I have now to add that I feel much obliged by your offer to give any further information or explanation relative to the present negotiations.

I have the honor to be,

Sir,

Your most obedient servant,

GEORGE HARKER.

To the Honorable H. C. E. Childers, Esq., &c., &c., &c.,  
Melbourne.

Melbourne, 25th May, 1858.

SIR,

I have had the honor of receiving your letter of the 20th instant, informing me, with reference to my previous communication of the 19th instant, that His Excellency in Council would be advised, first, to appoint Messrs. Baring Brothers and Co. as agents in London for the Government of Victoria for the sale of the railway debentures; and, secondly, to accept my tender for the purchase, on their account, of those debentures to the extent of one million and a half (£1,500,000), upon conditions varying in some respects from those proposed by me.

2. I have given every attention to the amendments suggested in your letter, upon which I will now remark *seriatim*.

First.—You propose, in your fourth paragraph, that I should reduce the charge, on account of brokerage on the sale of debentures, from one-fourth ( $\frac{1}{4}$ ) to one-eighth ( $\frac{1}{8}$ ) per cent. The customary charge on such sales in London is one-fourth ( $\frac{1}{4}$ ) per cent., and Messrs. Baring Brothers and Co. would not consent to submit to a loss on this account.

Second.—I consent on behalf of Messrs. Baring Brothers and Co. to the alteration suggested in your fifth paragraph, of the terms upon which Government might draw to the extent of one hundred thousand pounds in anticipation of sales.

Third.—In consideration of the assurance given in your twelfth paragraph, I do not insist on the conditions named in my eighth paragraph, that no other debentures made payable in London be sold by the Government until the present loan has been raised; at the same time I am bound to say that such a pledge, if it could be given, would tend to increase the value of the debentures in the London market.

Fourth.—I consent to the modifications contained in your thirteenth paragraph, so far as they relate, first, to the notice to be given by either party of the termination of the arrangement for the payment of principal and interest; and, secondly, to the requirement that provision be made for the reimbursement of principal two months before it falls due. But I cannot consent to reduce the charges on these payments from one and a half to a half and a quarter per cent. respectively; the former being the rates uniformly charged by Messrs. Baring Brothers and Co. I am, however, willing that the charge for the re-purchase of debentures, under the eleventh section of the Act, be a half per cent. in addition to brokerage.

Fifth.—I consent to the general basis of the amendments which you suggest in my tender for the purchase of £1,500,000, with the following exceptions—the first, that the six months, on the first day of which the instalment of £250,000 would be placed to your credit, should commence with December, 1858, instead of January, 1859; the second, that the first of the fifteen instalments be drawn for on the first October, instead of in September, 1858; and the third, that the premium be two and five-eighths ( $2\frac{5}{8}$ ) per cent. Should you still consider it necessary to draw in fifteen months, commencing with September, 1858, my rate of tender would be one hundred and two and a half per cent.

3. I also have the honor to make the following alternative tender for the same amount (£1,500,000), at the rate of one hundred and one pounds five shillings ( $101\frac{1}{4}$ ) per cent., to be paid in cash into the Treasury at Melbourne, in fifteen equal monthly instalments, commencing on the 1st October, 1858, interest on the bonds to be at the charge of Government from the date only of the respective payments of the instalments, the bonds to be dated on the 1st October, 1858, and remitted to London in equal portions by the mails of the six months from October, 1858, to March, 1859, inclusive; the Government to give, on receipt of each instalment, bills on Messrs. Baring Brothers and Co. for sums (to be named by me before the completion of the contract) sufficient to produce the amount; the other conditions to be those of my former communication, as modified by your reply on the present letter.

4. Further, should the Government be desirous to dispose, in the first instance, of bonds to a less amount than one and a half millions, I am prepared, on being informed of their requirements, to submit a fresh tender accordingly.

5. I have noted your wish to postpone the consideration of my offer for the general agency until the question relating to the financial arrangements has been decided.

Awaiting your reply, I am, Sir,

(Signed)

Your very obedient servant,

HUGH C. E. CHILDERS.

The Honorable George Harker,  
Treasurer of Victoria.

Treasury, 1st June, 1858.

SIR,

I have the honor to acknowledge the receipt of your letter of the 25th May, and having submitted the same for the consideration of His Excellency the Governor in Council; I am now to communicate to you the decision at which His Excellency, with the advice of the Council, has arrived.

Whilst expressing the thanks of myself and my colleagues to Messrs. Baring Brothers and Co., for the trouble they have taken in the matter of this negotiation, I have to regret that the terms on which you have proposed on their behalf to purchase the railway debentures of this Government to the extent of one million and a half (£1,500,000), differ so materially from the proposals contained in my letter of the 20th May, that the Governor in Council does not feel justified in entertaining your offer.

I regret also to state that in other respects the proposals made by you, on behalf of Messrs. Baring Brothers and Co., have not appeared to His Excellency's advisers of that satisfactory character which they anticipated, and which their own estimate of the credit of the Colony in England led them to expect. I am, therefore, under the necessity of bringing this negotiation to a close.

I have the honor to be, Sir,

Your most obedient servant,

(Signed)

GEO. HARKER.

The Honorable  
H. C. E. Childers.

SIR,

Melbourne, 12th May, 1858.

Referring to the conversation which our Mr. Sichel had the honor of having with you this morning, we beg to submit to your kind consideration the following proposal, which, in case it should meet your views, we shall be at once prepared to carry out.

We shall be glad to take from the Government the whole of the debentures for which the interest is to be payable in London, and to advance on them as they are issued, £100 sterling in cash for every one hundred pounds of debentures given to us. The debentures we shall remit to London, and shall there dispose of them in such manner as will ensure not only the highest possible price, but likewise in such mode as will be most advantageous to the present and future credit of the Colony, and as will give entire satisfaction to the Colonial Government.

Over and above the £100 sterling thus given for every hundred pound of debentures we propose to pay you a deposit of £6 or £8 per cent. on all debentures placed in our hands, and which shall remain with the Government as security for the faithful discharge of our duties, as well as for the amount due to the Government for all sums which the debentures may realize above the advance granted on them.

It is understood that the sale will be effected entirely on account of the Government, and that we are to receive for transacting the business such a commission as may afterwards be mutually agreed upon.

The deposit which we place in your hands as security for the surplus realized over the amount advanced here is to be invested on our account in debentures at par, and the same shall be handed over to us whenever we render account sales, and pay over to the Government in cash the balance that may be due.

We may add, for your information, that should the Government think that our proposal merits attention at their hands, that we shall not be disinclined to modify it in any particular which you may think requires alteration, and we shall be further prepared to receive their instructions as to carrying on the agency in London as a perfectly distinct establishment, in a manner suitable to the dignity of those high interests which we should have the honor to represent.

We remain,

Dear Sir,

Very truly your most obedient servants,

(Signed)

E. F. SICHEL AND CO.

To the Honorable the Treasurer of the Colony of Victoria.



58 | 2872.

Treasury, Melbourne, 25th May, 1858.

GENTLEMEN,

I am directed by the Treasurer to state that the Government are not prepared to entertain the proposition (for which I am to thank you) contained in your letter of the 12th instant, with reference to the sale of debentures.

I have the honor to be,  
Gentlemen,

Your most obedient servant,

E. F. Sichel and Co., &c., &c., &c.,  
Melbourne.

E. S. SYMONDS.

[COPY.]

Inspector's Office, Union Bank of Australia,  
Melbourne, 18th May, 1858.

SIR,

I have the honor to state, for the information of the Government, that I am prepared, on behalf of the directors of this bank, to enter into arrangements for the disposal of Victorian Government Securities in the London market, in conjunction with the representatives of the banks established in the colony, or otherwise.

I have also to state that this bank is willing to make advances on debentures, to be transmitted to London for sale on terms that might be hereafter agreed upon.

I have the honor to be, Sir,

Your obedient servant,

(Signed)

J. BLACKWOOD, Inspector.

To the Honorable the Treasurer,  
Melbourne.

[COPY.]

58 | 2871.

Treasury, Melbourne,

SIR,

29th May, 1858.

I am directed by the Treasurer to acknowledge the receipt of your letter of the 18th instant, relative to the disposal of Government debentures, and to state that the proposition therein contained will be brought under the notice of the Cabinet.

I have the honor to be, Sir,

Your most obedient servant,

The Inspector of  
The Union Bank of Australia,  
&c., &c., &c.

(Signed)

E. S. SYMONDS.

Menzie's Hotel, 28th May, 1858.

SIR,

With reference to the loan of seven millions (£7,000,000), to be issued for railway purposes, payable in London, I have the honor to submit the following proposal for the consideration of Her Majesty's Government.

2. If I am correct in supposing that the Government will require the above amount at the rate of one million four hundred thousand pounds (£1,400,000) per annum, I will undertake to contract for the said loan with the Government on the following terms, viz. :—

£700,000, say ten per cent. on the whole amount as a guarantee for the ultimate payment of the loan,

£700,000 in December, 1858,

£700,000 in June, 1859,

£700,000 in December, 1859,

£700,000 in June, 1860,

£700,000 in December, 1860,

£700,000 in June, 1861,

£700,000 in December, 1861,

£700,000 in June, 1862,

£700,000 in December, 1862,

£7,000,000

3. If the Government approve of the above terms as a basis of negotiation, I shall then be in a position to lay before the Executive a formal proposal for the loan; previous to which I would request the honor of an interview for the purpose of submitting verbally for their consideration certain details indispensable to the carrying out of the transaction.

I have the honor to be,

Sir,

Your most obedient servant,

To the Honorable the Chief Secretary, Melbourne.

A. GABRIELLI.

SIR,

Treasury, Melbourne, 1st June.

I am directed by the Honorable the Treasurer to acknowledge the receipt of your letter of the 28th ultimo, submitting a proposal with reference to a loan for railway purposes, and to inform you in reply that it will be duly brought under the notice of the Government.

I have, &amp;c.,

A. Gabrielli, Esq., Menzie's Hotel, Melbourne.

(Signed)

E. S. SYMONDS.

Melbourne, 31st May, 1858.

SIR,

We have the honor to submit, for the consideration of the Government, the following conditions upon which the subscribing banks will engage with the Government for the disposal, in London, of the 6 per cent. railway loan of seven millions (£7,000,000) sterling, issued under the authority of the Act 21 Victoria, No. 36:—

1. That, in consideration of their appointment as agents, the subscribing banks shall, on and after the 1st October next, advance to the Government a sum not exceeding, in any one month, one hundred and fifty thousand pounds (£150,000).

2. That, on such advances being made, the Government shall transmit to London, by the earliest opportunity occurring thereafter, to the order of the respective representatives of the contracting banks, an equivalent amount of debentures, to be disposed of as hereinafter provided.

3. That, for the amount of debentures so transmitted, the said banks shall negotiate the drafts of the Government, on the representatives of the banks in London, at an exchange of one-half the margin between the buying and selling rates then ruling.

4. That the Government shall pay to the banks interest, at the rate of 6 per cent. per annum, from the date of advances here to the period of the realization of the debentures in London.

5. That each bank shall appoint a representative to form a committee, by whom the debentures shall be disposed of in London; and that such committee be authorised to take steps for introducing the debentures into the market in the most advantageous manner.

6. That the said committee shall not dispose of the debentures at a lower price than 105, until permission to do so shall be given by the Government, except as hereinafter provided.

7. That on all sales of debentures effected, the Government shall pay the said banks a commission of one per cent., besides brokerage and other necessary charges.

8. That the interest on the loan shall be paid by the said banks at a commission of one-half per cent.

9. That the advance to the Government by the banks on debentures shall not at any one time exceed one million eight hundred thousand pounds (£1,800,000) sterling.

10. That the payment of debentures at maturity or the re-purchase of any portion of them during their currency on behalf of the Government, shall be performed by the banks at a commission charge of a quarter per cent.

11. That in the event of the Government requiring remittances for any of the above purposes, drafts shall be provided by the banks at one-half per cent. below their then selling rate on London.

12. That as the Government may require, before the 1st October next, funds for the prosecution of railway works, the banks shall be prepared to make such advances as may be required, not exceeding the monthly maximum of one hundred and fifty thousand pounds (£150,000) sterling in all; and that in charging interest thereon, the banks will allow the same rate of interest on the "Public Account" as charged on this special advance, provided such allowance shall not exceed the amount due by the Government to the banks.

13. That in the event of the debentures proving unsaleable at the Government reserve, it shall be at the option of the banks, at any time after the expiration of twelve months from 1st October next, to reimburse themselves by the sale of such debentures at the best price then obtainable; and if any deficiency shall arise, additional debentures shall be placed in the hands of the banks to cover the same.

We have the honor to be, Sir,  
Your obedient servants,

For the Union Bank of Australia,

J. BLACKWOOD, Inspector.

For the Bank of Victoria,

J. MATHESON, General Manager.

For the London Chartered Bank of Australia,

JOHN BRAMWELL, Manager.

For the Bank of Australasia,

D. C. McARTHUR, Manager.

For the Bank of New South Wales,

J. BADCOCK, Manager.

For the Colonial Bank of Australasia,

THOS. E. BOYD, General Manager.

The Honorable the Treasurer,  
Victoria.

Treasury, Melbourne, 3rd June, 1858.

GENTLEMEN,

I have the honor to acknowledge the receipt of your letter of the 31st May, and in reply thereto, I have to inform you that I have brought the several propositions contained therein under the consideration of my colleagues, and I am now to communicate their views thereon.

I am prepared to advise the Governor in Council to accept the proposals contained in your letter. I am, however, to point out to you that in the seventh proposal of your communication the rate of brokerage is not stated; it must be understood that it is not to exceed one-quarter ( $\frac{1}{4}$ ) per cent., and that the other necessary expenses are to be taken to mean petty disbursements, advertisements, and other petty expenses.

With reference to your thirteenth proposal, I am to state that considering the favorable condition of the money market, and the ample time which your agents will have to dispose of the debentures, it is not very likely that the contingency alluded to by you will arise, nevertheless this Government will take care in the mean time to use such precautions and adopt such means as may be found effectual to guard against the necessity for any sacrifice.

On your sixth paragraph I have to remark that it must be understood that no more debentures are disposed of than will cover the advance the banks may have made, without the instructions in writing of the Governor as to the amount of further sales, and to the rate of premium at which these sales are to be effected.

I have the honor to be,  
Gentlemen,  
Your most obedient servant,  
GEORGE HARKER.

To Messrs. James Blackwood, James Matheson, J. Badcock,  
T. E. Boyd, J. Bramwell, and D. C. McArthur, Esqrs., &c. &c. &c.

Melbourne, June 3, 1858.

SIR,

We have the honor to acknowledge the receipt of your letter of this date, replying to our communication, dated 31st ultimo, on the subject of the negotiation of the railway loan, and we observe that you are prepared to advise the Governor in Council to accept the proposal therein contained.

2. We are willing to undertake that the rate of brokerage shall not exceed one quarter per cent. ( $\frac{1}{4}\%$ ), and that "other necessary expenses" shall be held to mean disbursements for advertisements and petty charges.

3. We note with satisfaction that the Government will take care to adopt such means as will prevent the contingency alluded to in the thirteenth clause of our proposal.

4. With reference to your concluding paragraph we understand that if it shall become necessary to reimburse ourselves by sales of debentures below the present fixed rate of 105, such sales to be limited to the amount of advances by the banks, and that further sales shall not be effected below 105, without instructions in writing from the Government.

5. In conclusion we have to state, that we shall be prepared, as soon as it may suit the convenience of the Government, to enter into the necessary arrangements for the practical carrying out of the agreement.

We have the honor to be,  
Sir,

Your obedient servants,

For the Union Bank of Australia,

JAMES BLACKWOOD, Inspector.

For the Bank of New South Wales,

J. BADCOCK, Manager.

For the Bank of Victoria,

J. MATHESON, General Manager.

For the London Chartered Bank of Australia,

J. BRAMWELL, Manager.

For the Colonial Bank of Australasia,

T. E. BOYD, General Manager.

For the Bank of Australasia,

D. C. McARTHUR, Manager.

To the Honorable the Treasurer.

Melbourne, 31st May, 1858.

SIR,

We beg to submit the following terms upon which we are willing to negotiate the Railway Debentures, viz. :—

To advance one hundred pounds (£100) for every one hundred pound debenture, to the extent of £200,000 per month.

To charge exchange for such advance at bank buying rates, of sixty-day bills, on the day of closing the English mails, which shall cover all interest until sixty days after arrival of the mail in London.

To dispose of the debentures in London on account of the Government, crediting them with net proceeds, less two shillings and sixpence (2s. 6d.) per cent. on every hundred realized, balance of proceeds payable at their option in London or in the colony.

To hold the debentures for a price to be named by the Government, at one per cent. over the current interest charged by the Bank of England, so long as the advance does not exceed five hundred thousand pounds (£500,000), but over that sum to be allowed to dispose of the excess, after six months from the due date of the sixty days usance (equal to eight months.) All sales effected prior to expiry of the usance to be credited with interest at one per cent. less than Bank of England rate.

For the due fulfilment of the above conditions, we pledge the security of a bank of known standing.

We shall be happy to enter into any further explanation by a personal interview.

We are, Sir,

Your obedient servants,

DE PASS BROTHERS AND CO.

The Honorable the Treasurer of the Colony of Victoria.

3002.

Treasury, Melbourne, 3rd June.

GENTLEMEN,

I am directed by the Treasurer to inform you, with reference to your letter of the 31st ultimo, submitting certain terms on which you are willing to negotiate for Railway Debentures, that your proposal will be submitted for the consideration of the Cabinet.

Messrs. De Pass Brothers and Co., Melbourne,

(Signed)

I have, &amp;c.,

E. S. SYMONDS.

SIR,

Inspector's Office, Union Bank of Australia,  
Melbourne, 1st June, 1858.

Referring to a letter of yesterday's date, addressed to the Government by six banks of this city, I have the honor to state, that I joined in the offer therein made, on the understanding that, if an arrangement shall arise out of that communication, this bank shall participate in an equal degree with other banks in the ordinary banking business of the Government, and I trust the Executive will not consider me unreasonable in asking for this concession.

I have the honor to be, Sir,

Your most obedient servant,

J. BLACKWOOD, Inspector.

To the Honorable the Treasurer,  
Melbourne.

No. 3001.

Treasury, Melbourne, 3rd June.

SIR,

I am directed by the Honorable the Treasurer to acknowledge the receipt of your letter of 1st instant, referring to a communication of date 31st ultimo, addressed to the Government by six banks of this city, and to inform you in reply, that if the arrangements proposed by the six banks alluded to for the sale of debentures should be accepted by the Government, the Union Bank, as one of the contracting parties, will have its fair share of Government banking business.

I have, &amp;c.,

(Signed)

E. S. SYMONDS.

J. Blackwood, Esq.,

Inspector, Union Bank of Australia, Melbourne.

Oriental Bank Corporation, Melbourne, 1st June, 1858.

SIR,

It having just been reported to me that the Government have requested tenders from several of the banks for the purchase of the Government Railway Debentures, I have the honor to request you will be good enough to inform me if such information be correct, as in the event of the Government being open to receive tenders, I am prepared on behalf of this Corporation to submit one which will, I believe, be advantageous to the country.

I have the honor to be,

Sir,

Your obedient servant,

W. M. ELLES,

Inspector and Manager.

The Honorable the Treasurer.

3003.

3rd June,

SIR,

I am directed by the Treasurer to acknowledge the receipt of your letter of 1st inst., respecting the purchase of Government Railway Debentures, and to inform you in reply, that your communication will be submitted for the consideration of the Cabinet.

I have, &amp;c.,

E. S. SYMONDS.

Manager of Oriental Bank Corporation, Melbourne.

1857-8.

---

VICTORIA.

---

LEGISLATIVE COUNCIL.

---

FIRST REPORT

OF THE

PRINTING COMMITTEE.

---

LAI'D UPON THE COUNCIL TABLE BY THE HONORABLE J. P. FAWKNER, AND  
ORDERED BY THE COUNCIL TO BE PRINTED 3RD MARCH, 1858.

---

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

# REPORT.

---

In pursuance of the Order of your Honorable House, made on the 27th day of January, your Committee have had referred to them the several Papers mentioned in the following Table, upon which your Committee beg to report as appears by such Table:—

Subject.	When moved for, and by whom.	When laid on Council Table.	Report and Remarks of Committee.
Case of John Lanktree, late Secretary of Sewerage and Water Commission	6th Oct., 1857, Hon. J. Hood	10th Nov., 1857	No order made.
Surveyors' Field Work ...	Presented ...	26th Jan., 1858	Printing recommended to be deferred till Return made complete by Report of Inspector of Field Work.
Attendance on Select Committees	Presented ...	3rd Feb., 1858	No order made.
Complaint of Mr. Donaghy ...	5th Jan., 1858, Hon. T. H. Power	2nd Feb., 1858	No order made.
Chinese Passengers, and Gold Exported by Chinese	3rd Feb., 1858, Hon. J. Henty	9th Feb., 1858	Recommended to be printed in connection with paper of last session on same subject.
Sales of Crown Lands at Belfast and Colac	9th Feb., 1858, Hon. J. H. Patterson	16th Feb., 1858	Recommended to be printed.
Boundaries of Richmond Bridge Road	9th Feb., 1858, Hon. W. Highett	16th Feb., 1858	No order made.

Committee Room,  
23rd February, 1858.

JOHN P. FAWKNER,  
Chairman.



1857-8.

---

VICTORIA.

---

REPORT

OF THE

SELECT COMMITTEE

OF THE

LEGISLATIVE COUNCIL

ON THE

MARRIAGE BILL,

TOGETHER WITH THE

PROCEEDINGS OF COMMITTEE AND MINUTES OF EVIDENCE.

---

ORDERED BY THE COUNCIL TO BE PRINTED 27<sup>TH</sup> APRIL, 1858.

---

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.





EXTRACTED FROM THE MINUTES.

---

TUESDAY, 26th JANUARY, 1858.

MARRIAGE BILL.—The Honorable J. Hood, in accordance with notice, moved for leave to bring in a Bill to amend and consolidate the laws affecting the solemnization of Marriage.

Question—put and passed.

The Bill, on the motion of the Honorable J. Hood, read a first time, ordered to be printed, and read a second time on Tuesday, the 9th proximo.

---

TUESDAY, 9TH FEBRUARY.

MARRIAGE BILL.—The Order of the Day for the second reading of this Bill was postponed until Tuesday, 16th instant.

---

TUESDAY, 16TH FEBRUARY.

MARRIAGE BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable J. Hood moved, That the Bill be now read a second time.

Debate ensued.

Amendment moved by the Honorable Dr. Tierney, That all the words after the word "be" be omitted, with a view to insert the words "referred to a Select Committee of this House."

Debate ensued.

Question—That the word "now," proposed to be omitted, stand part of the question—put and passed.

Question—that the Bill be now read a second time—put and passed.

Bill read a second time.

The Honorable J. Hood moved, That the Honorable T. H. Power do act as Chairman of Committees.

Question—put and passed.

The Honorable J. Hood moved, That the Bill be now considered in Committee of the whole Council.

The Deputy President left the Chair.

The Deputy Chairman of Committees reported progress and asked leave to sit again on Tuesday, the 23rd instant.

Ordered.

---

TUESDAY, 23rd FEBRUARY.

MARRIAGE BILL.—The Order of the Day for the further consideration of this Bill in Committee of the whole Council being read, the President left the Chair.

The Chairman of Committees reported progress, and asked leave to sit again to-morrow.

Ordered.

---

THURSDAY, 25TH FEBRUARY.

MARRIAGE BILL.—The Order of the Day for the further consideration of this Bill in Committee being read, the President left the Chair.

The Chairman of Committees reported progress, and asked leave to sit again on Tuesday next.

Ordered.

---

TUESDAY, 2ND MARCH.

MARRIAGE BILL.—The Order of the Day for the further consideration of this Bill in Committee being read, the President left the Chair.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same with amendments.

The Honorable J. Hood moved, That the adoption of the Report of the Committee be made an Order of the Day for to-morrow.

Ordered.

## WEDNESDAY, 3RD MARCH.

**MARRIAGE BILL.**—The Order of the Day for the adoption of the Report of the Committee of the whole Council being read, the Honorable J. Hood moved, That the Bill be now re-committed to a Committee of the whole Council,

Question—put and passed.

The President left the Chair.

The Chairman of Committees reported that notice had been taken of the fact that there was not a quorum of members present.

The President counted the House, and there being no quorum present, adjourned the Council at a quarter to six o'clock until three o'clock on Tuesday, the 9th instant.

## WEDNESDAY, 10TH MARCH.

**SUSPENSION OF STANDING ORDER XLI.**—The Honorable J. Hood moved, That the Standing Order XLI be suspended.

Question—put and passed.

**MARRIAGE BILL.**—The Honorable J. Hood, in accordance with notice, moved, The resumption of the Committee of the whole Council on the Marriage Bill.

Debate ensued.

Question—put and passed.

Ordered—That the consideration of the Marriage Bill in Committee of the whole Council be now resumed at the point where it was interrupted by the counting out of the House on the 3rd instant.

The President left the Chair.

The Chairman of Committees reported that the Committee had instructed him to report to the House that the Committee deemed it expedient that the Marriage Bill should be referred to a Select Committee of the Council, consisting of the following members, viz. : The Honorables the President, J. Hood, J. B. Bennett, N. Guthridge, J. Hodgson, W. Roope, and Dr. Tierney, and that the said Committee should have power to sit during the recess.

The Honorable J. Hood moved, That the Report of the Committee be now adopted.

Question—put and passed.

The Honorable J. Hood moved, That the Select Committee have power to take evidence.

Question—put and passed.

The Honorable W. Roope moved, That the Honorable C. Vaughan be appointed a member of the Select Committee on the Marriage Bill.

Question—put and passed.

## TUESDAY, 27TH APRIL.

**MARRIAGE BILL.—REPORT OF SELECT COMMITTEE.**—The Honorable J. Hood, as Chairman of the Select Committee on the Marriage Bill, brought up the Report of the Committee and moved that the same do lie on the Table.

Question—put and passed.

The Honorable Dr. Tierney moved, That the Report of the Committee be printed, together with the Minutes of Proceedings and Evidence.

Question—put and passed.

The Honorable J. Hood moved, That the consideration of the Report of the Select Committee be made an Order of the Day for to-morrow.

Debate ensued.

Motion by leave withdrawn.

The Honorable Dr. Tierney moved, That the Bill be referred back to the Select Committee for re-consideration.

Question—put and passed.

## WEDNESDAY, 28th APRIL.

**MARRIAGE BILL.**—The Honorable J. Hood, as Chairman of the Select Committee on the Marriage Bill, brought up the Report, accompanied by the Bill as amended by the Select Committee, and moved that the consideration of the Bill be made an Order of the Day for to-morrow.

Question—put and passed.

# REPORT.

---

THE SELECT COMMITTEE of the Honorable the Legislative Council, appointed to inquire into and take evidence upon the provisions of the proposed Marriage Bill, have the honor to submit to this Honorable House the following Report :—

The attention of your Committee has been confined to the following points, as those upon which the subject of the Law of Marriage mainly turns :—

- 1st. Whether it would be desirable to recognize the Law of Marriage by civil officers.
- 2nd. Whether the present staff of Deputy Registrars should be allowed to perform the marriage rite, or whether there should be parties specially appointed for that purpose.
- 3rd. Whether it would be advisable to limit the action of such Registrars or other civil officers so appointed, in relation to marriage, to those cases in which clergymen are not accessible.
- 4th. Whether such registrars or other civil officers shall require, before performing the ceremony of marriage, from the parties about to be married, notice of such their intention ; and if so, whether and in what manner such notice should be made public.
- 5th. Whether such registrars or other civil officers should be at liberty to celebrate marriages during all hours of the day.

Your Committee have to report that the following gentlemen have been examined by them, viz :—

Rev. Adam Cairns, D.D., Minister of the Free Church of Scotland.  
Rev. Irving Hetherington, Minister of the Church of Scotland.  
Rev. W. B. Landells, Minister of the Independent Church.  
Rev. W. Miller, Minister of the Free Church of Scotland.  
Rev. A. M. Ramsay, Minister of the United Presbyterian Church.  
Rev. D. J. Draper, Minister of the Wesleyan Church.  
Rev. H. Higginson, Minister of the Unitarian Church.  
Rev. L. Shiel, D.D., Principal of St. Patrick's College.  
Rev. S. L. Chase, Minister of the Church of England.  
Norman Campbell, Esq., Registrar General.  
T. T. a'Beckett, Esq., Registrar of the Diocese of Melbourne.

After the fullest consideration of the subject, your Committee are of opinion, that it is desirable to recognize the celebration of marriage by civil officers ; that it is desirable that the Governor should appoint officers for celebrating marriages under the provisions of this Act ; that it is desirable to limit the powers of civil officers to those cases provided for in schedule B of the Bill ; that it shall not be lawful for any civil officer to celebrate the marriage ceremony, unless the applicants shall have given him written notice of their intention to be married, and such shall be exhibited in his office at least fourteen (14) days before the performance of the ceremony ; that such registrars, or other civil officers, shall not be at liberty to celebrate marriages, save on week days, between the hours of eight (8) in the morning and four (4) in the afternoon.

In accordance with these views, your Committee would recommend that a new clause, empowering the Governor to frame rules for the carrying out of this Act, be inserted before clause 2 (*vide* Appendix 1).

That the present clause 2 and clause 3 be struck out, and that Appendix 2 be substituted therefor ; that clause 7 be amended, so as not to clash with the present Registration Act ; and that a new clause (providing for the registration of the revocation of certificates) be framed to follow clause 3 (*vide* Appendix 3).

Committee Room,  
22nd April, 1858.

JOHN HOOD,  
Chairman.

#### APPENDIX I.—(CLAUSE II.)

. That the Governor of the said colony with the advice of the Executive Council thereof may from time to time frame rules and regulations for the more effectually carrying out the provisions of this Act so that none of such rules and regulations be contrary to the principle of such said Act and may from time to time alter amend or repeal such rules and regulations and substitute others in their stead.

#### APPENDIX II.—(CLAUSE III.)

. That no marriage shall be celebrated except by some minister of religion ordinarily officiating as such whose name designation usual place of residence and the church or chapel in which he officiates shall have been registered under the provisions of 16 Victoria No. 26 clause 37 and shall then continue registered in the office of the registrar general for births deaths and marriages in Victoria or by ministers not having a registered place of worship who shall hold a registered certificate from the head of the denomination to which they belong that they are regularly authorised ministers priests or deacons or where there is no recognised head then by at least two clergymen who come under the provision of the first part of this clause which said church or chapel and which said certificate the registrar general is hereby required to register without fee or reward or by the registrar general of the colony by such other civil officer or officers as the Governor shall from time to time appoint for that purpose and whose appointment shall have been published in the *Government Gazette* of the colony for the district in which the intended wife ordinarily resides provided however that where the parties intend to be married before the registrar general or other officer they shall sign a declaration in the form set forth in the schedule to this Act marked B.

#### APPENDIX III.—(CLAUSE IV.)

. That whenever any minister priest or deacon whose name shall have been registered with the registrar general under any of the provisions of the last recited clause shall die or depart the Colony or cease to exercise the functions of an officiating minister or be degraded by his superior or by the recognised church court or tribunal of the denomination to which he belongs or in case he shall hold a certificate from two clergymen as previously provided for and such certificate shall be cancelled by the parties who granted the same the fact of such death departure cessation of ministry degradation or withdrawal of certificate shall within ninety days thereafter be registered in like manner with the registrar general either by the head of the denomination or by the trustees of the church or where the minister shall have acted under a registered certificate then by the parties who granted such certificate and that all such clergymen whose functions in relation to this Act shall have ceased as hereinbefore prescribed who shall continue in violation of the provisions thereof to perform any marriage ceremony shall be liable to the penalties specified by the provisions contained in the seventeenth clause of this Act.

## PROCEEDINGS OF THE COMMITTEE.

TUESDAY, 16TH MARCH, 1858.

*Members present:*

The Honorable the President, in the chair.  
The Honorables J. Hood, C. Vaughan, W. Roope, Dr. Tierney.

Committee deliberated.

Resolved—That one clergyman of each religious denomination be summoned to attend before this Committee.

A list of the names of clergymen whose evidence it would be desirable to obtain handed to the Clerk:—The Bishop of Melbourne; Right Rev. Dr. Goold; Rev. Dr. Cairns, Presbyterian; Rev. I. Hetherington, Church of Scotland; Rev. W. B. Landells, Independent; Rev. I. New, Baptist, at Mr. Langlands', Richmond-road; Rev. A. M. Ramsay, United Presbyterian; Rev. D. J. Draper, Wesleyan; Rev. W. Miller, Free Church; Rev. H. Higginson, Unitarian; the Registrar General; T. T. a'Beckett, Esq.; the Very Rev. the Dean.

Ordered—That the Bishop of Melbourne, the Right Rev. Dr. Goold, and Rev. Dr. Cairns be summoned to attend this Committee on Friday, the 19th instant.

Adjourned till ten o'clock on Friday next.

FRIDAY, 19TH MARCH, 1858.

*Members present:*

The Honorable J. Hood, in the chair.  
The Honorables J. B. Bennett, N. Guthridge, W. Roope.

Clerk handed in letter from Rev. L. Shiel, on behalf of Roman Catholic Bishop.  
Dr. Cairns examined.

Committee adjourned till Monday, 22nd instant, at one o'clock.

MONDAY, 22ND MARCH, 1858.

*Members present:*

The Honorable J. Hood, in the chair.  
The Honorables John Hodgson, W. Roope, J. B. Bennett, C. Vaughan, the President.  
Rev. I. Hetherington examined.  
Rev. W. B. Landells examined.

Committee adjourned till Wednesday, 24th instant, at one o'clock.

WEDNESDAY, 24TH MARCH, 1858.

*Members present:*

The Honorable J. Hood, in the chair.  
The Honorables N. Guthridge, W. Roope.

The Rev. W. Miller examined.  
The Rev. A. M. Ramsay examined.

Committee adjourned till Friday, 26th instant.

FRIDAY, 26TH MARCH, 1858.

*Members present:*

The Honorable J. Hood, in the chair.  
The Honorables N. Guthridge, W. Roope, J. Hodgson.

The Rev. D. J. Draper examined.  
Mr. Higginson examined.  
The Rev. L. Shiel examined.  
The Registrar General examined.

Committee adjourned till Tuesday, 30th inst., at three o'clock.

TUESDAY, 30TH MARCH, 1858.

*Members present:*

The Honorable J. Hood, in the chair.  
The Honorables W. Roope, Dr. Tierney, J. Hodgson, J. B. Bennett.

T. T. a'Beckett, Esq., examined.  
Rev. S. L. Chase examined.

Committee adjourned.

TUESDAY, 13TH APRIL, 1858.

*Members present :*

The Honorable J. Hood, in the chair.

The Honorables J. B. Bennett, N. Guthridge, C. Vaughan, Dr. Tierney, J. Hodgson.

Draft Report brought up and read.

Committee adjourned till Friday, at two o'clock.

FRIDAY, 16TH APRIL, 1858.

[*The Committee did not sit, the Council having adjourned from Tuesday the 13th to Tuesday the 20th, and leave for the Committee to sit not having been obtained.*]

TUESDAY, 20TH APRIL, 1858.

*Members present :*

The Honorable J. Hood, in the chair.

The Honorables Dr. Tierney, C. Vaughan, J. Hodgson, J. B. Bennett, The President, W. Roope.

Draft Report further considered and read as follows :—

“ DRAFT REPORT.

“ THE SELECT COMMITTEE of the Honorable the Legislative Council, appointed to inquire into and take evidence upon the provisions of the proposed Marriage Bill, have the honor to submit to this Honorable House the following Report:—

“ From the long period of time during which this Bill was under the consideration of your Honorable House, and the full discussion which it then underwent, and also from the general tenor of the objections urged against it by those Honorable Members who more particularly wished to have it referred to a Select Committee, the attention of your Committee has been mainly confined to the following points, viz :—

- 1st. Whether it would be desirable to secularize the marriage ceremony; or, in other words, to legislate for marriage as a purely civil contract.
- 2nd. Whether the present staff of deputy registrars should be allowed to perform the marriage rite, or whether there should be parties specially appointed for that purpose.
- 3rd. Whether it would be advisable to limit the action of such registrars or other civil officers so appointed, in relation to marriage, to those cases in which clergymen were not accessible.
- 4th. Whether such registrars or other civil officers should be required for a certain period, before performing the ceremony of marriage, to receive from the parties about to be married notice of such their intention; and if so, whether and in what manner such notice should be made public.
- 5th. Whether such registrars or other civil officers should be at liberty to celebrate marriages during all the hours of the day.

“ Your Committee have to report that the following gentlemen have been examined by them, viz :—

Rev. Adam Cairns, D.D., Minister of the Free Church of Scotland;  
 Rev. Irving Hetherington, Minister of the Church of Scotland.  
 Rev. W. B. Landells, Minister of the Independent Church.  
 Rev. W. Miller, Minister of the Free Church of Scotland.  
 Rev. A. M. Ramsay, Minister of the United Presbyterian Church.  
 Rev. D. J. Draper, Minister of the Wesleyan Church.  
 Rev. H. Higginson, Minister of the Unitarian Church.  
 Rev. L. Shiel, D.D., Principal of St. Patrick's College.  
 Rev. S. L. Chase, Minister of the Church of England.  
 Norman Campbell, Esq., Registrar General.  
 T. T. a'Beckett, Esq., Registrar of the Diocese of Melbourne.

“ From the evidence of these gentlemen, your Committee are of opinion that it is expedient in practice and right in principle to secularize the marriage contract. That it is not requisite to appoint officers for the special purpose of solemnizing marriages, the present deputy registrars being, in the opinion of your Committee, fully competent satisfactorily to perform such duty. That there should be no limit whatever to the power of the civil officers in regard to the celebration of marriage, but that they should be entitled to be placed in this respect on precisely the same footing as the clergy. That it is unnecessary that any notice of an intention to be married should be given to such civil officers previously to their performance of the marriage ceremony, and that the exercise of their functions in respect of marriage by such civil officers should be limited to certain office hours, say from eight a.m. to four p.m., on week days.

"In accordance with these views, your Committee would recommend that a new clause (empowering the Governor to frame rules for the carrying out of this Act) be inserted before clause 2—[*Vide* Appendix 1]. That clause 3 be struck out, and that clause 2 be altered [as shown in Appendix 2], and be substituted for the present clause 3. That clause 7 be amended, so as not to clash with the present Registration Act; and that a new clause (providing for the registration of the revocation of certificates) be framed to follow clause 3—[*Vide* Appendix 4]. That Schedule B be struck out.

"JOHN HOOD, Chairman.

"Committee Room, April, 1858."

The following amendments proposed:—

That all the words up to the word "Committee," in the fourth line of the first paragraph, be struck out; that the word "mainly," in the fifth line, be struck out; and that after the word "points," in the fifth line, the following words be added, "as those upon which the subject of the law of marriage mainly turns."—(*Hon. J. B. Bennett.*)

Question—put and passed.

That all the words after the word "to," in the sixth line, be struck out, and the following words substituted, "recognize the law of marriage by civil officers."—(*Hon. J. B. Bennett.*)

Question—put and passed.

That the word "were," in the twelfth line, be struck out, and the word "are" substituted.—(*Hon. the President.*)

Question—put and passed.

That all the words after "officers," in the thirteenth line, to the word "period," in the fourteenth line, be struck out, and the following words substituted, "shall require," and that the words "to receive," in the fourteenth line, be struck out.—(*Hon. J. B. Bennett.*)

Question—put and passed.

That the word "the," in the eighteenth line, be struck out.—(*Hon. J. B. Bennett.*)

Question—put and passed.

That all the words to the word "gentlemen," in the first line of the second paragraph, be struck out, and the following words substituted, "after the fullest consideration of the subject," and that the word "expedient," in the same line, be struck out, and the word "desirable" substituted.—(*Hon. J. B. Bennett.*)

Question—put and passed.

That all the words after the word "expedient," in the first line, to "contract," in the second line, be struck out, and the following words substituted, "to recognize the celebration of marriage by civil officers."—(*Hon. J. B. Bennett.*)

Question—put and passed.

That all the words after "is," in the second line, to the word "clergy," in the seventh line, be struck out, and the following words substituted, "desirable that the Governor shall appoint officers for celebrating marriages under the provisions of this Act. That it is desirable to limit the powers of civil officers to those cases provided for in schedule B of the Bill."—(*Hon. J. B. Bennett.*)

Question—put and passed.

Ordered—That the Committee adjourn till ten o'clock on Thursday next.

THURSDAY, 22ND APRIL, 1858.

*Members present:*

The Honorable J. Hood, in the chair.

The Honorables Dr. Tierney, J. Hodgson, C. Vaughan, W. Roope, the President, J. B. Bennett

Draft Report further considered.

Proposed—That all the words from the word "clergy," in the seventh line of the second paragraph, be struck out, and the following words be substituted, "that it shall not be lawful for any civil officer to celebrate the marriage ceremony unless the applicants shall have given him written notice of their intention to be married, and such shall be exhibited in his office at least fourteen (14) days before the performance of the ceremony."—(*Hon. the President.*)

Question—put and passed.

Proposed—That all the words after the word "ceremony," in the eighth line, to "days" in the last line, be struck out, and the following words substituted, "that such registrars or other civil officers shall not be at liberty to celebrate marriage save on week days between the hours of eight (8) in the morning and four (4) in the afternoon."—(*Hon. J. B. Bennett.*)

Question—put and passed.

Proposed—That the words "the present" be inserted between the words "that" and "clause" in the third line of the third paragraph.—(*Hon. J. B. Bennett.*)

Question—put and passed.

Proposed—That the figure "2" be added to the word "clause" in the third line, and the words "and clause" be inserted before the figure "3" in the same line.—(*Hon. J. B. Bennett.*)

Question—put and passed.



Proposed—That all the words between “out,” in the third line, and “Appendix,” in the fourth line, be struck out, and the following words substituted, “and that”—(*Hon. J. B. Bennett.*)  
Question—put and passed.

Proposed—That the word “and,” in the fourth line, be struck out.—(*Hon. J. B. Bennett.*)  
Question—put and passed.

Proposed—That all the words after “substituted,” in the fourth line, be struck out, and the word “therefor” inserted.—(*Hon. J. B. Bennett.*)  
Question—put and passed.

Proposed—That all the words after “4,” in the last line, be struck out.—(*Hon. J. B. Bennett.*)

Question—put and passed.

Appendix I.—(Clause II.) read as follows:—

“That the Governor of the said colony with the advice of the Executive Council thereof may from time to time frame rules and regulations for the more effectually carrying out the provisions of this Act so that none of such rules and regulations be contrary to the principle of such said Act and may from time to time alter amend or repeal such rules and regulations, and substitute others in their stead.”

Question—put and passed.

Appendix II.—(Clause III.) read as follows:—

“That no marriage shall be celebrated except by some minister of religion ordinarily officiating as such whose name designation usual place of residence church or chapel in which he officiates shall have been registered under the provisions of 16 Victoria No. 26 clause 37 and shall then continue registered in the office of the registrar general for births deaths and marriages in Victoria who is hereby required to register such without fee or reward or by ministers not having a stated place of worship who shall hold a registered certificate from the head of the denomination to which they belong that they are regularly authorised ministers priests or deacons or where there is no recognised head then by at least two clergymen who come under the provision of the first part of this clause or by the registrar general of the colony or by deputy registrars duly gazetted for that purpose.”

Proposed—That all the words from “Victoria” to “reward,” in the fifth line, be struck out.—(*Hon. J. B. Bennett.*)

Question—put and passed.

Proposed—That the word “stated,” in the sixth line, be struck out, and the word “registered” substituted.—(*Hon. J. B. Bennett.*)

Question—put and passed.

Proposed—That the following words be inserted between the words “clause” and “or,” in the ninth line, “which said church or chapel and which said certificate the registrar general is hereby required to register without fee or reward.”—(*Hon. J. B. Bennett.*)

Question—put and passed.

Proposed—That all the words after “or,” in the ninth line, be struck out, and the following words substituted, “by such other civil officer or officers as the Governor shall from time to time appoint for that purpose and whose appointment shall have been published in the *Government Gazette* of the colony for the district in which the intended wife ordinarily resides Provided however that where the parties intend to be married before the registrar general or other officer they shall sign a declaration in the form set forth in the schedule to this Act marked B.”—(*Hon. J. B. Bennett.*)

Question—put and passed.

Appendix IV. read as follows:—

“That whenever any minister priest or deacon whose name shall have been registered with the registrar general under any of the provisions of the last recited clause shall die or depart the Colony or cease to exercise the functions of an officiating minister or be degraded by his superior or by the recognised church court or tribunal of the denomination to which he belongs or in case he shall hold a certificate from two clergymen as previously provided for and such certificate shall be cancelled by the parties who granted the same the fact of such death departure cessation of ministry degradation or withdrawal of certificate shall within ninety days thereafter be registered in like manner with the registrar general either by the head of the denomination or by the trustees of the church or where the minister shall have acted under a registered certificate then by the parties who granted such certificate and that all such clergymen whose functions in relation to this Act shall have ceased as hereinbefore prescribed who shall continue in violation of the provisions thereof to perform any marriage ceremony shall be liable to the penalties specified by the provisions contained in the seventeenth clause of this Act

Question—put and passed.

Report, as amended, adopted.

WEDNESDAY, 28<sup>TH</sup> APRIL, 1858.

*Members present :*

The Honorable J. Hood, in the chair.

The Honorables J. Hodgson, C. Vaughan, the President, J. B. Bennett.

The Marriage Bill, as amended, brought up and considered.

Preamble read as follows :—

“ Whereas it is expedient to amend and consolidate the laws relating to the solemnization of marriage in this colony Be it therefore enacted by the Queen’s Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows that is to say—”

Put and passed.

Clause I read as follows :—

“ I. This Act shall commence on the first day of July One thousand eight hundred and fifty-eight on and from which day the Acts of Council enumerated in the schedule hereto marked A shall be repealed except so far as they relate to marriages solemnized and things lawfully done by virtue of any such Act or Acts before that day.”

Put and passed.

Clause II read as follows :—

“ II. That the Governor of the said colony with the advice of the Executive Council thereof may from time to time frame rules and regulations for the more effectually carrying out the provisions of this Act so that none of such rules and regulations be contrary to the principle of such said Act and may from time to time alter amend or repeal such rules and regulations and substitute others in their stead.”

Put and passed.

Clause III read as follows :—

“ III. That no marriage shall be celebrated except by some minister of religion ordinarily officiating as such whose name designation usual place of residence and the church or chapel in which he officiates shall have been registered under the provisions of 16 Victoria No. 26 clause 37 and shall then continue registered in the office of the registrar general for births deaths and marriages in Victoria or by ministers not having a registered place of worship who shall hold a registered certificate from the head of the denomination to which they belong that they are regularly authorised ministers priests or deacons or where there is no recognized head then by at least two clergymen who come under the provision of the first part of this clause which said church or chapel and which said certificate the registrar general is hereby required to register without fee or reward or by the registrar general of the colony or by such other officer or officers as the Governor by and with the advice of the Executive Council shall from time to time appoint for that purpose and whose appointment shall have been published in the *Government Gazette* of the colony for the district in which the intended wife ordinarily resides Provided however that where the parties intend to be married before the registrar general or other officer they shall sign a declaration in the form set forth in the schedule to this Act marked B such marriage may then be celebrated between such parties by such registrar general or other civil officer in the form of words set forth in the schedule hereto marked C to be repeated and signed by the parties to such marriage respectively.”

Proposed—That all the words after the word “ colony,” in the thirteenth line, to the word “ resides,” in the fourteenth line, be struck out.—(*Hon. J. Hood.*)

Question—put and passed.

Clause IV read as follows :—

“ IV. That whenever any minister priest or deacon whose name shall have been registered with the registrar general under any of the provisions of the last recited clause shall die or depart the colony or cease to exercise the functions of an officiating minister or be degraded by his superior or by the recognised church court or tribunal of the denomination to which he belongs or in case he shall hold a certificate from two clergymen as previously provided for and such certificate shall be cancelled by the parties who granted the same the fact of such death departure cessation of ministry degradation or withdrawal of certificate shall within ninety days thereafter be registered in like manner with the registrar general either by the head of the denomination or by the trustees of the church or where the minister shall have acted under a registered certificate then by the parties who granted such certificate and that all such clergymen whose functions in relation to this Act shall have ceased as hereinbefore prescribed who shall continue in violation of the provisions thereof to perform any marriage ceremony shall be liable to the penalties specified by the provisions contained in the seventeenth clause of this Act.”

Proposed—That the word “ seventeenth,” in the last line, be struck out, and the word “ nineteenth” be substituted.—(*Hon. J. Hood.*)

Question—put and passed.

Clause V read as follows :—

“ V. No marriage shall be celebrated until after a declaration (upon oath or solemn affirmation) shall have been made before the minister registrar general or other officer who are hereby severally authorized and required to administer such oath or affirmation celebrating the marriage by each of the parties to be married in the form set forth in the schedule hereto marked D.”

Put and passed.

Schedule D read as follows:—

“SCHEDULE D.

“DECLARATION BEFORE MINISTER REGISTRAR GENERAL OR OTHER OFFICER.

“I *John Smith* of [usual place of residence and designation or employment] being duly sworn maketh oath and saith [or if objecting to take an oath ‘do solemnly and sincerely declare and affirm’] that I have no knowledge of any just impediment or lawful objection by reason of any kindred relationship or alliance or any former marriage or the want of consent of parents or guardians or any other lawful cause whatever to my being married to *Mary Edwards* of [usual place of residence and designation or employment] daughter of [*James Edwards*] of [usual or last place of residence and designation] and I hereby further declare that I have full knowledge that in swearing or affirming falsely in this matter I am guilty of perjury and liable to the pains and penalties thereof.

“[Signature of *John Smith*.]

“And I the said [*Mary Edwards*] do on my oath declare [or ‘do solemnly and sincerely declare and affirm’] that I have no knowledge of any just impediment or lawful objection by any such person or other lawful cause as aforesaid to my being married to the said *John Smith*.

“[Signature of *Mary Edwards*.]

“Declared and sworn [or ‘affirmed’] }  
by both the parties named this }  
day of 18 . }

“[Signature and designation }  
whether minister registrar }  
general or other officer.]” }

Proposed—That the words “or *Mary Edwards*” be inserted between the words “*Smith*” and “of” in the first line.—(*Hon. the President*.)

Question—put and passed.

Proposed—That all the words after the “Signature of *John Smith*,” to the words “Signature of *Mary Edwards*,” be struck out.—(*Hon. the President*.)

Question—put and passed.

Clause VI read as follows:—

“VI. And it shall not be lawful for any officer appointed under the provisions of this Act to celebrate any marriage on Sundays or holidays or on week days except between the hours of eight o’clock in the forenoon and four in the afternoon nor unless the parties about to be married shall have given him written notice of their intended marriage and such notice shall have been posted in his office at least fourteen days before the performance of such marriage and any such officer neglecting or refusing to post such notice shall be declared guilty of an illegal act and punishable accordingly.”

Proposed—That the words “or the nearest police office” be inserted between the words “office” and “at” in the fifth line.—(*Hon. the President*.)

Question—put and passed.

Proposed—That the words “an illegal act,” in the sixth line, be struck out, and the words “a misdemeanor” substituted.—(*Hon. the President*.)

Question—put and passed.

Clause VII read as follows:—

“VII. Every marriage which shall be celebrated by any such minister registrar general or other officer as aforesaid after oath or solemn affirmation so made shall be a legal and valid marriage to all intents and purposes and no other marriage except as hereinafter provided shall be valid for any purpose.”

Question—put and passed.

Clause VIII read as follows:—

“VIII. Provided that no marriage in fact shall be avoided by reason only of the same having been celebrated by a person not being a minister or ordinarily officiating minister of religion registrar general or other officer if either of the parties to the marriage shall at the time *bonâ fide* have believed that he was such ordinarily officiating minister.”

Proposed—That the words “appointed as aforesaid” be inserted between the words “officer” and “if” in third line.—(*Hon. the President*.)

Question—put and passed.

Proposed—That the following words be added to the last line, “registrar general or other officer.”—(*Hon. J. Hood*.)

Question—put and passed.

Clause IX read as follows:—

“IX. Every marriage shall be celebrated in presence of two witnesses at least who shall not be minors and who shall sign a certificate in duplicate which shall also be signed by the minister registrar general or such other officer as may be appointed for that purpose celebrating the marriage and by the parties thereto and shall be legibly written (or partly written and partly printed) in the form contained in the schedule hereto marked E and such minister registrar general or such other officer shall deliver one of such duplicate certificates immediately after the

marriage to one of the parties to the marriage and the minister registrar general or other officer celebrating such marriage is hereby required to keep the remaining duplicate certificate of such marriage as a record thereof."

Proposed—That all the words after "officer" to "purpose," in the third line, be struck out.—(*Hon. J. B. Bennett.*)

Question—put and passed.

Proposed—That the following words be added to the last line, "And such marriage shall be registered in pursuance of the Act 16 Vic. No. 26 clause 20 and upon failure thereof the parties failing to register such marriage shall be held liable to the penalties set forth in schedule 28 of said Act."—(*Hon. the President.*)

Question—put and passed.

Clauses X and XI read as follows:—

"X. Nothing in this Act shall extend to any marriage both the parties to which shall be members of or in profession with the Religious Society of Friends commonly called Quakers or Jews a certificate of every such marriage between such parties shall nevertheless within three months next following be transmitted to the registrar of the district within which it was celebrated by the person celebrating or witnessing the marriage or by one of the parties thereto stating the date and place of such marriage and the name designation and usual residence of each of these parties."

"XI. Every marriage celebrated between parties being both Quakers or both Jews shall be as legal and valid as if duly solemnized under the provisions of this Act if such marriage was when celebrated a valid marriage according to the usages of the Quakers or Jews as the case may be."

To be further considered.

Clause XII read as follows:—

"XII. If either party to any intended marriage not being a widow or widower shall be under the age of twenty-one years such marriage shall not take place without production to the minister registrar general or other officer about to celebrate the same of the written consent of the father of such party if within the colony or if not within the colony then of a guardian appointed by the father or if there be no such guardian in the colony then of the mother of such party if within the colony or where there is no such parent or guardian in the colony or he or she is incapable of duly consenting by reason of absence mental incapacity or other substantial cause then the written consent of some justice of the peace appointed for that purpose as hereinafter mentioned Provided that such justice shall make inquiry on oath as to the facts and circumstances of the case before giving such consent."

Put and passed.

Clause XIII read as follows:—

"XIII. For the purposes mentioned in the foregoing section the chief justice of the Supreme Court of the colony or in his absence the senior judge of the said court shall appoint from time to time one or more justice or justices of the peace in every registrar's or deputy registrar's district who shall by virtue of such appointment give consent in such cases as aforesaid every such appointment to be notified by the said judge in the *Government Gazette* of the colony."

Proposed—That the words "district of a" be inserted between the words "every" and "registrar's" in the third line, and the apostrophe "s" in "registrar's" be struck out; that the word "district" be struck out in the fourth line, and the following words substituted, "for births deaths and marriages."—(*Hon. J. B. Bennett.*)

Question—put and passed.

Clauses XIV, XV, XVI read as follows:—

"XIV. When any marriage shall be celebrated upon the production of any such written consent as aforesaid a statement of the fact of such consent with the name of the parent or guardian or justice so consenting shall be endorsed on the duplicate certificates of such marriage signed respectively by the minister registrar general or other officer celebrating the same."

"XV. No marriage shall be deemed to have been unduly celebrated by reason of any mere defect or error in the declaration made respecting the same where the identity of the parties to the marriage shall not be in question nor by any informality or irregularity in the appointment of the magistrate consenting provided said appointment has been published in the *Government Gazette* as aforesaid."

"XVI. Every marriage celebrated in this colony before the commencement of this Act by any minister of religion or person ordinarily officiating as such shall be and be deemed to have been from the time of the celebration thereof a perfectly legal and valid marriage (notwithstanding any non-compliance with forms or other irregularity attending the celebration) to all intents and purposes.

Put and passed.

Clause XVII read as follows:—

"XVII. Provided that nothing in the previous section or in the seventh section of this Act shall legalize any marriage declared or made (or which shall hereafter be declared or made) invalid by any competent court or by Act of Council nor any marriage where either party thereto had a wife or husband then living nor any marriage which would have been or would be void but for those sections by reason of relationship kindred alliance or of fraud or incapacity to contract marriage nor any marriage where (the same being at the time of its celebration invalid) either of the parties thereto shall afterwards and before the passing of this Act have intermarried with some other person."

Proposed—That all the words from “ Provided ” to “ of , ” in the first line, be struck out, and the words “ Nothing in ” be substituted.—(*Hon. J. B. Bennett.*)

Question—put and passed.

Proposed—That the words “ those sections , ” in the fifth line, be struck out, and the words “ this Act ” substituted.—(*Hon. J. B. Bennett.*)

Question—put and passed.

Proposed—That all the words after “ to , ” in the fifth line, be struck out, and the following words substituted, “ enter into the marriage contract . ”—(*Hon. the President.*)

Question—put and passed.

Clauses XVIII, XIX, and XX read as follows :—

“ XVIII. A copy of the registry of any marriage in the office of the registrar general under his hand shall be received as evidence in all proceedings civil and criminal of the fact of such marriage having been duly celebrated until the contrary be shown . ”

“ XIX. Every minister registrar general or other officer or other person who shall celebrate or profess or attempt to celebrate marriage in the case of any person under the age of twenty-one years not being a widower or widow without some such written consent as aforesaid knowing him or her to be under that age or knowing that the consent produced is not by the appropriate person or who shall wilfully celebrate or profess or attempt to celebrate any marriage in any other case contrary to any of the provisions in this Act or where any provision of this Act shall not have been complied with knowing the same not to have been complied with shall be guilty of a misdemeanor and being convicted thereof shall be liable to a fine not exceeding five hundred pounds either alone or with imprisonment not exceeding five years . ”

“ XX. Every person who shall object to take an oath under the provisions of this Act may make in lieu thereof a solemn affirmation or be examined (as the case may be) upon his or her solemn affirmation and any person who shall wilfully make any false statement on oath or by solemn affirmation before any minister registrar general or other officer or before any justice appointed as aforesaid under any of the provisions of this Act or intending or purporting so to be shall be deemed guilty of perjury and be liable to prosecution and punishment accordingly . ”

Put and passed.

Clause XXI read as follows :—

“ XXI. Every person who shall wilfully marry a person under the age of twenty-one years (and whom he or she shall know to be under that age) without having previously obtained the written consent of the father or guardian or (where the mother is competent) of the mother of the person so under age or the written consent of some justice appointed in that behalf or shall induce or endeavor to induce any minister registrar general or other officer to celebrate marriage between parties one of whom he or she shall know to be under age without such consent and every person who shall abet or assist the offender in any such act knowing the same to be illegal shall severally be guilty of a misdemeanor and be liable to such punishment by fine not exceeding five hundred pounds or imprisonment not exceeding five years or both as the court may award . ”

Proposed—That the word “ wilfully , ” in the first line, be struck out.—(*Hon. J. B. Bennett.*)

Question—put and passed.

Proposed—That all the words in brackets in the second line be struck out.—(*Hon. J. B. Bennett.*)

Question—put and passed.

Proposed—That all the words after “ whom ” to the word “ be , ” in the sixth line, be struck out, and the words “ are or shall be ” substituted.—(*Hon. J. B. Bennett.*)

Question—put and passed.

Proposed—That all the words after “ assist ” to the word “ illegal , ” in the seventh line, be struck out, and the following words substituted, “ in any illegal marriage . ”—(*Hon. J. B. Bennett.*)

Question—put and passed.

Clause XXII read as follows :—

“ XXII. If any person shall forge or assist in forging or procure to be forged (or shall utter or assist in uttering or cause to be uttered as true knowing the same to be forged) any consent or writing purporting to be a consent of or by the father guardian or mother of a person under the age of twenty-one years or to be the consent of a justice appointed as aforesaid under the provisions of this Act or any certificate or writing purporting to be a certificate under the provisions of this Act or any copy of registry or writing purporting so to be or shall sign or transmit to any registrar or deputy registrar any certificate or writing purporting so to be containing to his or her knowledge any false statement therein the person so offending shall be guilty of felony and be liable to imprisonment with hard labor or hard labor on the roads in the discretion of the court for any term not exceeding five years . ”

Proposed—That the words “ minister or ” be inserted between the words “ any ” and “ registrar ” in the seventh line.—(*Hon. J. B. Bennett.*)

Question—put and passed.

Proposed—That the words, “ or other officer appointed under this Act , ” be inserted between the words “ registrar ” and “ any ” in the seventh line.—(*Hon. J. B. Bennett.*)

Question—put and passed.

Clauses XXIII and XXIV read as follows :—

“XXIII. No marriage shall be affected by reason of the omission of the minister celebrating the same to cause his name designation usual residence church or chapel or certificate to be registered according to this Act but every minister or person officiating as such who shall celebrate any marriage knowing that his name designation usual residence church or chapel or certificate has not been so registered or is not then duly registered shall be liable to be dealt with under the nineteenth section of this Act or if the omission was accidental or by inadvertence to a fine not exceeding twenty pounds to be recovered by proceeding in a summary way before two justices.”

“XXIV. If any minister or person having celebrated any marriage shall fail to comply with the provisions of this Act or any of them respecting the certificate to be transmitted to the registrar or deputy registrar he shall be liable to a fine of not less than ten pounds and not exceeding fifty pounds to be recovered by proceeding in a summary way before two justices. And in cases within the tenth section of this Act where no person shall have celebrated the marriage other than the parties thereto themselves the like penalty shall attach to the husband in case the certificate thereby required shall not be duly attached.”

Put and passed.

Bill, as amended, adopted.

Committee adjourned *sine die*.



## A BILL

### To amend and consolidate the Laws affecting the Solemnization of Marriage.

*(As referred from Select Committee 28th April, 1858.)*

**W**HEREAS it is expedient to amend and consolidate the Laws relating to the solemnization of marriage in this colony Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative  
5 Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say)—

I. This Act shall commence on the first day of July One thousand eight hundred and fifty-eight on and from which day the Acts of Council enumerated in the schedule hereto marked A shall be  
10 repealed except so far as they relate to marriages solemnized and things lawfully done by virtue of any such Act or Acts before that day.

II. That the Governor of the said colony with the advice of the Executive Council thereof may from time to time frame rules and regulations for the more effectually carrying out the provisions of this Act  
15 so that none of such rules and regulations be contrary to the principle of such said Act and may from time to time alter amend or repeal such rules and regulations and substitute others in their stead.

III. That no marriage shall be celebrated except by some minister of religion ordinarily officiating as such whose name designation  
20 usual place of residence and the church or chapel in which he officiates shall have been registered under the provisions of 16 Victoria No. 26 clause 37 and shall then continue registered in the office of the registrar general for births deaths and marriages in Victoria or by ministers not  
25 having a registered place of worship who shall hold a registered certificate from the head of the denomination to which they belong that they are regularly authorised ministers priests or deacons or where there is no recognised head then by at least two clergymen who come under the provision of the first part of this clause which said church or chapel and which said certificate the registrar general is hereby  
required



*Consolidation of Marriage Laws.*

required to register without fee or reward or by the registrar general of the colony or by such other officer or officers as the Governor by and with the advice of the Executive Council shall from time to time appoint for that purpose and whose appointment shall have been published in the *Government Gazette* of the colony Provided however 5 that where the parties intend to be married before the registrar general or other officer they shall sign a declaration in the form set forth in the schedule to this Act marked B such marriage may then be celebrated between such parties by such registrar general or other civil officer in the form of words set forth in the schedule hereto marked C to be 10 repeated and signed by the parties to such marriage respectively.

IV. That whenever any minister priest or deacon whose name shall have been registered with the registrar general under any of the provisions of the last recited clause shall die or depart the Colony or cease to exercise the functions of an officiating minister or be degraded 15 by his superior or by the recognised church court or tribunal of the denomination to which he belongs or in case he shall hold a certificate from two clergymen as previously provided for and such certificate shall be cancelled by the parties who granted the same the fact of such death departure cessation of ministry degradation or withdrawal of 20 certificate shall within ninety days thereafter be registered in like manner with the registrar general either by the head of the denomination or by the trustees of the church or where the minister shall have acted under a registered certificate then by the parties who granted 25 such certificate and that all such clergymen whose functions in relation to this Act shall have ceased as hereinbefore prescribed who shall continue in violation of the provisions thereof to perform any marriage ceremony shall be liable to the penalties specified by the provisions contained in the nineteenth clause of this Act.

Banns or licence.

V. No marriage shall be celebrated until after a declaration 30 (upon oath or solemn affirmation) shall have been made before the minister registrar general or other officer who are hereby severally authorized and required to administer such oath or affirmation celebrating the marriage by each of the parties to be married in the form set forth in the schedule hereto marked D. 35

VI. And it shall not be lawful for any civil officer appointed under the provisions of this Act to celebrate any marriage on Sundays or holidays or on week days except between the hours of eight o'clock in the forenoon and four in the afternoon nor unless the parties about to be married shall have given him written notice of their intended marriage 40 and such notice shall have been posted in his office or the nearest police office at least fourteen days before the performance of such marriage and any such officer neglecting or refusing to post such notice shall be declared guilty of a misdemeanor and punishable accordingly.

Essentials for valid marriage.

VII. Every marriage which shall be celebrated by any such 45 minister registrar general or other officer as aforesaid after oath or solemn affirmation so made shall be a legal and valid marriage to all intents and purposes and no other marriage except as hereinafter provided shall be valid for any purpose.

Provision for certain cases.

VIII. Provided that no marriage in fact shall be avoided by reason 50 only of the same having been celebrated by a person not being a minister or ordinarily officiating minister of religion registrar general or other officer appointed as aforesaid if either of the parties to the marriage shall at the time *bonâ fide* have believed that he was such ordinarily officiating minister registrar general or other officer. 55

IX. Every

*Consolidation of Marriage Laws.*

- IX. Every marriage shall be celebrated in presence of two witnesses at least who shall not be minors and who shall sign a certificate in duplicate which shall also be signed by the minister registrar general or such other officer celebrating the marriage and by the parties thereto and shall be legibly written (or partly written and partly printed) in the form contained in the schedule hereto marked E and such minister registrar general or such other officer shall deliver one of such duplicate certificates immediately after the marriage to one of the parties to the marriage and the minister registrar general or other officer celebrating such marriage is hereby required to keep the remaining duplicate certificate of such marriage as a record thereof and every such marriage shall be registered in pursuance of the Act 16 Vic. No. 26 clause XX and upon failure thereof the parties failing to register such marriage shall be held liable to the penalties set forth in section 28 of said Act.
- X. Nothing in this Act shall extend to any marriage both the parties to which shall be members of or in profession with the Religious Society of Friends commonly called Quakers or Jews a certificate of every such marriage between such parties shall nevertheless within three months next following be transmitted to the registrar of the district within which it was celebrated by the person celebrating or witnessing the marriage or by one of the parties thereto stating the date and place of such marriage and the name designation and usual residence of each of these parties.
- XI. Every marriage celebrated between parties being both Quakers or both Jews shall be as legal and valid as if duly solemnized under the provisions of this Act if such marriage was when celebrated a valid marriage according to the usages of the Quakers or Jews as the case may be.
- XII. If either party to any intended marriage not being a widow or widower shall be under the age of twenty-one years such marriage shall not take place without production to the minister registrar general or other officer about to celebrate the same of the written consent of the father of such party if within the colony or if not within the colony then of a guardian appointed by the father or if there be no such guardian in the colony then of the mother of such party if within the colony or where there is no such parent or guardian in the colony or he or she is incapable of duly consenting by reason of absence mental incapacity or other substantial cause then the written consent of some justice of the peace appointed for that purpose as hereinafter mentioned Provided that such justice shall make inquiry on oath as to the facts and circumstances of the case before giving such consent.
- XIII. For the purposes mentioned in the foregoing section the chief justice of the Supreme Court of the colony or in his absence the senior judge of the said court shall appoint from time to time one or more justice or justices of the peace in every district of a registrar or deputy registrar for births deaths and marriages who shall by virtue of such appointment give consent in such cases as aforesaid every such appointment to be notified by the said judge in the *Government Gazette* of the colony.
- XIV. When any marriage shall be celebrated upon the production of any such written consent as aforesaid a statement of the fact of such consent with the name of the parent or guardian or justice so consenting shall be endorsed on the duplicate certificates of such marriage signed respectively by the minister registrar general or other officer celebrating the same.
- XV. No marriage shall be deemed to have been unduly celebrated by reason of any mere defect or error in the declaration made respecting

Witnesses and certificate.

Quakers and Jews.

Such marriage valid.

Consent in case of minority.

Judges to appoint persons to consent in certain cases.

Consent to be endorsed on certificate.

*Consolidation of Marriage Laws.*

respecting the same where the identity of the parties to the marriage shall not be in question nor by any informality or irregularity in the appointment of the magistrate consenting provided said appointment has been published in the *Government Gazette* as aforesaid.

- Confirming all existing marriages. XVI. Every marriage celebrated in this colony before the commencement of this Act by any minister of religion or person ordinarily officiating as such shall be and be deemed to have been from the time of the celebration thereof a perfectly legal and valid marriage (notwithstanding any non-compliance with forms or other irregularity attending the celebration) to all intents and purposes. 5
- Certain marriages not made legal. XVII. Nothing in this Act shall legalize any marriage declared or made (or which shall hereafter be declared or made) invalid by any competent court or by Act of Council nor any marriage where either party thereto had a wife or husband then living nor any marriage which would have been or would be void but for this Act by reason of relationship kindred alliance or of fraud or incapacity to enter into the marriage contract. 10
- Registration proof of marriage. XVIII. A copy of the registry of any marriage in the office of the registrar general under his hand shall be received as evidence in all proceedings civil and criminal of the fact of such marriage having been duly celebrated until the contrary be shown. 15
- Punishment for unlawful celebration of marriage. XIX. Every minister registrar general or other officer or other person who shall celebrate or profess or attempt to celebrate marriage in the case of any person under the age of twenty-one years not being a widower or widow without some such written consent as aforesaid knowing him or her to be under that age or knowing that the consent produced is not by the appropriate person or who shall wilfully celebrate or profess or attempt to celebrate any marriage in any other case contrary to any of the provisions in this Act or where any provision of this Act shall not have been complied with knowing the same not to have been complied with shall be guilty of a misdemeanor and being convicted thereof shall be liable to a fine not exceeding five hundred pounds either alone or with imprisonment not exceeding five years. 20
- False statements deemed perjury. XX. Every person who shall object to take an oath under the provisions of this Act may make in lieu thereof a solemn affirmation or be examined (as the case may be) upon his or her solemn affirmation and any person who shall wilfully make any false statement on oath or by solemn affirmation before any minister registrar general or other officer or before any justice appointed as aforesaid under any of the provisions of this Act or intending or purporting so to be shall be deemed guilty of perjury and be liable to prosecution and punishment accordingly. 25
- Marrying minors. XXI. Every person who shall marry a person under the age of twenty-one years without having previously obtained the written consent of the father or guardian or (where the mother is competent) of the mother of the person so under age or the written consent of some justice appointed in that behalf or shall induce or endeavor to induce any minister registrar general or other officer to celebrate marriage between parties one of whom are or shall be under age without such consent and every person who shall abet or assist in any illegal marriage shall severally be guilty of a misdemeanor and be liable to such punishment by fine not exceeding five hundred pounds or imprisonment not exceeding five years or both as the court may award. 30
- Forging any certificate consent &c. XXII. If any person shall forge or assist in forging or procure to be forged (or shall utter or assist in uttering or cause to be uttered as true knowing the same to be forged) any consent or writing purporting to 35

*Consolidation of Marriage Laws.*

to be a consent of or by the father guardian or mother of a person under the age of twenty-one years or to be the consent of a justice appointed as aforesaid under the provisions of this Act or any certificate or writing purporting to be a certificate under the provisions of this Act  
 5 or any copy of registry or writing purporting so to be or shall sign or transmit to any minister or registrar or deputy registrar or other officer appointed under this Act any certificate or writing purporting so to be containing to his or her knowledge any false statement therein the person so offending shall be guilty of felony and be liable to imprisonment with hard labor or hard labor on the roads in the discretion of the  
 10 court for any term not exceeding five years.

XXIII. No marriage shall be affected by reason of the omission of the minister celebrating the same to cause his name designation usual residence church or chapel or certificate to be registered according to this  
 15 Act but every minister or person officiating as such who shall celebrate any marriage knowing that his name designation usual residence church or chapel or certificate has not been so registered or is not then duly registered shall be liable to be dealt with under the nineteenth section of this Act or if the omission was accidental or by inadvertence to a  
 20 fine not exceeding twenty pounds to be recovered by proceeding in a summary way before two justices.

Non-registration of minister's name.

XXIV. If any minister or person having celebrated any marriage shall fail to comply with the provisions of this Act or any of them respecting the certificate to be transmitted to the registrar or deputy registrar he shall be liable to a fine of not less than ten pounds and not exceeding fifty pounds to be recovered by proceeding in a summary way before two justices And in cases within the tenth section of this Act where no person shall have celebrated the marriage other than the parties thereto themselves the like penalty shall attach to the husband in case the certificate thereby required shall not be duly attached.

Omission to transmit certificate of marriage.

*Consolidation of Marriage Laws.*

SCHEDULES.

SCHEDULE A.

ACTS REPEALED.

6	George IV.	No. 21	passed	1st	November	1825.
5	William IV.	No. 2	passed	4th	July	1834.
7	William IV.	No. 6	passed	5th	August	1836.
2	Victoria	No. 13	passed	29th	August	1838.
3	Victoria	No. 7	passed	5th	September	1839.
3	Victoria	No. 23	passed	19th	November	1839.
4	Victoria	No. 14	passed	23rd	September	1840.
14	Victoria	No. 28	passed	1st	October	1850.

SCHEDULE B.

FORM OF DECLARATION TO AUTHORISE MARRIAGE BEFORE REGISTRAR GENERAL OR OTHER OFFICER.

We *John Smith* of [*usual place of residence and designation or employment*] and *Mary Edwards* of [*usual place of residence and employment*] do hereby declare that we are desirous of being married but that there is no minister of religion according to either of our forms of belief accessible for the purpose of solemnizing our marriage who is willing to perform the same.

Signed by the parties this  
day of

18

} JOHN SMITH

} MARY EDWARDS.

Before me

[*Signature of registrar general or other civil officer*].

SCHEDULE C.

FORM OF MARRIAGE BEFORE REGISTRAR GENERAL OR OTHER OFFICER.

I *John Smith* of [*usual place of residence and designation or employment*] do hereby declare in the presence of *A. B.* registrar general or other officer as the case may be for the district of that I take *Mary Edwards* of [*usual place of residence and designation or employment*] to be my lawful wife And I the said *Mary Edwards* do hereby declare that I take the said *John Smith* to be my lawful husband.

[*Signatures*].—

J. S.  
M.E.

[*Signature of witnesses*].

SCHEDULE D.

DECLARATION BEFORE MINISTER REGISTRAR GENERAL OR OTHER OFFICER.

I *John Smith* or *Mary Edwards* of [*usual place of residence and designation or employment*] being duly sworn maketh oath and saith [*or if objecting to take an oath "do solemnly and sincerely declare and affirm"*] that I have no knowledge of any just impediment or lawful objection by reason of any kindred relationship or alliance or any former marriage or the want of consent of parents or guardians or any other lawful cause whatever to my being married to *Mary Edwards* of [*usual place of residence and designation or employment*] daughter of [*James Edwards*] of [*usual or last place of residence and designation*] and I hereby further declare that I have full knowledge that in swearing or affirming falsely in this matter I am guilty of perjury and liable to the pains and penalties thereof.

[*Signature of John Smith*].

Declared and sworn [*or "affirmed"*]  
by both the parties named this  
day of 18 . }

[*Signature and designation*]  
whether minister registrar  
general or other officer.] }

SCHEDULE E.

SCHEDULE E.

IN THE COLONY OF VICTORIA.

Certificate of Marriage.

District  
on  
Marriage

No. in Register

at  
was solemnized between us according to the

Signature

DESCRIPTION.  
Residence { Present  
Usual }  
Age  
Rank or Profession  
Condition  
If Widower { Former } Deceased in  
Wife. }  
Birth Place  
Parents' Names and } Father  
Rank or Profession. } Mother  
(Maiden Surname.)

Children { Living  
Dead }

Signature.

DESCRIPTION.  
Residence { Present  
Usual }  
Age  
Rank or Profession  
Condition  
If Widow { Former } Deceased in  
Husband. }  
Birth Place  
Parents' Names and } Father  
Rank or Profession. } Mother  
(Maiden Surname.)

Children { Living  
Dead }

I [name of minister registrar general or other officer] being [designation] do hereby certify that I have this day at [place] duly celebrated marriage between [name designation and residence of husband] and [name designation and residence of wife] after notice and declaration duly made and published as by law required.  
Dated this 18 day of

[Signature of parties to the marriage—  
C. D.]

[Signature of minister registrar general or other officer—  
A. B.]

Witnesses {

IN THE COLONY OF VICTORIA.

CERTIFICATE OF MARRIAGE.

District \_\_\_\_\_ No. in Register \_\_\_\_\_

On \_\_\_\_\_ at \_\_\_\_\_

Marriage \_\_\_\_\_ was solemnized between Us according to the

Signature \_\_\_\_\_

DESCRIPTION.  
Residence { Present  
Usual }  
Age  
Rank or Profession  
Condition  
If Widower { Former } Deceased in { Children  
Wife. } Living Dead }  
Birth Place  
Parents' Names and } Father  
Rank or Profession. } Mother  
(Maiden Surname.)

Signature \_\_\_\_\_

DESCRIPTION.  
Residence { Present  
Usual }  
Age  
Rank or Profession  
Condition  
If Widow { Former } Deceased in } Children  
Husband. } Living Dead }  
Birth Place  
Parents' Names and } Father  
Rank or Profession. } Mother  
(Maiden Surname.)

I [name of minister registrar general or other officer] being [designation] do hereby certify that I have this day at [place] duly celebrated marriage between [name designation and residence of husband] and [name designation and residence of wife] after notice and declaration duly made and published as by law required.  
Dated this 18 day of

[Signature of parties to the marriage—  
C. D.]

[Signature of minister registrar general or other officer—  
A. B.]

Witnesses {

By Authority: JOHN FERRIS, Government Printer, Melbourne.

MINUTES

# MINUTES OF EVIDENCE.

FRIDAY, 19TH MARCH, 1858.

## *Members present :*

The Honorable J. HOOD, in the chair ;

The Honorable J. B. Bennett

The Honorable W. Roope.

The Honorable N. Guthridge

Dr. Adam Cairns examined.

1. *By the Chairman.*—Have you carefully read this Bill over and studied its provisions?—I am sorry that I have not had so much time to consider it as the importance of the Bill requires ; but I have gone over it as carefully as I could in the course of yesterday. I got this only yesterday morning.

Dr. A. Cairns,  
19th March, 1858.

2. Are you prepared with any improvements or suggestions for the guidance of the committee?—My views on the marriage law are of course the views entertained by the church of which I am a minister—the Free Church of Scotland, and is the law of Scotland at this day.

3. Would you take the Bill clause by clause, and give the committee your opinion upon it?—The first clause is simply repealing existing Acts.

4. Reading the second clause in connexion with the amendment adopted by the committee, although not adopted by the House, will you favor the committee with your opinion upon that clause. The clause as amended will read thus:—“No marriages shall be celebrated except by some minister of religion ordinarily officiating as such, whose name, designation, usual residence, and the church or chapel in which he officiates shall have been registered, and shall then continue registered, in the office of the registrar general for births, deaths, and marriages in Victoria, who is hereby required to make such registration without fee or reward, or by some minister holding a certificate from the head of the denomination to which he belongs that he is a regularly authorised minister, priest, or deacon ; or where there is no such recognised head of such denomination, from at least two clergymen thereof resident in the Colony who come under the provisions set forth in the first part of this clause?”—I have little objection to this clause. As far as it goes, the church of which I am a minister would have no objection to it ; but I read it in connexion with the third clause, and I think, to have a complete view of the principle upon which this Bill is constructed, it is necessary to take those two clauses together, because the legality of marriage celebrated by others than ministers is provided for under the third section. I think the third clause embodies a principle which is sound and true, according to the reason of things and the Word of God, and in my opinion it ought to be more distinctly enunciated in the body of the Bill than it is here. At the same time I think it is right that the law should protect the community against irregular marriages, and that it is of importance that that should be secured as far as law can do it. The Scotch law upon the subject of marriage, both ecclesiastical and civil, is taken directly from the Word of God—it is embodied in our Confession of Faith, and all the standards of the church, as well as in the Acts of the Scottish Parliament. To prevent any mistake, I will read a passage from the Confession of Faith :—“Marriage was ordained for the mutual help of husband and wife, for the increase of mankind with a legitimate issue, and of the church with an holy seed, and for preventing of uncleanness. It is lawful for all sorts of people to marry who are able with judgment to give their consent, yet it is the duty of Christians to marry only in the Lord ; and therefore such as profess the true reformed religion should not marry with infidels, papists, or other idolaters ; neither should such as are godly be unequally yoked by marrying with such as are notoriously wicked in their life or maintain damnable heresies.” I would also wish to read to the committee a short passage on the same subject from the Directory for Public Worship, which is also one of the authoritative standards of the Presbyterian churches of Scotland, under the head, “The Solemnization of Marriage ;” it says—“Although marriage be no sacrament nor peculiar to the church of God, but common to mankind, and of publick interest in every commonwealth ; yet, because such as marry are to marry in the Lord, and have special need of instruction, direction, and exhortation, from the Word of God at their entering into such a new condition, and of the blessing of God upon them therein, we judge it expedient that marriage be solemnized by a lawful minister of the Word, that he may accordingly counsel them and pray for a blessing upon them.” Then it goes on with the degrees of marriage. It is therefore regarded by our law ecclesiastical and civil as a natural right. Marriage is common to man as such ; it had precedence of all dispensations of grace ; it was instituted in Paradise for the benefit of man ; and in consequence, I presume, almost all churches and all States recognize the legality of marriages, even of the heathen, and the legitimacy of their children ; and, that being the case, we hold that marriage is legally valid even when contracted by parties who are not members of any Christian church, and that the



Dr. A. Cairns,  
continued,  
19th March, 1853.

law should hold the validity of such marriage, and recognise the legitimacy of the offspring. That principle seems to be admitted in the Bill by the provision made for extraordinary cases. In the second clause of the Bill the principle upon which it is framed evidently assumes that marriage is strictly a Christian or religious ordinance, and that its celebration by a minister of religion is indispensable to its validity, but this principle is called in question by the provision of the third clause. In certain circumstances this proposed law goes on to enact that a marriage solemnized by the registrar, or deputy registrar, shall have the legal force or validity of a marriage solemnized by a minister of a church. I think that is sound, but that it should be more distinctly expressed. Civil statute, which recognises, as valid, marriages celebrated by the ministers of all churches, should also recognise marriages celebrated by officers appointed by the State upon these grounds—first, that the ordinance of marriage is a natural law, and right; and secondly, that it is a most unjust thing for ministers of any Christian church to be called upon or even expected to celebrate marriages in the name of the Saviour in regard to parties who are not Christians at all; and cases of this kind are occurring in the colony. For example, marriages have taken place between Chinese on the gold fields, and in Melbourne too, and members of Christian churches. The Chinese may take to themselves, as wives, women who are not Christians, but I am aware that they have married women who are professedly members of various religious denominations. Now, I think it improper that the minister of a Christian church should be called upon or expected to perform the ceremony of matrimony between such parties in the name of the Lord Jesus Christ; and in all such cases the proper authority to solemnize marriage is a civil officer, and not a minister of a Christian church. Again, this does not interfere with the proper authority of any church; it does not dictate any doctrinal view to a church; it leaves us to entertain our own views, and apply them to our own people; it does not interfere with our discipline or government. If we do our duty to our people such a law as I suggest would not, in the least, cross our path. I therefore think for these reasons, that while every care should be taken to prevent irregular marriages, and to punish the party who solemnizes them, at the same time the law of marriage should be made as wide as God intended it to be. I think, therefore, that those two clauses should be re-cast, especially the third, and that marriage by the registrar should not be limited to the cases here specified. It should be in the eye of the law, as I think it is in the eye of God, a valid marriage, though the circumstances were very different from those named in the Bill.

5. Then you would alter schedule B?—I would, and I would also alter clause 3. If the committee adopt my views, of course the third clause will require to be considerably modified.

6. *By Mr. Guthridge.*—Have you prepared anything like an outline of what you would suggest?—I only got the Bill yesterday, and I could not presume to draw out any clauses, but I shall be very happy to give the committee any information I can.

7. *By Mr. Bennett.*—Would you inform the committee what particular alteration you would suggest?—I am quite prepared to allow the second clause to stand; I do not see any objection to be taken to it, certainly not by us. We are a young colony and some might complain of it. It has just occurred to me, reading it over, that, until within a few months, the Baptists, who are a very respectable body here, had only one minister in the Colony, and he could not possibly have got the certificate required; and the Unitarian body have only one minister. Of course in a year or two this will be remedied. The Baptists now are in such a state that they could easily comply with it. I have no objection to it myself, it is merely consideration for others that leads me to make that remark.

8. Then you conceive that that is a difficulty?—At present that is the only difficulty that occurs to me.

9. *By the Chairman.*—This Bill contemplates that the registrar will not have power to marry unless the parties wishing to be married declare that there is no clergyman of their form of belief accessible?—I think it should be left quite discretionary.

10. Then you would alter it to be discretionary with every body that chose?—Yes, that a marriage celebrated by the registrar should be a valid marriage, and let the churches deal with their own people as they like. The Scottish Parliament of old adopted the confession of faith as the law, and that was the marriage law in constant operation; one part of it was, that the parties should be proclaimed in the church. There was no dissent in those days, and it was understood that every body knew the parties that were proclaimed, and that if there was anything objectionable, it would at once become known; besides, parties had to be resident in the parish for at least six weeks before the proclamation could issue, and this was attested to the minister by the session clerk, and the minister married upon it. That was the regular mode of marriage recognised by the law; a marriage otherwise celebrated was legally valid, though held to be irregular—it was called a clandestine marriage, and the Scottish Parliament enacted penalties against such marriages. It recognised the validity of the marriages and did not annul them, but enacted penalties because of the irregularities. I am about to read now from Erskine's Institutes of Scotch Law:—"Marriage is either regular or clandestine. Clandestine marriages which are contracted without the previous solemnity of publishing banns are as valid as regular marriages are, but certain penalties have been annexed to them from time to time by statute, affecting not only the parties, but the celebrator and witnesses." I would not wish the Legislature of Victoria to annex any penalties of that kind to parties who were not married by a minister of religion.

11. *By Mr. Roope.*—You do not think that law would be applicable to the state of society here?—No; but I say this, that the law as to marriage enacted by the State will not necessarily interfere with the views entertained by the church. I can deal with my own people; I recognise a very foolish marriage as a legal marriage. I may deal with them for

having done a very foolish or a very wrong thing, but I do not interfere with the civil rights of parties.

12. *By Mr. Bennett.*—You have said you would alter the schedule B—would that be by striking out the last part of it, after the word “married,” in the third line?—I do not see any use for schedule B at all. If it is enacted in the Bill it is a positive enactment, and I do not see any use for the schedule; I see no mention of witnesses in it.

13. Would you look at schedule D—supposing there was introduced into the first part, before the word “being,” at the end of the first line, “hereby give notice that a marriage is intended to be celebrated between myself and (describe woman), and being duly sworn (*or if objecting to take an oath*, ‘do solemnly and sincerely declare and affirm’) that I believe there is no impediment,” and so on—making that alteration in schedule D instead of schedule B?—Yes, something of that kind; but would you not require witnesses?

14. The committee would wish for your opinion upon that subject?—I think it very desirable that there should be witnesses; the witnesses should at all events sign the declaration of the marriage. The previous declaration is a matter of less importance; but they should sign the marriage certificate.

15. That is in schedule E, where witnesses are provided?—I think it is a consideration whether there should not be witnesses to schedule D, amended in the way you propose; but if they bring respectable witnesses to the marriage, and sign that schedule, I think it would be a legal authority.

16. Would you have witnesses to the notice, the very initiatory step, doing away with schedule B, and putting another notice in the place of it—would you think it necessary that before persons give a solemn notice to the public, it should be done in such a cautious manner as that they should have witnesses to it?—I should prefer having witnesses as a check upon folly, and I do not think respectable people would object to it.

17. *By Mr. Roope.*—Do you think it necessary that more publicity should be given to the fact of a marriage contract going to be entered into if before a registrar than if before a minister of the Gospel?—It is the same thing in law.

18. *By Mr. Bennett.*—Are there not generally amongst all denominations certain precautionary steps before a man and a woman are married, such as licences or banns in the Church of England?—I signed proclamation of banns to-day for Sabbath. There are three distinct proclamations at three distinct times, but if they do not choose that, according to the present law they can be married without it, according to licence signed by witnesses. This is a regulation of the church, and the legality of such proclamations should be secured by any new Act. It is not a preparatory declaration which is signed by witnesses, but it is the legal document, which goes to the Government office.

19. That affords a means of investigation, if necessary?—Yes, it is put at large—their names, residence, parentage, and so on.

20. *By Mr. Roope.*—But they are married before that goes to the Government?—Yes, they sign it when they are married.

21. *By Mr. Bennett.*—Is there no means by which the clergyman knows that a marriage is going to take place before they come up to be married?—No.

22. Do you think that a safe measure in this Colony?—If it could be obviated it would be very desirable, because ministers are imposed upon, and I have felt it a cruel hardship myself. Parties come and make the declarations and sign the schedules, and bring their witnesses, and they are married, and it has turned out more than once that it was an imposition—that the man, for example, had a living wife. I have known cases of great misery result from this, and I could not help myself. I was quite ignorant, and had no suspicion of things being wrong. Parties come with their witnesses and make these declarations, and sign them, and by the law there is nothing for us but to solemnize the marriage.

23. *By Mr. Roope.*—You say that the form by which you now marry persons is, that they come before you with witnesses, and they sometimes make wrong declarations or falsehood?—Yes.

24. How are you going to guard against that by any law you might now enact, or are there any suggestions that you might make to guard against that?—I think that, under this amended form of law, these parties would not come to me, at least, not members of the church. One of them always calls himself or herself a Presbyterian; but they have no difficulty in doing that, as they are not members of my congregation. They come down from Bendigo, or Castlemaine, or the bush to be married, and say they are Presbyterian, and make the declaration, and I have no remedy whatever.

25. Does this Bill contain anything that would give them facilities to go elsewhere?—I think they would dislike generally to come before a minister on such an occasion, if they could do otherwise.

26. *By Mr. Guthridge.*—Do you think they would go to the registrar instead?—I think so.

27. *By Mr. Bennett.*—Then you think it would be conducive to public morality and for the benefit of the community that there should be, as regards marriages by registrars, some definite mode of publication before a marriage is contracted?—I would like publicity, but I am not prepared to define the extent and manner of it.

28. Do you see any difficulty arising in making it imperative that there should be a certain notice for a short time?—The difficulty is just this, that parties in this colony are so situated that they are moving about continually and are not fixed in any locality, and they would consider it a great hardship if they could not get married when they had arranged to have it.

Dr. A. Cairns,  
continued,  
19th March, 1858.

29. If it was only a notice for a week or a fortnight, would not a man accommodate himself to the law for a week or a fortnight, if he was really anxious to be married?—We always insisted upon six weeks residence at home, but circumstances here are very different.

30. Assuming that we make allowances for the difference between home and the colony, do you think it would be such a cumbersome measure as to warrant its exclusion from the Bill, to make a provision requiring the notice to be published in some short and convenient way for say a fortnight before the marriage took place?—It is very desirable that there should be some publication. The question is just whether it should be absolute or not, and to what extent it should be made.

31. You agree with the principle, that there ought to be some publication?—Yes.

32. I am speaking to marriages by registrars. Ministers of religion will marry according to the forms of their church?—Yes, it might be desirable to look at the English law upon that subject.

33. *By Mr. Guthridge.*—Do you think it would be wise to compel all persons about to get married, whether by minister or others, to give notice before hand?—Not to the effect of making the marriage illegal, if that notice were not given; you may attach penalties, but it is a grave question, annulling a marriage.

34. Then you would make it wider than this Bill does, by allowing every body who liked to be married by the registrar?—Yes.

35. Then if you encumber that with law notices and so forth, would not it really defeat its object by preventing disreputable people from going to the registrar who would still go with a lie in their mouth to a minister of religion?—I think, in framing a new law, it would be wise to make it uniform throughout, and if there is to be publicity at all, make it apply to all the parties marrying, whether ministers of religion or registrars.

36. If such a restriction were applied to all marriages, would not it be held to be very objectionable by respectable persons to be obliged to publish that they were going to be married?—I think not.

37. *By the Chairman.*—Do not you think that, if publication, such as contemplated by the English Act was in force here, it would have the effect of deterring a great many people from getting married at all, that people of loose morality and loose character would dispense with the marriage ceremony altogether?—I think the answer to that difficulty is this, that there must be penalties for an infraction of the law. I would require some publicity as a protection; and, in the case of parties who defy it, I would hold the marriage to be legally valid, although solemnized without those particular observances. I think the sacredness of the marriage tie should be admitted; it is our only safeguard; besides, it is according to the law of creation. At the same time, it is a mere question of detail for the good order of society that it should be gone about in a regular, orderly, and decent manner; and if you construct regulations with as great care as you can to accomplish those ends, and parties despise them, it is right that they should suffer for it by penalties.

38. *By Mr. Guthridge.*—But posterity should not suffer?—No, I would keep the marriage sacred.

39. *By Mr. Bennett.*—Would you entail the same publicity upon marriages celebrated by clergymen as upon marriages celebrated by registrars?—I would, the same. And I would restrict publication of banns to members of the congregation before whom it was made.

40. *By the Chairman.*—Do you not consider the declaration in schedule D as binding, and to involve as much security as the ordinary licence?—I would say, in regard to the ordinary licence, that I have not been able to find, myself, in the statutes concerning marriage in these colonies, that there is any legal document to be called a licence beyond the schedules which we fill up. There are Acts concerning marriage passed in the Legislature of New South Wales, previous to the separation of this province, mentioning the parties who were legally entitled to solemnize marriage—the Church of England, the Church of Rome, and so on, and I find nothing about any licence issuing from any party beyond the simple signing of the schedule.

41. My question did not bear upon the legality of a licence, but was as to the licence which is issued by surrogates—I believe all members of the Presbyterian church are surrogates; the bishops of the Church of England and the Church of Rome appoint surrogates to issue licences, and the marriage may take place within an hour after the issue of the licence; does that afford any greater protection than this schedule D, which is a declaration upon oath or affirmation?—I do not think it does.

42. *By Mr. Bennett.*—Are you acquainted with the working of those licences?—I am not.

43. *By the Chairman.*—You think the operation of this contemplated law will afford equal protection to that afforded by the present system?—Yes.

44. *By Mr. Bennett.*—Provided there were publication?—I think it desirable that there should be more publication than there is at present.

45. *By the Chairman.*—Do you not grant licences in your church?—Not further than what I have mentioned, the filling up of those schedules.

46. *By Mr. Roope.*—What time does your church require to elapse between granting the licence and witnessing the contract or solemnizing the marriage, as it is termed; or is it all one act?—The order of the church is, with regard to proclamation, and it is that proclamation shall be made before the congregation upon three distinct occasions—that occupies two Sabbath Days.

47. But when there are no proclamations, the whole may be done at once. A party may come to your house and be married without any notice whatever and sign the declaration?—Yes, with his witnesses. I am not personally acquainted with the working of the system

followed by the Church of England and the Church of Rome. I believe that the bishop of the Church of England issues what are called licences.

Dr. A. Cairns,  
continued.  
10th March, 1858.

48. *By Mr. Bennett.*—He issues his authority to the surrogate to issue licences?—I am not acquainted with the working of the system.

49. *By the Chairman.*—At present I believe you are not permitted to marry a couple unless one at least of them is a member of your denomination?—I cannot remember the wording of the Act in regard to that, but that is my general opinion, and I have acted upon it, and if I find that two parties come to me, both belonging to the Church of England, I send them to Mr. Chase, who I understand is the bishop's surrogate in that matter.

50. The Bill before this committee alters that law, and gives every denomination the same privileges in that respect as are now enjoyed by the Church of England?—I think that is quite right and proper.

51. Do you think it would have been better, instead of extending that right to all denominations, that it should have been taken away from the Church of England, and that no denomination should be allowed to marry, except in their own faith?—No, certainly not; that would inflict much hardship upon many excellent and worthy persons.

52. Will you refer to clause 13—do you approve of that clause?—Yes, it is all sound in principle. There is the sixth clause upon which I would offer an observation. It is "Provided that no marriage in fact shall be avoided by reason only of the same having been celebrated by a person not being a minister or ordinarily officiating minister of religion if either of the parties to the marriage shall at the time *bonâ fide* have believed that he was such ordinarily officiating minister." It would be difficult to execute that law, I think. How are you to ascertain the *bonâ fides* of the parties. I think that clause is not necessary, if you recognise the validity of all marriages celebrated by all ministers of religion as defined in the Bill, and by registrars as also defined in the Bill; beyond that, I think you should only attach penalties to parties who wrongfully celebrate a marriage, but I would not invalidate the marriage. If the committee will refer to the twenty-first clause, I think it will be seen that that clause comprehends all that is necessary for the object sought to be accomplished by the sixth clause, or it might be quite easy to incorporate the sixth clause with the twenty-first. There are persons who, I think, should be prohibited from solemnising marriages. I would hold a marriage celebrated by them valid for the sake of morality, but I would punish the persons. At this moment I know of two men calling themselves ministers who have no licence or ordination, but who presume to take upon themselves the character of ministers and who are busy solemnising marriages up the bush, and for no other reason I believe than that of obtaining the fees. I would certainly provide for punishing them, but I would not punish the parties whom they have married by making the marriage invalid. With respect to the seventh clause, I think it would be necessary to insert a provision in that clause for the case of parties who cannot write, by requiring the mark of a man who cannot write to be initialed by the registrar, and stating that that would be a sufficient signature. I would wish also to make a remark or two upon the tenth clause. In the first place, I have been led with others to entertain serious doubts of the wisdom of fixing the age of majority at twenty-one years. Many of us are inclined to think that, in this Colony nineteen years would be preferable, and our reasons are these:—We find a great many young people come out here, both young men and young women, who have no parents and no relations here at all, and they consider themselves as competent to judge for themselves at nineteen as at twenty-one. I find that, when parties come to me to be married, and I discover they are under the age of twenty-one, that in the great majority of cases one of two evils occurs. I explain the law to them, and as the majority have no parents or guardians here, I direct them to go to Judge Wilkinson, and I seldom see them again; they either go to some other minister and tell him a lie, by saying that they are twenty-one years of age, or they live in a state of concubinage—that happens not unfrequently. Now, it is impossible by law to prevent all evils of this kind; but the question has been pressed upon the attention of myself and my brethren, whether the circumstances of the Colony do not require that the period of twenty one years should be reduced to nineteen, that being as great an age here, all things considered, as twenty-one in England, and that I think would lessen the temptation to commit the crimes to which I have alluded; for undoubtedly they are crimes.

53. *By the Chairman.*—You say that in these cases few of those young people come back again to you, and that one of two evils happens. Do not you think, if the committee were to saddle a marriage by the registrar with a troublesome and long period of publication, such as for three weeks in the *Government Gazette*, or anything of that sort, the parties would go and do the same thing?—I think there should be some publicity; but anything like publication in the *Government Gazette* would defeat itself, I think. The question of publicity is certainly a delicate one, and would require to be considered carefully. I only make this remark for the consideration of the committee, because it has occurred to myself and many of my brethren that it would be a desirable thing upon the whole probably in this Colony that young women should be allowed to marry of their own choice and authority, say at nineteen. I may mention one instance which has occurred in my own case. A party called upon me for marriage; there were two men and a woman of mature years, and the young woman who was to be married. I questioned them, and the young woman came out with an answer to my question that she was under age. I then explained to them the law, and asked her if she had parents in the Colony, and she said "No;" and then I said "You must go to Judge Wilkinson." They then attacked the poor girl, and told her she had misstated her own age, and there was a scene, the consequence of which was, that I dismissed the whole of them. There is another difficulty in this clause: it requires the written consent of the father. If the law holds that the mark of a party

Dr. A. Cairns,  
continued,  
19th March, 1853.

is writing, that is enough. I am not lawyer enough to know that; but it very often happens that parents cannot write, and then their mark must suffice. Then again, I would suggest whether there is not too strict a limit to the parties who are specified in the clause as guardians; the clause limits it to the father, or a party appointed by him, or the mother. Now, it very often happens here that there is a married sister or a brother who should stand *in loco parentis*.

54. *By Mr. Bennett.*—Would not a married sister or brother be almost necessarily construed to be appointed by the father, inasmuch as it is not necessary that the appointment should be in writing?—That is a mere construction of law, it is not so stated. In the absence of father and mother, neither being here, I think a sister or brother older than the party about to be married, and settled in the country, should be sufficient. That is a case which very frequently happens.

55. There is a provision in the clause for any justice of the peace giving the necessary consent in the absence of the father, or guardian, or mother?—They consider that a hardship. If a young woman has a brother, a sister of full age and good character, they consider it a great hardship if you do not take their authority.

56. Do you not think that some certain checks upon marriage are almost salutary, such as would make people take a little trouble in the matter?—We find in Scotland that the very fact that parties are married who declare themselves so before witnesses has had a very salutary effect in preventing a vast amount of immorality. What is desirable is, that marriages should be celebrated in a decent and orderly manner; but beyond that I would not go.

57. Do you think it would place a very difficult impediment in the way of a person being married who was living with a married sister or brother, the requiring that they should go before a magistrate?—It is difficult to answer for others; but if it came to be understood that such parties as I have mentioned were guardians in the sense of this Act, covered by the expressions in this clause, I think that would be all very well; nothing more would be necessary. This clause is adapted to the state of society in England, where young people have their relations about them; but if they come out here, they are in a very different position, and I think it right that the law should be accommodated to that as far as possible. Then there is the seventeenth clause. It strikes me that that clause provides a very excessive penalty; and I think that it will defeat itself. A law with a sanction that is not to be applied is nothing at all. I think there should be penalties; I am quite satisfied of that; but the punishment should be such as can be easily recovered and is pretty sure to be recovered. Nobody would prosecute a poor minister for £500, with the chance of sending him to prison for five years. My own idea is, that, in the case of deception, the penalty should be not nearly so large, and that it should be made easily recoverable; that one-half should go to the registrar and the other half either to the Crown or to the minister; he should get his share as well as the registrar; if he has been deceived he should be allowed to prosecute. Then the same will apply to the twentieth clause. I can easily conceive this forging to be with the consent of both parties, both the man and the woman, just to get their end accomplished easily. It is astonishing what stupid things people will do, rather than go to the registrar or be at any trouble, just to avoid some little trifle. They would think nothing of doing that, and in such cases I think it would be hard to condemn them to five years on the roads; but no punishment, I think, would be too severe for parties inveigling a young woman to be married under false pretences. Then the next clause, the twenty-first, I think should comprehend the sixth clause. In looking into the Scriptures, there is no direction given either as to the form of the marriage ceremony or to the official parties who are to perform it, none whatever. The Church of Scotland states that members of the church in marrying ought to be guided by their faith, and that marriage ought to be the result of great consideration, and should follow the precept that they should not be unequally yoked with unbelievers. "Should marry in the Lord" is our phrase, and that being the case, marrying on this principle, and in this spirit, it should be with some suitable solemnity; therefore, we hold it to be expedient, though not a matter of revelation, that parties, members of the church, should be married by a minister with suitable and orderly ceremonies. At the same time the marriage is valid in God's sight, although not performed by ministers of religion. "Marriage is honorable in all" is stated as a general principle, and stated against those who were disposed to undervalue the importance of marriage. There is another thing I wish to mention to the committee, whether there ought not to be a regulation as to the fees. My reason for mentioning it is this, that there is a very great diversity in the fees charged for marriage: every church seems to have its own rate, and those parties to whom I have alluded, and many others, make merchandise of it, which is, I think, a very wrong thing. They actually make merchandise of it, and lay themselves out to get marriages that they may get fees. It is right that a reasonable fee should be paid, to meet the expense connected with the marriage, and nobody would grudge that. I find certain parties in this Colony are very poor, and when I am satisfied of that, I charge nothing; but the church has a scale of fees, and if they are able to pay it, they are required to do so. The fee does not go into my pocket; it goes to the Synod fund, to meet certain expenses connected with the church; but the fees are quite arbitrary, and vary from time to time, and I think that is not becoming or reputable. It would be far better if there was an understood fee in connexion with marriage.

58. *By Mr. Roope.*—I think I am to understand, from what you say, that your opinion is that the door for matrimony should be thrown as wide open as possible, that there should be no unnecessary impediments, or forms, or ceremonies?—Yes.

59. And you see no objection, but, on the contrary, you rather approve of allowing

persons to be married before the registrar, as a purely civil contract?—Certainly; I would legalize such a marriage to all civil effects.

60. *By the Chairman.*—Do you consider that the deputy-registrars in Victoria are a proper body of men to entrust with that duty, or would magistrates be better. You will observe that they are simply the witnesses. There are 116 deputy-registrars in Victoria—four are clergymen, twenty-nine medical practitioners, six chemists, eleven schoolmasters, twenty-three clerks of petty sessions, twenty-six storekeepers and tradesmen, six gentlemen, two police constables, and nine whose occupations are not defined. These, of course, are appointed by the Government, and removable from time to time. Do you consider those a proper body of men to entrust with the powers given under this Bill?—That is a question on which I cannot give an opinion.

Dr. A. Cairns,  
continued,  
19th March, 1858.

*The witness withdrew.*

MONDAY, 22ND MARCH, 1858.

*Members present:*

The Honorable J. HOOD, in the chair;

The Honorable The President  
The Honorable J. Hodgson  
The Honorable W. Roope

The Honorable C. Vaughan  
The Honorable J. B. Bennett.

The Rev. Irving Hetherington examined.

61. *By the Chairman.*—Have you read this Bill carefully?—I have.

62. You will have observed that there are two principles prominently brought forward in the Bill—the one, that all clergymen are put on an equality, no matter what sect they belong to; the other, that the marriage ceremony, or rite, or contract, is partly treated as a civil contract. The committee would like to know if you have any suggestions to offer, or any fault to find with any of the enactments of the Bill, or if you think that the Bill should go any further into the subject than it does. The second, third, and fourth clauses seem to be the clauses that embody the main principle of the Bill. With the addition to the second clause which you have before you, do you approve of that clause?—I think it should also provide that the head of the denomination from which the certificate is to emanate should himself have complied with the condition set forth in the clause. I approve of it otherwise.

The Rev.  
I. Hetherington,  
22nd March, 1858.

63. *By Mr. Bennett.*—Do you see any harm in having a clause of this description instead of clause 2. Instead of putting it that “No marriage shall be celebrated except by some minister of religion ordinarily officiating as such, whose name, designation, usual residence, and the church or chapel in which he officiates shall have been registered,” and so on, or by some minister of religion who shall have a certificate in the way provided in the clause, to put it that no marriage shall be celebrated except by some minister of religion who, under the existing Constitution, would be authorised to receive State aid. Of course there are many who will not receive State aid, but they are at liberty to do so if they choose. Do you think that would be sufficient distinction to meet the whole difficulty?—I would prefer having it in the form in which it is in the Bill.

64. Do you see any distinct objection to having it in the other form?—To answer, I would require distinctly to know the condition on which State aid might be claimed. At this moment I do not remember it. For example, is it the condition that fully 300 adults shall declare themselves members of the body so claiming?

65. Are you aware by what regulation that is?—I am not positive that it is so provided by the Constitution Act, but it was by the Public Worship Act.

66. It is not in the Constitution?—Then, as I do not know, at this moment, what is necessary to qualify a religious denomination to claim State aid, I cannot venture to answer that question.

67. Assuming that it is in the power of the Government to recognise all sects which they choose, do you see any difficulty in putting it in that way?—Yes; before the denomination could exercise the right of marriage they would have to ask the Government to recognise them; to authorise them, in fact, so to do.

68. Not at all; it would include any clergyman who would under the existing Constitution Act be entitled to State aid?—From what you say, I infer that all ministers in the Colony are in that position already; that would throw down every barrier, and allow every man who calls himself a minister of religion to marry. I would deprecate that.

69. No, it is only clergymen that are ministering to certain congregations that are entitled to State aid?—Of course, every minister officiating must have a congregation, but it might be a mere fraction of people.

70. Is that any reason why he should not celebrate marriage, even amongst his fraction of people?—I think it desirable that the solemnization of marriage should be guarded; that it should only be competent to persons occupying a recognised position—persons of ascertained respectability. For example, the Bearded Prophets, men who gather half-a-dozen of people around them in the market-place or at the Flagstaff-hill for worship call themselves ministers of religion.



The Rev.  
I. Hetherington,  
*continued,*  
22nd March, 1858.

71. They would not be entitled to State aid, because they do not belong to either Christians or Jews?—They call themselves Christians.

72. They are not recognised by the Government as entitled to State aid?—They recognise the authority of the Bible; they have their own interpretation of it, and I understand that they proceed so far as the recognition of the divinity of the Saviour.

73. The fact is, that they are not recognised by the Government under the constitution—do you see any particular objection to defining it in that way?—I object to it on the ground, that it seems to me to cast down every distinction; that it would authorise men calling themselves ministers of religion, having a few adherents, to proceed to the solemnization of marriage, to establish a trade in marriage, and marry all manner of persons that would come to them and solicit their offices, and I think that is to be deprecated.

74. Would not that be the case under the Act as it is now proposed—they would have a certificate either from their head or two other clergymen?—I was suggesting that, with a view to guard against such a consequence, the person described as the head of the denomination should himself qualify in the way provided.

75. By registering his place of worship?—Yes.

76. Would there be any difficulty in that?—That would at all events guard the thing from being so far degraded, as I think it might become.

77. Do you think there would be any difficulty in a number of clergymen meeting together, and choosing a person as their head, and giving him a place of worship—a barn it might be,—and his registering it in the registrar general's office?—Of course they might do that, if that alone were necessary.

78. Then, if it is so easy to meet it under the present Bill, is it more easy to meet it by putting in the words, “those who are entitled to State aid?”—Such a description would, besides, be offensive to a very considerable number of persons whose views are to be respected, and who would consider themselves dishonored by being named as persons who were competent to receive State aid.

79. But they are competent?—They would consider it invidious to have themselves described in that particular manner, unless there was an important object to be gained by attaching such a description to them; they would deem it an invasion.

80. What invasion is it; it merely states a simple fact which they cannot controvert, and which I suppose they would not care to controvert?—Of course, I do not hold those views myself, and it would seem nothing to me; but I am aware that it is a point upon which some of our brethren are very tender, and they would feel that that was a very unhappy way of describing them. Of course, if there was an important object to be gained, I presume they would waive the objection.

81. *By the Chairman.*—Are you aware whether State aid can be obtained unless a certain sum has been subscribed by the congregation—must there not be a certain sum subscribed and actually paid to the minister before any State aid can be obtained?—I was quite cognizant of the provisions of the Public Worship Act, but I cannot say that I have made myself acquainted with the Constitution Act.

82. The Constitution Act does not interfere with the old Public Worship Act, but simply says that £50,000 shall be set aside to be distributed under the old Act. Are you aware under what terms places of worship are registered at present?—I am not aware that they are registered at all. My place is not registered, and I am not aware that there is any law requiring it to be registered; I apprehend there is none, and I am satisfied there is none—I never heard of it. I know that it is expected that a congregation should contribute an amount for the support of its minister, but the amount is not specified; the regulations do not indicate what sum shall be required. There are regulations, issued by the Government in 1857; and even those regulations are inoperative, because in one part it says that the Government shall be satisfied at the end of the year by the head of the denomination sending in a certificate that an amount has been contributed in aid of the maintenance of ministers receiving State aid, but it is not required to be specified how much each minister shall have received.

83. In reference to the facilities that will be afforded to registrars to marry, the committee would like to know whether you see any objection to clauses 3 and 4 as they stand, or whether you think any notice should be necessary before the registrar should be called upon to perform the ceremony?—This Bill empowers the registrar or deputy registrar to solemnize marriage. I think that the registrar will have facilities for marriage which the minister does not enjoy. For example, here it is only necessary that John Smith shall say that he and Mary Edwards are desirous of being married, but that there is no minister of religion according to their form of belief accessible. The minister, on the other hand, has to require them to declare that there is no impediment or lawful objection by reason of any kindred relationship or alliance, or any former marriage or want of consent of parents, and so on.

84. You will observe that they have that declaration to make in addition to the other; schedule D has to be declared in every case?—Yes, I observe it is so. I had not noticed that clause.

85. *By Mr. Bennett.*—It is a condition precedent to their being married before the registrar that they shall declare that there is no minister accessible to marry them. The question is whether you would restrict them to that, or make it competent for the registrar to marry any persons, even though a minister of their denomination was next door?—I would prefer that it should be discretionary that any parties might be married before the registrar, if they chose.

86. *By the Chairman.*—Then, according to that, you would strike out the whole of schedule B?—Yes.

87. *By Mr. Hodgson.*—Supposing this Bill was carried, would not you see an objection to the registrar being allowed to marry without the parties having given to the registrar, or otherwise, some notice of their intention to be married?—I would prefer having it optional to them to get married without any notice. I would throw no hindrance in the way of their being married at once.

88. Then, supposing that there were no difficulties thrown in the way, and that persons could be married at once, would not that render it probable that many persons would be married under circumstances that might be excessively objectionable. Persons, with improper objects, would run great risks for the purpose of getting possession of an individual, and go and get married at once, if a certain notice was not required?—Sometimes such occurrences would take place; but, on the other hand, I have experienced that there were instances in which the marriage of the parties was highly desirable; where, if they had had time to think over it, the marriage might not have been accomplished. I have got persons living in concubinage to marry; and I think, if I had allowed the man to go away, I might not have been able to get hold of him again.

89. *By Mr. Bennett.*—Mr. Hodgson's question is only with reference to marriage by registrars?—Even in such instances a better mood may come over a man, and he may desire to do justice to the person living with him, and if he had an open door he might, under that impulse, go and have the thing done; whereas, if he had to go and give notice, and a week or a fortnight to elapse, he might not be disposed to do it at the end of that time.

90. The door would still be open to him; he might go to the clergyman the next morning. Do you think it would be judicious to allow registrars to marry without any notice whatever?—Might I ask in what form you would propose to have the notice given?

91. *By Mr. Hodgson.*—My object is to ascertain your opinion, whether it is desirable that marriage should be celebrated by a registrar, or deputy registrar, without some notice to the public; the amount and kind of notice is a matter of detail?—I do not see any good reason for making any distinction between the registrar and clergymen. Inasmuch as the registrar is authorised to marry as well as the minister, I think they should occupy the same position in that respect.

92. Is it your opinion, that it is at all necessary, or desirable, that registrars, or deputy registrars, should be empowered to marry?—I think so. I am aware that there are plenty of people in the colony who could not, with a sound conscience, affirm themselves to belong to any religious denomination in particular, and yet they are entitled to marry, and for the sake of such, I think there should be such a provision made.

93. *By Mr. Roope.*—In the case of banns in your own church giving publicity of an intended marriage, is it not competent in your church to read the banns three times in one Sabbath-day?—Not in the colony; in Scotland it is; but I am not aware that there is such a practice in any Presbyterian church in the colony.

94. You read them twice on the same day?—Yes; if we have service in the forenoon and evening, we read the banns in the morning and evening.

95. That would be two publications?—Yes.

96. Then, according to the principle you now follow, one week's publication only would elapse and the parties might be married the next day?—Yes.

97. When they marry by declaration, I suppose respectable parties, that you have no reason to doubt the respectability of, may come to you any day and get married, on signing the required declaration, at a moment's notice?—Yes, day or night.

98. At any hour?—At any hour.

99. Have you, in the course of your ministerial occupation here, had occasion to refuse to perform the solemnization of marriage?—Yes, on two grounds—one that I was apprehensive that one of the parties might be a minor, under age; the other was that neither of the parties was a Presbyterian; at present we are restricted in that respect.

100. Nothing that appeared otherwise unlawful?—I have also refused, I may add, on the ground that the proposed bride was the deceased wife's sister. These are the only three grounds I can remember on which I have ever refused.

101. And you do not anticipate any evil would result from allowing the registrar to marry the parties going before him, they simply making the declaration set forth in the schedule?—I do not indeed. Of course, according to the discipline of our church, I should think it likely that we would regard such marriages as irregular, and that a member of our church contracting such a marriage would come under the discipline of the church. In Scotland such would be the case, and I apprehend that we should pursue the same practice here; but still, we would recognize the marriage as a legal marriage, though a violation of the rules of our church.

102. Then do you consider the solemnization of marriage by a minister to be necessary—is it necessary that a public marriage should be held before a minister of religion?—It is not necessary to the validity of it. I would hold a marriage a good and valid marriage irrespective of the presence of a minister; still it would be irregular according to the discipline of the Presbyterian church. We view it not only as a civil contract, but as a religious ordinance; and where it has not been dealt with as a divine ordinance, we would say the parties would subject themselves to the censure of the church. It would not affect the validity of it, or their eventual status in the church, but they would have to give satisfaction.

103. *By the Chairman.*—Taking the whole Bill as it stands, do you consider it a very great advance upon the present state of the law?—I think it a very great improvement upon our present marriage law, but I might take the liberty of pointing out that, in the tenth clause, I notice that the mother of a minor is competent to authorise the marriage. The present law



The Rev.  
I. Hetherington,  
continued,  
22nd March, 1853.

of the Colony is, that should a widowed mother have re-married she would be disqualified on that account; that is in order to relieve the daughter from the interference of a stepfather; and I think that is a most important provision, and that it is an omission not to have that inserted in the present Bill.

104. *By Mr. Roope.*—With regard to the age of majority of females, do not you think the age of twenty-one might be relaxed and brought down to eighteen?—I should say so; I do not see why they are not as much to be trusted at eighteen as twenty-one.

105. Are there not many circumstances in this Colony which would render it desirable?—I think so.

106. *By the Chairman.*—Do you think that the penalties in clause 17 are high enough, or too high?—I think it is not strict enough; you require the minister, in the event of his having performed the marriage ceremony to declare that he did not know that she was a minor. Now the law as it now stands casts the responsibility on the minister and leaves him to show that he had used all reasonable care to ascertain the fact, and I think that is better. I would make the minister responsible for having solemnized the marriage of a minor liable to all the consequences, and leave him to vindicate himself by showing that he had used due diligence and had done everything in his power reasonably to ascertain that she was such as she described herself to be.

107. *By Mr. Bennett.*—You include the registrars in that?—The registrars, of course.

108. *By the Chairman.*—Do you think £500 is not too high?—No. If the minister has any knowledge of the parties being under age and solemnizes their marriage, he does so with the penalty before him, and if he risks it, he ought to be punished. The only thing I disapprove of in that clause is, that it simply requires the minister to declare in his own vindication that he did not know; that he was ignorant of the fact of the party being a minor. As it is here, you do not insist upon his asking a single question; he is not required to exercise any precaution in the matter at all, and you hold him free of any consequences.

109. *By Mr. Bennett.*—Is the onus at present upon the clergyman to prove that he did not know it?—It is upon him to prove not only that he did not know it, but that he had most carefully inquired; and the declaration which we require in the Presbyterian church contains this clause, that the parties are at this present time above the age of twenty-one years.

110. That declaration is made by the parties themselves?—Yes, and when the banns are proclaimed by me in church, which would, under ordinary circumstances, render it unnecessary to exact any declaration. If I have any doubt, I guard myself by exacting that declaration, and then the responsibility is upon them.

111. *By Mr. Roope.*—Are the committee to understand that you do not marry persons under the age of twenty-one?—Not without the sanction of a guardian, which is imperatively required by me in every instance.

112. There are a great many females come here under twenty-one without any relatives here; if such present themselves to you, how do you act?—I take them either to Mr. Wilkinson or Mr. Hackett, they are both commissioners for authorizing the marriages of minors. I would suggest that, in this declaration in schedule D, there should be a clause declaring the parties to be above the age of twenty-one. This Act, with such alteration, would, I think, be a great boon to the community, a very important measure, and upon the whole a very admirable Act.

*The witness withdrew.*

The Rev. William Burns Landells examined.

113. *By the Chairman.*—Have you read the Bill before this committee?—I have.

114. On the whole, do you approve of the Bill?—Very much, indeed.

115. Are there any suggestions you could make to the committee that would, in your opinion, improve it?—There are two or three points in the details; for instance, with respect to the transmission of the certificates of marriage. It is mentioned in the Bill that they are to be forwarded within one month.

116. It is intended to amend that clause by requiring the returns to be sent in as at present, once a quarter?—With respect to the interpretation put upon the expressions, "relationship," "kindred," "alliance," in schedule D, I am not aware whether that is intended to include the exceptions in the British law; for instance, a deceased wife's sister.

117. It includes all the exceptions in the English law, but not any in the ecclesiastical law?—Then we should not be allowed to marry a deceased wife's sister.

118. Clearly not?—There is no penalty associated with the violation of this clause I perceive, but I presume the seventeenth clause would embrace a violation of the law upon this point, and the penalty in that clause would extend to it; if so, I apprehend there would be considerable objections on that point. With respect to clause ten, relating to minors, there is a very large number of female emigrants who come out to this colony under age, under the protection of a near relative, say a brother; and it strikes me that there ought to be some provision with respect to the consent of such a near relative as that, especially in the case of an orphan.

119. Do not you think that would be met by the words in the forty-first line, providing that if the father be not in the colony, the consent may be given by a guardian appointed by the father?—They may be orphans at home, and come out under the protection of a brother.

120. *By Mr. Bennett.*—Does not the eleventh clause meet that objection?—I would do away with the necessity of having a certificate from the guardian of minors in that case; because, unless under the eleventh clause you provide a sufficient number of guardians of

The Rev.  
W. B. Landells,  
22nd March, 1853.

minors, there is an immense amount of practical difficulty experienced in effecting marriages of that kind, and the question of distance interferes to a very great extent. A minor has to obtain the consent of a guardian of minors, and I find very great difficulty in that even in Melbourne, and how much greater must be the difficulty in the up-country districts. If you would allow me to make a suggestion with respect to this clause: it appears to me that it would be well that a schedule for the purpose should be provided, and forms supplied to all persons qualified to marry; and that, when an individual under age applied to be married, the person officiating should give them this form to be filled up by the magistrate of the district, and let every magistrate be a guardian of minors; and that would be found to remove a very great amount of practical difficulty in the way of marrying, especially in the outlying districts, where it is so difficult to find persons qualified for that purpose. With regard to a question asked of the last witness, with respect to certain ministers of religion, or certain sects or denominations deriving, or being qualified to derive assistance from the Government, I think that a very objectionable mode in which to bring this Bill before the public. We all have an impression, that in a very little time the fifty-third clause will be removed from the Constitution Act altogether, and be perfectly obsolete; and I do not see the necessity for a clause, which has created so much painful feeling in the breasts of many individuals in the colony, and amongst them myself, being perpetuated in a form like this in connection with a Bill of this kind.

121. *By the Chairman.*—Then you are of opinion that, although that would meet the case, the present form of clause 2 is better?—Yes. Then, with regard to the registrars, I have no objection to the registrars marrying, but I think there ought to be a distinction for that purpose. I would make a distinction between the registrars of populous districts or towns and the registrars of agricultural or pastoral districts, where there is no minister of religion. In those districts I think the registrar should be allowed to marry at once, according to the provisions of the Act; but I think there ought to be some notice given before the solemnization of marriage took place by a registrar in a populous district. I have no objection to the provision itself, but I think that distinction ought to be made.

122. You will observe that, as schedule B stands now, in populous districts the registrar never can marry?—It requires the persons about to be married to declare that there is no minister of religion according to their form of belief accessible for the purpose of solemnizing the marriage. Now, suppose an infidel came to be married, and I do not see why infidels should not marry, you could not expect him to sign a declaration of this kind, and there is no provision made with respect to that class at all. It seems to me that the distinction drawn in that schedule is unnecessary; and as this is the only part of the Bill where there is the slightest reference to denominational distinctions, I should be glad to see it entirely removed.

123. *By Mr. Bennett.*—Going upon the assumption that that schedule is struck out altogether, and that any person can be married by a registrar or a clergyman as he pleases, do I rightly understand you, that in thinly populated districts you think the registrar should be enabled to marry without any notice being required?—Yes, I think so, for this reason: in thinly populated districts parties may have to come a very long distance to the registrar, and the greater the facility for marriage in those cases the better; the very time expended in coming to the registrar ought to be regarded as sufficient in those cases, and you have so fenced the Bill in every part, that I cannot conceive of any impropriety springing out of such marriages.

124. But, on the contrary, if it was a populous district, you would make it necessary to give notice?—I think so.

125. Do not you think that a man endeavoring to obtain an improper marriage would more easily escape detection in a thinly scattered district than in a populous one?—There might not be the same difficulties upon that point in the one case as in the other.

126. Do you think it probable that, in a thinly scattered district, a man is more likely to be detected than in a populous one?—I think he is more likely to be detected. Crime is more easily detected in a thinly populated district than in a densely populated one. Facts are much more speedily recognised and discovered in the one than in the other.

127. You consider that they are more easily discovered in a scattered district than in a populated district?—I think so. I think an improper marriage would be much more easily discovered in a thinly scattered district than in a populous one.

128. In fact, you think there is more gossip in a thinly scattered district than in a populous one?—I think that is an admitted fact; there is more gossip in a small town than in a large town.

129. But a small town may be equally as thickly populated for its size as a large one?—Yes; but it generates a very different class of social habits. You do not know your neighbour in a large town, but you know everybody in a small town.

130. *By the Chairman.*—If I understand your view of the subject, it is this, that schedule B should be struck out altogether, and that we should allow any one who chose to be married by the registrar, but that in the towns they should be required to give notice?—I think a week's notice.

131. And in the country they should be allowed to be married at once?—Yes.

132. Would you also apply the same principle to clergymen?—No.

133. You would not saddle them with the necessity of having the same notice given?—No, certainly not.

134. *By the President.*—Supposing a party who could not legally be married wished to perpetrate a fraud or injury upon a woman by marrying her, and supposing that they lived in a populous district where they could not be married without notice being given, which might frustrate his design, would not it be possible for him, under the plan suggested by you, to take

The Rev.  
W. B. Landells,  
*continued.*  
22nd March, 1858.

her away to an unpopulous district and get married immediately by the registrar ; and if so would not that be an inefficient protection to the woman?—I think the provisions in the Bill are a sufficient protection, and I merely introduce this as an additional one. I can conceive of a case of the kind, but it does not appear to me to be very probable. The reason I made the suggestion was, because, in a thinly populated district, the distance to be travelled before the marriage can be solemnized is so great, and I suggested it on that ground simply. I find that the case put in the last question could not arise under the Bill, as by the third clause it is required that one at least of the parties must live in the district of the registrar by whom they are married ; but even then the registrar's district up the country would be of so extensive a range that there would be considerable difficulty unless the registrar had power to marry at once. I suggest the removal of schedule B, because I conceive the consciences of some individuals would be to some extent affected by it. I instanced the case of an infidel—he could not sign that schedule B, with the latter part of the form in it, as it now stands.

135. *By Mr. Vaughan.*—Have you any further suggestions to offer to the committee?—Only with respect to the age of majority being fixed at twenty-one years. I think it very desirable indeed that a provision should be inserted in the Bill, allowing young people at the age of eighteen to give their consent to their own marriage, without rendering the intervention of a guardian necessary.

*The witness withdrew.*

WEDNESDAY, 24TH MARCH, 1858.

*Members present :*

The Honorable J. HOOD, in the chair ;

The Honorable N. Guthridge

| The Honorable W. Roope.

The Rev. William Miller examined.

136. *By the Chairman.*—Have you read the Bill now before the committee?—I have.

137. As a whole, do you approve of it as an improvement upon the present law?—Very decidedly.

138. Could you make any suggestions to improve it, either in details or in the principles of it?—I am not sure that I could ; I am perfectly satisfied with the principle of it, and the details of it are very simple also.

139. In reference to the second clause, as amended—the object of inserting in the fourteenth line of that clause the words “church” or “chapel” was to debar degraded clergymen ; but it was also found that it would debar itinerating clergymen, and that addition in manuscript has been added for the purpose of obviating that—do you consider it meets the case?—I consider it quite meets the case ; I would not have considered it necessary.

140. But you have no objection to it?—I have no objection to it. With regard to the declaration in schedule B, “that there is no minister of religion according to our form of belief accessible for the purpose of solemnizing our marriage ;” I do not know whether it might be possible, but some parties might prefer the registrar, even although there was a minister in the district.

141. *By Mr. Roope.*—On principle, you think, they might prefer the registrar, considering the marriage as merely a matter of record for social and civil purposes?—Yes. I do not suppose that the cases would be very many where marriages would be performed by the registrars. I know a few persons think, in fact, one of much intelligence in this colony I have spoken to who thinks, that a minister and registrar should stand on the same footing. I do not think that is a right view of things ; I think there should be some preference given to ministers, while there is full liberty to go to the registrars.

142. Do you doubt the propriety of marriage as a civil contract?—No ; but where there are a few people who would prefer that mode, making good all civil effects, I think it would be a hardship to them not to give them liberty and facilities for getting married ; but beyond that I would not go.

143. There is nothing in this Bill which would lead to anything more than leaving it to people's own discretion?—I am perfectly satisfied with the Bill as it stands ; but I mentioned, in reference to schedule B, that some parties thought the minister and registrar should be on the same level, but I think it would be much better to have it as it is in the Bill.

144. *By Mr. Guthridge.*—Do not you think persons wishing to get married in a clandestine or improper manner would be more likely to go to a registrar than to a minister?—I think so.

145. *By the Chairman.*—Under what circumstances would a clandestine marriage be performed here? what is understood by a clandestine marriage?—Where there is some legal hindrance to it.

146. *By Mr. Guthridge.*—Would not persons be more likely to impose upon a registrar than to impose upon a minister, inasmuch as the registrar would not feel himself morally under the same necessity of inquiring?—Certainly. I have had one or two cases of parties trying to impose upon me. After one or two questions, I have seen just a manifest failure on their part ; they have convicted themselves ; and I do not suppose that their own conscience or nature would be so affected before a man who was occupying a civil position alone.

The Rev.  
William Miller,  
24th March, 1858.

147. *By the Chairman.*—Do not you think it is very likely that those parties went to another clergyman, and got married afterwards?—Very likely.

148. Do not you think it is more likely that the difference is in the intellect of the man who can read those that are before him, than it is a difference between laymen and clerical men?—That may have something to do with it also.

149. *By Mr. Roope.*—Assuming that there may be some of the evils which some persons fear would grow out of marriages being performed before registrars, do not you think that greater evils might arise from preventing registrars marrying than the few cases which might arise from the imposition on the registrar?—I think so, certainly.

150. So that, of the two, it is better to give facilities for marrying?—Certainly.

151. Within your ministerial experience, have there been many attempts made to impose upon you, where you have felt it your duty to refuse to marry people?—Two. I did marry a minor—that would make three; but I was deceived in that case. I had not seen the bride when I took the man's declaration; but the moment I saw her I said, "You are not twenty-one." She said, "Yes, I was twenty-one last October," quite readily. I said, "Well, I do not believe you are twenty-one. Are you sure," I said to the bridegroom, "that she is twenty-one;" and he said, "I know she was twenty-one last October;" and I appealed to the two witnesses, man and woman, and they all declared that they knew personally that she was twenty-one last October;" and I said, "Well, in the face of that evidence I will proceed with the marriage," but I do not believe at this moment that she is twenty-one. About eleven o'clock at night, that same night, the father and mother of the girl came to me, and said that she had come out of a ship the day before. They were all embarked to go home to England, and she had come out of the ship to stay with some friend, and came to me to be married that afternoon. In the other two cases, one was a minor, and the other a man's wife.

152. With regard to the age of majority, do not you think the age of twenty-one might with propriety be very much reduced; do you not think it would be safe and prudent to allow ladies to marry at eighteen?—I would certainly reduce it one year; I think twenty is quite high enough.

153. *By Mr. Guthridge.*—Do you think there are many ministers who would object to administer this oath or affirmation that is required by the Bill before the committee?—There may be a few; I do not know whether the United Presbyterian ministers would refuse.

154. You would not?—I would not.

155. *By the Chairman.*—The third clause gives power to the registrar to marry, but it has been proposed that they should not have power to marry until notice were given, either by publication in the *Government Gazette*, or some other plan equally public, of the parties' intention so to get married,—a week, or a fortnight, or three weeks' notice, and that that should be published in front of the registrar's office and in the local newspaper, and in the *Government Gazette*; do you think that would be judicious in order to prevent people going improperly to a registrar and getting married, it being provided by the Bill that in all cases the wife must be resident in the district?—It might be inconvenient in some cases I think to require three weeks' notice, but I think that a notice for a shorter time than three weeks would be advisable.

156. *By Mr. Roope.*—Do you think it is necessary that any more notice should be given in the case of a marriage before a registrar in the case of parties going by the present custom to any minister's house and being married at once?—There is I think rather more reason in the case of a registrar. It might not often occur, but young people might be subjected to considerable inconvenience if it turned out neither of them knew the law. After this becomes law, of course, it will settle down and nobody will ever see it. Persons will have general notions in regard to what they should do in getting married, but in many cases they may not have known of this three weeks' notice being necessary, and after a man puts himself to a great expense, expecting to be married in a day or two, he may find it necessary to wait three weeks. One or two cases have come under my notice where it is very desirable that the parties should be married at once; for instance, just on landing from a ship and going up the country together; but then of course they could go to some minister of religion. Requiring some notice might be a hardship in some cases, but it would be a question whether it would not be the less of two evils, because it certainly does throw a barrier in the way of persons endeavoring to procure a clandestine marriage.

157. *By the Chairman.*—Do you consider the penalties specified in the seventeenth clause too high as the maximum?—It is very high.

158. Do you think it is placing too much power in the hands of any two magistrates?—I think the evil contemplated by the clause is a very grave crime.

159. *By Mr. Roope.*—You have no objection to marriages being celebrated by a registrar as a principle?—No.

160. Would you require that any more notice should be given in the case of a marriage before a registrar than in the case of marriage before a minister?—Somewhat I think.

161. Assuming that such should be deemed desirable, do you think that three days' notice posted outside the registrar's office would be sufficient?—Not quite, I think it should be a little longer than that; I think three is probably too short and twenty-one days far too long.

162. *By the Chairman.*—Have you any other suggestions to offer to the committee on the details of this Bill?—No, I do not know that I have; in fact, I was remarkably well pleased with the Bill from the first.

163. *By Mr. Roope.*—Supposing any of your people were to be married before the registrar, would they incur the censure of the church?—I think probably.

164. That would have reference only to your own ecclesiastical arrangement?—Quite so.

The Rev.  
William Miller,  
*continued.*  
24th March, 1858.

165. *By the Chairman.*—Am I to understand that they would incur a censure to deprive them of any privileges of the church?—I think probably they would. It would indicate such a state of feeling in reference to the thing, that it would call for our dealing with the parties. I think it is an ordinance of God, and should be so regarded by a Christian community.

166. *By Mr. Roope.*—The censure of the church would impose no civil disabilities on the parties?—Not at all.

*The witness withdrew.*

The Rev. Andrew M. Ramsay examined.

The Rev.  
A. M. Ramsay,  
21st March, 1858.

167. *By the Chairman.*—Have you read the Bill before this committee?—I have not been furnished with a copy of the Bill; I have looked cursorily through a copy which was furnished to the Rev. Messrs. Hetherington and Miller.

168. Do you approve of the principle of extending the privilege now possessed by the Church of England to all denominations, and enabling ministers of all denominations to marry any parties, whether belonging to their church or not?—I think, if it is given to one, it should be given to all.

169. Do you think it would be better to take away that power from the Church of England and confine each denomination to dealing with its own people?—I am averse to the Legislature dealing with denominations at all. I think a law to meet the exigencies of the community at large should be based upon a simple and equitable principle that would apply, without respect to sect or denomination whatever, and that the Legislature should just lay down certain simple pre-requisites which must be attended to, in order to the validity of the marriage, and which could be enforced by the civil registrar; and that a certificate that those forms had been complied with being given by the registrar should constitute marriage in the eye of the law, leaving every party to superinduce upon the civil act any religious ceremony that they might think proper, or no religious ceremony, should they think proper—that is to say, that no religious ceremony should be compulsory in the case.

170. Do you think this Bill meets that?—It comes much nearer than any previous Act; but I think there is one part of the Bill that rather militates against that view. Before the parties can avail themselves of the purely civil act of the registrar, in order to get married, they are required to make a declaration, that there is no minister of their denomination within reach. Now, I think I would not compel any party to make that statement.

171. Then you would leave it quite optional with parties about to be married whether they chose a minister or a registrar?—Yes.

172. Would you put registrars and ministers exactly upon the same footing, and make no distinction between them?—No distinction whatever.

173. Some of the members of the committee feel strongly that registrars should be shackled more or less in the way of requiring public notice to be given before they performed the ceremony?—I am decidedly of that opinion, that they should.

174. Then that is not putting ministers and registrars upon the same footing?—I would put ministers upon that footing too. The plan suggested by me would necessitate such an arrangement. I would leave that as part of the civil pre-requisite in order to the validity of the marriage. I think that, in every instance, parties going to be married should give a notice to the civil registrar; the notice should be given to the public, in some form or another, for a certain length of time; the parties should appear at the expiration of that time, make a declaration similar to that given in schedule C, and then let the registrar's certificate be given to the parties; and if the parties regard it as a religious ordinance, as many do, let them repair to their own minister, and have it solemnised according to their own sense of religious duty; and the different sects may be safely left to impose such rites and ceremonies in connection with the celebration of marriage as will bind it upon the conscience of the parties; but the law, I think, should be the same for all. It is only as a social institution or civil right that the Legislature can deal with the subject of marriage, and therefore nothing but what is civil should enter into the validity of the contract.

175. *By Mr. Guthridge.*—Then, in point of fact, you would require that every marriage should be celebrated or recorded by the registrar?—Yes.

176. *By the Chairman.*—Would not that be very inconvenient in some of the outlying districts in the country; because, you observe, that the declaration in schedule D can be made before the minister as well as the registrar, and it is not necessary for the parties to go before the registrar as well as the minister?—It would be as difficult in some places to find a minister as a registrar; and then, moreover, the State is supposed to have registrars always at work. The State cannot secure the presence of ministers in districts. There are inconveniences that no legislation can meet, and therefore we must just deal with the subject as far as circumstances will allow; but in an important event of this nature, though the parties should be constrained to be at some trouble to go to the registrar, it is but once, perhaps, in a life, and they ought not to complain, if it is practicable at all.

177. Do not you think there are hundreds or thousands of people in this country who would feel aggrieved by being compelled to have their names posted on a church door or a registrar's office door, with an intimation that they were about to get married?—It would be alike to all; it would be the law of the land; there would be no invidious distinctions, and we must all submit to the law of the land if it is found to be based upon an equitable principle, and calculated in the long run to be for the general benefit. I would say, there is no hardship in submitting to such a notification, and it would certainly put a stop to a great many hasty,

clandestine, and very discreditable marriages, which are entailing ruin upon the country. The violation of the marriage contract in this country, and the desertion of wives by their husbands, and the desertion of husbands by their wives, is truly awful.

The Rev.  
A. M. Ramsay,  
*continued,*  
24th March, 1853.

178. Are you aware that, according to the statistics of the police office, as far as can be ascertained, nine-tenths of the parties, in the cases of those desertions, were married at home?—I was not prepared to hear that it was so large a proportion.

179. In your experience, have you met with many cases where you had to reject the parties on account of your suspicions, your inquiries leading you to suppose that they were attempting to perpetrate a clandestine marriage, from being under age, or any other cause?—I have met with a few, in which cases I have positively refused.

180. What was the result, do you know—did they go and get married—have you any reasons for supposing they went to get married elsewhere?—I have no doubt they did. I have no collected facts in reference to the point, but I have no doubt that they might and did succeed elsewhere.

181. Suppose they did not succeed, but made two or three other attempts, and found it futile, do not you think, in the majority of cases, they went and lived as man and wife, without being married at all?—I should fear they would not live as man and wife long.

182. Even if the marriage ceremony had been performed, is the presumption in favor of their living together as man and wife better than without it?—I could not say; a good word on the occasion of the service might be beneficial to the parties; that is one grand argument for annexing a religious service with the celebration, that the minister has the opportunity of giving good advice, which may be remembered and practised; but I think the allowing of an interval to elapse between the notification of the marriage and the celebration of it is but a reasonable thing, and a right thing, and I should think would work well.

183. *By Mr. Roope.*—If parties came to your house or church, under the present system, as candidates for the ceremony, if you satisfied yourself that there was no lawful impediment, you would proceed at once to marry them, would you not?—Yes. I make it a practice, when circumstances will at all allow, of having a little interval betwixt the application and the marriage.

184. As the practice is now observed, you do not approve of your own practice, in fact? I do not.

185. *By the Chairman.*—You would rather be possessed of the power of compelling the parties to give you a week's notice?—Yes.

186. How would you propose publishing that?—Through the registrar of the district, I should say, and perhaps the *Government Gazette*. I would not have the names posted up on the walls of the police court.

187. *By Mr. Roope.*—Do you think the Bill, in its present state, would be a great improvement upon the existing state of things?—I do.

188. And that it would be desirable to enact that law?—In the absence of a better one, it would be very desirable to have this in place of the present Act.

189. What is your own opinion of the propriety of reducing the age of majority, in the case of females, from twenty-one to eighteen?—I would approve of it. I think twenty-one is too high in this Colony. Certainly the growth of the human frame and mind is more rapid here than at home; and our young people, both male and female, would be found to attain majority much sooner here than at home.

190. *By Mr. Guthridge.*—What age would you fix?—I should say eighteen in the case of females. I would suggest that instead of clauses two and three reading: "No marriages shall be celebrated except by some minister of religion"—as it is not the object of this Act to throw any impediment upon marriage performed by a civil registrar, a national officer, it would be well to place the officiating parties in connexion with marriage, in both cases, on the same level, and the clauses might read in this way: "Marriages may be celebrated by any minister of religion, ordinarily officiating as such, whose name, designation, usual residence, and the church or chapel," and so forth; "or parties may be married before the registrar, deputy registrar," and so on. As it is now, there is a positive enactment and an exception. I would have two positive enactments.

191. *By the Chairman.*—In that case you would do away with schedule B altogether?—Yes.

192. Do you agree with the utility of clause fourteen, confirming all existing marriages?—Certainly.

193. Have you any other suggestion to offer to the committee?—No further than what I have mentioned with reference to the second and third clauses, and doing away with schedule B.

*The witness withdrew.*

FRIDAY, 26TH MARCH, 1858.

*Members present:*

The Honorable J. HOOD, in the chair ;

The Honorable N. Guthridge

The Honorable W. Roope.

The Rev. Daniel James Draper examined.

The Rev.  
D. J. Draper,  
20th March, 1858.

194. *By the Chairman.*—You are a minister of the Wesleyan denomination?—I am.
195. I presume you are thoroughly conversant with the present marriage laws of the colony?—I think I am.
196. You do not approve of them as they stand at present, I presume?—I do not.
197. Have you read this Bill?—I have read it since yesterday at two o'clock, when I first saw a copy of it.
198. So far as you have been able to see it in that short time, do you agree with the principle of it?—Yes, as consolidating the marriage laws.
199. You observe that it puts all religious sects on an equality in regard to their power to perform the marriage ceremony?—I perceive it does.
200. Do you approve of that?—I do, certainly.
201. You also perceive that it secularizes marriage contracts, that it allows parties to treat marriage as a purely civil contract, by their being allowed to be married before registrars in certain cases?—Yes.
202. Are you prepared to approve of that?—Yes.
203. Does anything suggest itself to you to offer to the committee upon the details of this Bill?—I observe one little discrepancy here with reference to the registration, which I just now spoke to Mr. Guthridge about. It occurred to me that it might be regarded as rather producing a prejudice against the Bill in certain quarters. Supposing a church arranged that marriage by banns should take place as well as marriage by licence, it has occurred to me whether it is desirable that an oath should be required of those married by banns.
204. *By Mr. Roope.*—What is your opinion upon this majority clause—the tenth clause, which limits the age to twenty-one years ; do not you think that the age of majority of a lady might be brought down to eighteen, in this Colony more particularly?—I have, in some cases, been convinced that injustice was done to parties in this Colony, who have been over eighteen, and have not been quite twenty-one years of age.
205. Would you consider eighteen to be an age sufficient for a lady to marry, and to be removed from the restrictions of minorship?—I would ; particularly where the parents were not resident in the Colony. I have not thought upon the objection where the parents are residing in the Colony ; and, therefore, I should hesitate to say that, in all cases, eighteen should be adopted.
206. *By Mr. Guthridge.*—In cases of marriages taking place before a registrar, or deputy registrar, do you think that any greater publicity should be given previous to their celebration than in the case of a minister ; seeing that, according to this Bill, ministers would be at liberty to marry persons coming to them without any delay whatever?—It occurred to me, when reading the Bill, that it enabled parties to get married, under some cases, in a very hasty manner. I presume that no persons would have power to refuse to solemnize marriages, supposing the oath were taken. I have thought that it was placing power in the hands of either minister or people who wished to be married, that might be abused.
207. *By the Chairman.*—Might I ask you, if parties come to you to be married by licence now, is it necessary for them to take an oath?—It is.
208. Is that more strict than the present oath?—No, I think not.
209. Then this Bill does not open the door wider than it stands at present for those clandestine marriages being performed, I presume?—No, it does not ; except in this case—as the churches have to make declaration for their own protection, persons who might now demand marriage without a moment's notice, those who have previously had the banns published might justly demand, under the provisions of this Bill, to be married without notice.
210. They could demand that at present by the purchase of a licence?—Yes.
211. They can be married by the Church of England, if I understand rightly, at a moment's notice, by purchasing a licence?—Yes.
212. So that parties wishing to contract clandestine marriages, as the law stands at present, are almost forced to go to the Church of England to have them performed?—Not necessarily, I think.
213. *By Mr. Roope.*—Is it the custom in the Wesleyan body to publish banns?—Yes.
214. Otherwise, they come before you and sign a declaration of marriage without any previous notice?—Yes, they make an oath or affirmation.
215. Do you administer the oath?—No.
216. Before whom is the oath taken?—A justice of the peace, and we regard that as one of the great acts of injustice that we are obliged to send those who have a licence to be married before a justice of the peace.
217. *By Mr. Hodgson.*—Has your attention been drawn to that section of the Bill where registrars and deputy-registrars are empowered to marry—clause 3 of the Bill?—Yes, it has.



218. Are you of opinion that such a power ought to be delegated to those officers?—I think, with the provision made here, where the parties declare that there is no minister of the persuasion to which they belong, there should be that power. I have known many persons living in concubinage in many parts of this Colony who would have been married if there had been a minister there who could have married them.

219. At present, in ordinary marriages, except by licence, it requires that notice should be given by banns, or otherwise by being published in the Police Report Sheet; by this arrangement no notice whatever is given to any individual. Do you think it desirable that such a power should be entrusted to those gentlemen without some notice?—You refer to the registrars?

220. Yes?—I think, in South Australia, if my memory serves me correctly, six days' notice is required for any marriage by a registrar, and twenty-one in the ordinary way. I should think that preferable to any very hasty marriage.

221. You are of opinion that some notice would be desirable?—I think some notice is desirable.

222. Is not it just possible that, from improper motives, persons might be occasionally led into contracting such marriages, if no notice was directed to be given?—It is possible, no doubt.

223. Is it not probable?—The probabilities of the case, I presume, would be increased by the distances at which persons would reside from those with whom they were acquainted, and their acquaintance with the parties about them. I think, in the case of the minister to whom they apply, they are generally known to them; for my own part, I think scarcely any parties have ever been married by a minister of our denomination but one of the parties has been known to him. It is against such cases that I would provide; that is, where no acquaintance whatever was possessed. Then there should be some guard, if possible.

224. *By notice?*—Yes.

225. *By Mr. Roope.*—How was notice given in South Australia, such notice as you say is required to be given to the registrars—in what manner?—In a book on his table in his office.

226. But not published?—Not published. I think, if my memory serves me, they were exhibited on the wall.

227. Outside the office?—Inside, not outside; but I am not quite certain about that.

228. *By the Chairman.*—Would you extend that to ministers as well as registrars—would you think it necessary that ministers of all denominations should also give a week's notice, or ten days', or two weeks' notice, as the case may be, of all marriages performed by them?—I may be supposed to be speaking of my order, but I think it would be attended with great inconvenience to have such notice in all cases. Many parties come down from the country as to whom you know everything is fair and straightforward, and I think it would be a serious injury to them.

229. In that case, do you not think that all clandestine marriages would, as a natural consequence, be performed by ministers; that parties knowing they had no right to marry, and afraid to advertise, would go past the registrar and go to the minister; would not that be the effect of that being law?—It is possible; but I presume there are cases with regard to which no person could be on his guard.

230. Do you not think that some deputy registrars would be better able to judge of the parties coming before them as to whether there was anything wrong in the proposed contract or not, than some clergymen. Do you not think the power lies rather in the man than in the office—in his quickness of intelligence and power of observation?—I think the acquaintance of the ministers of all denominations of religion with those about them would be far more extensive than the acquaintance of any deputy registrar would be.

231. On what do you found that opinion?—I would not advise any restriction but that which would best preserve the people.

232. And if no restriction was the best, you would recommend that?—Most decidedly; my remarks respecting clergymen arise entirely out of my idea that they are more generally acquainted with the people about them than other parties, the people of their own denominations particularly; and they view with considerable suspicion parties who were entire strangers to them applying to be married by them, when there were ministers of their own denominations in the neighborhood.

233. You will observe that registrars could not, under those circumstances, marry at all, because the parties must make a declaration that there is no clergyman of their own denomination within the district?—Precisely so.

234. *By Mr. Roope.*—Do you consider it desirable that persons who are merely adherents, nominal Christians, should be compelled, against any conscientious convictions they may have, to enter into a religious ceremony for the sake of matrimony, when a more consistent way, according to their ideas, was opened to them before a registrar?—Having a very decided opinion that the adherents of different churches would prefer being married by the ministers of their own denominations, I should not object to a more extensive application of that clause myself.

235. Would not those parties have a conscientious belief that marriage was merely a civil contract in the first instance?—It occurred to me, when reading that clause, that, considering the secular character, I think I am correct in saying so. Attached to the marriage ceremony here, the clause should be altered by leaving out "according to our form of belief," because it does not appear to me to turn upon any belief. If there is any Christian minister in the neighborhood, according to the requirements of this Act, there is a party to perform the ceremony.

236. *By the Chairman.*—But some parties might prefer to be married by a registrar



The Rev.  
D. J. Draper,  
continued,  
26th March, 1858.

rather than by any clergyman; there might be an Episcopalian or a Roman Catholic in the district, but there might not be an Independent—in that case it is quite competent for the registrar to perform the ceremony?—As a general remark, I think the utmost facility should be afforded for the performance of the marriage ceremony in the scattered populations of these Colonies. I think that any arrangement that would be in the wisdom of Parliament considered best adapted to secure that would be the best.

237. May I ask you if you have any itinerating clergyman in your denomination at present in the interior—that is, without any fixed settled church, who would not be able, under clause 2, to perform the marriage ceremony?—I am desirous of calling the attention of the committee to that. I may be pardoned for adverting to the peculiarities of the Wesleyan church in this respect. The places of worship are under the control, so to speak, and are constantly visited by two or three ministers within the district, but Divine service is celebrated on the Sabbath Day in many of them by persons whom we call local preachers—lay preachers. The ministers are to all intents and purposes the ministers of those places. To consign one minister to one chapel would be to place him in circumstances of a very awkward description.

238. There is an addition to this clause which has passed the committee, which you can read for yourself—[*handing the Bill to the witness*]—I should suppose that would meet every requirement. I would say, as regards the Ballarat district, that we have only three ordained ministers in that district, but we have some thirty places under their care in which congregations assemble; those ministers travel many hundreds of miles.

239. *By Mr. Roope.*—But your local preachers do not perform the ceremony of marriage?—They do not.

240. *By the Chairman.*—But your ordained itinerating ministers do?—They are ministers to all intents and purposes.

241. According to that addition to the clause, you perceive they have only to hold a certificate from the head of the denomination?—Yes.

242. Which certificate would require to be taken to the registrar general and registered?—Yes, but in one sense of the term those ministers can scarcely be said to be itinerating ministers; they have a fixed centre from which they proceed, according to a plan provided, to their several labors.

243. *By Mr. Roope.*—They have head-quarters and a congregation, and they radiate about?—Yes, all such ministers would be in a position to register one place of worship. I think there would be no case at present in the Colony in which there is a purely itinerant system as having no head or central place of worship.

244. *By the Chairman.*—As you stated at the commencement of your examination, you entirely approve of the principle of this Bill?—I do.

*The witness withdrew.*

The Rev. Henry Higginson examined.

The Rev.  
H. Higginson,  
23th March, 1858.

245. *By the Chairman.*—What is your profession?—I am a minister of the Unitarian Christian church.

246. You have read this Bill, and you are pretty well versed in the present marriage laws in force in this Colony?—Yes, I looked over the present marriage laws with a view to acquiring, for our denomination, the liberty of marriage which other denominations enjoy.

247. Then, the principles of this Bill, I apprehend, you fully coincide in?—Yes. I should have preferred, I acknowledge, a Bill similar to the English law, as you said in your examination of Mr. Draper, secularizing marriage; but I apprehend this does not do so.

248. As it stands at present, it does not?—No. This is extremely good as far as it goes, and as it stands at present we shall be happy to accept it.

249. Then you admit that the principle of the Bill receives your approval?—Yes.

250. You heard the examination of Mr. Draper?—Yes, partially so.

251. Are there any matters of detail in this Bill you object to, or any additions you would wish to make to it?—I would call attention to one or two small matters. With regard to the second clause, I have noted a reference to the Sydney practice. The registration of the names of all parties authorised to marry is a matter perfectly within the nature of detail in the registration office, and I think a published list in the *Gazette*, or in some clear documentary form, of the parties, authorised to marry, whether registrars or ministers, would very much tend to diminish the number of clandestine marriages. I have also noted a query: whether magistrates would not, perhaps, be better than registrars for the purpose; or whether, as in New South Wales, you would appoint special registrars for the purposes of the Marriage Act. I am a stranger in this Colony; I have only been about six months in it, and therefore it is a matter I do not speak at all positively upon; but I simply note that, as a thing, that if it has not been considered by the committee, it would be well to consider. I observe, also, there is no provision made for fees; but that, I apprehend, is a matter for the Legislative Assembly. Major Campbell was noticing the sixteenth clause, which says—“A copy of the registry of any marriage in the office of the registrar, or deputy registrar, under his hand, shall be received as evidence in all proceedings, civil and criminal, of the fact of such marriage having been duly celebrated, until the contrary be shown.” The copy to be produced in a court of justice should be a copy of the original certificate, not of the mere registry.

252. Striking out the words “deputy registrar,” and putting in the word “general,” so as to make it read “registrar general,” would meet the objection?—Yes.—[*The witness also suggested a few alterations of form in the schedules, especially in schedule D, where he proposed*

*the insertion of a formal statement, that the parties taking the declaration, provided in that schedule are aware of the punishment provided for false statements as perjury in clause 18.]*

253. *By Mr. Roope.*—As to the age of females here. It is the law that females should be supposed to attain their majority at the age of twenty-one. Might not that be relaxed?—It is a question fully as much physical as moral—for the medical men as for the divines—but I should think probably eighteen would be something like the average between the time they do marry here and the time at which English minority ceases.

254. You would see no objection to bringing down the limitation to eighteen, instead of twenty-one, for ladies?—I should not.

255. Do you not think a great deal of good would arise from it morally?—I think so, morally.

256. You approve of the principle of marriage before registrars?—Yes. I have suggested whether magistrates might not be better than registrars; but I distinctly approve of the power of marrying without the assistance of a minister, if that minister is not to be obtained, or if the parties prefer to consider marriage a civil contract.

257. Do you think it is necessary, and if necessary, for what length of time, that publicity should be given to marriage before a registrar?—I have not considered that question at all, as it did not occur in the Bill. I do not think it is more necessary in the case of registrars than of ministers, but I think it is desirable in both.

*The witness withdrew.*

The Rev. Lawrence Shiel examined.

258. *By the Chairman.*—What are you?—I am President of Saint Patrick's College, and Professor of Philosophy and Divinity.

259. Have you had your attention drawn to the provisions of this Bill?—Yes.

260. Do you approve of the Bill in general as it stands, as an advance upon the present law?—There is one main objection I take to it as a Catholic priest, and which our church has taken to it: there seems in it an attempt to secularize or laicise marriage. We have a very strong objection to that.

261. That of course is known to be an objection, and a candid and straightforward one, and the committee appreciate it; but, laying that aside, do you not think it is an improvement on the present law?—I do not consider that it is an improvement on the present law, in as far as our church is concerned.

262. At present, have you the power of marrying a Protestant and a Roman Catholic?—Yes.

263. But have you the power of marrying where neither are Roman Catholics?—No, and we would not marry under such circumstances.

264. By this Bill you will have the power?—But we would not exercise it—it would confer upon us no good. I admit it would put us, as far as the Legislature is concerned, in a similiar position with others who can marry, but that would be a simple boon which we would not think very much of.

265. And one which you would not be very likely to take advantage of?—We could not.

266. That you apprehend from your view of it as a minister of your church; but do you not think it is a hardship that there should have been about six hundred marriages illegally performed in the Colony during 1857, and by parties who have no real power to perform the marriage ceremony. This Bill confers upon those persons the right to perform that ceremony. Is it not a hardship that five or six sects of religious parties should have no power to marry?—Yes, a very great one; all Christian denominations should have the right to marry, and I believe that the law should be so comprehensive as not to exclude any parties, whether Christian or Mohammedan. With regard to the second clause, it appears to me that that clause gives power to ministers of religion to marry any persons belonging to any denomination whatever; I think it would be an improvement upon that, if it were altered in this way—that no minister of religion should marry any parties except at least one of the parties belonged to the denomination to which he belonged.

267. Do you think, if this Bill becomes law, the Roman Catholic laity would take advantage of it to be married out of their own church?—I think not many.

268. Then practically it will not have any evil effect with you;—Not with us, unless in a few instances.

269. *By Mr. Hodgson.*—You have a strong objection to registrars marrying at all?—Yes.

270. *By Mr. Guthridge.*—But supposing that that should become law, notwithstanding your opinion to the contrary, do you think that it would be proper to make it necessary to give public notice of marriages to be celebrated by the registrars?—Yes, I should think it very desirable that a certain time should intervene between the notice and the celebration of the marriage.

271. *By the Chairman.*—That you apply to registrars only?—Yes, speaking of those lay registrars.

272. *By Mr. Hodgson.*—As to the practice in your church, parties can be married at once there; are they subject to notice being given?—We marry in two ways—by banns and licence. When parties get married by banns, there intervene three Sundays before the marriage is solemnized. There are three publications on three consecutive Sundays, or should a holiday intervene, that would stand for a Sunday. There is always about a fortnight. Then, with the licence, there is generally a couple of days; because the parties married in our

The Rev.  
H. Higginson,  
*continued,*  
26th March, 1858.

The Rev. L. Shiel,  
26th March, 1858.

The Rev. L. Shiel, *continued*,  
26th March, 1858.

church have to undergo a preliminary preparation, so that marriage is not very hasty. The amount of time may be short, comparatively speaking; but where persons are two days undergoing a religious process in order to prepare them for the reception of the sacrament of marriage, as in our church, there is full time to think over it.

273. *By Mr. Guthridge.*—Does that preliminary religious ceremony tend to publish the fact of the marriage being about to be celebrated?—No; I cannot say it does, because that is done in the tribunal of penance, between the clergyman and the parties about to be married.

274. *By the Chairman.*—All good Catholics would adhere to that, notwithstanding this Bill?—Yes.

275. Practically, this Bill does not interfere with that?—No, it does not. I wish further to add, with regard to our denomination here, that those marriages before lay registrars would not be required; because there is not a portion of this diocese that is not visited at least once a month by a clergyman; so that any person belonging to our church being married by a registrar, would do it unnecessarily and contumaciously.

276. And, if this schedule B passes in its integrity, contrary to law?—Yes.

277. *By Mr. Roope.*—Do you not think that the age at which minority should cease in this Colony might be reduced from twenty-one to eighteen?—I think eighteen years of age would suffice.

278. Do you not think it would tend to conserve the morals of the people to bring down the age of minority?—Yes.

279. *By the Chairman.*—Apart from that objection of secularising marriage, do you consider that this is a good Bill; that it is tending to extend justice to a large number of our fellow-subjects?—Inasmuch as it makes civil equality more extensive, in regard to all religious parties, of course it is a Bill that any one would approve of; but I speak with the reservation I have before made, and the objection I have before stated.

*The witness withdrew.*

Major Norman Campbell examined.

Major Campbell,  
26th March, 1858.

280. *By the Chairman.*—Have you read this Bill?—I have; and as the public officer who will be charged, if it becomes law, with the administration of the greater part of it, I have given it very deep and serious consideration.

281. Are you prepared to make any suggestions to the committee that would not interfere with the principle of the Bill, and yet that might facilitate its operation?—Upon the second clause I should wish to observe that, in my opinion, the list of those ministers ought to be published for general information. They might be periodically printed and hung up in the deputy registrar's office.

282. Do you think it is necessary to embody that provision in the Bill?—I think it is desirable. I would then observe upon the clauses connected with the giving of the certificates. According to my view of the matter, it is in general very undesirable to change the established system in any country, unless there are good public reasons for making the alteration. The clauses in the Sydney Act are simply continuing the registration system, according to their local laws; these laws were altered and abrogated in this Colony by the 10th Victoria, No. 26. Now, there seems to me to be no sufficient reason for returning to the old New South Wales system. This I would propose to remedy in the present Bill by deleting all the words in the eighteenth and following lines of the seventh clause after the word "marriage" and substituting for them the following:—"and the said minister or deputy registrar as the case may be shall transmit to the registrar general in the months of January April July and October in each year a register of the said marriage signed by the parties and witnesses in the form hereunto annexed marked F." It appears to me, also, in reference to the marriage before registrars, that some notice ought to be given, either by posting in the registrar's office or by some other publication, of the intention of the parties to get married; and one reason for that, amongst others, is this, that as the Bill at present stands the deputy registrar may be knocked out of his bed at any hour by parties coming and demanding to be married, at a time too when one or both of the parties might be under the influence of intoxicating liquors or intoxicating drugs. I would, therefore, suggest the propriety of some regular hours being named within which marriages should be performed.

283. *By Mr. Hodgson.*—What notice would you consider necessary?—I think a week's notice, at the very least; and I think if a board or notice-paper were hung up in the registrar's office, that would be about as public a place as could be found, because so many persons go in and out of the office in a week, and the probability is that some of such persons might know the parties proposing to be married.

284. *By the Chairman.*—Would you make it compulsory upon ministers to give notice in the same manner, or in any other manner?—I think I would not interfere with the existing system of the ministers of religion. I would further wish to observe, that the form of declaration in schedule B cannot be said to secularise marriage, because it limits it entirely to the simple fact of there being no minister of the particular religious denomination accessible.

*The witness withdrew.*

TUESDAY, 30TH MARCH, 1858.

*Members present :*

The Honorable J. HOOD, in the chair ;

The Honorable J. B. Bennett

The Honorable J. Hodgson

The Honorable Dr. Tierney

The Honorable W. Roope.

T. T. a'Beckett, Esq., examined.

285. *By the Chairman.*—The committee would like to hear your opinion upon the general principles of this Bill, as well as upon the details of it, both in your capacity of a lawyer and as registrar of the diocese?—Looking at the Bill as a lawyer, I most heartily approve of the principle of it, as I think that it is of the greatest importance to the community that so solemn a contract as marriage, and one upon which such important consequences depend, should be entered into before persons invested with authority, and who, by their position, are recognised by the laws as being persons proper to solemnize that contract. This Bill appears to me, in its main features, to carry out that particular object, inasmuch as there are only certain persons recognised by the Bill as persons before whom the entering into the contract of marriage can take place. Another very important point is the securing documentary evidence of marriage, and this I very much fear the state of the colony in years past has prevented, in many cases ; and I believe that many marriages will have hereafter to be proved by reputation, unaided by any document having legal authority. Under this Bill that hardship will, I think, be removed. The Bill also provides, as far as I think any legislative enactment well can, against forming clandestine marriages, inasmuch as it imposes very heavy penalties indeed upon persons wilfully solemnizing marriages between minors without the consent of parents or guardians. It also makes a false statement, made for the purpose of obtaining the celebration of a marriage, perjury. There has been considerable difficulty in fixing persons with the punishment of perjury, in respect of false statements made by them before surrogates, for the purpose of obtaining marriage licences.

T. T. a'Beckett,  
Esq.,  
30th March, 1858.

286. This is a new feature in the marriage laws, which you approve of, I understand?—Yes. One of the two Church of England Marriage Acts, which I now produce, declares that persons making a false oath for the purpose of obtaining a licence shall be guilty of perjury ; the other one is without that clause.

287. Is that one of the Acts repealed by this Bill?—Yes, both of the Acts are to be repealed. A case occurred not very long ago, in which I granted a licence upon an affidavit made by an individual, that the person he was going to marry was of age, and it turned out she was not of age, and he was proceeded against before the police court for that offence ; and thus the question was raised whether it amounted to the offence of perjury. But there was an authority quoted for dealing with the offence as a misdemeanor ; that is, making a false statement for the purpose of inducing a surrogate to issue a licence, which is an offence recognised by the law ; but the evidence was not satisfactory to the bench, and therefore they did not commit the person for trial. There seemed great reluctance on the part of the bench to deal with this individual, looking upon the matter as one affecting the peace of the family hereafter, and, as I thought, looking beyond the question before them for consideration.

288. Do you think that this Bill would have met that case?—I think it would. There is a very valuable provision I observe in the schedule, by which both parties are required to make the declaration. As the law now stands, only one person need make the statement, and it is excessively difficult to fix a guilty knowledge. It is very easy for a person to say "I believed it to be true;" and to constitute the crime of perjury, the statement must be shown to be false within the knowledge of the party who makes it. A man might conscientiously depose that, to the best of his belief, the woman was above twenty-one, though she might not be ; still, he would not be legally guilty of an offence ; but evasion would to a considerable extent be prevented by requiring the parties, when they both meet together, to declare that there was no legal impediment to their being married.

289. Some members of the committee have it in contemplation, when the Bill goes back to the House, to add a further clause to this schedule D, to the effect that the parties certify that they are aware of the consequences of making a false declaration?—I think that would be desirable ; but I would state that the declaration as it now stands is, to a certain extent, imperfect, because it says "I believe there is no impediment or lawful objection by reason of any kindred relationship or alliance or any former marriage or the want of consent of parents or guardians or any other lawful cause to my being married." I think it ought to state distinctly "by reason of being under twenty-one years of age," because there are persons in this colony who express great surprise at finding that it is necessary to obtain the consent of the parents or guardians where the persons to be married are under the age of twenty-one.

290. *By Dr. Tierney.*—What is proposed is to add to schedule D, as follows : "and I make the foregoing declaration solemnly deliberately conscientiously believing the same to be true, well knowing that any person who shall knowingly or wilfully make and sign any false declaration for the purpose of procuring any marriage under the provisions of 'An Act to amend and consolidate the Laws affecting the solemnization of Marriage' shall suffer the penalties of perjury."

291. *By the Chairman.*—By clause 10, it is proposed to reduce the age of majority of females down to eighteen, instead of twenty-one?—That is the American law.

T. T. a'Beckett,  
E-q.,  
continued,  
30th March, 1834.

292. The law of Scotland is nineteen?—That is a matter that I should be rather unwilling to give an opinion upon—certainly there is supposed to be a difference in the judgment of a young woman of eighteen and a young man of twenty; but, as an individual, I would wish the law on this point to remain unaltered.

293. About this schedule D; you think it would be necessary, after the word “guardians,” to add the words “or being under the age of twenty-one?”—Yes, I think so, so that there could be no excuse for the parties saying they were under a misapprehension. I think there ought also to be a provision made for the registration of the revocation of any minister's licence. In reference to our own church, the clergymen receive their licences from the bishop, and in the Church of England Act there is a clause prohibiting ministers of the Church of England from officiating in a diocese without the licence of the bishop of the diocese, who may see afterwards good cause to revoke it. We had some cases occur not long ago in our diocese in which clergymens' licences were revoked, and it would have been a great scandal to the Church of England if they had not been revoked; and I believe that some of these very persons have endeavoured to obtain a sort of income by holding themselves out as ministers of the Church of England and touting about for marriages; and inasmuch as the head of the denomination is responsible for the granting of the licence, I think he may be safely trusted with authority to register the revocation of the licence.

294. The certificate of the license is registered?—Yes; it is to be supposed that the head of the denomination—I am speaking now of the head of our own church—would not revoke a licence without being entitled to do so; and if he did so without just cause, he would be legally responsible to the injured party. There must be authority vested somewhere.

295. You observe this, as it now stands, leaves it optional with a body of the ministers either to qualify themselves to marry by registering the place of worship, or holding a certificate from the head of the denomination?—Yes.

296. That will be altered, I believe; they will only have the option of holding a registered certificate in cases where there is no church, and where, therefore, they cannot comply with the first part of the clause?—There are many parts of the diocese where marriages are solemnized by clergymen in places other than churches or chapels.

297. Itinerating, perhaps?—Yes; the part of the colony in which the parties live will not, perhaps, admit of the marriage taking place in a church or chapel.

298. To meet those cases, it was felt it would be a hardship to hinder them from marrying. As the clause stood at first, they were prohibited along with the degraded clergyman; but as it now stands, it leaves it optional with the parties to qualify by the first part or the second part of the clause, that you approve of?—Yes; at the same time, if the ministers cease to officiate in any church or chapel, the particular individuals could not solemnize marriages in that church or chapel, but their successor would. I think it is very important that the revocation of the licence should be registered, so as to put an end to the authority conferred by it. I may state the case of a man who came over with the bishop of Sydney and introduced himself to the dean of Melbourne when acting as vicar-general for our bishop, and induced him to allow him to assist a clergyman in the performance of clerical duties. He was afterwards considered to be not at all a proper person to officiate as a clergyman of the Church of England, and he has since then invited persons to come to him to be married, and has brought scandal upon the church by his conduct. This clause, allowing persons to be married before a registrar, if they think fit, is analagous to the English Act; but here it is limited to cases in which there is no minister.

299. Do you approve of that limitation. A great many of the witnesses say they would leave it optional to the parties about to be married?—Experience shows that very few persons indeed avail themselves of the opportunity of being married before the registrar; it is against the feelings of the people, and I think, if it could be ascertained in England, it would be found that the power is very little used.

300. You think it might safely be left open?—Speaking of it as a mere matter of secular personal feeling, I think that, where parties are desirous of having their marriages so solemnized, they should have the power.

301. The proportion in England is about 1 in 10,000 married by the registrar, and out of the whole country, commencing at Bristol and going through all the manufacturing towns down to Manchester and Leeds, there is only one case recorded of parties being married without the use of the ring, though it is not by law required, and has not been since 1837?—That was not necessary to the legal validity of a marriage until the Act of the 26th of George II., in England.

302. That was done away with by the last marriage Act?—Yes.

303. *By Dr. Tierney.*—Do you think it desirable that schedule B should remain?—Yes; I should prefer seeing it in that form. With respect to clause 10, there was one thing that struck me as to the consent of guardians. What constitutes a guardian is really matter of law. Persons are called very often guardians who are not the legal guardians; many persons assume to be guardians—bothers of their sisters, and so forth, who are really not legal guardians; and I think this will require some alteration. You ought, I think, to add “by will,” after “father.” A man in his lifetime can hardly be supposed to appoint a guardian.

304. Would this meet your view, after the word “guardian,” to put in the word “legally, or “appointed by will?”—I would say “by will.”

305. That would necessitate the fact of the father being dead?—Yes; and if not dead, you ought to go to the magistrate.

306. *By Mr. Roope.*—If you are too rigid upon the subject, how would you manage

with the immense number of single females who come out here without parents or relatives at all?—That is met by this particular Act I have brought with me. The preamble sets out the particular difficulty; it says: "Whereas from the frequent arrival of young persons in this Colony for the purpose of settling therein unaccompanied by their parents and from the residence in other countries of the greater number of relations and connections of families settled in New South Wales and from other causes it frequently happens that persons under the age of twenty-one years are without any parent or guardian residing in the said Colony qualified to consent to their marriage and that the marriage of such persons may under such circumstances be unnecessarily impeded Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof that the consent of any magistrate of the said Colony or other person duly appointed for that purpose as hereinafter mentioned to the marriage of any person under the age of twenty-one years obtained in manner hereinafter provided shall be of the same force and effect to all intents and purposes as the consent of a parent or guardian given in accordance with the provisions of the said recited Act." They go before a magistrate, who is *in loco parentis*, the legal guardian being out of reach. It is the duty of the officer appointed by the court to inquire into the circumstances of the case, and, if he sees no valid objection to the marriage, to give his consent.

307. By what court?—The supreme court.

308. Then this clause 11 of this Act does not clash with that?—No. I have found great inconvenience from the paucity of these officers.

309. Then clause 11 provides for that?—Yes; and that is a good thing, because there will always be persons to appeal to.

310. *By the Chairman.*—It is the opinion of some of the witnesses who have been examined here that clause 6 is unnecessary—that it is met by clause 21. The committee would like to hear your opinion as a lawyer upon that point?—I think it would be unnecessary, by reason of that clause; but I think the punishment is too light.

311. In which clause is it too light?—In clause 21. I think it ought to be considered a very severe offence; for every minister of religion in the colony ought, as a matter of duty, to make himself acquainted with the provisions of this Act, and it is not a very complicated one.

312. Then a breach of clause 6 would be met by clause 17, as regards the punishment?—That is a very heavy punishment; that is, with regard to marrying minors.

313. Or wilfully transgressing any such clause?—I think that that would meet it, and it would be much better to have this particular punishment omitted in the twenty-first clause; because, if you limit the punishment for this particular offence, a person cannot be fined more than the maximum.

314. You observe that is only in case of an accidental omission of being registered?—I see that is so, but it is scarcely possible to imagine such an accidental omission.

315. *By Mr. Hodgson.*—Are you of opinion that registrars and deputy registrars ought to celebrate marriages; and if so, without some notice or other?—In England, persons are bound to give notice to registrars of twenty-one days, or, if by licence, seven days' notice, and that notice must be exhibited in his office; and persons have a right to enter a caveat against the marriage. I think it would be advisable to give parties, where they suspect persons are going to be married, the right to enter caveats with the minister, or in any way they may think proper; and that, in that case, the marriage should not take place without communicating with the party who has entered a caveat, something like forbidding the banns.

316. *By the Chairman.*—Would you wish it to extend to ministers as well as registrars?—I think there could be no harm in doing so.

317. *By Mr. Hodgson.*—But unless some notice of the marriage is given, there would be no possibility of a caveat being entered by anybody?—But people often suspect it. I will take the case of a person paying his addresses to a young woman, and carrying on those addresses in opposition to the wishes of the friends, and they suspect a marriage will result and be carried out secretly; they might go in those cases to where they knew of necessity the marriage must be solemnized, and enter the caveat. I, as a surrogate, am sometimes warned not to issue a licence in case particular persons should apply; but that is a precaution that might be or not exercised according to individual judgment.

318. *By the Chairman.*—There is no law at present existing to enable parties to lodge a caveat, or give a warning of any sort?—In the case of banns; of course persons can forbid the banns.

319. *By Mr. Bennett.*—In the case of a licence, where it is issued, is there anything to prevent the persons going to a church and getting married?—Certainly not, unless they are shown to be under age. I stopped a marriage myself once under these circumstances. Parties came to ascertain if such a person had been for a licence, and were told "Yes," and it turned out the young woman was not of age, and the marriage was stopped.

320. *By the Chairman.*—Do you consider that the present practice of issuing licences by surrogates is calculated to prevent clandestine marriages more than this declaration under schedule D would be?—No; I do not think it. In granting a licence (I have brought the form), there is an affidavit which the parties are required to make. That is very much taken from the English Act. The person states "that he is at the present time free, and the age of twenty-one years," if above, "and that he is desirous of proceeding to the solemnization by licence of true and lawful matrimony, according to the rites and ceremonies of the United Church of England and Ireland, with of the said age of twenty-one years," in the said colony, who is also free, and a

T. T. Beckett,  
Esq.,  
continued.  
30th March, 1858.

if above; and if under, there is this additional affidavit, "and this deponent, the said further maketh oath and saith that the consent of (the person whose consent is required under the provisions of the Act of the Governor and Council of New South Wales, and passed in the seventh year of the reign of his late Majesty King William the Fourth, intituled "*An Act to prevent Clandestine Marriages and to provide for the issuing of Licences*") has been obtained to the said intended marriage between the said deponent and the said a certificate whereof is hereunto annexed in writing under his hand." That certificate is signed by the parties and preserved with the request for the licence, and of course can be used afterwards in a court of law in case it should turn out that the parties had been guilty of perjury.

321. *By Mr. Roope.*—But you issue the licence on the application of the gentleman only?—Indifferently, of the lady or gentleman; but they need not both come.

322. *By the Chairman.*—According to this, they must both come?—Of course they must be both present when married, but it might be inconvenient to compel both to attend for the licence; the lady might live a long way off.

323. The precautions are in fact, however, greater by this Bill than they are now?—Yes, I consider it a very valuable addition. It was in fact suggested by the Rev. Mr. Gregory to have something of that sort, that both parties should at the time of the marriage make a declaration.

324. *By Mr. Roope.*—You never issue a licence but upon affidavit?—Never.

325. But immediately upon the issue of the licence, I presume the parties may go to a clergyman and be married instanter?—Yes.

326. They can go direct from your office to the church?—Yes, provided it is before twelve o'clock in the day.

327. *By the Chairman.*—How long has that been law, regarding the affidavit before marriage?—Here is this Act, which declares, "Be it enacted for avoiding all fraud and collusion in obtaining licences for marriages in such cases as the publication of banns may be dispensed with That before any such license be granted one of the parties shall personally swear before the surrogate or other person having authority to grant the same that he or she believeth that there is no impediment of kindred or alliance or of any other lawful cause nor any suit commenced in any Ecclesiastical Court to bar or hinder the proceeding of the said matrimony according to the tenor of the said license," and so on.

328. *By Mr. Hodgson.*—When was that passed into an Act?—In 1836; and another Act was passed in 1838, to meet the case of parties whose parents were at home.

329. *By Mr. Roope.*—Are not the declarations made before dissenting nonconformist ministers of the same force as that?—I do not know. No person, according to the view of some gentlemen, can be married by a minister of any other denomination than of the Church of England, unless at least one of the parties make a declaration that he belongs to that particular body; and yet I believe I am quite right in stating a great many cases have occurred in which persons have been married by ministers of other denominations, who have not called upon the parties to make that declaration. I believe, in fact, Presbyterians deny the right of the Legislature to impose that obligation upon them.

330. How would you prove a person to be not a member of the Church of England?—Only by his own declaration. As the law now stands, ministers of the Church of England would have a right to marry the members of any religious denomination, but the ministers of other denominations only have the right to do so, if one of the parties declare they belong to that denomination.

331. *By the Chairman.*—Under what law does a minister of the Church of England claim that right?—Under the common law of England.

332. Adopted in this colony?—Yes.

333. *By Dr. Tierney.*—In reference to the second clause, relative to the registration of clergymen, would you have the kindness to look to the margin of that Act, the registration in Sydney, from the eleventh to the sixteenth clauses, and you will see the way there that clergymen are registered?—Yes.

334. Would you give the committee your opinion upon that?—I have stated before that after a minister's licence had been revoked, that revocation should be registered. That sixteenth clause would be a valuable clause:—"If any person shall cause his name to be registered under this Act as an ordinarily officiating minister of religion he being at the time not such a minister and knowing himself not to be such he shall be deemed guilty of a misdemeanor and be liable on conviction to such fine (not exceeding two hundred pounds) or imprisonment (not exceeding two years) as the court may award." Persons might forge these certificates.

335. *By the Chairman.*—Do you not think that those clauses would be better embodied in a Registration Bill than a Marriage Bill?—I think it would be desirable to get all the law of marriage in one Act if possible.

336. *By Dr. Tierney.*—Allow me to call your attention to this, which is taken from one of our present marriage laws, I think the Independents; do you think that that would suit the view; that is in existence at the present time in the Marriage Act for the Independents—(*handing a paper to the witness*)?—This is exactly what I would suggest: "and be it enacted that whenever any minister whose name shall have been so registered as aforesaid shall die or depart from the said colony or cease to be minister of such registered church or chapel as aforesaid the fact of such death departure or cessation of ministry shall within twenty days thereafter be registered in like manner by the trustee or trustees of said church or chapel in the office of the



registrar general or deputy registrar general and such list of ministers shall be periodically published in the *Government Gazette* by the registrar general," and you might add, "by the registrar of the diocese," as the recognised recorder, as it were, of the official acts of the Church of England here.

T. T. a'Beckett,  
Esq.,  
continued,  
30th March, 1858

337. *By Mr. Bennett.*—This Act provides that any two persons going before the registrar or deputy registrar in the district in which the one of them resides and subscribing that declaration have a right to be at once married?—Yes.

338. There is no publication provided by this Act in any shape or form?—No.

339. Do you think it is a judicious thing for the colony in its present state that registrars in the country should be enabled to celebrate marriages without any notice whatever to the world at large?—I think it would be better to enable them to do so, than prevent the parties being married at all, if the circumstances of the case rendered it impossible to give effectively any public notification; at the same time, it would be very desirable to have public notifications when practicable. You must bear in mind that they have before the registrar to declare that they are both of age; and if they are not of age, the consequences are very serious.

340. Then, assuming a man was married at home and came out here, which is not an uncommon thing, and paid his addresses to a girl, under the pretence of being an unmarried man, the man would so commit the crime of bigamy; such a man would not scruple to commit the crime of perjury?—No.

341. Do you think, if there were some means of publication, which, without rendering it cumbersome to the public, would at the same time act as a certain amount of publication, that would be judicious or injudicious?—Unquestionably it is desirable, if it could be done.

342. I am not now entering into the detail, I only want the general principle?—Yes certainly; I believe that bigamy is a common offence in this country.

343. Of course you would observe, under such circumstances, the woman could most conveniently swear to that declaration?—That is assuming she was of age. I think it would be very desirable, where parties are married before a registrar, to have some notice, if it could be made effective, but generally speaking those places would be outlying places.

344. You observe it must be in the district where the woman resides?—Yes.

345. And therefore it would be in the power of those people with whom she resides to keep a pretty sharp look out at the registry office?—Yes; that is the law in England, where there must be notice in the registrar's office.

346. Taking advantage of the circumstance you just named, of suspicion on the part of the parents or guardians that a marriage was about secretly to take place; if a publication were to be made, they might have some party to watch the registrar's office?—No doubt.

347. *By the Chairman.*—I thought you said, if they were of age, no power on earth could prevent it?—Not if the parties were of age and there were no other legal disability.

348. And if under age, this meets the case?—No doubt there is a grievous penalty; but you want to prevent the marriage taking place.

349. You say it would be judicious you think to have some mode of advertising the contemplated marriage, if about to be performed by the registrar; why is not it as necessary to have it advertised and made fully known if about to be performed by a minister?—There is a degree of privacy about the registrar's office that does not attach to a church and a minister. You may even imagine a person would refrain from going to a minister in certain cases. Human nature is strangely influenced at times.

350. You mean, that they might tell to a layman what they would not tell to a clerical man?—Yes.

351. *By Mr. Roope.*—I presume the clergyman makes no inquiry whatever of the parties who bring the licence?—If he had any suspicion, I am certain he would.

352. He presumes the surrogate has taken all that precaution?—And so a surrogate does; he takes all the precaution he can. For instance, when I issue a licence, I do not say to the person "Is the age of the party over or under twenty-one," I do not put what we call a leading question; but I say, "What is the age;" and if I see the slightest hesitation about the person, I hesitate, and require to be satisfied as to the fact.

353. *By Mr. Bennett.*—In the present instance, there is the double check of the surrogate and the clergyman?—The clergyman has not now the opportunity of exercising the check that he would have if this Act were passed.

354. That is calling upon both parties to make a declaration?—Yes.

355. There is a certain amount of time elapses between the issuing of a licence and the celebration of the marriage?—Not any time practically, because I have had parties waiting for the licence to go to be married.

356. But the general rule is to apply for it a day or two before?—Yes.

357. In that case there is an opportunity of inquiring?—Yes.

358. *By the Chairman.*—Upon the whole, do you consider the present Bill as it stands, supposing it to become law, a considerable improvement upon the present law?—Yes, I do; I like the principle of the Bill, because it creates a responsible body of persons, and puts the solemnizing of the marriage upon an intelligible basis.

359. Do you consider deputy registrars appointed by the Government a sufficiently responsible body of men to perform the marriage ceremony?—That is a difficult thing to say.

360. Would you prefer it to be by the magistrates?—I think I should. In the olden time, magistrates used occasionally to perform the marriage ceremony.

361. Do you think better still would be for parties to be especially appointed by the



T. T. a'Beckett,  
Esq.,  
continued.  
30th March, 1858

Government for that purpose?—Yes, I do. I think that would be a still further improvement.

362. *By Dr. Tierney.*—I call your attention to the third clause in the Sydney Act; it is before the registrar for marriages. In this Act we have it, “the registrar or deputy registrar for births deaths and marriages”—that evidently implies that there are registrars appointed for marriages alone in Sydney?—Exactly.

363. Major Norman Campbell suggested that the words I read be added to it, namely, “registrars or such of the deputy registrars of births and deaths or such other persons as the Governor in Council may appoint”—would you think that would be desirable?—Yes. I think it would be very desirable to throw upon the Government some responsibility in the appointing of such persons.

364. *By Mr. Hodgson.*—You say, formerly, magistrates used to solemnize marriages?—Yes. I have spoken to gentlemen who have told me they have solemnized marriages, when there was no clergyman near.

365. *By Mr. Bennett.*—Do you think it judicious that registrars should have the power of marrying at all hours of the day and night?—I think it very undesirable. I think a man may be entrapped into marriage, as it were, and that is the reason why we in the Church of England require it to be before twelve o'clock in the day.

366. *By the Chairman.*—If they were confined to what is known as office hours, from ten to three?—Yes.

367. *By Mr. Bennett.*—Do you think it judicious that the registrar should have the power of marrying any people but in his office?—No; they must go and seek him in any case, and therefore the inconvenience cannot be great in being married in his office.

368. *By Dr. Tierney.*—Do you think a registrar should be punished for marrying a person in a state of intoxication?—Yes, I think so, unquestionably.

369. *By the Chairman.*—Do you think it is advisable to legislate for that?—No, I think not, because it is not to be presumed such an outrage would be permitted. I have frequently refused to grant licences to persons who have not been in a proper state when applying for them.

370. *By Mr. Bennett.*—If there are no means of punishing the registrars for an outrage of that description, where is the protection? We know that, if a clergyman marries parties under those circumstances, his character is forfeited?—The registrar's character is also compromised by it; hence the necessity of having persons appointed by the Government with a view to the duties they would have to perform.

371. *By Dr. Tierney.*—You were asked awhile ago in reference to the deputy registrars; are not the majority of them clerks of petty sessions?—Yes.

372. Would not it be as desirable to have the magistrate of the district solemnising the marriage?—I certainly should be much better satisfied as a colonist in seeing those marriages solemnized by magistrates, or persons holding important public positions.

373. *By the Chairman.*—But better still, you think it would be, to have parties specially appointed?—Yes, the same as now for the guardians of minors. There was a great objection made to appointing clergymen as guardians of minors. There is only one clergyman who is still a guardian of minors, the oldest clergyman in the diocese, Mr. Wilson; that is the only case.

374. What authority is in existence for appointing guardians of minors?—The Supreme Court. There is an Act for it.

375. *By Mr. Roope.*—You do not see any objection on principle to allowing marriage contracts to be made before registrars, or other constituted authority, as a civil contract?—Not if the parties wish it, but I am glad to see it limited as it is in this Act.

*The witness withdrew.*

The Rev. Septimus Lloyd Chase examined.

Rev. S. L. Chase,  
30th March, 1858.

376. *By the Chairman.*—You are a minister of the Church of England?—I am of St. Paul's, Melbourne.

377. You have read this Bill, I presume?—I have not looked at every word of it.

378. But the salient points of it?—Yes.

379. Do you think it is an improvement upon the present law, and do you approve of the general principles of the Bill?—I do.

380. Have you any suggestions to offer to the committee, or anything to add to the evidence given by Mr. a'Beckett?—If there is no other Bill contemplated but this, I think it is scarcely sufficiently stringent in regard to any one registering himself as a minister.

381. Would you add after the word “registrar,” in clause 2, line 15 “under clause 37 of the Act of Victoria, No. 26”?—Yes.

382. If those few words were added, then would the objection you raise be met?—Yes.

383. Have you any other suggestion to offer?—I would suggest, in reference to schedule B, the addition of the words “or who is willing to perform the same,” after the word “marriage.”

384. Will you state your reason for that?—As a clergyman might be unwilling to marry of his own denomination to a heathen.

385. *By Dr. Tierney.*—Supposing a heathen wished to be married to a Christian, would it be better to have them married according to law than having them living in a state of concubinage? How would you have those parties married?—I would rather see them married by law than in a state of concubinage. I think a Christian ceremony would be out of place.

386. *By the Chairman.*—Have you any other suggestion to make?—I think the publication of the banns of great value, and that publication of the intention to marry would be

of very great value; and that, as respects marriage, there should be an opportunity of preventing its taking place. I do not see how it could be prevented under this Bill.

Rev. S. L. Chase,  
continued,  
30th March, 1858.

387. Do you think it is desirable that there should be such a law in force here as one requiring a long residence before marriage?—To require a long residence might do mischief, but there might be a medium without making it too long, because parties on board ship might land and get married before the parties on board the ship could reveal the circumstances which they thought ought to prevent that marriage altogether.

388. What means would you have in stopping the marriage except in case of a minor?—Supposing a man known to be married in England and carrying on an intimacy with a young girl and getting married here, there are cases in which persons would stop such marriages if they had it in their power.

389. Do you not think that, if impediments are thrown in the way of parties getting married, if they are required, for instance, to advertise for a week or any given time in the *Government Gazette*, or by posting at the door of the registry office, it is throwing impediments in the way of parties living in outlying districts of the country getting married that may tend to immorality? Do you not think that some parties would almost rather go and live as man and wife without getting married at all, than go to the trouble of travelling thirty, or forty, or fifty miles and waiting a week before they were married?—I would not make it necessary to wait a week; I would give notice by letter to the registrar.

390. Why would you not apply the same notice to ministers, rendering it necessary for ministers to get some notice?—I think it would be desirable.

391. Then, in fact, you would not put ministers and registrars upon any different footing?—Not in that respect.

392. Have you any other suggestion to offer to the committee?—I should like to see the certificates altered. I would suggest that a form of endorsement should be printed. Every time there is a marriage, there is a tax upon time; also, if another form is to be added, that will increase that tax still more.

393. *By Dr. Tierney.*—This was handed to me, as being a certificate now signed by some of the clergymen, called schedule C. You seem not to know anything at all about that [*handing a document to the witness*]?—I know this distinctly.

394. Then we are only going to ask you to fill up one of those, together with what you do at the present time. We are going now in this Bill to adopt that, and to adapt the present registration clauses?—A minister reading this Bill would not know that he had to fill up anything required by registration clauses. This Bill gives but one particular proof of registration, namely, the certificate, which we never hitherto sent to the registrar general; it requires that that should be sent.

395. Have you any further suggestion to make?—I would suggest in the certificate that the words "rank or profession," as applied to females, should be left out of the description.

396. *By Mr. Bennett.*—At the present time, you give a certificate to the woman when she is married, as a general rule?—We do.

397. It is something, I presume, like that [*handing a paper to the witness*]?—It is that very one.

398. You hold the original; you do not give her the original signed by the witnesses and herself?—We keep a duplicate of that paper sometimes, but she has the original.

399. But that is not a duplicate?—There is not always a duplicate of this certificate kept.

400. Where is the original certificate?—The original is given to the woman.

401. Assuming that the woman lost her certificate, where could she go and look at the original now?—She could not look at it.

402. There is no such thing?—There is the registration required by the Registration Act,

403. And the certificate retained is merely like the block of a cheque?—Yes.

404. Then if she lost her original certificate, there is nothing to give her?—Nothing to give her, exactly like what she first received.

405. That is the document she is supposed to carry about with her for her own protection?—Yes.

406. And if that were lost, she could not get another?—That is a question which the minister of each parish might answer differently perhaps. A minister might fill one up like it and say, that is one like what you had originally.

407. Supposing he was dead; there is no certificate to show that marriage beyond that block, which might or might not be filled up; if she loses that, she cannot get another?—Unless that has been carefully filled up.

408. But still, that would not be the original; the original is that signed by the clergyman and the witnesses themselves?—Some have done it, but I have not, except in a very few cases.

409. What I want to ascertain is this, whether it would not be more judicious, in your opinion, if that document was kept in your register book, instead of being torn off and given to the woman, so that she might come afterwards and get as many copies as she liked?—The object of that certificate is to give it to the woman.

410. *By the Chairman.*—Who signs it?—The man signed it, the woman signed it, I signed it, and the witnesses signed it; this particular paper was just as much signed as the original register was signed, but I found that other clergymen did not understand that they should sign, and therefore it was merely in the hand writing of a clergyman throughout.

411. The signature at the bottom is always the clergyman's?—That is the clergyman's signature.

Rev. S. L. Chase,  
continued.  
30th March, 1858.

412. Whether signed by the parties in the body or not, the clergyman signs it at the bottom?—I always did.

413. *By Mr. Bennett.*—Would it be more advisable that a copy or the original should be given to the party married?—I would suggest an improvement upon either way, all you want is, that the parties should sign three times over and that one of the documents should be in the hands of the Government, one of the documents in the hands of the church to which they belong, and an original handed to the persons who have been married; then, if they wanted a copy, they could go to the Government office and get a copy, or they could go and get one from the church; but I think all these should be alike. If this certificate were in triplicate, if they lost that triplicate, they could come to the church or go to the Government office and get a certified copy. Why I prefer their taking away a document signed by the parties is, that people know the man's signature and can see that he did on that occasion sign the certificate.

414. Therefore, the great necessity for keeping one of the certificates?—Yes.

415. *By Mr. Roope.*—You said you thought the giving notice of the intention of marriage was a matter of great importance?—Yes.

416. Would not that rather clash with the principle now in existence of the Church of England granting licences where no notice was given?—That would merely make it necessary that the licence should be deferred a certain number of days.

417. Which is not the practice now?—Which is not the practice now.

418. With regard to marriage before the registrar, as a civil contract, do you approve of that as a principle?—If people are not moved to it upon Christian principle, I am not one to compel them to do it by law.

419. You would not use any compulsion?—No, because I should say people professing Christianity would be married by a Christian minister.

420. You would not subject them to church censures on their going before a magistrate?—My mind is not made up on that.

421. *By the Chairman.*—You would not pass a law compelling those parties to solemnize their marriage as a religious ordinance and have it performed as a religious ceremony?—No.

422. *By Mr. Roope.*—The mode of ratifying the contract of marriage should be purely discretionary. You would throw no impediment in the way of persons going before the civil magistrate to be married?—I do not feel strongly upon the subject, but I would not be one to make that law.

423. You would not oppose it?—No.

424. *By the Chairman.*—Provided that two communicants of your church chose to be married by the registrar, would you consider them in any shape or form liable to the censures of the church for doing so?—The subject would require grave consideration. I am not prepared to say what ought to be done as regards the open publicity of rebuke, but I would impress upon every one wishing to be married the duty of being married as before God, and with a religious ceremony; but it is a different question, what would be done as a matter of legal enactment.

425. *By Mr. Roope.*—As regards the age of majority of females, do you think it would be advisable to reduce the standard of majority from twenty-one years to eighteen?—I think not.

426. Do you think any evils would grow out of allowing young ladies to use their discretion at eighteen?—I think no evils arise out of twenty-one, because they have the power of getting their guardian's consent.

427. Have you never known a case where a young lady of eighteen was prevented from being married?—I do not know one by the refusal of a magistrate. In regard to parents, I cannot say.

428. Then the present system of guardians is only encumbering the form of matrimony, without any good effects coming from it; because young ladies of eighteen get married under any circumstances?—I believe they will have, under this Bill, to swear they are twenty-one.

429. I am speaking of the necessity. Do you not think a young lady at eighteen has sufficient discretion to judge for herself as to marriage, as well as at twenty-one?—I have not thought of it particularly.

430. They marry now at a much earlier age?—Yes.

431. Do you not think it is desirable to throw open the door to matrimony as much as possible, with a due regard to morals?—I would still retain the twenty-one, on this ground: that it is the parents we must consider as well as the magistrate. If it were solely the magistrate you were to consider, it might be suitable to lower the age; but I wish to retain the claim upon my children until they are twenty-one. Parents are on the spot; and the magistrate may think that, as they have no friends in the Colony, in the case of such, it would be better for them to marry than not.

432. *By the Chairman.*—Have you any other suggestion to make to the committee?—I have thought that the certificate should not be given to one of the parties. I think it is desirable that the clergyman should hand it to the female; because that should be considered as her document.

*The witness withdrew.*

1857-8.

---

VICTORIA.

---

LEGISLATIVE COUNCIL.

---

SECOND REPORT

OF THE

PRINTING COMMITTEE.

---

LAI'D UPON THE COUNCIL TABLE BY THE HONORABLE J. P. FAWKNER, AND  
ORDERED BY THE COUNCIL TO BE PRINTED 5TH MAY, 1858.

---

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

# REPORT.

---

In pursuance of the Order of your Honorable House, made on the 27th day of January, your Committee have had referred to them the several Papers mentioned in the following Table, upon which your Committee beg to report as appears by such Table :—

Subject.	When moved for, and by whom.	When laid on Council Table.	Report and Remarks of Committee.
Return—Dismissals in the Public Service.	3rd March, 1858, Hon. J. Hood.	22nd April, 1858	Recommended to be printed.
Return of Gold deposited in Treasury since discovery of gold-fields, &c., &c.	9th Feb., 1858, Hon. Dr. Tierney.	8th April, 1858	Postponed till Committee obtain further information as to what date the previous returns were brought up to.
Report—Analysis of Yan Yean, &c., &c.	2nd Feb., 1858, Hon. J. Hood.	24th Feb., 1858	No order made.
Return—Sewerage and Water Commission.	15th Sept., 1857, and 9th Feb., 1858, Hon. J. P. Fawkn- ner.	22nd April, 1858	Recommended to be printed.

JOHN P. FAWKNER,  
Chairman.

Committee Room,  
4th May, 1858.

1857-8.

VICTORIA.

---

# R E P O R T

OF THE

SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL

ON

# ELECTIONS AND QUALIFICATIONS,

ON THE

PETITION OF THOMAS TURNER A'BECKETT  
AND MARTIN HOWY IRVING;

TOGETHER WITH

THE PROCEEDINGS OF COMMITTEE AND MINUTES OF EVIDENCE.

---

ORDERED BY THE COUNCIL TO BE PRINTED, 2ND JUNE, 1858.

---

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES.

---

TUESDAY, 15<sup>TH</sup> DECEMBER, 1857.

ELECTIONS AND QUALIFICATIONS.—In pursuance of "*The Electoral Act of 1856*," the President laid upon the Council Table the following Warrant, appointing the Committee of Elections and Qualifications:—

VICTORIA.

Pursuant to the provisions of "*The Victoria Electoral Act of 1856*," I do hereby appoint—

The Honorable John Barter Bennett  
The Honorable John Pascoe Fawkner  
The Honorable Stephen G. Henty  
The Honorable Dr. Hope  
The Honorable W. H. F. Mitchell  
The Honorable T. H. Power  
The Honorable Charles Vaughan

to be members of a Committee to be called "The Committee of Elections and Qualifications."  
Given under my hand this fifteenth day of December, 1857.

J. F. PALMER,  
President.

---

WEDNESDAY, 19<sup>TH</sup> MAY, 1858.

PETITION.—The President laid upon the Council Table a Petition, which had been presented to him, signed by Thomas T. a'Beckett and Martin H. Irving, praying that the vote of Martin Howy Irving may be received in favor of the Petitioner, Thomas Turner a'Beckett, and that the casting vote of the Returning Officer in favor of Thomas Howard Fellows may be cancelled, and that the name of the Petitioner, Thomas Turner a'Beckett, may be substituted for the name of the said Thomas Howard Fellows, in the Return to the Writ issued on the 28th April, 1858, for the election of a Member for the Central Province.

The Petition, on the motion of the Honorable H. Miller, was referred to the "Elections and Qualifications Committee."

---

THURSDAY, 20<sup>TH</sup> MAY, 1858.

SWEARING OF MEMBERS OF ELECTIONS AND QUALIFICATIONS COMMITTEE.—The following Members of the Committee of Elections and Qualifications were sworn at the Table by the Clerk, in the manner prescribed by the Electoral Act of 1856:—

The Honorable John Pascoe Fawkner  
" Charles Vaughan  
" Robert Culbertson Hope  
" John Barter Bennett  
" Thomas Herbert Power  
" William Henry Fancourt Mitchell.

The President appointed the first time and place of meeting of the Committee to be at Ten o'clock in the forenoon on Tuesday, the 25th instant, in the large Committee Room, south of the Council Chamber.

---

WEDNESDAY, 2<sup>ND</sup> JUNE, 1858.

ELECTIONS AND QUALIFICATIONS COMMITTEE REPORT.—The Honorable J. P. Fawkner, as Chairman of the Committee of Elections and Qualifications, brought up the Report of the Committee on the Petition of Thomas Turner a'Beckett and Martin Howy Irving, referred to the said Committee, and moved that it be received and printed, together with the Proceedings of the Committee and the Evidence.

Question—put and passed.

The Report was read at the Table by the Clerk.

# R E P O R T .

---

THE Honorable J. P. Fawkner, from the Select Committee on Elections and Qualifications, to which Committee was referred the Petition of Thomas Turner a'Beckett and Martin Howy Irving, complaining of the undue return of the Honorable Thomas Howard Fellows for the Central Province, informed the House that the Committee had determined :—

1. That the sitting Member, the Honorable Thomas Howard Fellows, be declared duly elected.
2. That the foregoing resolution be reported to the House.

JOHN P. FAWKNER,  
Chairman.

Legislative Council Chamber,  
Melbourne, 2nd June, 1858.



PROCEEDINGS

## PROCEEDINGS OF THE COMMITTEE.

WEDNESDAY, 26TH MAY, 1858.

*Members present :*

The Honorables J. P. Fawkner, T. H. Power, C. Vaughan, J. B. Bennett.

The Honorable J. B. Bennett moved, That the Honorable J. P. Fawkner be the Chairman of the Committee.

The Honorable C. Vaughan seconded the motion.

Resolved unanimously.

Committee-room cleared.

The Shorthand Writer was sworn by the Chairman.

The petition of Thomas Turner a'Beckett and Martin Howy Irving was laid on the Table.

The Committee agreed to the following resolutions :—

That counsel will not be allowed to go into matters not referred to in their opening statements, without a special application to the Committee for permission to do so.

That, if costs be demanded by either party under the provisions of the Electoral Act of 1856, the question must be raised immediately after the decision on that particular case, unless the Committee shall otherwise decide.

That no person shall be examined as a witness who shall have been in the room during any part of the proceedings (with the exception of the parties and their agents whose names shall be handed in) without the special leave of the Committee.

That, with respect to objected votes, and votes improperly rejected, the Committee expect counsel to exhaust one class of objections before proceeding to another.

That the Committee will only hear one counsel on each side on the opening and summing up of the case.

That, should any point of law arise requiring argument, the Committee reserve to themselves the power of hearing only one counsel on each side.

The persons in attendance called in.

Mr. F. M. Selwyn appeared as agent for the petitioners, Thomas T. a'Beckett and Martin H. Irving.

Mr. W. W. Walduck appeared as agent for the sitting member.

Mr. F. M. Selwyn sworn and examined by the Chairman.

The resolutions adopted by the Committee were read to the agents.

The Chairman issued summonses on the application of Mr. Selwyn for the following witnesses :—  
W. M. Bell, M. H. Irving, and Henry Box.

The agent for the sitting member applied for a copy of the petition of Messrs. a'Beckett and Irving.

Ordered—That the same be given.

The Committee adjourned until half-past ten o'clock on Monday, the 31st inst., with the understanding that, if the Council should not sit on that day, the meeting being then by law postponed until Tuesday, the notices should be issued for that day.

TUESDAY, 1ST JUNE, 1858.

*Members present :*

The Honorable J. P. Fawkner, in the chair.

The Honorables J. B. Bennett, C. Vaughan, T. H. Power, Dr. Hope.

Counsel for petitioners, Mr. Bunny, Mr. Wilberforce Stephen ; for sitting member, Mr. Dawson. The following order made by the Council on Wednesday, 19th May, 1858, was read :—

“PETITION.—The President laid upon the Council Table a Petition which had been presented to him, signed by Thomas T. a'Beckett and Martin H. Irving, praying that the vote of Martin Howy Irving may be received in favor of the petitioner, Thomas Turner a'Beckett, and that the casting vote of the Returning Officer in favor of Thomas Howard Fellows may be cancelled, and that the name of the petitioner, Thomas Turner a'Beckett, may be substituted for the name of the said Thomas Howard Fellows, in the return to the writ issued on the 28th April, 1858, for the election of a member for the Central Province.

“The petition, on the motion of the Honorable H. Miller, was referred to the ‘Elections and Qualifications Committee.’”

The Petition was read:—

“TO THE HONORABLE THE PRESIDENT OF THE LEGISLATIVE COUNCIL OF VICTORIA.

“The humble Petition of Thomas Turner a’Beckett, of Walmer House, Victoria Parade, Collingwood, Esquire, and Martin Howy Irving, now residing at the University of Melbourne, a Master of Arts of the University of Oxford,

“SHEWETH—

“That, on the 28th day of April last, a writ was duly issued directed to the Returning Officer of the Central Province, for the election of a member of the Legislative Council for that Province.

“That your petitioner, Thomas Turner a’Beckett, was a candidate at such election, and your petitioner Martin Henry Irving claimed to have a right to vote at such election, and your last mentioned petitioner was and is duly qualified to vote at such election, and his name was duly entered on the Electoral Roll for that Province.

“That, on the eleventh of May, One thousand eight hundred and fifty-eight, being the day named as the polling day for the said election, and between the hours appointed for that purpose, your petitioner, Martin Howy Irving, presented himself at the duly appointed polling place for the University division of the said Province, and in which division your last mentioned petitioner is enrolled as such elector as aforesaid, and then and there claimed to exercise his right of voting at the said election.

“That the Deputy Returning Officer for the said division thereupon rejected or improperly excluded your petitioner’s vote, and prevented him from voting, alleging, contrary to the fact, that the name of your said petitioner did not appear upon the Roll, and for that reason withholding from your petitioner the ballot-paper necessary to enable him to vote at such election, and thereby improperly excluded your said petitioner from voting at the said election.

“That, in consequence of the rejection or improper exclusion of the vote of your petitioner, Martin Howy Irving, as aforesaid, the same number of votes was polled at the said election for Thomas Howard Fellows, Esquire, now the Honorable Thomas Howard Fellows, Esquire, who was the only other candidate, as for your petitioner, Thomas Turner a’Beckett; and the Returning Officer for the said province, in the exercise of an assumed right to decide the said election by his casting vote, returned the said Thomas Howard Fellows as the duly elected member for the said province.

“That your petitioner, Martin Howy Irving, claimed to exercise his right of voting as aforesaid, for the purpose of recording his vote in favor of the said Thomas Turner a’Beckett, and had such vote been admitted or recorded, there would have been a majority of votes at the said election in favor of your petitioner, Thomas Turner a’Beckett.

“That your petitioners are therefore aggrieved by the rejection or improper exclusion of the said vote, and by the exercise by the said Returning Officer of the said assumed right of deciding the said election by his casting vote in favor of the said Thomas Howard Fellows; and they submit that the said Thomas Howard Fellows has, under the circumstances aforesaid, been improperly returned as the duly elected Member for the said province, and that your petitioner, Thomas Turner a’Beckett, ought to have been returned as such Member in his stead.

“Your petitioners therefore humbly pray that the vote of your petitioner, Martin Howy Irving, may be received in favor of your petitioner, Thomas Turner a’Beckett, and that the casting vote of the said Returning Officer in favor of the said Thomas Howard Fellows may be cancelled, and that the name of your petitioner, Thomas Turner a’Beckett, may be substituted for the name of the said Thomas Howard Fellows in the return to the said writ;

“Or that your petitioners may have such other relief as the nature of the case may require.

“THO. T. A’BECKETT.  
“MARTIN H. IRVING.”

Mr. Bunny heard as counsel for petitioners.

Mr. W. M. Bell, Returning Officer of the Central Province, sworn and examined, produced a Roll.

Mr. Thomas Turner a’Beckett sworn and examined.

Mr. Martin Howy Irving sworn.

Mr. Dawson having objected to a question put to Mr. Irving, Mr. Irving was directed to withdraw.

Mr. Dawson heard against Mr. Irving’s right to testify as to his having claimed to vote, in reply to a question put by Mr. Bunny.

Mr. Wilberforce Stephen heard in reply.

Room cleared.

Committee deliberated.

Committee decided to allow the question to be put to Mr. Irving.

The parties called in and informed of the decision of the Committee.

Mr. Irving further examined.

Mr. Box, Deputy Returning Officer, sworn and examined.

Room cleared.

Committee deliberated.

Parties called in.

Committee adjourned until half-past ten o’clock on Wednesday.

WEDNESDAY, 2ND JUNE, 1858.

*Members present:*

The Honorable J. P. Fawkner, in the chair.

The Honorables J. B. Bennett, C. Vaughan, Dr. Hope, T. H. Power.

Parties called in.

Mr. Charles Moline sworn and examined.

Mr. Bunny heard to sum up the case of the petitioners.  
 Mr. Dawson heard in reply on behalf of the sitting member.  
 Room cleared.

Committee deliberated.

The Honorable Dr. Hope moved, That the vote of the petitioner, Martin Howy Irving, be received on behalf of the petitioner Thomas Turner a'Beckett.

Question—put.

Committee divided.

Contents, 2.  
 The Hon. J. B. Bennett  
 „ Dr. Hope.

Not Contents, 3.  
 The Hon. J. P. Fawcner  
 „ T. H. Power  
 „ C. Vaughan.

The question was therefore negatived.

The Honorable C. Vaughan moved, That the sitting member for the Central Province, the Honorable Thomas Howard Fellows, be declared duly elected.

Question—put.

Committee divided.

Contents, 3.  
 The Hon. J. P. Fawcner  
 „ T. H. Power  
 „ C. Vaughan.

Not Contents, 2.  
 The Hon. J. B. Bennett  
 „ Dr. Hope.

The question was therefore resolved in the affirmative.

The Honorable C. Vaughan moved, that the foregoing resolution be reported to the House.

Question—put and passed.

Report drawn up as follows:—

“The Honorable J. P. Fawcner, from the Select Committee on Elections and Qualifications, to which Committee was referred the Petition of Thomas Turner a'Beckett and Martin Howy Irving, complaining of the undue return of the Honorable Thomas Howard Fellows for the Central Province, informed the House that the Committee had determined:—

“1. That the sitting Member, the Honorable Thomas Howard Fellows, be declared duly elected.

“2. That the foregoing resolution be reported to the House.”

MINUTES

# MINUTES OF EVIDENCE.

WEDNESDAY, 26TH MAY, 1858.

*Members present :*

The Honorable J. P. FAWKNER, in the chair ;  
The Honorable T. H. Power | The Honorable Dr. Hope  
„ Chas. Vaughan | „ J. B. Bennett.

The committee room was cleared.

After some time the counsel and parties were called in.

The petition of Thomas Turner a'Beckett, Esq., and Martin Howy Irving, Esq., against the return of Thomas Howard Fellows, Esq., as a member for the Central Province, was read.

*Mr. F. M. Selwyn* appeared as agent for the petitioners.

*Mr. W. W. Walduck* appeared as agent for the sitting member.

*The Chairman* intimated that the committee would require proof of the deposit of £100 to the credit of the President of the Council, as required by the Electoral Act.

*Mr. Selwyn* stated that he was himself prepared to prove the deposit of this sum.

F. M. Selwyn, Esq., sworn.

1. *By the Chairman.*—Have you paid into one of the banks carrying on business in Victoria a sum of £100, in conformity with the 71st section of the Electoral Act?—At the hour of twelve o'clock, as nearly as I can remember, on the day on which this petition was presented, I paid in the sum of £100 to the Bank of Australasia, to the credit of the President of the Council, and obtained a receipt for the same. F. M. Selwyn,  
Esq.,  
26th May, 1858.

The agents and parties were informed that the committee had agreed to the following preliminary resolutions :—

- (1.) That counsel will not be allowed to go into matters not referred to in their opening statements, without a special application to the committee for permission to do so.
- (2.) That, if costs be demanded by either party under the provisions of the Electoral Act of 1856, the question must be raised immediately after the decision on that particular case, unless the committee shall otherwise decide.
- (3.) That no person shall be examined as a witness who shall have been in the room during any part of the proceedings (with the exception of the parties and their agents, whose names shall be handed in) without the special leave of the committee.
- (4.) That, with respect to objected votes and votes improperly rejected, the committee expect counsel to exhaust one class of objections before proceeding to another.
- (5.) That the committee will only hear one counsel on each side on the opening and summing up of the case.
- (6.) That, should any point of law arise requiring argument, the committee reserve to themselves the power of hearing only one counsel on each side.

*Ordered*—That this committee be adjourned to Monday next, at half-past ten o'clock.

TUESDAY, 1st JUNE, 1858.

*Members present :*

The Honorable J. P. FAWKNER, in the chair ;  
The Honorable T. H. Power | The Honorable C. Vaughan  
„ J. B. Bennett | „ Dr. Hope.

The petition of T. T. a'Beckett, Esq., and M. H. Irving, Esq., against the return of T. H. Fellows, Esq., as member for the Central Province, was read.

*Mr. Bunny* and *Mr. Stephen* appeared as counsel for the petitioners.

*Mr. Dawson* appeared as counsel for the sitting member.

*Mr. Bunny* was heard to open the case on behalf of the petitioners.

W. M. Bell, Esq., called and sworn, examined by *Mr. Stephen*.

*Mr. Dawson* inquired whether the committee had the roll used at the election before them, and also the ballot papers, and requested that they, being papers in the custody of the House, might be produced.

*The Chairman* intimated that, if the learned counsel called for their production, they would be produced.

W. M. Bell, Esq.,  
1st June, 1858.

2. You are the returning officer for the Central Province?—Yes.
3. Will you state who were the candidates at the recent election for the Central Province?—Thomas Howard Fellows and Thomas Turner a'Beckett.
4. How many votes were polled for them?—301 for each, I believe.
5. You gave your casting vote in favor of Mr. Fellows, and returned him as the duly elected member?—I did.
6. Do you produce the roll of the electors for the Central Province?—It is really the roll for the whole Central Province; but I understood I was to bring the one for the division in which Mr. Box acted.—[*The witness produced the same.*]
7. Does Mr. Irving's name appear upon that roll?—It does.
8. Will you state which was the name of the balloting place appointed for the University division?—The Metropolitan Hotel.
9. Who was the returning officer?—Henry Box.
10. What was the name of the poll clerk who officiated there?—Moline. I do not recollect his first name.
11. Was there a scrutineer?—I cannot say.

Cross examined by *Mr. Dawson.*

12. You are not aware that Mr. a'Beckett was a candidate from any other circumstance than that he was proposed and seconded?—He was proposed and seconded.
13. He was not present?—No.
14. And that is the only reason you know he was a candidate?—Yes.

Examined by the *Committee.*

15. Was the name of Mr. Irving placed alphabetically in its proper place on the list you have just handed in?—If I spoke according to my previous knowledge, I would say no; but I have been informed that it is so arranged in printing lists generally, that the I is put after J.
16. Are you aware whether that list should be in alphabetical order?—Yes.
17. And that is not in the order you supposed it would be in?—It is not in the order I should have expected to find it.

*The witness withdrew.*

T. T. a'Beckett, Esq., called and sworn.—Examined by *Mr. Bunny.*

T. T. a'Beckett,  
Esq.,  
1st June, 1858.

18. Were you a candidate for a seat in this House for the Central Province on the 20th of April, 1858?—Yes, I was, within the meaning of the Act, according to the definition given. I have looked at the clause, and I was a candidate. I was nominated with my consent.

Cross examined by *Mr. Dawson.*

19. You had a conversation with Mr. Fellows, I believe, previously to the election?—Yes, I had. I had a conversation with Mr. Fellows. Yes, I had a conversation after the nomination.
20. At Mr. Wood's chambers, I believe?—Yes.
21. Before the election?—No, it was after the nomination; and I told Mr. Fellows I should take my seat if I was elected; and he said I did quite right, and he should do the same if he was in my place; and I told the parties that, if I was nominated and elected, I should take my seat if elected; and he said, "You are quite right; I wish you success, and I will give you a vote."
22. Did you understand that literally?—No, I did not; I thought it was a joke.
23. Was it a joke, what you said?—Certainly not, as the result has shown.
24. Were you really opposing Mr. Fellows at that time?—I was not opposing him; I was wishing the electors to say which they would have.
25. At that time, when you had this conversation at Mr. Wood's chambers, were you opposing Mr. Fellows or not?—I was not opposing him, any further than being willing to take my seat if the electors elected me, and so I told him; but I took no trouble to influence the electors—not the least.
26. Was that all the conversation?—That was all; it was very short.
27. Did you say you would oppose Mr. Fellows in that conversation?—I did not say I should oppose him. I said, if they elected me, I should take my seat. I said neither more nor less.
28. Under what impression did Mr. Fellows remain?—That, if I were elected, I should take my seat; but he thought I should not be elected.
29. Do you mean to say Mr. Fellows's impression under that was, that you were opposing him?—Opposing him in that sense, certainly—most unquestionably.
30. What did he say?—He said he would give me a vote.
31. Which you did not understand literally?—No; I did not think that he would give me a vote.
32. In point of fact, your conduct was of a passive and negative kind?—I do not consider it was what you would call an opposition, but I was a candidate for all that.
33. There was not an opposition?—I did not endeavor to persuade people not to vote for Mr. Fellows. I did not exalt myself at his expense.
34. I want to know whether it was an opposition that you then contemplated to Mr. Fellows?—Nothing more than leaving the electors to choose between the two candidates.

35. Then you had asked somebody to nominate you?—No, I had not. I was asked, if I were nominated, would I take my seat; and I said, "Yes," and I was told they would nominate me.

T. T. a'Beckett,  
Esq.,  
continued,  
1st June, 1858.

Re-examined by *Mr. Bunny*.

36. Do you claim to have a right to be returned as the member for that province to this House?—I do, most distinctly.

*The witness withdrew.*

M. H. Irving, Esq., called and sworn.

*Mr. Dawson* stated that, if *Mr. Irving* was called to tender his vote, now would be the time to object to it.

M. H. Irving, Esq.,  
1st June, 1858.

*The Chairman* intimated that the objection might, perhaps, more properly be taken when the question was put.

Examined by *Mr. Bunny*.

37. You are one of the petitioners?—Yes.

38. Do you claim to have the right of voting to return members for the Central Province?—Yes.

*Mr. Dawson* objected to this question as raising an immaterial issue; the question at issue being whether *Mr. Irving* actually claimed to have had the right to vote at the last election.

39. *By Mr. Bunny*.—Is your name upon that roll—[*Referring to the roll already delivered in*]?—I have not seen the roll.—[*The witness referred to the same.*]—My name is there, No. 132.

40. Do you remember the election which took place on the 11th of May, 1858?—Yes.

41. Did you claim the right of voting on that occasion?—

*Mr. Dawson* was heard to object to the question: first, on the ground that *Mr. Irving* was a voter and not capable of proving this fact; and, secondly, that it was a leading question; and applied that the witness should be directed to withdraw during the argument of the point raised.

*The witness was directed to withdraw.*

*Mr. Dawson* was heard to address the committee in support of the objection taken by him.

*Mr. Stephen* was heard in support of the question.

*Mr. Dawson* was heard in reply.

*The committee room was cleared.*

After some time the counsel and parties were again called in and informed by the chairman that the committee were of opinion that the question might be put.

42. *By Mr. Bunny*.—Did you go to any polling booth on the occasion of the election?—Yes; I went to the booth at the Metropolitan Hotel in William-street.

43. What took place there?—I went into the lower room, the former division, and presented myself, and the returning officer at once asked me for my name and my division, which I gave him.

44. In what words did you give it?—Martin Howy Irving, University division.

45. What took place then?—The returning officer then examined his list, and said, "Your name is not upon my roll." The scrutineer, I believe, some one sitting, addressed him, said, "Not on the roll?" And he replied, "No, there is no name beginning with the initial."

46. Was that "Not on the roll" said affirmatively or interrogatively?—Interrogatively. I then simply asked for the date of the roll, and was informed that it was the latest roll issued to them.

47. Did they give you the date?—They gave me the date, I cannot fix it precisely; it was subsequent to the date of my claim, that is all I know. The returning officer then said that he could not take the vote of any man whose name was not on that roll, whereupon I simply said, I must apologise for troubling him, and withdrew.

48. Were there any further proceedings?—No.

49. What did you do then?—I was detained in the neighborhood of the poll by business for five minutes, and then I went straight to the Police Court to endeavor to see the roll. I found it was to be seen at the Police Court, which is re-building. I found the temporary offices and there I saw the roll and saw that my name was upon it, and at once went to the central polling booth, the only one near at hand, with the intention of offering my vote again and mentioning it to *Mr. Bell*.

50. Do you remember what you said to *Mr. Bell*?—I reached it too late. I reached it about three seconds after the door had closed.

51. What did you say to *Mr. Bell*?—I told him my vote had been improperly rejected, my name being on the roll.

52. Did you say for whom you intended to vote?—No, not to him.

53. Did any thing else pass between you and *Mr. Bell* then?—

*Mr. Dawson* objected to the question.

*Mr. Bunny* was heard in support of the question.

*The Committee deliberated.*



M. H. Irving, Esq.,  
continued,  
1st June, 1853.

*The Chairman* intimated that the committee were of opinion that the question might be put.

54. *By Mr. Bunny*.—Will you tell the committee what else took place between you and Mr. Bell on this occasion?—On that occasion, nothing beyond my mentioning the facts stated.

55. What facts did you mention to him?—

*Mr. Dawson* submitted that the witness should be required to give the conversation in its very terms.

56. *By Mr. Bunny*.—What took place between you and Mr. Bell—what did you tell him?—I told Mr. Bell that my vote had been rejected at the University division, that my name was on the roll. He looked at his roll and said it was upon the roll, and I said to him—half in jest, half in earnest—“I think I have a claim that will upset your election.” This was said in presence of Dr. Evans.

57. Do you now, in the words of your petition, claim to exercise the right of voting?—

*Mr. Dawson* objected to the question as irrelevant.

58. *By Mr. Bunny*.—Did any thing further pass between you and Mr. Bell in relation to this election?—Yes.

59. Will you mention what it was?—

*Mr. Dawson* submitted that the date of what took place should be fixed, in order to determine upon its relevancy.

*Mr. Stephen* stated that the question referred to transactions before the presenting of the petition.

*Mr. Dawson* was heard to object to the evidence proposed to be given.

*Mr. Bunny* was heard in support of the question.

*The Committee deliberated.*

*The Chairman* stated that the committee were of opinion that anything that took place after four o'clock on the day of polling should not be received in evidence before them.

60. *By Mr. Bunny*.—Were any of the questions mentioned in the Electoral Act put to you when you entered the ballot room?—The only questions put to me were those I have named.

61. Do you now claim to have your vote recorded in favor of any person before this committee?—I claim distinctly from the committee to have my vote recorded in favor of Thomas Turner a'Beckett.

Cross examined by *Mr. Dawson*.

62. Then, when you went to the polling booth, you were not aware whether your name was on that particular electoral roll or not?—No.

63. You had not seen the roll?—I could not have seen it: it was issued that morning.

64. Might you have ascertained the fact, if you had taken the trouble to do so?—I could not.

65. Why not?—Because the rolls were only issued—printed that morning.

66. When did you ascertain that fact?—From the registrar that afternoon.

67. How soon before the closing of the poll was it that you tendered your vote?—Between half-past three and four o'clock.

68. At what time did you ascertain the printed lists had been issued?—I do not quite understand the question as it is put.

69. You said that the printed electoral lists had only been issued that morning?—*Mr. Bell* told me that, at three seconds past four.

70. When did he tell you they had been, in point of fact, issued?—He said that he had only got them just in time to let the deputy returning officers have them.

71. When was that—in the morning?—I so understood it.

72. Did you go to the registrar to inquire whether you could get one?—Do you mean—

73. Did you go to the registrar of the district to know whether you could get a printed copy of the electoral list?—No.

74. You say that, after you ascertained your name to have been on the roll at the Police Office, you went for the purpose of tendering your vote, and then you added “again”?—Yes.

75. Will you state what you would have done upon ascertaining that your name was on the roll, if you had been in time?—Had I been in time, I should have gone back to my own division. I was not in time to do that; I thought I might reach the central division. What I should have done would have been to say, “I have already claimed to vote, and my claim has been refused; and I now tender you my vote again.”

76. Again?—Again.

77. Would you have asked for a ballot paper?—

*Mr. Bunny* was heard to object to the question.

*Mr. Dawson* applied that the witness should be directed to withdraw.

*The Chairman* stated that he was of opinion that the question was a very proper one.

78. *By Mr. Dawson*.—Would you have asked for a ballot paper?—I cannot say. I had formed no distinct impression of what I should do beyond what I have told you.

79. You did not ask for a ballot paper at any time?—I did not. May I explain to the committee why I did not?

*Mr. Bennett*.—Certainly.

*Mr. Dawson* was heard to object to the witness being heard in explanation of his reasons.

*Mr. Bunny* was heard in support of the witness giving the explanation which he applied to be allowed to give.

*The Committee deliberated.*

*The Chairman* intimated that the committee were of opinion that the explanation might be given. M.H. Irving, Esq.,  
continued,  
1st June, 1853.

*The Witness*.—Because I had just been informed that my name was not on the roll. If I had voted under such circumstances I apprehended then, and I apprehend still, that I laid myself under a penalty, presuming the paper had been given to me.

80. *By Mr. Dawson*.—Then, if you had gone back after ascertaining that your name was on the roll, you would have asked for the ballot paper?—Most distinctly; because I should have known it was upon the printed roll which he held in his hand.

81. You would, in point of fact, have insisted upon your right to have a ballot paper given you and to go and vote?—I could not have insisted; I could not have made him give it to me.

82. You would have asserted your right, ascertaining that you were correctly on the roll, to have a ballot paper and go and vote for your candidate?—I should have said “I have seen a roll similar to your’s, and my name is upon it.”

83. You said you would have asked for a ballot paper, only you thought a penalty was attached to it?—Yes.

84. Supposing you had subsequently ascertained that you were incurring no penalty, that your name was actually on the roll, would you not have asserted your right to have a ballot paper and go and vote?—I should have decidedly gone and claimed to vote again.

85. You would have asked for a ballot paper; and you were prevented asking, because you thought, voting under such circumstances, would have subjected you to a penalty?—Yes.

86. Then, supposing there was no penalty to be incurred, would you not have asked for a ballot paper, and have asserted your right to vote for your candidate?—I told you I had formed no purpose, beyond going back to say, “I am on the roll and I claim my vote.” That was my prior answer and I cannot go back from that answer.

87. This is your letter that you wrote to the editor of the *Argus*.—[*Handing a newspaper to the witness.*]

*Mr. Bunny* submitted that, inasmuch, as the committee had decided that they would not take any evidence of what occurred after four o’clock, this evidence was not admissible.

*Mr. Dawson* stated that he would not press the question.

88. *By the Chairman*.—Did you ask the returning officer to be permitted to see the roll at the time when he told you your name was not on the roll?—No. I apprehend it was no part of his business to show it me.

Re-examined by *Mr. Bunny*.

89. You have said that you had no distinct intention of what you should have done, and then you afterwards said that you should have asked for a ballot paper. Will you explain that?—I simply meant that I had not put down in my own mind, definitely, the various steps in which I was going to proceed. Up to a certain point I had done so—what I should have said to Mr. Bell when I went to him. I knew perfectly well that Mr. Bell, at the central division, would not receive my vote, but I wished to bring it under his notice before the poll closed. The question was put to me, as to what I should have done if I had got back to my own division, which I could not do.

90. Did the returning officer, on the first occasion, when you went into the room, offer you a balloting paper?—No.

91. Had you read the Electoral Act before you went to vote?—No.

92. For whom did you intend to vote when you went to the ballot room?—

*Mr. Dawson* was heard to object to the question.

*The witness was directed to withdraw.*

*Mr. Dawson* was heard in support of his objection.

*The Committee deliberated.*

*The Chairman* stated that the committee were of opinion that the question might be put.

*The witness was again called in.*

93. *By Mr. Bunny*.—For whom did you intend to vote when you went into the ballot room?—For Thomas Turner a’Beckett.

*The witness withdrew.*

Henry Box, Esq., called and sworn.—Examined by *Mr. Stephen*.

94. You were the returning officer for the University division for this election?—I was.

95. Was there more than one balloting room for that division?—Yes.

96. Were you present in the balloting room for the letter I?—A to K.

97. Did you see Mr. Irving come in?—Yes.

98. Will you state what occurred?—Mr. Irving came in about three o’clock, I think, and I asked his name. He told me his name.

99. That was the first thing that occurred?—Yes. The roll was examined, and his name was not found.

100. Did you examine it yourself?—The clerk examined it, and when there was a difficulty in finding the name, I looked over it also.

101. What was the name of the clerk?—Moline.

H. Box, Esq.,  
continued,  
1st June, 1858.

102. The name was there, I believe, in fact?—I have not seen it. I have not seen the roll since it was sent away from me.

103. According to your present recollection, the name was not there?—I do not know that the name was there from anything that occurred that day, and I have not seen the roll since.

104. You told him that his name was not there?—I did.

105. What did he say?—He seemed surprised; and I thought it probable that he might have come to the wrong division, and I asked him what division he was connected with, and he said "The University." He seemed surprised that his name was not there, and we looked through the other divisions in case he might have made a mistake with regard to the divisions, but we did not find it; and after waiting till we had examined the list in that way, he said he was much obliged to us for the attention he had received, and went away.

106. And you did not see him again?—I did not.

107. Did any conversation occur between you and Mr. Irving with reference to a ballot paper?—No.

108. Was the word ballot paper mentioned by either of you?—No.

*Cross-examined by Mr. Dawson.*

109. Did he tell you his number?—No.

110. If he had done so, could you have found his name?—Yes; no doubt of it.

111. Would you then have given him a ballot paper?—Most decidedly I should.

112. Do you remember a person of the name of John Campbell coming to vote?—I think I do.

113. Was his vote taken?—There were two of them came together.

114. Was John Campbell's vote taken?—I do not think it was.

115. Why not?—We could not find his name.

116. Because it was spelt "Colin" on the roll, I believe?—

*Mr. Stephen* objected to the question, the petition being merely confined to one vote.

*Mr. Dawson* was heard in support of the question, and submitted that, if he could show that Mr. Fellows had had a vote wrongly disallowed, the committee might report to the House that Mr. Fellows was duly elected, although Mr. Irving's vote was placed upon the roll.

*Mr. Stephen* was heard in reply.

*The Committee-room was cleared.*

After some time the counsel and parties were again called in, and informed by the chairman that the committee were of opinion that the question could not be put.

117. *By the Chairman—(to the witness).*—Do you know that roll—(*Handing to the witness the roll produced by Mr. Bell*)?—Those are not my marks.

118. If any voter had asked you to be allowed to see the roll, when you said his name was not on the roll, would you have allowed him to do so?—Most decidedly.

119. Did he so ask?—No.

120. What prevented your seeing the name?—If this is the roll that was before me that day—I have never seen it from that day to this—I am told that the name was out of its place; and if it was, it would be very likely not to be seen.

121. Did you look in the place you expected to find the I's?—We looked H, I, J, and K.

122. Did you look in alphabetical order for the name?—Yes.

123. And did you find it?—I did not.

*Re-examined by Mr. Stephen.*

124. Is it your general practice to wait till you are asked for a ballot paper, or do you give a ballot paper before you are asked?—I ask for the person's name; he gives me his name; I then look for the number on the roll, mark it on the paper, and hand it to him.

125. And then you hand it to him without being asked for it?—Yes.

*The witness withdrew.*

*Mr. Dawson* inquired whether the committee had decided that they would not hear any claim gone into to show bad votes on behalf of the petitioners.

*The Chairman* intimated that the committee would not proceed into such questions on the petition now before the committee; but that when the question arose, would be the time to decide it.

*Ordered that this Committee be adjourned to to-morrow at half-past ten o'clock.*

WEDNESDAY, 2ND JUNE, 1858.

*Members present:*

The Honorable J. P. FAWKNER, in the chair;

The Honorable J. B. Bennett  
 „ Dr. Hope

The Honorable C. Vaughan  
 „ T. H. Power.

*The Counsel and parties were called in.*

Mr. Charles Moline called in and sworn.—Examined by *Mr. Bunny*.

126. Were you one of the poll clerks in the election for the Central Province, on the 11th of May last?—I was the only poll clerk. Mr. C. Moline,  
2nd June, 1858.

127. At what polling place?—The Metropolitan Hotel, in William-street.

128. Do you remember Professor Irving coming to that polling place?—I do.

129. Can you tell the committee what took place when he came there?—He made the inquiry whether he could vote, and asked if his name was on the roll. I opened the roll and examined it, and found that his name did not appear upon the roll, where it should be. I am told since it was on the roll. I have not seen it myself. I could not find his name on the roll, and I told him, as his name was not there, his vote could not be taken.

130. Did you say anything about a ballot paper?—Nothing whatever.

131. Do you remember when the rolls were first delivered out?—The rolls never were seen by me or by the deputy returning officer until we went to the Metropolitan Hotel that morning.

132. Do you know whether they could have been seen by anybody else before that time?—I do not know of my own knowledge at all.

133. Was it your duty—I suppose you had some instructions as to what your duties were.—Was it your duty to wait to be asked for a ballot paper?—

*Mr. Dawson* objected to the question.

134. *By Mr. Bunny*.—What is the usual practice with polling clerks on those occasions?—

*Mr. Dawson* objected to the question.

*Mr. Bunny* was heard in support of the question.

*The Chairman* intimated that the committee were of opinion that the question might be put; but that, at the same time, if put, permission would be allowed to the other side to give evidence upon the usual practice of polling clerks, if they thought proper.

*Mr. Bunny* stated that he would withdraw the question.

135. *By Mr. Bunny*—(to the witness).—Did you put the questions required by the 44th section of the Electoral Act to Mr. Irving when he came to vote?—I presume they are the four questions referred to.

136. Yes?—Those questions are never put until the party's name is found on the list, and he is found entitled to vote, or that such a person is entitled to vote.

137. Did you put the questions?—No.

138. Are you aware that those questions cannot be put until after they come to the polling booth?—

*Mr. Dawson* objected to the question, as being a point of interpretation which the committee would put upon the Act for themselves.

*Mr. Bunny* withdrew the question.

139. *By Mr. Bunny*—(to the witness).—Are you sure that Mr. Irving asked if his name was on the roll?—I am not positive that such words were used, but he made such an inquiry as induced me to look for his name, and therefore I presume he asked if his name was there.

140. You are not sure whether he put the question?—I do not remember the words he used.

141. Who else was in the room when Mr. Irving came?—The deputy returning officer.

142. Mr. Box?—Mr. Box.

143. Did he join in the search?—He did not.

144. Was any inquiry made of him; did Mr. Irving say anything to Mr. Box?—No; when I say he did not speak to Mr. Box, of course, when he spoke to one of us, he spoke to both. I considered, at the time, that he was addressing both when he addressed me.

145. Did he ask any other question that you remember, or say anything about a balloting paper or voting paper?—No.

Cross-examined by *Mr. Dawson*.

146. He never asked for a ballot paper?—No.

147. And did not give his number?—No.

148. And did not ask to have any questions put to him?—No.

149. After you told him that you could not see his name on the roll, what did he say?—He expressed his great surprise, as he stated that he was registered; and I said, "Perhaps your name is registered for another district, for which this is not the polling place." There were several other districts which adjoined that for which that was the polling booth, but we did not find his name, and he thanked us for searching the roll further than the division for which that was the polling place, and left apparently satisfied that his name was not on the roll.

Mr. C. Moline,  
continued,  
2nd June, 1858.

150. You did not know that his name was on the roll at the time?—I did not know it until the day after; in fact, I do not know it now, except from having been told so. I have not seen the roll since.

151. You did not know it at the time?—No.

Examined by the *Committee*.

152. Will you look at that roll and see if that is the roll you had—[*Handing to the witness the roll already produced to the committee*] ?—I made a mark on the Railway Division, which I should remember immediately.—[*The witness examined the roll.*]—Yes, this is the roll I used that day.

153. Will you look at the third page of that roll—did you look on that to see for the name of Mr. Irving?—Yes.

154. Where did you expect to find the name of Mr. Irving?—Immediately following the letter H in alphabetical order.

155. You looked to find it in its alphabetical order?—Yes.

156. And was that the reason you stated his name was not on the list—not finding it there?—Yes. Not finding it on that spot, I looked through the other divisions in the same part of the alphabet for it.

157. And your reason for saying it was not there was, because it was not in the alphabetical order in which you expected to find it?—Yes.

Re-examined by *Mr. Bunny*.

158. How long were you engaged searching the roll on this occasion?—I should think Mr. Irving was in the room five minutes, or rather more perhaps.

159. *By the Committee*.—Did Mr. Irving look over the roll with you?—He did not.

160. Would you have allowed him to do so, if he had asked?—Certainly. I was sitting at the side of the table, and he had free access.

161. Had he asked you, would you or not have allowed him to look over it?—Certainly—every facility was attempted to be given him when he was there.

*The witness withdrew.*

*Mr. Bunny* was heard to sum up the evidence on behalf of the petitioners.

*Mr. Dawson* was heard to address the committee on behalf of the sitting member.

*The Committee room was cleared.*

After some time the counsel and parties were again called in and informed by the chairman, that the committee had come to the following resolution, and had agreed to report the same to the House:—That the sitting member for the Central Province, Thomas Howard Fellows, Esq., be declared duly elected.

1857-8.

---

VICTORIA.

---

REPORT

OF THE

SELECT COMMITTEE

OF THE

LEGISLATIVE COUNCIL

ON THE

PUNISHMENT OF FRAUDS BILL,

TOGETHER WITH THE

PROCEEDINGS OF COMMITTEE AND MINUTES OF EVIDENCE.

---

ORDERED BY THE COUNCIL TO BE PRINTED, 3RD JUNE, 1858.

---

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES.

---

THURSDAY, 20<sup>TH</sup> MAY, 1858.

PUNISHMENT OF FRAUDS BILL.—The Order of the Day for the further consideration of this Bill in Committee being read, the President left the Chair.

The Chairman of Committees reported the following resolution from the Committee :—

That, in the opinion of this Committee, it is expedient that this Bill be referred to a Select Committee, to consist of the following members :—The Honorables T. McCombie, J. F. Strachan, T. H. Power, W. Highett, M. Hervey, and J. B. Bennett.

The Honorable J. B. Bennett moved, with leave of the Council, without notice, That the Report of the Committee be now adopted.

Question—put and passed.

The Honorable J. B. Bennett moved, That the Select Committee have power to take evidence, and be empowered to sit during the adjournment.

Question—put and passed.

---

THURSDAY, 3<sup>RD</sup> JUNE, 1858.

PUNISHMENT OF FRAUDS BILL—SELECT COMMITTEE.—The Honorable J. B. Bennett, as Chairman of the Select Committee, appointed on the 20th May, on the Punishment of Frauds Bill, brought up the Report of the Committee, and moved that the same be printed, with the evidence taken before the said Committee.

Question—put and passed.

# REPORT.

---

THE COMMITTEE appointed to inquire into and report upon the Punishment of Frauds Bill, with power to take evidence, have the honor to report:—

The attention of your Committee has been directed principally to the supposed effect of the Bill in reference to consignees, and they have obtained the opinions on that and the other portions of the Bill of the present and late President of the Chamber of Commerce, of Mr. Josephs, a member of that body, and of Mr. Wilkinson, the Chief Commissioner of Insolvent Estates.

From the tenor of the evidence given by these gentlemen, your Committee are of opinion that it is advisable to pass the Bill in its present shape, with the exception of the 13th clause, a portion of which has been by accident omitted, but which, as copied from the English Act, your Committee have caused to be reprinted and appended hereto, and the adoption of which, as appended, your Committee recommend.

J. B. BENNETT,  
Chairman.

Committee Rooms,  
3rd June, 1858.

---

*Clause recommended to be substituted for Clause XIII.*

“XIII. No proceeding or prosecution for any offence included in the first section but not included in any other section of this Act shall be commenced without the sanction of Her Majesty’s attorney general or in case that office be vacant of Her Majesty’s solicitor general. Provided that where any civil proceeding shall have been taken against any person to whom the provisions of the said first section but not of any other section of this Act may apply no person who shall have taken such civil proceeding shall commence any prosecution under this Act without the sanction of the court or judge before whom such civil proceeding shall have been had or shall be pending.”



## PROCEEDINGS OF THE COMMITTEE.

---

FRIDAY, 21<sup>ST</sup> MAY, 1858.

*Members present :*

The Honorable J. B. Bennett, in the chair.  
The Honorables M. Hervey, T. H. Power, T. McCombie, W. Highett.  
Bill considered.  
Adjourned until eleven o'clock on Tuesday, the 25th instant.

---

TUESDAY, 25<sup>TH</sup> MAY, 1858.

*Members present :*

The Honorable J. B. Bennett, in the chair.  
The Honorables T. H. Power, T. McCombie.  
Mr. Josephs called in and examined.  
Mr. Farrar called in and examined.  
The Committee adjourned until Friday next, at eleven o'clock.

---

FRIDAY, 28<sup>TH</sup> MAY, 1858.

*Members present :*

The Honorable J. B. Bennett, in the chair.  
The Honorables T. H. Power, W. Highett, M. Hervey.  
Mr. Francis called in and examined.  
F. Wilkinson, Esq., Chief Commissioner of Insolvent Estates, called in and examined.  
Adjourned until two o'clock on Thursday, to consider Draft Report.

---

THURSDAY, 3<sup>RD</sup> JUNE, 1858.

*Members present :*

The Honorable J. B. Bennett, in the chair.  
The Honorables T. H. Power, W. Highett.  
Draft Report brought up by the Chairman and read.  
Report unanimously adopted.  
Ordered that the Chairman report to the House.

[Brought in by the Hon. J. B. Bennett.]

A B I L L

To make better provision for the Punishment of  
Frauds committed by Trustees Bankers and  
other Persons intrusted with Property.

WHEREAS it is expedient to make better provision for the punishment of frauds committed by trustees bankers and other persons intrusted with property Be it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council  
5 and Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows—

I. If any person being a trustee of any property for the benefit either wholly or partially of some other person or for any public or charitable purpose shall with intent to defraud convert or appropriate  
10 the same or any part thereof to or for his own use or purposes or shall with intent aforesaid otherwise dispose of or destroy such property or any part thereof he shall be guilty of a misdemeanor.

Trustees fraudulently disposing of property guilty of a misdemeanor.

II. If any person being a banker merchant broker attorney or agent and being intrusted for safe custody with the property of any other  
15 person shall with intent to defraud sell negotiate transfer pledge or in any manner convert or appropriate to or for his own use such property or any part thereof he shall be guilty of a misdemeanor.

Bankers &c. fraudulently selling &c. property.

III. If any person intrusted with any power of attorney for the sale or transfer of any property shall fraudulently sell or transfer or  
20 otherwise convert such property or any part thereof to his own use or benefit he shall be guilty of a misdemeanor.

and persons under powers of attorney doing the like guilty of a misdemeanor.

IV. If any person being a bailee of any property shall fraudulently take or convert the same to his own use or the use of any person other than the owner thereof although he shall not break bulk or otherwise  
25 determine the bailment he shall be guilty of larceny.

Bailees fraudulently converting property guilty of larceny.

V. If any person being a director member or public officer of any body corporate or public company shall fraudulently take or apply for his own use any of the money or other property of such body corporate or public company he shall be guilty of a misdemeanor.

Directors &c. fraudulently appropriating property

VI. If

*Punishment of Frauds.*

or keeping fraudulent accounts.

VI. If any person being a director public officer or manager of any body corporate or public company shall as such receive or possess himself of any of the money or other property of such body corporate or public company otherwise than in payment of a just debt or demand and shall with intent to defraud omit to make or to cause or direct to be made a full and true entry thereof in the books and accounts of such body corporate or public company he shall be guilty of a misdemeanor. 5

or wilfully destroying books &c.

VII. If any director manager public officer or member of any body corporate or public company shall with intent to defraud destroy alter mutilate or falsify any of the books papers writings or securities belonging to the body corporate or public company of which he is a director or manager public officer or member or make or concur in the making of any false entry or any material omission in any book of account or other document he shall be guilty of a misdemeanor. 10 15

or publishing fraudulent statements guilty of a misdemeanor.

VIII. If any director manager or public officer of any body corporate or public company shall make circulate or publish or concur in making circulating or publishing any written statement or account which he shall know to be false in any material particular with intent to deceive or defraud any member shareholder or creditor of such body corporate or public company or with intent to induce any person to become a shareholder or partner therein or to intrust or advance any money or property to such body corporate or public company or to enter into any security for the benefit thereof he shall be guilty of a misdemeanor. 20 25

Persons knowingly receiving property fraudulently disposed of guilty of a misdemeanor.

IX. If any person shall receive any chattel money or valuable security which shall have been so fraudulently disposed of as to render the party disposing thereof guilty of a misdemeanor under any of the provisions of this Act knowing the same to have been so fraudulently disposed of he shall be guilty of a misdemeanor and may be indicted and convicted thereof whether the party guilty of the principal misdemeanor shall or shall not have been previously convicted or shall or shall not be amenable to justice. 30

Punishment for a misdemeanor under this Act.

X. Every person found guilty of a misdemeanor under this Act shall be liable at the discretion of the court to be kept to hard labor on the roads or other public works of the colony for any period not exceeding three years or to suffer such other punishment by imprisonment for not more than two years with or without hard labor or by fine as the court shall award. 35

No person exempt from answering questions in any court but such evidence not admissible against them.

XI. Nothing in this Act contained shall enable or entitle any person to refuse to make a full and complete discovery by answer to any bill in equity or to answer any question or interrogatory in any civil proceeding in any court of law or equity or in the courts of bankruptcy or insolvency but no answer to any such bill question or interrogatory shall be admissible in evidence against such person in any proceeding under this Act. 40 45

No remedy at law or in equity shall be affected.

XII. Nothing in this Act contained nor any proceeding conviction or judgment to be had or taken thereon against any person under this Act shall prevent lessen or impeach any remedy at law or in equity which any party aggrieved by any offence against this Act might have had if this Act had not been passed but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him and nothing in this Act contained shall affect or prejudice any agreement entered into or security given by any trustee having for its object the restoration or repayment of any trust property misappropriated. 50 55

Convictions shall not be received in evidence in civil suits.

XIII. That

*Punishment of Frauds.*

XIII. That where any civil proceeding shall have been taken against any person to whom the provisions of this Act may apply no prosecution or proceeding under this Act shall be commenced without the sanction of the court or judge before whom such civil proceeding shall have been had or shall be pending.

No prosecution shall be commenced without the sanction of some judge or the attorney general.

XIV. If upon the trial of any person under this Act it shall appear that the offence proved amounts to larceny he shall not by reason thereof be entitled to be acquitted of a misdemeanor under this Act.

If offence amounts to larceny person not to be acquitted.

XV. The word "trustee" shall in this Act mean a trustee on some express trust created by some deed will or instrument in writing and shall also include the heir and personal representative of any such trustee and also all executors and administrators receivers under the Act 11 Victoria No. 19 or under any decree or order of the Supreme Court of the colony and all assignees in bankruptcy and insolvency The word "property" shall include every description of real and personal property goods raw or other materials moneys debts and legacies and all deeds and instruments relating to or evidencing the title or right to any property or giving a right to recover or receive any money or goods and such word "property" shall also denote and include not only such real and personal property as may have been the original subject of a trust but also any real or personal property into which the same may have been converted or exchanged and the proceeds thereof respectively and anything acquired by such proceeds.

Interpretation of certain terms.

# Punishment of Frauds.

A

## B I L L

INTITULED

An Act to make better provision for  
the Punishment of Frauds committed  
by Trustees Bankers and other Per-  
sons intrusted with Property.

*[Brought in by the Hon. J. B. Bennett.]*

---

*Ordered by The Legislative Council to be printed  
20th April, 1858.*

---

# MINUTES OF EVIDENCE.

TUESDAY, 25TH MAY, 1858.

*Members present:*

The Honorable J. B. BENNETT, in the chair;

The Honorable T. McCombie

| The Honorable T. H. Power.

Levin Josephs, Esq., called in and examined.

1. *By the Chairman.*—You are a merchant in Melbourne, I believe?—I am.
2. And a member of the Chamber of Commerce?—Yes.
3. Have you read the Bill commonly known as the “Punishment of Frauds Bill”?—Yes, I have read it, but not so attentively as my summons to give evidence here to-day would require.
4. Will you allow me to draw your attention to the first clause of that Bill—[*reading the clause*]. Assuming that the consignee of goods comes under that clause, will you give the committee your impressions in reference to it?—It is my opinion, that it does not include consignees. It refers to special trusts of property, more particularly as a subsequent clause refers to consignments.

L. Josephs, Esq.,  
25th May, 1858.

5. But, assuming for a moment that it does refer to consignees, do you think that it is desirable to have such a clause inserted?—I see no objection to that clause at all.

6. Then I need scarcely draw your attention to clauses 2 and 3; the first of them is in reference to bankers, &c., fraudulently selling property, with the safe custody of which they were entrusted—do you see any objection to that clause?—Yes, I do. The construction of the words “safe custody” with merchants renders it a question with me whether a “consignment” is not capable of being interpreted a “safe custody.”

7. A “consignment” is handing over goods for the purpose of “sale,” not for “safe custody;” it refers, in fact, to persons who keep stores, for storage of goods—free stores or bonded stores?—Is not all property entrusted for safe custody?

8. “Safe custody” is nothing more nor less than “safe custody”—there must be nothing in view ulterior to that; it refers to a banker holding deeds or plate which have been placed in his hands for safe keeping?—In fact, this clause No. 2 is intended to apply merely to safe custody, and to such cases as Strachan, Paul, and Co. If that is the construction, or the intended construction, of the clause, I do not think clause 2 open to any objection. I am of opinion that clause 2, referring to safe custody, should stand.

9. Allow me to draw your attention to clause 3—[*reading the 3rd clause in the Bill*].—That refers to persons receiving powers of attorney from India or England, or any other place, who have instructions to sell certain property—anything requiring a power of attorney, and selling it under that power of attorney, and putting the money into their own pockets?—I see no objection to clause 3.

10. With regard to clause 4, what is your opinion?—It appears to me that clause 4 has a comprehensive construction put upon it by a great many of our merchants, and it is possible that any accidental course of circumstances, over which he has no control, might be of serious injury to him under it.

11. Allow me to explain the object of clause 4, as I think it is not at all understood. This is to meet a very peculiar case, which occurs very frequently in England. The offence is this; a man having been entrusted with goods, a common carrier, for instance—a case which occurs oftener in England than any others, and the term includes carriers by land and water—a common carrier is entrusted with a bale of goods, and is instructed to take that bale of goods from London to Liverpool. The carrier breaks open the bale. It was held, that although a man made unlawful use of that which was obtained lawfully, it was not a misdemeanor, although a clear breach of trust, and a question has arisen of intention, when possession was taken of the goods. The argument at length rested on that point of “intention.” “Did the carrier intend to misappropriate those goods when he took them; if so, it was more than a breach of trust; it could not be said he got them lawfully, for he got possession of them under false pretences, and therefore it was argued that he did not get the goods honestly. It was a question of the state of his mind at the time he acted, and the fact of his having broken bulk was argued to be, by the judges of England, evidence of his intention to misappropriate the goods, and brought him at once within the pale of the law. But if this is the case, the converse of the argument is the case also; and if the fact of breaking bulk shows the “*animus furandi*” when he took the goods, the not having broken bulk showed the contrary; and therefore if he breaks bulk he is held guilty of larceny; if not, he is not guilty of larceny: but this clause is to make him guilty of larceny, whether he breaks bulk or not?—How does this clause affect the position of consignees?

12. My own impression is, that the moment a person attempted to bring a consignee under that clause, the judges would say, “We cannot listen to it at all”?—This, among many merchants, forms the basis of violent opposition under the idea that, as the consignees of goods, they imagine they may possibly be liable for the custody of property, the proceeds of which were

L. Josephs, Esq.,  
continued.  
25th May, 1858.

merged into their general accounts. Suppose I sell £1000 worth of goods belonging to a consignor A B C, the proceeds merge into my general cash account; the period of remittance is not immediately at hand; certain operations and transactions which I have entered into result unfortunately; I get half-a-dozen bills receivable returned; I am obliged for my own standing and with the best intention to appropriate a portion of this money; I am legally liable for the proceeds of those goods, and the results of some half-a-dozen transactions place me in such a position that I am unable to remit the proceeds of my sales; and many persons apprehend that this clause renders the consignees liable as misappropriating the proceeds.

13. Will you allow me to draw attention to the words "shall fraudulently sell or transfer, or otherwise convert such property." Do you think that a man placed thus in the regular course of business is fraudulent?—Does "fraudulent" mean "predetermined"?

14. It implies predetermination, undoubtedly; and I will now request you to favor me with an answer to the question, whether you think that a man situated as you describe, arising from events occurring in the regular course of business, is guilty of fraud?—Certainly not; but clause 4, in my opinion, may be construed to rendering the consignees of goods liable to the charge in the first instance—a malicious and disappointed consignor might charge him with it. A man, disgusted with the results of business, not receiving any return, sends out a power of attorney, and says "Josephs has been misappropriating my money, and ought to answer for the consequences. I shall expect you to look into it, and prosecute him for fraud."

15. *By Mr. McCombie.*—It is not customary for persons sending out bad consignments to blame the consignee for "no proceeds?"—It is more than a possible case—the case occurs very frequently. We see in our correspondence we are blamed more than we ought to be. If there are no results at all, an unsatisfied consignor of property might say "Josephs has been misappropriating the funds; try if you can get a case against him." It is my opinion the same people might suffer from a too comprehensive construction of this clause. I think its meaning is too vague and uncertain.

16. *By the Chairman.*—Assuming that some person said so; before a man could do this, there must be some grounds to go on; he could not get a summons without making an affidavit, and thus rendering himself liable to prosecution for perjury. Does it not occur to you that we are every day liable to be brought up by some one, if they like to commit a perjury, and that there must be facts on which to ground a summons, or that the mere suspicions or declamations of a consignor or his attorney would not be, by any means, sufficient for a magistrate to ground a warrant on. I merely suggest this for your consideration, for no law can be made that will meet every possible contingency?—This Act [*referring to the English Act*] appears to me to initiate a course of proceeding which does not at present exist here, and which renders it possible to fix liability on an unfortunate man.

17. How would you work the clause against such a man?—On the ground of the proceeds of any special consignment going into his general fund.

18. But you must show it was done fraudulently. In the clause in which it touches the merchant it says, "with intent to defraud?"—Does the Bill state any course of proceedings against a party? Suppose you have a power of attorney to inquire into certain circumstances connected with a consignment to me, and you are dissatisfied with my explanation, and you go up to the mayor and obtain a warrant.

19. You will have to take your oath that Josephs has *fraudulently* done so and so?—There is a certain amount of publicity attached to this course which does not at present exist. An honest merchant, if charged under this clause, would be liable to a certain amount of publicity by a preliminary inquiry.

20. How is that preliminary inquiry to be instituted? that I cannot see. The first thing must be an affidavit by the consignor or the party holding his power of attorney that you have, with intent to defraud, converted certain goods; now, without strong facts on which to ground it, no summons could be issued?—If I may be allowed to jump at once to clause 13 as it stands, I would observe that, last week when this subject was debated in the Chamber of Commerce, I took with many persons present a rather favorable view of the measure; but I thought it deficient in a safeguard for the honest merchant. I find clause 13 provides that safeguard; and I think all objections to the Bill would be obviated, if no proceedings were allowed to be taken until either the attorney or solicitor general was first satisfied that an attempt at fraud had been made. My objection to the Bill rests solely upon the absence of any safeguard for the honest conscientious merchant; and I think, if clause 13 were inserted in the Bill, it is a sufficient protection for making out a case before the attorney general, avoids the publicity and odium which would attach to a charge of this kind. The verdicts of innocence would never wash away the ignominy which attaches to such a charge; and I think clause 13 should satisfy the apprehensions of the merchants.

21. Allow me to draw your attention to one fact, namely, that this only applies to the proceedings on any of the offences under the first clause?—I think that it should apply to all clauses that are liable to misconstruction. It would not weaken the clauses that apply specially to fraudulent intent.

22. It is only made to apply to the first?—Why not to the fourth clause.

23. I want your opinion; do you think the fourth ought to be included. We are now going on the assumption that the interpretation of that clause by the mercantile community is correct; the fourth clause only refers to common carriers?—That is an inference from it more than a statement on it.

24. Take the case of a common carrier; it would be extremely inconvenient, in order to prosecute him, that you should have to apply to the attorney or solicitor general. This clause

was originally intended to meet such cases. Now, supposing there was a case to which this clearly refers, that is, "if a person being a bailee of any property shall fraudulently take or convert the same to his own use," would it not be extremely inconvenient if, in order to prosecute a carrier to the diggings walking off with your goods, you had to go to the attorney general?—What is the course of proceeding now?

L. Josephs, Esq.,  
continued,  
25th May, 1858.

25. You merely go to a police office, make an affidavit, and depose that he has never delivered the goods, and misappropriated them?—But what prevents anybody going to the police office and saying "Josephs has misappropriated goods?"

26. Do you think it would be consistent with convenience if, whenever you wished to prosecute a carrier on the road for having embezzled your goods, that you should require the consent of the attorney general to do so?—I do not think it would be convenient; but I think in a case of that kind we should put up with the inconvenience, in order to preserve the Act in its full force, and that it may act equally on carriers as well as merchants.

27. Then you think the first and fourth clauses should be included in the provisions of the thirteenth?—Yes; I suggest that with the thirteenth clause should be inserted "No proceeding or prosecution of any offences under this Act shall be commenced," &c.

28. Will you be good enough to state to the committee whether there is any other clause to which you object, or suggestions which you desire to offer in reference to the Act?—No, I do not see anything open to objection in the Act. It appeared to me to be sadly deficient in that safeguard which clause 13 here provides; it will obviate any objections that may be made by any merchant. With that clause, I think it will be a very great desideratum to the mercantile community.

29. Do you think that, as regards fraudulent consignees, the two clauses referring to them, or either of them, or the purport of the Bill, beneficial?—Most certainly.

*The witness withdrew.*

H. W. Farrar, Esq., called in and examined.

30. You are a merchant in this city, I believe?—I am.

31. And president of the Chamber of Commerce?—Yes.

32. Will you favor the committee with your views in reference to the Bill now placed in your hands—you have heard the evidence of Mr. Josephs?—Yes.

33. Have you anything to add to his evidence?—Taking clause 1, I apprehend there need be no alarm on the part of the commission merchants, after the explanation I have heard this morning.

34. Is there any other clause you think objectionable?—We will now go from clause 1 to 4, which, from the explanation given, that consignees of goods are not bailees, I do not consider would materially affect us.

35. Consignees of goods are bailees?—I meant consignees of goods for sale on *del credere* commission.

36. But I do not think you ought to take that into consideration—assume that they are?—I think, in the ordinary mode of transacting business, a merchant has really no grounds for objecting to this clause.

37. Is there any other clause in the Bill that you have to remark upon?—I would but add, in respect to this clause, that if, by unforeseen events, a man is unfortunate, it could not be strained to come under the operation of this Act. It could not be construed as having been fraudulent.

38. Before you leave those clauses, allow me to ask, do you think, as regards fraudulent consignees, that those two clauses, or either of them, or the purport of the Bill, is beneficial?—I do think it beneficial. I have looked over the remaining clauses to clause 13, and I do not see anything I need to remark upon. I have heard the opinions that Mr. Josephs has given on this clause, and I think that if it were to become law in the way that he has put it, it would nullify to a great extent any proceedings against carriers who rob us of property on the roads. I do not see what proceedings we could take; for if we had to go to the attorney general in every instance, it would be almost impossible to do anything. Legal proceedings are difficult enough now, and I think to add to this difficulty would almost amount to a denial of justice to us. I think the clause as it stands in the English Act should be embodied in this Bill.

39. Would you include 4 in it?—No.

40. Then you would leave that as it is?—Yes, precisely. I do not think that there are any other clauses of this Act—[referring to the English Act]—that I have to offer any remarks upon, or of the Bill before us.

*The witness withdrew.*

W. H. Farrar,  
Esq.,  
25th May, 1858.



FRIDAY, 28<sup>TH</sup> MAY, 1858.

*Members present:*

The Honorable J. B. BENNETT, in the chair ;

The Honorable M. Hervey

The Honorable W. Highett

The Honorable T. H. Power.

James Goodall Francis, Esq., called in and examined.

J. G. Francis,  
Esq.,  
28th May, 1858.

41. *By the Chairman.*—You are a merchant in Melbourne and a member of the Chamber of Commerce, I believe?—I am

42. I think you were president of the Chamber of Commerce last year?—I was.

43. Have you had your attention drawn to that Bill which is now before the Committee, on the subject of the Punishment of Frauds?—I have.

44. Will you allow me to draw your attention to the first clause in that Bill: it is assumed that consignees of goods are included within that clause?—I do not so read it, in a mercantile sense; certainly they are not.

45. You will find, if any person is a trustee for any other person on express trust, or on any instrument in writing, as a bill of lading.—Imagine such a case as this.—A Manilla merchant writes down to Bennett and Taylor, “We enclose you invoice of 500 tons of sugar, shipped on board the *Francis*. Understanding that the demand is good for this description of goods in the market, you will be good enough to sell them at your earliest convenience. We enclose bills at 90 days’ sight for your acceptance, which, on the needful being done, you will please to remit to our correspondents, A. and Co., in Adelaide, and any surplus that remains from the proceeds of the sale of the goods, you will be kind enough to remit to us in cash.” The interpretation clause of that Bill renders goods “property,” as much as money itself, and an express trust of that money or goods is declared by an instrument in writing, that is, say by letter. Suppose I place that money, the proceeds of that sugar, to my own account, I accept the bills and remit them duly; but at the end of three months I am not in a position to pay them, I have consequently appropriated other people’s moneys. Under those circumstances I should come under that clause, clearly?—You might, as generally understood, but not in a mercantile sense. I assume that the word “trustee” may have a general sense, but differing to a great extent from the mercantile interpretation of the position of a “trustee.” A better definition would be that of a “consignee” in this case.

46. But the word “trustee” implies every thing wherein persons are intrusted with the property of others?—I admit it does, but the term “consignee” does not.

47. *By Mr. Hervey.*—Your impression is, that trustees would not in mercantile language be called consignees?—It is.

48. *By the Chairman.*—I am assuming that, under that clause, cases would come such as I have put?—I may remark, in reference to that conclusion, that there is not a single transaction in which instructions are not given; and having been a commission merchant since I was of age, I have had some experience; but every consignee, in the case you put, is in the position of a trustee, inasmuch as every consignee has his instructions in regard to the proceeds of the goods consigned to him.

49. You will observe there is a distinction between a man appropriating those proceeds in the legitimate course of business, and with intent to defraud,” and you will observe that a person bringing any one under that clause has to prove “the intent to defraud”?—Exactly.

50. Assuming that to be the case, what is your opinion of the expediency of that clause?—I think that is altogether a wholesome and necessary clause.

51. *By Mr. Hervey.*—What I want to know is, what is your opinion of the clause, assuming that “trustees” includes consignees?—I think that a good deal of unnecessary clamour, I may call it, about the interpretation of that word “intent” has been raised, if I understand the meaning of mercantile phraseology. If I find a man in my house with a jimmy at night, his being there is a proof of his “intent” to commit a burglary, and if a man lift an axe to strike me, there is a proof of his design to murder me, or do me some serious bodily harm; but I think, in this case of “intent to defraud,” proof lies too much in the construction put upon conduct by the prosecutor. I do not think it applies to the first clause so clearly as to the following.

52. In the event of its being applicable to consignees, do not you see that it is oppressive on some part of the community?—The Chamber of Commerce made no objection to this clause. I do not see a very material difference between the objections to clause 2 and 4 and clause 1, excepting that whatever may be the interpretation or meaning of the word, there is in the minds of merchants a difference between the responsibility of trustees and consignees. I would read clause 1 to mean that a man who is a trustee for property, I should assume it to be a different charge and responsibility from that of a consignee of ordinary goods and shipments, and I think that this is the view the Chamber of Commerce took of it. I think clause 1 does not refer to a case such as the chairman put, although instructions in writing were given.

53. *By the Chairman.*—Do you think a Bill of this kind is required in the colony?—I think it very desirable.

54. *By Mr. Highett.*—Do you think the word “consignee” should be introduced into that clause?—No; I think it would come properly under the second clause.

55. *By the Chairman.*—But for argument’s sake, I wish you to assume that it does?—Then I have the same objection to it as I have to the fourth clause.

56. What is that objection?—It is an objection which, had I to accept the Act as a whole or to reject it, I should accept it. But thinking over the expression “with the intent of committing a fraud,” I think, if it refers to motives, it should be more clearly stated. If it said “fraudulently,” instead of “intent to defraud,” I think it would agree with what I have previously explained; that I consider to be the scope of the word “intention.” I say that, because the word “intention” to too great an extent, in my opinion, leaves the onus of disproof on the part of the defendant, instead of the proof on the part of the plaintiff. Intention is evinced if a man is cutting at you with an axe, or raises an axe to you. It is pretty clear he “intends” to do some bodily harm; but the phases in mercantile transactions are so multiform, that the word “intent” might be twisted perversely and unfairly to the injury of men of position and character.

57. You would prefer the word “fraudulently”?—Yes, on proving it to be a fraud. It is simply because mercantile transactions have so many phases. For instance, I may, in ordinary conversation be inclined to answer a remark that has been made in a certain way, until the sequence of a word or two shows me that I was on the wrong scent. Now, although, if a man be caught in your house at night, there can be no doubt of his intentions, there may be 150 different transactions which might be construed into “intent to commit fraud,” where no such intention existed. I have a case in point. A house in a good position, in California, some few years ago, received a consignment of goods from parties in Liverpool, and were instructed to sell and remit on the usual terms. They sold and remitted. It appears that there was a young man in the employ of the consignees who was interested in the shippers’ house, and he, in a covert manner, as it afterwards was proved, found that the usual landing charges, scowage (as it was termed in California), wharfage charges, drayage, and storage—very serious items there in remitting the proceeds of the goods—were deducted from the account sales, although the goods had been sold on board, all charges to be paid by the purchaser. This young man knew it was a mere transfer of the bill of lading. The house accounted for the goods, but, through the irregularity of the clerk who made out the account sales, they had, on rendering the account sales, shown the whole of these deductions, including commission. Those parties at once—for I happened to be connected with them in business—were very irate about this, and sent out instructions to insert advertisements in the paper, and to prosecute this house for that transaction. It happened, in the quarterly balancing of books by the consignees, to be found that the shipment should not have been debited with wharfage, &c.; and, in the interim, they transferred the amount to the credit of the account sales and amended the remittance. Now this bears a *prima facie* evidence of a fraud; but in the meantime, before action by the consignors in Liverpool, the consignees had discovered the error, and amended it. But there was no mistake about it, in regard to the consignors. The first thing they did was to send instructions out to publish the transaction, and it did a great deal of harm to the consignees, who could have been prosecuted criminally under this Act, though they had committed no fraud.

58. Such a case as that would not come under the purview of this Act?—It might not; but it was a case in point, illustrating my argument—it was seriously injurious to the house; and in business there are often combinations of circumstances which would involve the principle. I think the word “intention” too ambiguous; and I should wish to substitute the word “fraudulently” for “intent to defraud.”

59. *By Mr. Hervey.*—Before you pass to the second clause, I would observe, you have all this time been holding the word “trustee” to be synonymous with “consignee”?—In other views of the word “trustee,” I should decidedly leave the clause as it stands.

60. *By the Chairman.*—Will you be kind enough to read the second clause?—[*The witness did so.*]

61. Do you see any objection to that clause, as regards the mercantile community?—I see some measure of objection.

62. May I ask what it is?—I think that the expression, “shall with intent to defraud” is one which, if applied to mercantile transactions, would lay any respectable and honest merchant too open to impeachment at the hands of a malignant consignor.

63. Then, you would suggest the word “fraudulently” instead?—Yes.

64. Then, am I to understand that you mean by the word “fraudulently” that the act must have been committed?—I take also this view, that, if a man charges me with “fraud,” he goes further than charging me with “intention to defraud,” and I think a more serious responsibility in this case rests upon the plaintiff.

65. *By Mr. Highett.*—But, if you alter that word, how would you meet cases of this description:—A person is entrusted with a large sum of money, and attempts to appropriate it to his own use and escape from the Colony. He is found on board of ship—he has made the attempt, but has not committed the act, and I think it should meet those cases.

66. *By Mr. Bennett.*—And amplifying that case is the following:—Supposing he was entrusted with money which he was instructed to invest on security of real property, but instead of that he invests it in Government debentures, there would be nothing criminal in that act—you could not say it was “fraudulently” done, although a breach of trust; but, at the same time, it might be with “intent to defraud,” and that clause is very peculiar—it only includes persons entrusted with goods for safe custody?—I see no good reason why a person who confides in the honesty and honor of a man, and entrusts goods with him for sale, should be in a better position than one who trusted him with goods absolutely on credit. I cannot see any material difference between a person sending out goods to another for sale and trusting him in the ordinary way for so many goods.

67. But if you send goods out here from home to your constituents, with instructions to

J. G. Francis,  
Esq.,  
*continued,*  
23th May, 1858.

store them—you do not know the storekeeper, he is a mere storekeeper, and he disposes of your goods—that at present is a breach of trust; it would be a very hard case if you could not prosecute him for fraud?—But it does not say a storekeeper or warehouse for rent charge only.

68. But it says for “safe custody”—that means nothing else. Take a case in England: A nobleman might have taken deeds to Paul, Bates, and Co., or leave his chest of plate in any one of the banks for safe keeping during a period of absence from home. Imagine a banker having the charge of those things and disposing of the plate. Such are the only cases to which it applies—it applies to “safe custody?”—It involves too many functions, as generally understood.

69. The only function with which he is intrusted is to keep it safe, he afterwards assumes functions which were never entrusted to him?—Well, you give that interpretation; but a lawyer on the opposite side would say, that a man seldom or never sends his goods to a merchant for the same purpose as he sends them to a storekeeper.

70. It all depends on what the goods are. For instance, a merchant may have his constituent's deeds to take care of, and might make use of them?—The objection made to this clause and the fourth amounts to this, that it involves the necessity of a consignee, which is quite the custom, not only keeping the accounts of every principal apart in his books, and thus making a fair exhibition of the state of his account with himself; but he must keep the proceeds distinct from his other business, and even so far as to keep a separate banking account for every consignment, as well as make separate remittances; or that, otherwise, if he failed in the interim, he would be subject to the provisions of this clause.

71. Do you believe so?—I do not.

72. The clause is “if he has goods entrusted for safe custody,” without instructions to sell, and if he goes contrary to that “with intent to defraud” and sells them, do not you think he ought to be liable to punishment?—Decidedly. I do not think that clause has been sufficiently considered: I think there can be no objection to that clause as it stands.

73. Will you kindly go to the third clause.—[*The witness studied the clause.*]—Will you favor the Committee with your views in reference to that clause; do you see any objection to it?—I think it is a custom in mercantile affairs at all times, in the first instance for the merchant to transfer to his own general credit proceeds of stock, for the time being, and the proceeds of any goods entrusted to him for sale are afterwards specially remitted, according to interests.

74. But that is not fraudulent; no man could twist that to be a fraudulent transaction, being in the ordinary legitimate course of business?—But it involves the necessity on the part of a consignee of knowing his own position. There are very many persons unfortunately who, from laxity in their mode of conducting business, are not able at every period to state their own position: therefore it might be possible that a man might be amenable to that clause without positive “intent to defraud.”

75. But you will observe that a “fraud” cannot be an accident; you cannot commit a fraud unintentionally?—That is not an accident altogether.

76. But if a man does not know his position; if he does not know he is insolvent, he is not amenable. The prosecutor must show that he knew it; otherwise, he could not bring a “fraud” home to him?—But the insolvent law ought to assume, if it does not, that no man has a right to buy goods while in a state of insolvency, and no person has a right to sell goods while risking the means of any other person.

77. So it does. If a man knows himself to be insolvent or has been guilty of losing an amount through incorrectness in his book-keeping, if he is not in a position to pay the proceeds of a consignment when he ought to have been, do you think it is not hard if that man is not amenable to punishment?—A man may have bills receivable and be almost ruined without knowing it.

78. But would not that take a man out of the category of “fraud”?—Certainly. I must state to the Committee that which I have before stated to the Chamber of Commerce, that I thought they were making bugbears to frighten themselves; that I see nothing to be apprehended from the operation of this Act; while, at the same time, I was inclined to agree that there is sufficient ambiguity in the mercantile interpretation, to render it possible that a lawyer might take one side or the other, according to his fee.

79. There is not a statement you can make that does not admit of an argument?—That is what I mean. I stated then, and I repeat it now, that were the question put, whether you will have the Act as it is, or do without it: I prefer to take the Act as it is, rather than do without it.

80. *By Mr. Power.*—Do you think that Act would operate more mischievously here than at home?—Decidedly not. I think that the peculiar position of Australia, in the first place, on account of its geographical distance from the mother country, renders every precaution with regard to interests so distant a greater necessity than can possibly exist in England, where principals and their agents can be so immediately in communication. In reference to the general principle of this, I consider a necessity exists for it; I consider that in England the intervention of consignees and the consequent unlimited trusts of goods is not so much a necessity as in this colony, for brokers there generally reveal their principals, and therefore principals there have a protection which they cannot have at periods and distances so wide apart as we are here. Buyers here always regard a consignee as a principal, whereas in England the buyers use brokers as an intervention between the principal and the buyers, and there a broker is expected to proclaim his principal; and consequently a broker in England is not amenable for any breach of contract on one side or the other; but here a consignee is in a different position.

81. *By Mr. Power.*—Do you amalgamate the character of broker with agent here?—No; brokers are often employed by the agent or consignee.

82. *By Mr. Hervey.*—The broker is not a consignee here?—I know that brokers in

London, for a Leeds house, with which I was connected, always sold in the name of the firm in Leeds; but in this colony we are obliged to treat consignees as principals. Therefore, upon the whole, I consider the Act highly desirable, and I cannot see any serious objection to it, except a little ambiguity, which however may be more intelligible to a lawyer than a merchant.

83. We understand you then, that you consider this Act will reach the consignee, and ought to reach him?—I do.

*The witness withdrew.*

Frederick Wilkinson, Esq., Master in Equity and Chief Commissioner in Insolvent Estates, called in and examined.

84. *By the Chairman.*—Have you, in your experience as Chief Commissioner in Insolvent Estates, had occasion to observe the fact that men, either with the knowledge that they were insolvent or with the means of knowing it, have converted the proceeds of consignments to their own use?—I think that several cases of the kind have come before me; that is to say, not cases in which the merchant actually knew that he was insolvent, but where he might or ought to have had the means of knowing it.

85. I have heard it stated, and I wish to have your given opinion on the question—that it is legitimate for a man, even knowing himself to be insolvent, to use the money of his consignors for his own purposes—on the ground that at the end of the year the balance of his profits may be more than his losses, and that therefore he might not then be insolvent. May I ask whether that is compatible with the law of insolvency?—It depends very much upon circumstances. If there were a reasonable hope or prospect that a man would recover himself within a reasonable period, and be able to meet his engagements, then I think there could be no objection to it. It is a matter that depends entirely upon the accompanying circumstances.

86. You think there are cases in which a person would be justified in using those funds?—I think so. That is to say, taking consignees, as I believe they assuredly are here, not simply consignees for the sale of goods and the remittances of money at the risk of the consignor;—but here the merchants as consignees usually undertake the business on a *del credere* commission, and that makes, to my mind, a very great difference in the position of the parties. When a man is simply a consignee of goods for the sale of the goods at the risk of the consignor, and where he has got simply to use his judgment in the disposal of those goods, no matter whether at a loss or a profit, the sale is altogether at the risk of the consignors. In such cases a man's sole duty is to remit the money as soon as he receives it. He has no business to mix it up with his own money. I look upon him more as a trustee than where a man sells on a *del credere* commission and undertakes the risk of the sale, and guarantees that sale to his consignor. Then I think that the consignor must be aware, that a man undertaking such a risk as that must, in the nature of business, necessarily make use of the funds derived from the sale in some measure and for some period possibly in his own business. In general transactions, I do not conceive it would be possible that a merchant could be required to keep a separate and distinct account of the proceeds of each transaction in trade distinct from his other properties; in fact, he becomes, by undertaking the risk of sale and guaranteeing the proceeds of that sale to his principal—he himself becomes a principal.

87. *By Mr. Power.*—Is not the *del credere* system generally pursued in this country?—It is as far as my experience extends.

88. *By the Chairman.*—Assuming that to be the case, does not that render that first clause still more innoxious than it otherwise would be?—It depends entirely upon the definition of the term "trustee." Now the interpretation clause says: "The word 'trustee' shall in this Act mean a trustee on some express trust created by some deed will or instrument in writing and shall include the heir," and so on. I think that the first clause would not extend to merchants nor consignees in their character as merchants.

89. Will you allow me to put a case to you. Supposing a transaction of this sort took place—that a house in Manilla wrote to me, a merchant here, saying, "By such a vessel we have shipped 500 tons of sugar, and enclose bills of lading, &c. Understanding that such property is in demand in the market, you will be good enough to sell them at your earliest convenience, and having a remittance to make to correspondents in Adelaide, we draw upon you at ninety days' sight for such an amount, which we shall feel obliged by your accepting and transmitting the bills to them. The proceeds of the sale of the sugar will provide for meeting the bills when due, and the balance you will please remit to us in cash." Would that be an express trust by an instrument in writing? Would not that be such a case as you have mentioned?—I should hardly think this Act was intended to include a case of that kind.

90. But could not it be so construed?—I think it would be straining the original intention of the Act.

91. Then you are of opinion that would be straining the Act to include consignees?—I think it would.

92. *By Mr. Hervey.*—Would it be advisable to include consignees under the provisions of an Act such as this?—A clause might be framed to include them, but it would require very great care in framing it; otherwise, there is scarcely a single merchant who would not almost inevitably fall within the meshes of the law. The evidence of "fraud" should be distinctly stated, and the nature of what would constitute fraud in a case of that kind should be explicitly laid down.

93. Will clause 13 not protect merchants and consignees, as it requires application to be made to the attorney general before proceedings can be taken?—That applies only to the first clause.

94. *By the Chairman.*—That is the section we assume consignees come under?—I hardly

J. G. Francis,  
Esq.,  
continued,  
28th May, 1858.

F. Wilkinson, Esq.,  
28th May, 1858.

F. Wilkinson, Esq.,  
continued,  
28th May, 1853.

think that they would. I think that, if a creditor or sufferer pressed the matter, the attorney general or solicitor general would hardly put a veto on their proceedings. I think, if there is anything like a *prima facie* or possible case against a consignee, the attorney general or solicitor general would say "Let it go to the court."

95. That is going on the assumption that you do not go with—namely, that consignees are included?—I am supposing consignees were included; but I do not think this thirteenth clause would be any effectual protection against captious proceedings on the part of a creditor.

96. *By Mr. Hervey.*—Even with "intention of fraud" being part of this clause?—The "intent" is to be drawn from circumstances. A great many things may be considered as affording evidence of "intent to defraud." Slight omissions and so on might be considered as affording evidence of "intent;" if by mistake an entry was not made in the books at the proper time or in the proper books. A variety of slight omissions or irregularities in business would afford sufficient evidence of intent to justify the attorney and solicitor general in allowing a case to go before the court, though it might be proved otherwise, or be satisfactorily explained on the trial that such evidence really did afford no proper presumption of fraud.

97. You think the proof would not be submitted to the attorney general—that is, the positive intention would not have to be proved, but only such evidence laid before him as would justify him in allowing it to go on?—Merely a *prima facie* case, probably an *ex parte* case. The usual mode adopted is, by laying a complaint before a magistrate, and the person proceeded against, if well advised, reserves his defence for the jury. There is one suggestion I would throw out, consequent upon a case which has been brought prominently before me very recently, and is under my consideration, and that is with reference to the thirteenth clause. An addition of a further proviso that a civil remedy shall not be suspended by reason of the party offending being liable to prosecution under this Act. There is a case waiting my decision in which that point has arisen—the case of Francis, an insolvent, who was mixed up in the fraud upon one of the banks. He was indicted, and a clerk of the bank, who was a conspirator with him, has absconded; and consequently the prosecution could not be proceeded with against him. The bank have tendered their proof of debt before me, and the objection that has been raised is, that the proof cannot be admitted until this clerk has been taken. A civil remedy is, on grounds of public policy, suspended, where a person has been guilty of any criminal acts, until the criminal has been prosecuted. I think, therefore, it would be desirable to put it beyond doubt that, inasmuch as this Act creates now a number of criminal events which did not exist before, that the civil remedy is not to be suspended under that rule. I think it should be clearly stated in that Act.

98. *By the Chairman.*—Is there anything you observe objectionable in that Act?—In the second clause: I hardly can see any reason for limiting the clause to persons to whom that clause is made applicable. The clause runs thus, "If any person being a banker, merchant, broker, attorney, or agent." It seems to me there is no reason why it should be limited to those persons only. I think those words might be omitted with advantage, and the clause would read, "If any person entrusted for safe custody with the property of any other person shall with intent to defraud sell negotiate transfer pledge or in any manner"—I would insert "fraudulently"—"convert or appropriate to his own use such property or any part thereof he shall be guilty of a misdemeanor." I am not at all aware on what ground these clauses are limited to that particular class of persons. I certainly think those words had much better be omitted, and leave the clause general, "If any person entrusted for safe custody." There is one thing which also strikes me. Supposing, under that clause, goods were simply entrusted for safe custody with a person without *reward*, whether it would comprise that case.

99. That was the identical case it was intended to include. It was intended to apply to such cases as Strachan, Paul, and Co., where bankers are entrusted with deeds or other valuable property of their customers, where they got no specific reward for taking care of those goods?—With regard to the third clause—

100. I understand you, it would be judicious to render it beyond doubt, that even if they do not receive remuneration, they should be liable to punishment?—If it is intended to include both cases, the clause should stand as it does, omitting the enumeration of persons. With regard to the third clause, there is a slight amendment that I should suggest—it reads, "If any person entrusted with any power of attorney for the sale or transfer of any property shall fraudulently sell." Now, I do not see myself any reason for this being confined to cases of sale or transfer of property; nor why it should not also comprise powers of attorney for the collection of debts. I do not think, under the words as they stand in the Bill, that the misappropriation of debts collected would come under that clause; and I do not see any reason for their being omitted.

101. Will you allow me to suggest that, if you employ a man to collect debts, you give him credit to a certain extent; you trust him with your moneys. It is a credit to all intents and purposes, the same as if you sold him goods?—It is only when the debts are realised that any misappropriation can take place.

102. But, if you employ him to collect debts, you give him credit—would not the same observation apply to sale or transfer of property?—In the larger number of cases and to a larger amount, powers of attorney are sent over for collecting debts than for the sale and transfer of property. I would suggest that amendment:—"If any person intrusted with any power of attorney for the sale or transfer of any property or for the collection of debts, shall fraudulently sell or transfer any of the proceeds or any part thereof to his own use," shall be guilty of a misdemeanor. I believe, however, that the interpretation clause includes "proceeds" as property.

103. The interpretation will not include your amendment?—I think it would.

104. Instead of "property," read "debts," and see if it includes your amendment?—I retain the word "property."

105. Quite so; but in order to make it more plain, instead of "property," read "debts"?—Yes. F. Wilkinson, Esq.  
continued,  
23th May, 1858.

106. But your view is of any person "entrusted with any debts for collection"?—I think powers of attorney for collection of debts should be expressly included in that clause.

107. Is there any other clause on which you wish to remark?—No; there is nothing else.

108. Taking the circumstances of the Colony into consideration, do you think it would be judicious or injudicious to adopt such an Act?—I certainly do; I think it would be a very great improvement on our legislation and act very beneficially towards the promotion of honesty and fair dealing.

109. *By Mr. Hervey.*—But at the same time, you object to it as applicable to the consignees of goods?—I do not think they are included, as far as I can read the Act. I do not think they come within it.

110. Nor ought they to be?—Not except under a very carefully considered clause. If it is intended that they should be included, I think there should be a clause inserted expressly applicable to them, and the crime defined in that clause should be very clear indeed.

111. Presuming for the sake of argument they are included, would you then admit this Act beneficial or mischievous?—I think it would not be desirable that they should be included constructively only within this Act. I think it would lay every man open to suspicion and to a prosecution, either rightly or wrongly, at the instance of a disappointed or a spiteful consignor.

112. *By the Chairman.*—You conceive, as I understand, that it would be beneficial, but do you or do you not consider that it would be so, to have such a clause drawn up as would include fraudulent consignees?—I think it would, if it were possible to define what is fraudulent misappropriation.

113. *By Mr. Highett.*—To interpret the nature of it in another interpretation clause?—Yes, the crime should be most distinctly defined.

114. *By Mr. Power.*—That arises from mercantile usages?—Yes.

115. *By Mr. Hervey.*—Abandoning the idea that consignees should be included, is it seriously wanted in other cases?—I think so. It is a very prevailing weakness in this colony, that persons getting the money of other persons into their hands, make use of that for their own purposes. That is far too common a case—not necessarily fraudulently, but it is done in such a way as to lead to the loss of the money, and in many cases absolutely fraudulently.

116. Would you think it would make people more careful?—I think so. I think a few prosecutions under this Act would make people more careful.

117. May I ask, do you think it would perfect this Act to introduce a clause including, beyond all doubt, a fraudulent consignee.—Do you think we should insert a clause subjecting consignees to the same pains and penalties as other persons are, or leave the law as it is in regard to them?—There seem to me so many difficulties in framing such a clause, so as to include only cases of positive fraud, that I almost doubt whether it could be possible to frame a clause. I should have very great difficulty in my own mind. I cannot, at the present moment, lay down any distinct principle, or line of demarcation, between what should be considered a fraud and what may be considered as misfortune or mere error of judgment.

118. We do intend to include consignees in this Act—that being the fact, what do you think of the Act?—That is the object of this Act, so far as passing it in this colony is concerned, and with that knowledge before you, what is your opinion of this Act?—If the clause, "what is fraud," be distinctly defined, I approve of it.

119. But taking this Act as it stands, and assuming "trustee" to be synonymous in our minds with consignee?—I do not think it would be politic to leave the case of consignees merely as coming constructively within the Act. If they are intended to be included, I think they should be expressly named, and the nature very clearly defined of what would constitute fraud in a consignee.

120. *By Mr. Highett.*—I understand from you that you stated you would not bring general agents receiving consignments weekly or monthly, and keeping a general debtor and creditor account, furnishing their accounts monthly, or quarterly, or yearly—you would not include them?—If, as I understand the Committee, it is the desire and intention that they should be included, I think that what would constitute fraud should be clearly defined in the Act. Then I think it would be very beneficial.

121. *By the Chairman.*—Do you think that this definition of fraud would be sufficient for the benefit of the colony, "If a man, knowing himself to be insolvent, or having the undoubted means of ascertaining himself to be insolvent, should appropriate moneys"?—I think that would be a tolerably fair definition of what should be considered fraud in a consignee. I would wish to add, that, "having the means of knowing himself to be insolvent" is almost too general an expression, and that it should be defined or altered, in some way. I would suggest something to this effect, "that a person who had failed to balance his books," say, "half-yearly," should come within the meaning of this clause.

122. Would you put it in this way, "that a person who had neglected to use that precaution that persons carrying on similar businesses use"?—I think that, as this Act is something new, it would be desirable to lay down something to guide merchants in carrying on their transactions; for, if it is intended that consignees are to be brought within that Act, it would make a very great alteration in the mode of conducting business; and I think it would be very desirable that the Act itself should point out, at any rate, in some measure, the precautions which merchants should take, to avoid bringing themselves within the operation of the Act.

123. *By Mr. Hervey.*—Taking that interpretation of the word "fraudulent," with regard to consignees, and applying it to the thirteenth clause, would it necessitate a party being accused

F. Wilkinson, Esq.  
*continued.*  
 28th May, 1858.

of a fraudulent act proving his solvency before the attorney general initiated the prosecution?—This thirteenth clause applies only to the first clause in the Bill. I think it would be only proper that the prosecution of consignees, as well as trustees, should be with the consent of the attorney or solicitor general.

124. And the party prosecuting, would he have to prove the solvency or insolvency of the consignee?—The prosecutor would have to prove the insolvency and not only that, but to fix the period and to prove that the party prosecuted had a knowledge of it.

125. No fair suspicion that he might raise would satisfy the attorney general; he must prove it absolutely?—Yes, but then again, that is always involved in a mass of surrounding circumstances, from which the knowledge may be inferred, and therefore in general the attorney general or solicitor general would leave it to a jury to say whether the circumstances fix the crime.

126. *By Mr. Power.*—Then there is all the vexation and annoyance that innocent merchants would suffer?—I think so, and it would be open to spiteful and revengeful proceedings.

127. *By the Chairman.*—Have you any further suggestions to offer to the Committee?—No.

*The witness withdrew.*

1857-8.

---

VICTORIA.

---

R E P O R T

OF THE

SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL

ON THE

TRANSFER OF LAND BILL;

TOGETHER WITH

PROCEEDINGS OF COMMITTEE AND MINUTES OF EVIDENCE.

---

ORDERED BY THE COUNCIL TO BE PRINTED 3<sup>RD</sup> JUNE, 1858.

---

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.



## EXTRACTED FROM THE MINUTES.

WEDNESDAY, 23RD DECEMBER, 1857.

**TRANSFER OF LAND BILL.**—The Order of the Day for the second reading of this Bill being called on, the Honorable J. B. Bennett moved, That the Bill be now read a second time.

Debate ensued.

**Amendment** moved by the Honorable H. Miller—That all the words after the word “be” be omitted, with the view to add the words “referred to a Select Committee of this House, consisting of the following members, viz.: the Honorables W. H. F. Mitchell, T. McCombie, W. Highett, J. F. Strachan, J. Hood, T. H. Power, Dr. Hope, J. Henty, J. B. Bennett, and the Mover, with power to call for documents and to take evidence on the Bill, and on the subject of Conveyancing generally, and to report upon the same.”

**Question**—That the words proposed to be omitted stand part of the question—put and negatived.

**Question**—That the words proposed to be inserted be so inserted—put and passed.

**Question**—That the Bill be referred to a Select Committee of this House, consisting of the following members, viz.:—The Honorables W. H. F. Mitchell, T. McCombie, W. Highett, J. F. Strachan, J. Hood, T. H. Power, Dr. Hope, J. Henty, J. B. Bennett, and the Mover, with power to call for documents and to take evidence on the Bill, and on the subject of Conveyancing generally, and to report upon the same—put and passed.

THURSDAY, 8TH APRIL, 1858.

**APPOINTMENT OF MEMBER ON SELECT COMMITTEES.**—The Honorable H. Miller, with leave of the Council, without notice, moved, That he be re-appointed on the following Select Committees, of which he had been a member before his vacation of his seat in the Council, viz.:—The Standing Orders Committee, the Parliament Buildings Committee, the Federation Committee, the Transfer of Land Bill Committee, the Printing Committee.

**Question**—put and passed.

THURSDAY, 3rd JUNE, 1858.

**TRANSFER OF LAND BILL—SELECT COMMITTEE.**—The Honorable J. B. Bennett, as Chairman of the Select Committee appointed on the 23rd December, 1857, on the Transfer of Land Bill, brought up the Report of the Committee, and moved, That the same be printed, with the evidence taken before the said Committee.

**Question**—put and passed.

# REPORT.

---

THE COMMITTEE appointed to inquire and report upon the Transfer of Land Bill, with power to call for documents and take evidence on the Bill, and on the subject of conveyancing generally, and to report upon the same, have the honor to report:—

Your Committee have gone through the Bill submitted to them, and taken evidence thereon; amongst others, that of the Chief Justice of the Colony.

The leading principles of the Bill submitted are the separating the legal estate in land from the equitable trusts affecting the same, and supplying a separate registry for each; the protection of equitable trusts by means of caveats; the quieting of all questions on title from the date of the first registration; the substitution of a uniform and short form of conveyance for all transfers of the legal estate, and the accompanying the same with a plan of the land affected.

These points have met with universal approbation from the witnesses examined.

Different opinions have been given as to the necessity of delivering an abstract of previous title to the registrar previous to registration, and as to the necessity of serving notices upon persons lodging caveats in the event of an attempt to sell the land against which the caveats may have been lodged, and (if it should be determined that such notices should be given) as to the mode in which service should be effected.

Your Committee look upon the particulars last mentioned as matters rather of detail than of principle, but consider the main features of the Bill upon which unanimity of opinion has been exhibited as highly desirable in the introduction of legislation for the transfer of land, and would recommend that, upon the opening of the next Session, a Bill, similar in principle (if not in all its particulars) to that now submitted, be introduced.

J. B. BENNETT,  
Chairman.

Committee Rooms,  
3rd June, 1858.



## PROCEEDINGS OF THE COMMITTEE.

---

FRIDAY, 5TH FEBRUARY, 1858.

*Members present :*

The Honorables J. B. Bennett, J. Hood.

No quorum.

Adjourned until Tuesday, 9th inst., at eleven o'clock.

---

TUESDAY, 9TH FEBRUARY, 1858.

*Members present :*

The Honorable J. B. Bennett, in the chair ;

The Honorables J. Hood, T. H. Power, W. H. F. Mitchell, H. Miller.

Sir William Stawell called in and examined.

Transfer of Land Bill considered.

*Ordered*—That this Committee be adjourned till Thursday next at one o'clock.

---

THURSDAY, 11TH FEBRUARY, 1858.

*Members present :*

The Honorable J. B. Bennett, in the chair ;

The Honorables J. Hood, T. H. Power.

John Carter, Esq., barrister-at-law, called in and examined.

*Ordered*—That the Committee be adjourned until one o'clock on Wednesday next.

---

WEDNESDAY, 17TH FEBRUARY, 1858.

*Members present :*

The Honorables T. H. Power, J. B. Bennett.

No quorum.

Adjourned *sine die*.

---

WEDNESDAY, 10TH MARCH, 1858.

*Members present :*

The Honorables J. Hood, J. B. Bennett.

No quorum.

---

THURSDAY, 27TH MAY, 1858.

*Member present :*

The Honorable J. B. Bennett.

No quorum.

Adjourned till to-morrow at one o'clock.

FRIDAY, 28TH MAY, 1858.

*Members present :*

The Honorable J. B. Bennett, in the chair ;

The Honorables T. H. Power, W. Highett.

C. B. Skinner, Esq., barrister-at-law, called in and examined.

Adjourned *sine die*.

---

THURSDAY, 3RD JUNE, 1858.

*Members present :*

The Honorable J. B. Bennett, in the chair ;

The Honorables T. H. Power, Dr. Hope, W. Highett.

Draft Report brought up by the Chairman and read.

Report unanimously adopted.

*Ordered*—That the Chairman report to the House.

# MINUTES OF EVIDENCE.

TUESDAY, 9TH FEBRUARY, 1858.

## Members present:

The Honorable J. B. BENNETT, in the Chair.

The Honorable J. Hood  
The Honorable T. H. Power

The Honorable W. H. F. Mitchell  
The Honorable H. Miller.

His Honor Sir William F. Stawell, Chief Justice of the Colony of Victoria, examined.

1. *By the Chairman.*—Have you had placed in your hand a Bill, entitled “An Act for the Transfer of Land?” Yes, I have read it over. It was prepared by Mr. Skinner, I believe.

His Honor  
Sir W. F. Stawell,  
9th Feb., 1858.

2. Would you kindly tell the committee what are the present impediments to simple conveyances—I speak with regard, first, to the length of the title, and secondly, as to the length of the conveyance?—That is a very large question. I will take each branch separately. The difficulties and expense in investigating a very long title are very considerably enhanced, in my opinion, by the present system of registration; and, in this country, by the peculiar and particularly rapid way in which landed property is transferred from hand to hand, and dealt with as if it were personal property, whilst at the same time all the forms required for the transfer of real estate must be observed. The result is, that titles become, in a few years here as intricate as they do in centuries, I may say, in England. As to the conveyance itself, the great length to which deeds run proceeds, I think, from an adherence to old and recognized precedent, and the danger of adopting new, upon the validity of which no decision has been pronounced. If any general form is prescribed by an Act of Council, professional men are unwilling to adopt it, lest by the accidental omission of a particular word the deed may be held inoperative, because it departs from the precise form given. With reference to the cost, the searching in order to ascertain first of all whether there is a good title, irrespective of the registry, is a most expensive and tedious process, and after the purchaser or his professional adviser is satisfied that, apart from the registry, there is a clear and good title, and after he has incurred all the expenses he is obliged to incur in a non-registry country he has also superadded to that the expense of searching the registry itself, which is very frequently just as much as the expense incurred in the investigation of the title.

3. I will direct your Honor's attention to the last branch first, if you will allow me. Do you consider it would be judicious in an Act of this description to set forth a certain form for the simple conveyancing of land, with a clause in the Act providing that what are known as the “covenants for title” should be understood?—I think some advantage, and no doubt great advantage, would be attendant on that, if such general words were used as to satisfy the minds of professional men, who are properly cautious for the interests of their clients, that a departure from the mere word would not invalidate the form. To convey my meaning more distinctly, I would say that, instead of simply declaring that such words should have such and such an effect, I should prefer the present law of real property being altered altogether and very considerably simplified. There is no doubt that the mere introduction of a form is a great improvement, but there is the objection which I have already pointed out; it might to a certain extent be obviated by the use of general words, if those words were sufficiently weighed and considered, and every possible case anticipated.

4. *By Mr. Power.*—That is the objection arising from your apprehension of the accidental omission of a word?—Yes, the mere omission of a word by a clerk copying may, it is supposed, invalidate a short form given; because, if a certain form be prescribed, and you deviate in the slightest way from that form, although in the most immaterial matter, the objection may, perhaps, afterwards be raised by a future purchaser that the form is not valid. The objection may be very trifling in itself, and yet sufficient materially to affect the value of the property you wish to sell.

5. *By the Chairman.*—Is your Honor aware that there is in New Zealand an act intended to provide for that difficulty?—I have heard that there is such an ordinance, but I have never been able to obtain a copy of it. I may state that, in my opinion, the question of the transfer of real property is one of the greatest importance to the country, and, at the same time, one most difficult of solution. It may be that I look at the case from a professional point of view, and am unnecessarily apprehensive of difficulties; but I think an alteration and amendment of that law has been long required, not only in this country, but at home. Remedies and reforms have been sought for and suggested, and from time to time postponed; and the result of the whole is, that the public will not, in my opinion, be satisfied with any partial measure; having so long looked for an alteration of the law, when it does come they will expect something comprehensive and effectual; and in my opinion they would not be satisfied with a measure which in itself may be excessively good, if it can only be looked upon as partial. There is no doubt that the suggestion made by the chairman is an excellent one,

His Honor  
Sir W. E. Stawell,  
*continual,*  
9th Feb., 1858.

and Lord Brougham introduced and passed an act precisely upon that principle ; but in this country, and in the home country too, as far as my experience and that of other professional persons to whom I have spoken extends, it has been virtually a dead letter—nobody has adopted it.

6. Your Honor is alluding to the act in relation to leases?—Yes.

7. Your Honor perceives that one object of this Bill is to separate the legal estate from equitable trusts. So far as that single step of separating the legal estate and keeping it distinct, without divulging any trust, is concerned, may I ask your Honor's opinion upon that subject, as to whether you think it is a step in the right direction, or otherwise?—I think the Bill is a step in the right direction, so far as it extends. I think it is founded upon the true principle of registering the title, and not the mere assurance, and separating the legal estate as far as possible from equitable interests or trusts. I have already said that the subject is a most difficult one ; and I think this measure, to the extent to which it goes, is founded upon the true principle, and is entitled to very great credit indeed, because no person who has not attempted it can be aware of the difficulties with which an attempt to make a step on comparatively new ground is beset ; a professional person especially sees objections which will never present themselves to a non-professional mind. In my opinion, this Bill does make a decided advance, and so far as it extends, treats the question aright ; but I should wish it to go much further ; or rather, more properly speaking, I should wish to see other Bills attendant on it.

8. Then your Honor is of opinion that a purchaser ought not to be forced to look further than the register for his title?—I cannot answer that question by a simple affirmative or negative.

9. Assuming the title to spring from the fountain head and to be on the register from the grant from the Crown irrespective of any previous title, assuming the purchaser could trace his title by the register up to the grant from the Crown, does your Honor conceive that that register ought to be sufficient to satisfy him, and that he ought to be protected by that?—So far as conveyances of the legal estate are concerned, certainly. The legal assurances, and in the shortest form, should appear on the register, and I would not burden the register with any reservation of equitable interests or trusts ; but at the same time, no law ought to be passed which would attempt to prevent the public from dealing with their estates as they pleased, consistently with the laws of real property, and there may still remain trusts or beneficial interests, notice of which may, to a certain extent affect the person who gets a clear legal title.

10. This Bill does not contemplate relieving a purchaser from looking into a title prior to the first registration?—No.

11. Does your Honor consider that it would be judicious to have some speedy and effectual method of settling at rest all questions of title prior to the first entry on the register. Your Honor will perceive in one of the clauses that it is provided that the purchaser buys subject to all existing leases and to the state of the title prior to the first transfer of ownership. In reference to that particular clause in the 23rd section, does your Honor consider it would be beneficial and judicious to have some speedy and effectual method of setting at rest title prior to the first transfer of ownership?—I do ; in fact, I think this Bill will not be done justice to, unless some such measure attends it, and in my opinion this should be one of a series of which the measure you allude to should be another.

12. Then, would your Honor have any objection to explain to the Committee what sort of machinery you would suggest for quieting titles prior to the first registration?—I would give a power of investigating any person's title who wished to register, and to get all the advantages derivable from this register ; because, if a title, after investigation, was pronounced to be clear and was once registered, it would not require any investigation as to the previous title ; in other words, the vendor whose title was registered would start with a clean bill of health, and would then derive all the advantages immediately, which are to be derived only prospectively from this measure.

13. Then do I infer correctly that you would not allow any person to be registered until he had first obtained his clean bill of health, or would you allow him to register, and get his bill of health when he liked?—I would rather not have any of these measures compulsory. I prefer the community seeing the advantages and being led by degrees into adopting them. I would allow any one to register, but for the sake of the public, and in order to avoid their being misled, I would draw a marked distinction between those cases where the title had been investigated and approved of, and where it had not.

14. That might be done by a separate class of registration—a registration of certified titles, and a registration of uncertified titles?—I should wish to avoid that, not only on account of the expense of the officers, but also because I think some confusion might afterwards ensue ; at the same time the question is not without its difficulties. If it is rendered compulsory, great injury might be inflicted on absent owners, and if not compulsory, some may be disposed to incur the expense of investigation, others may not be prepared or not even disposed to do so ; and others again may not be prepared with the necessary proof of a clear title. I do not therefore see how registration of titles inquired into and approved of, and of titles not inquired into or not approved of, can be avoided, but the registration itself will be the same in both instances ; the only difference will be that in the one case the title prior to registration must be inquired into, and in the other it need not. But in any scheme, great care should be taken to prevent the public being misled as to the effect of registration. Many non-professional persons attach a greater importance to registration than it really deserves, and I fear that they, although men of education, might be misled, and imagine that if a title is registered it is quite right. I may, for

instance, state that many persons are under the impression that every sale under a decree of a court confers a good title, whereas there never was a greater mistake. It generally happens that the title is investigated very accurately before the decree is made, but the court merely sells what the defendant in the particular case has; and yet the general opinion, even amongst the most educated men not professional, and an opinion not unnaturally arrived at, is, that every sale under a decree of court confers a good title; so here I fear that many men would imagine that, as the title has been registered, it must therefore have been investigated. It would be therefore desirable, in my opinion, to guard as much as possible, in any legislative enactment, against any such misapprehension.

15. That is a matter of detail, to be considered hereafter?—Yes. I would add, that no partial or *ex parte* investigation should, in my opinion, be recognized or required; let there be either a thorough investigation and appeal, or none at all. In many cases an *ex parte* investigation may be more injurious than none at all. I would make the registrar merely a ministerial officer, and compel him to put on the register any title that was brought to him.

16. Assuming that there is no quieting of titles court, the position then would be, that the title, from the first registration, need not be inquired into, but would require to be examined into prior to the first registration?—Precisely.

17. And you would not compel persons to make use of the registration unless they pleased?—I prefer the measure not being compulsory. I fear that it might then be looked upon as harsh, the public would avoid it; they would not see, at first, the advantages to be derived from it, and would not cheerfully comply with it; whereas, if its advantages were experienced, as they would be after a year or two, they would all cheerfully assist in bringing it into operation.

18. Your Honor has just mentioned that you would allow any man to register who pleased, and that you feared that a partial investigation prior to registration might tend to give a false security?—Yes.

19. That observation has distinct reference to a portion of this Bill, which states that it is necessary to produce an abstract to the registrar?—Yes.

20. Then, may I ask your Honor's opinion upon that subject?—I do not agree with the principle of the Bill upon that point, and without detracting from the credit which is justly attached to the Bill, I may say that there are points of detail in which I do not concur, and in which I think the Bill is susceptible of improvement. I think that, with reference to the point in question, the preparation and production of an abstract in support of a *prima facie* title would be an expense to be unnecessarily incurred, and to no material good. The expense of an abstract may amount to a large sum, and may subject a person intending to register to a very serious cost, and yet be set aside as a merely *ex parte* investigation, without any substantial benefit having been gained.

21. Before leaving this question, although it is not actually provided for in the Bill before the committee, would you favor the committee with your ideas with reference to the subject of quieting titles prior to first registration; does your Honor consider that that would be best effected by means of the Supreme Court, or by means of a separate court adapted specially for that purpose?—As a general rule I prefer using the Supreme Court, because I think such a course would be attended with less expense; the machinery is all in existence, and if it were necessary to appoint a judge or commissioner expressly for the purpose, I think it would still be better to have this court attached to the Supreme Court. The precise mode of constitution, and the jurisdiction of that court are all matters of detail, but they are details of much consequence, and upon their judicious arrangement and wise determination the beneficial results of the measure will, in my opinion, mainly depend. As a mere outline I would suggest that there should be a commissioner or a judge to hear the evidence of title submitted to him, and to require notice to be given to such persons as he may consider beneficially interested, or in any way likely to be affected by the decision he may pronounce. The mere investigation of title in that way would be simple enough, and there might or might not be an appeal to the full court; in my opinion it would be scarcely required. The great difficulty I have always experienced in considering this measure has been the mode in which notice is to be given to the parties interested. In this country persons acquire property who very frequently have never been here at all; other people acquire property, leave the country, and die, and their representatives may be scattered all over the world. It may be necessary to give them notice, and in order to arrive at any decision upon the matter the court must proceed, after proof of notice having been given, as if persons had actually been served with notice and refused to attend; unless the court is actually satisfied that notice has reached them, the decision pronounced may deprive owners of their rights and inflict very grievous injury. Mere publication in the Colony, in my opinion, is not sufficient; nor in my opinion should the Gordian knot be cut by declaring generally that every person must leave an agent in the colony. Such a proposition does not afford a safe basis for a legislative enactment; and yet, on the other hand, if some such course is not decided on, so long a time may be required in order to give notice as to exhaust the patience of any person who desires to have his title registered. In many instances, as, for example, where a grant from the Crown had recently been issued, the title might be investigated and approved of with great facility; but in other cases the title may have become intricate and difficult of proof, and in many instances those difficulties arise where the owners are absentees.

22. I presume that when a step of that description was taken, those difficulties would naturally be taken into consideration in calculating whether it was worth while to quiet a title or not?—No doubt.

23. And if it were considered so, would your Honor look favorably upon such a thing,



His Honor  
Sir W. F. Stawell,  
continued,  
9th Feb., 1858.

as giving notice by an advertisement in the *London Gazette*?—No; I confess I have not much faith in the value of notices contained in gazettes or newspapers. In many cases they may not be read; the persons beneficially interested to whom notice should be given are very frequently children or married women, who know nothing about business and never read gazettes, and in my opinion it is no answer to say that they ought to read gazettes or appoint agents. I cannot say what would be the best mode, but I prefer that the mode should be provided for by legislative enactment, and not be left to the discretion of any judge or commissioner. Cases may arise where it may be almost necessary to allow some discretion to the court, but those cases should be specified.

24. Then, as I understand your Honor, it is a balancing of difficulties either way?—I never will allow that there are any difficulties which may not be overcome; but I only state these difficulties as my reason for not being able now to shadow forth in detail the precise mode which I would recommend. That has been in my mind the great difficulty connected with this question, for I have long looked at the subject, both with reference to a measure of the kind now before the committee, and also an act establishing a court of claims or of caveats.

25. Are the committee to understand you to say that you do look forward to framing such measures?—I did look forward to it when I was in office. The idea of a court of claims suggested itself to my mind from the court of caveats which has been in operation, I understand, for many years in Van Dieman's Land.

26. *By Mr. Mitchell.*—That is only as against the Crown?—Yes, but still it is to a certain extent founded on the same principle.

27. *By the Chairman.*—Whatever general course is adopted, is it not the case that difficulties under peculiar circumstances will arise?—No doubt.

28. I gather from your evidence that your Honor is more in favor of having this court for the quieting of titles attached to the Supreme Court, and worked by the machinery of the Supreme Court, than of having a separate jurisdiction, and a separate court?—I think it would save a great deal of expense; and I see no advantages likely to arise from establishing a new court.

29. Does your Honor think it would be more or less convenient to the persons practising in the court, with reference to the days on which the court might sit, if there was one court, or if there were two courts?—I have not considered these details; a distinct court might sit in the same building and about the same time. But I think greater convenience would be afforded to the public by the establishment of a court as a part of the Supreme Court, than by the establishment of a separate court.

30. The next point to which I would draw your Honor's attention in reference to the Bill, is the protecting of beneficial interests. May I ask if your Honor approves of the system of lodging caveats to protect beneficial interests?—Yes; I think the experience of the Bank of England shows that that system might be adopted with a great deal of advantage; with this exception, I would not cast upon the registrar the necessity of giving notice to the beneficiaries, I would impose upon every one, as much as possible, the protecting of his or her own interests. I think that otherwise an idea of false security may be raised, a person beneficially interested might be led to imagine that the registrar would see that proper notice was given. I can imagine many cases in which the notice would never reach the person interested, and he might be afterwards shut out from urging his rights; because, although no new notice had reached him, it was necessary that if after due service of notice was proved no appearance was entered, the court should be at liberty to proceed *ex parte*. I think it much better that the necessity of enforcing their rights should be cast as much as possible upon the persons beneficially interested themselves; as I have said, in these cases they are, in most instances, children, or married women, or persons not conversant with business, who are beneficially interested, and I think the greatest facility should be afforded them of setting in motion a Court of Equity; and a measure altering the mode of proceeding in those courts ought in my opinion to be one of the series I have already mentioned, or else a part of this Act. The obtaining a *caveat* is a practice in force in the Bank of England, and is known amongst professional men as a *distringas*. It is a kind of stop or interim order, giving a certain portion of breathing time, and during that period, if no steps are taken to obtain an injunction, the *caveat* or *distringas* falls to the ground, and the property is disposed of. In no case would I allow the registrar to act judicially, nor would I allow him to sell, on the supposition that the *caveat* had been withdrawn or that an injunction had not been obtained, or that the time had expired. I would allow every one to proceed himself at his peril. I think it is quite opposed to the sound principles of legislation to impose on any public officer the duty of protecting private rights.

31. You are now providing for absentees?—Yes; not so much for absentees as for a class of which absentees form a part, and for which you must provide generally.

32. Persons beneficially interested, living here, would have no difficulty in taking care that notices were left at proper places for them. I assume your remarks to apply to the difficulty of giving notice to persons who are absent?—Yes, but very great difficulties are experienced, even in serving persons in the Colony.

33. But if it were compulsory upon every person in the Colony to leave their address at the time of leaving their *caveat*, would not that difficulty be removed?—I fear not, the address may be frequently altered. Certain measures, all of which ought properly to be introduced concurrently, are necessary in order to carry out my views. Much difficulty might be avoided by a judicious selection of trustees in the first instance, but as that cannot be provided for by the Legislature I would punish trustees guilty of a breach of trust much more severely and summarily than at present. I would also facilitate as much as possible applications to equity for relief, and I would then leave to each *beneficiare* the necessity of protecting his own interests.

34. But if I understand your Honor rightly, the facility which you would give in reference to applying to a Court of Equity and the other enactments, in the propriety of which I perfectly agree, would scarcely be sufficient to protect absentees; the question of notice to them would still remain. The difficulty would still arise if they were not present in the Colony?—Yes, but the difficulties as to absentees are only the difficulties of notice a little magnified.

35. Then your Honor would be of opinion that this enactment would facilitate the proceedings of persons in the colony who were not absentees?—Yes.

36. Would there be any difficulty in your Honor's opinion in making it incumbent upon every person who caveats to lodge his address with the registrar, or would your Honor stop the entire enactment for the convenience of a small class of persons—the absentees?—My objection is, not to the entire enactment, but to this portion of it. I would not oppose requiring the caveators to give their address, because that is only a mere part of the system; but I object to the mere lodging of the address involving the giving of notice by the registrar; because, as I have already said, such a course would not be sound legislation, and would be likely to mislead the public generally.

37. Is there any other mode which suggests itself to your Honor, which you could mention to the committee?—Not as regards the notice.

38. You would then oblige every person to look out and see that his land was not being sold; and if it was being tampered with, then to rouse himself?—Yes.

39. Then how would you reach absentees?—They are in no better position than persons resident in the colony.

40. They are not in so good a position, because they are not on the spot to watch their properties?—As a general rule, the class of persons who are beneficiaries are not particularly careful in watching their properties.

41. Then you would do away with that part of the Act which renders it incumbent upon the registrar to give notice to the caveator, on the occasion of any attempt to transfer the property?—I would, unquestionably; because I think it would mislead.

42. If your Honor will look at the 46th and following clauses of the Act, you will see that applications by caveators are there provided for. Without entering into detail, the committee would be glad to know if that system is approved of by your Honor?—Yes, I see no objection to the 46th, 48th, and 49th clauses, I do not see at present the particular advantage to be derived from the 47th clause. It is, in fact, enabling any person applying to register, first of all to lay his statement of facts before the master, and on his report to proceed to the Supreme Court. It is inverting the usual order of proceeding, and I do not see any particular advantage to be gained by it.

43. Then, as I understand, with that exception, your Honor does approve of the system of application to the Supreme Court as laid down here?—Unquestionably; I think the system in principle is an excellent one.

44. Then I wish to draw your Honor's attention to the 52nd clause, which is quite a new thing altogether: it gives power to the court to vest property in persons whom they may appoint, instead of allowing it to descend to the heir?—I think there are very great advantages to be derived from that; but it seems to me that it might more properly form a part of an act altering the law of real property generally. It is convenient to one's view to insert it in this Act, because it will enable the trustee to register, but I think it would be better to deal with the question of real property as a whole, this forming a portion of it. I may say also that, although I approve of the principle, I am scarcely satisfied as to the mode in which it is intended to work it out in detail.

45. Your Honor sees no objection to the principle involved in it?—No, I think the principle a good one, but I think there may be cases in which no such proceeding should be permitted. For instance, a person intending to make his will may not wish that any such trustee should be appointed. He desires to give his real property to any person he pleases, or in any particular way he pleases; and I can conceive a case in which the appointment of this trustee would be an interference with the mode in which the testator intended that his wishes should be carried out.

46. Your Honor will see that this clause is merely giving the court power to do as they thought best; if the court saw that the property was well vested in trustees on the spot, who were ready to carry out the trust, they would refuse the application?—I fear that this is rather going into detail. I approve of the principle generally; but I merely mentioned that as an instance in which, according to the present mode of carrying it out, there may be injury inflicted on some existing interests, and the wishes of the testator who has left the property may be interfered with, and I think that is very objectionable. It appears to me that those vesting orders are not essential in any way to this Bill, and would form more properly a part of another and a separate Bill altogether.

47. It is necessary in this way, that, assuming a man appears upon the new register and dies intestate, if the estate went to his heir alone, there is no provision for registering the transfer to his heir; but if the court made an order, that order would be registered, and it would supply in respect of the dead man, what would be a conveyance from him, if he were alive, to a trustee, and so it would keep up the chain on the register?—Perhaps I can more properly explain myself by saying that this clause carries out what was evidently the view of the framer of this Bill, namely, making the registrar in certain circumstances a judicial officer; but I am opposed to that altogether. I would make him merely ministerial.

48. Do not you consider it necessary in this way: the land appears on the register, by

His Honor  
Sir M. F. Stowell,  
continued,  
3rd Feb., 1858.

various registrations, to have passed from A to B, from B to C, and from C to D; D dies without having passed it to any man, and there is a break in the chain—the heir is perhaps of age, and then to complete the title at the present day, you would constantly require evidence every time there was a devolution of the estate, to prove that E was the heir of D. You find upon the registry that you are stopped at D, and then you find it is picked up by E, but there is no connecting link between D and E on the register; then you would have to supply that, by showing that E was the heir of D; whereas, if the court were once satisfied by evidence that it was so, they might make at an order at once; that order would be registered in the shape of a conveyance, and then the hiatus would be filled up, and the link be supplied from D to E; and, therefore, you would shut out the necessity of looking for the evidence of heirship every time the property devolved for the next twenty years afterwards?—There is no doubt it would be an improvement in the law of real property, but it is not essential to this Bill; because, put it as you will, there would still be an hiatus. In the one case the heir at law would convey, and in the other case the person appointed by the court; but they would both be strangers to the register, although it would be easier to prove the order of the court, than to prove the heirship by showing the marriage of the father, the birth of the heir, and the death of the ancestor; in both cases strangers are imported into the registry, but in the one case you facilitate the proof of the right of the stranger to convey.

49. Is it not a great improvement to be able to prove, once and for ever, before the court, that the heir is the heir of his ancestor, instead of every purchaser, for the next twenty years, having to satisfy himself of the same thing over and over again?—No doubt it is, but it is a part of real property law, and I would rather see it dealt with in connection with the whole amendment of the law of real property, than have that particular question dealt with piecemeal, although in the part that has been dealt with I approve of the method adopted.

50. Your Honor then would suggest that, until a general Act amending the law of real property could be passed, this part of the present Bill should be struck out altogether?—I would rather see the three Bills introduced concurrently in one series, for I think that in that way the subject is more likely to be dealt with in a sound comprehensive manner than if one measure is introduced, and it is not confined to one particular subject, but attempts to deal with questions which properly form the subject matter of another measure. I prefer that part being struck out of the present Bill, if it is considered advisable, as in my opinion it is, for many reasons, that this Bill should be passed at once; but I am convinced that any sound and well-devised measure ought to be limited to one subject and embrace the whole of that subject. From the observations I have made I wish the committee not to infer that I disapprove of this part of the Bill, but only that I think it is not essential to the present measure, if the registrar is made wholly a ministerial officer, and that it would more properly form part of another Bill in the series.

51. Has your Honor's attention been drawn to the mode suggested in this Bill of a man making his will by an absolute conveyance?—Yes.

52. And the provision for lodging a declaration of trusts with the registrar afterwards?—Yes, I think a very great advantage may be derived from that; and although I think that is, to a certain extent, a part of the real property law, I should be sorry to see that part struck out of the present Bill; it is a mere matter of detail, not involving any principle. I think it would be attended with very great convenience indeed. I think many persons desire to place their wills in some public office in which they can feel satisfied that the document will be safely kept, and its contents will not be disclosed until after the testator's death; the wishes of such person may, in my opinion, be consulted.

53. By clause 61 of the Bill, it is provided that "Any person having the custody of title-deeds, subject to a covenant to produce, shall be entitled to free himself from all liability under such covenant by depositing the same in the land transfer office." Does your Honor see any objection to that?—No, I do not; but if my views were thoroughly carried out, it would be unnecessary. If the title was quieted in the first instance by an investigation and appeal in the court of claims, the necessity for the production of those deeds would be very considerably lessened, for there would be the right of the last person registered to the land; and I should prefer making the act of the registrar operate as the transfer of the land to making him register the assurance.

54. There may be cases—grants of rights of way, for instance—which would scarcely come under that category?—There may be, perhaps, some instances of that kind. I see no objection to the clause. I think the registrar may be easily provided with a really fire-proof place, and I think the responsibility of taking care of those documents might be very fairly cast upon him as part of the duty of a public officer.

55. With regard to the question of making the conveyance itself, or the register of that conveyance, the best evidence, I understand your Honor is in favor of making the entry in the registrar's book the conveyance itself, instead of the deed of conveyance held by the purchaser? Yes, I think we should follow as closely as possible the mode in which stock is transferred. I wish to deprive an owner, who intends to avail himself of the powers of this Act, of the power of dealing with the legal estate in his land until he complies with this particular form. So far, and only in that particular respect, would I make this Act compulsory. I think the transfer itself should be effected by the public officer entering in public books the transfer from the vendor to the purchaser, or from the person who conveys to the person to whom it is conveyed, precisely on the same principle as stock is transferred in the Bank of England; there can be no difficulty then arising from the loss of any instrument, or by a conveyance being made and not registered, or by a person intending to register and being induced to deal with that property in

the same way as if he had registered. I do not think it would, in any way, interfere with the free disposition of a man's property. The law says you cannot convey your estate unless you use certain words. I would say, if you choose to follow this enactment, you cannot convey your estate unless you do a certain act. There is no more interference with private rights in the one case than in the other. I think the objects I have already pointed out might be gained, and a great many difficulties which, as it appears to me, must arise from the conveyance of an estate not being registered, and the property being dealt with between the execution of the conveyance and the registration of it might be avoided; there are difficulties however, and the principal one, it seems to me, is, that this course would almost entail having one central registration, but I am in favor of that, and not of district registrars. I think the public convenience would be more consulted by the establishing one central office and it may be placed in the site most advantageous for the Colony generally, and all persons may come or send to it. I think that the inconvenience of requiring every one to attend may be avoided by having a certain power-of-attorney in a prescribed form, such as might be given to any one to execute a transfer, or to register an assurance; this would be equivalent to executing a transfer, and personal attendance might be dispensed with. Powers-of-attorney in that way are given in the Bank of England now, and no inconvenience, that I am aware of, is suffered by it. The form may be excessively simple.

His Honor  
Sir W. F. Stawell,  
*continuel,*  
9th Feb., 1858.

56. Is your Honor aware that, with reference to the transfer of stock in the Bank of England, the greatest inconvenience has been experienced in this colony?—I am; but that arises from the bank not approving of any form but their own.

57. Do not you think it would be absolutely necessary to have a form prescribed in the Act; because, if you were to have this done by a number of clerks, you would not allow them to judge whether the power-of-attorney was sufficient or not?—That may be, but I would have it in an excessively simple form, and one that could not be well departed from; but I am not prepared to say that I would exclude other valid powers-of-attorney.

58. Who would be the judges of their validity?—I would register that which purported to be a good power-of-attorney; I would not allow the registrar to act judicially in any case.

59. Supposing a power-of-attorney, which was invalid in itself, came down to the clerk, and he registered the conveyance, if the clerk takes any power-of-attorney tendered to him, that would necessitate the purchaser examining all the various powers-of-attorney?—No doubt.

60. Would not that entail the very thing we are endeavoring to avoid, that of looking back beyond the register?—To a certain extent it would.

61. If the clerk is to register the conveyance, and his registration is to be the absolute conveyance, and a simple mistake is made by him, who is to check it. Is not that in violation of your principle, that you would make the public do everything for themselves?—No, because precisely the very same thing is done in all cases of registration. All registry Acts are upon that principle: you give a certain advantage to all persons who employ a certain public servant to do a certain act.

62. But your Honor will observe that the present memorials are not at the mercy or according to the intelligence of a clerk, because they are filled up by the purchaser's own solicitor?—All those precautions may be used, but I would have those books public books.

63. Would you allow the public to have access to those books for the purpose of registering those conveyances?—The mere hand should be the hand of a public servant.

64. Would you then give the public the power to see that it was done right?—I would give power to any person to examine the registry books, and if any error was committed, it might be very easily remedied.

65. Then that would be another step the solicitor would have to take for the protection of his client, to see that it was properly entered in the books?—That would entail upon him no greater labor than he has to perform at present, and not so much, I think?—It is a question rather of detail, but it may be easily arranged by having more strips of parchment, which after registration should be bound altogether in a book. The transfer is completed by the registrar merely signing his name. The parchment itself is prepared by the solicitor and handed in; the registrar signs his name, and that is the transfer the instant it is signed by him, and it never goes out of his custody. The public have access to it to inspect it and make copies of it, but it never goes out of the registrar's possession. A certificate is given by the registrar of its having been lodged, and that certificate is evidence for any purpose.

66. Would your Honor make the certificate of the registrar evidence of the estate?—No, I would make it only evidence of the fact of registration; it would be secondary evidence of the estate having passed.

67. It would not be sufficient to satisfy a purchaser or a mortgagee?—No, nothing short of the inspection of the registry would be sufficient for that.

68. Then that would involve a journey to the capital by the solicitor of a purchaser in the country, unless he had confidence in any one else?—Yes, but that is the case in all register countries. I see no difficulty arising from that, all professional men have their correspondents and agents in all parts of the country, and if land is being sold in the country a communication is made now, I presume, to Melbourne to search the register.

69. Is your Honor aware of the petitions that were sent up in England to the House of Commons against the Registration Bill, and that the necessity of entrusting the search of memorials to an agent whom the client might know nothing at all about, was one of the gravest objections to the Bill, and that that eventually threw it out?—I am aware that those petitions were presented; but I believe it was under a misapprehension on the part of the public mind.

70. Those petitions were from the professional men in many of the cities in England?—I was not aware of that.

His Honor  
Sir W. F. Stawell,  
*continued.*  
9th Feb., 1853.

71. It was alleged by them, that the registration in London would necessitate the employment of an agent in London, in whom their clients might not have confidence?—I cannot appreciate the difficulty, because the whole of the law business is transacted in that way now; the whole of the law business in England is transacted by means of agents in London, and I have never heard the performance of the duties by those agents complained of.

72. That is, with regard to business in the courts?—Not merely in the courts, but general law business.

73. In conveyancing?—Yes, in Ireland, certainly; there is one central registry office there in the capital, and I have never heard of complaints. If man is not to trust his fellow-man in the transaction of business, I fear the difficulties of legislation will be very much increased.

74. If your Honor will allow me to direct your attention to this point, I think you will see that that is not quite the question. A solicitor in the country may choose to trust a solicitor in town, and that is a man trusting his fellow-man; but when you compel a client, who knows nothing about the town agent, to rest his faith in a man he knows nothing about, that is something more. He may have perfect confidence in the solicitor in the country, but the system suggested, if adopted, would necessitate, in heavy transactions, either the attorney going to Melbourne to search for himself, or the client placing confidence in a man whom he knew nothing about?—I think not. I would prefer not referring always to the same instance for an example, as if there was no other; but there is the case of stock. All brokerage is conducted upon the same principle. If a merchant employs a broker in Liverpool, the broker writes to his correspondent in London, or a solicitor writes to his agent in London. If the client has confidence in his solicitor, that confidence is misplaced, unless it can be extended to the person whom the solicitor selects as his agent. If the merchant employs a broker, and that broker employs an agent, and the agent deceives him, he is liable to the constituent for any injury resulting from that deception, and very properly so too. Some persons take extreme views of these things. I have been aware of one man, a large money-lender in London, who would not trust his solicitor or any one else, and who sat upon his title-deeds, and would not give them up until the money which had been advanced by him on mortgage was paid into his own hands. But these are extreme cases. There may be some difficulty in explaining the effect of the suggestion to the public, and misapprehension may arise. The inhabitants of inland towns may suppose their interests are neglected if any course is adopted which entails the appointment of agents in the metropolis, if that should be selected as the site for the central office; but in my opinion this proceeds from misapprehension, and the subject only requires to be explained to any impartial man, when the objection will be removed.

75. Will your Honor look to the 12th section in the Bill: do you consider that that is sufficiently comprehensive to include all persons entitled to register legal estate?—Yes, I think so. I confess the expression "first estate of freehold of inheritance" is one not commonly used, but to me it is perfectly intelligible and distinct, and I see no difficulty that is likely to arise from its use.

76. In reference to the question of registration, and making the transfer on the books the actual conveyance itself, would the difficulty be met by having that conveyance in duplicate; this Bill provides that it should be in duplicate, so that the registrar shall keep one and give another to the purchaser, both signed and both stamped?—That proceeds on a different principle.

77. According to this Bill, the conveyance will be done in half a dozen lines, and the purchaser's solicitor will prepare two of those. He would hand both into the registrar's office; one would be signed, and stamped, and bound up; and the other would be signed, and stamped, and given back, instead of a certificate of registration. Would that meet the difficulty of not allowing a man to carry his title deeds in his pocket? would that system meet your Honor's view?—No; it proceeds on what I think an erroneous principle; it makes the execution of the document the transfer; whereas, I would make the entry in the book by the registrar the transfer. As far as the legal estate is concerned, the execution by the vendor is inoperative, it is merely a writing: it may be a contract for sale, but nothing more than that, until the document is actually signed by the registrar, and entered by him.

78. Quite so; but then your Honor will see that, according to this principle, the registrar must have received, and signed, and kept one document before he gave out the duplicate; would not that meet your Honor's view?—It would be merely a duplicate instead of a certificate.

79. Quite so; and then you might make both, or either of them, evidence?—I would not make both evidence, I would always draw a distinction; the one is primary evidence, the other secondary. This Bill proceeds on the principle that the document itself, when executed, should be the transfer. I would proceed upon the principle that no valid transfer was effected until the entry was made by the officer.

80. The purchaser could not possibly get the duplicate until the officer had signed the original, which he would keep; and, therefore, the fact of having the duplicate signed and stamped by the officer would of itself be evidence that the officer had the original in his possession and filed?—I do not see, on principle, any serious objection to that, except that I think it calculated to mislead. There might be a doubt as to which was the original.

81. The original would be in the registrar's office?—Then, in order to obviate any doubt, I think it would be better to give a certificate of that fact; that seems to me the simplest mode of proceeding. I do not see any objection to the course suggested by you, if this document which you term a duplicate is looked upon merely as secondary evidence.

82. It is always more satisfactory to a professional man to have the actual words than to see the certificate of such and such a thing being done?—Then he must search the register.

His Honor  
Sir W. F. Stowell,  
continued,  
9th Feb., 1858.

83. More than that, a solicitor in the country must get office copies of the documents to satisfy himself?—Even so; it would be more satisfactory than trusting to the duplicate being accurately copied from the original. Take it that by accident the duplicate was informal, and the actual original correct, as a matter of business, no man ought to rely on a duplicate original, nor would he on the certificate. If the entry on the register is the transfer, you should in the ordinary way of business merely give a certificate of that fact having been done, and then you might afterwards, if you pleased, get an office copy of the entry.

84. Would it not remove the necessity of having office copies if you had a duplicate original?—I do not see that in any way.

85. If the purchaser saw that the duplicate was right, he would know that that was right, even if the registry was wrong?—If the duplicate was right and the original wrong, the purchaser would, I think, be misled.

86. Certainly, if you make the property pass only by the registrar's books; but I want to suggest the making it pass by either?—I do not approve of that; I think the registration of two originals, and the retention by the registrar of the one, and by the owner of the other, would be an unusual mode of proceeding. Foreign bills of exchange are signed in sets, but they stand in a different position. That course is adopted for the convenience of transmission, and the payment of one is payment of all. All three are not in force at the same time.

87. These would be the same; they would be in sets; the registrar would issue them in sets; one he would sign and keep, and the other he would sign and give out. It is in fact a conveyance in sets of two, and either of the set of a bill of exchange is good; if one is good it does not signify that another is bad?—Instead of terming it a duplicate original, it would be rather an office copy.

88. Call it an office copy?—Then there is no objection to that, so long as the original only passes the estate. I think that otherwise the search should extend to two instead of being limited to one transfer.

89. If the Act made the estate to pass if either were correct, and the purchaser had a series of correct documents in his hands, he would not then, of necessity, be obliged to go and see that those in the registrar's office were correct, I presume?—I think most professional persons would.

90. If the Act said that if either of them were correct, it was sufficient, and I had a set of correct ones in my hand, that would be sufficient to satisfy me?—Without referring to the facilities it would afford to frauds, I fear that the confusion would be endless. Some persons might rely on one set of documents, and other persons on the other set. You propose to allow duplicate originals of public documents to be in the custody of owners of property; whereas, in my opinion the document, when registered, should be evidence of the owners title, but should be a public document, and no permission given to remove it out of the office.

91. In reference to the caveats, there is a power given for a lady possessed of dower to enter a caveat; does your Honor object to that?—I would allow a person entitled to dower to lodge a caveat in the same way as any other person beneficially interested, but I would not allow the estate to be sold and make the registrar retain part of the purchase money. I think that would convert the registrar into an equity judge.

92. That would be giving him a judicial capacity which you object to?—Yes; if the principle of making him wholly a ministerial officer were adopted, it would simplify this measure very considerably, and many of the clauses might then be struck out.

93. With regard to the 63rd clause, would your Honor suggest that being struck out or retained? Does your Honor approve of the principle at all?—I would rather leave the law as it stands, or if it is to be amended at all, I think the same observations I have applied to the 52nd clause apply with much more force to this. The 63rd and 64th clauses appear to me to a certain extent inconsistent one with the other. There is no doubt that the ingenuity of mankind has devised means to avoid the Statute of Elizabeth, and this clause 64 appears to be framed to render that Statute more efficacious; but if that Statute is defective, it should be repealed or amended.

94. This is to make it more effectual?—Then I would not indirectly amend it, as this clause seeks to do. I think the subject requires more consideration.

95. It is not, in fact, necessary to this Bill?—It is by no means necessary.

96. Then would your Honor think similarly of the 65th clause?—I prefer that being struck out.

97. For the reason which you have just mentioned, that it is unnecessary to the present Bill?—Yes.

98. There is the 62nd clause; what is your Honor's opinion as to that part? Would you prefer to have that struck out of the Bill?—That depends upon whether the establishing a central office only is determined on, and whether the entry by the registrar is made the assurance. If it is decided to have a central office, and if it is decided that the estate should pass only by the registration of the document, I think some such clause as that may be desirable. I think the clause itself sound in principle; it is founded on or follows very closely the principles that have been brought into operation for many years in the registration of ships and transfer of ships. In those cases a power-of-attorney is prepared in a certain form, and lodged in a certain office, and remains unrevoked until notice of its revocation is given at that office, notwithstanding any other circumstance that may have occurred.

99. This clause does not contemplate a power-of-attorney in any particular form?—No,



His Honor  
Sir W. F. Stowell,  
continued,  
9th Feb., 1853.

it is general. A measure relating to powers-of-attorney has been passed by the Legislature; but this clause seems to me preferable.

100. With reference to the 72nd clause, would your Honor prefer the annual report to be laid before the Houses of Parliament?—Certainly, and so far from making the registrar a non-responsible officer, as he is termed here, he should be appointed in the ordinary way. I look upon him merely as a ministerial officer, and under any circumstances I see no reason why he should not hold his office during pleasure, precisely as all other officers do, except the judges.

101. What clause is your Honor now referring to?—The second.

102. It is there provided that the registrar shall hold his office during good behaviour?—Yes, but no other officer but a judge holds on that tenure.

103. It was proposed to make him a sort of a judge?—I do not think he should be so. I think he should be a well-paid active man of business, who should attend most carefully to the details of his office.

104. Is there any other matter in reference to the Bill which your Honor would wish to mention to the committee?—No; I have already said that I think this Bill should be one of a series of Bills. I have previously alluded to them, one being a Bill establishing a court by which a title could be ascertained, and, when registered, that title would dispense with the necessity of any purchaser investigating the anterior title. I wish that to form one of the series. Another would be a measure altering the present law of real property. A great simplification indeed of the mode in which trusts are now framed might, in my opinion, be effected. Two other Acts, or rather amendments of present Acts, would also be required; one rendering any breach of trust punishable summarily, and I do not think any better precedent could be followed than the Act passed during the last Session of Parliament in England; and the other an amendment of the modes of procedure in courts of equity. That would be altogether three measures, and the amendment of two.

105. With reference to an alteration of the law of real property, without entering at all into detail, would your Honor kindly mention in respect to what particular subjects you would suggest that it should be altered?—I think the simplification of settlements and the alteration of the present law of contingent remainders and executory trusts of all kinds; I would also include in it the conferring upon the Supreme Court power, under certain circumstances and subject to certain well-defined limits, of appointing a trustee of real property in the same way as an executor of personalty, or conferring upon some person the same powers with regard to real estate as are now conferred upon the executor who takes out probate with regard to personal estate.

106. Has your Honor's attention ever been directed to the establishment of a Board of Trustees in that way, whose duty it would be to protect estates of that description?—No; and as a general principle, I should object to that, because boards are irresponsible bodies; but very great advantages would, in my opinion, arise from appointing a hand to deal with real estate, precisely in the same way as an executor is appointed to deal with personal estate. I think, however, the wishes of the testator should be consulted in such a way as not to enable the court to set them aside.

107. I would point out to your Honor that this Bill, whilst providing for the appointment of trustees under certain circumstances, does not attempt to provide that they shall be appointed upon any other trusts than those mentioned in the will?—A testator may have died under the impression that no trustee was to be appointed and may have said so in express terms.

108. And if the court saw that his own wishes would be carried out better by the appointment of a trustee, would not you confer upon the court the power to appoint one?—Not as a general rule; I would allow every man to judge for himself. No court should be permitted to decide what they thought any person intended when he had expressed in distinct terms what he did intend. I wish the court merely to carry out the wishes of the person who executes the particular document or deed.

109. But if the wishes of the testator were carried out, would your Honor deprecate the alteration of the machinery?—Certainly. I may add that, although to do this measure fair justice the others I have mentioned should be introduced concurrently, yet I see no objection to the introduction of this Bill in the first instance; but I think at the same time that, if the committee approve my views, they should frame the present Bill with reference to the others proposed to be introduced.

110. *By Mr. Power.*—You would not delay the passing of the Bill now before the committee?—I would not, because I think every day increases the expense. The cost of searching the register now is increasing every year, I may say almost every day.

111. With reference to the expense, what reduction upon the present costs and charges would this Bill make in your opinion?—In my opinion, irrespective of simplifying the title, it would reduce the expense of searching for title by one-half. I do not know whether the attention of the committee has been drawn to the evidence given before the Select Committee of the Houses of Parliament in 1853, but I would say, that I entirely agree with some of the witnesses there, who state that, if you simplify title and facilitate the transfer of land, you will very materially increase the value of it.

112. *By the Chairman.*—Is there any other information which you can suggest to the committee?—Nothing further occurs to me at present.

*His Honor withdrew.*

THURSDAY, 11TH FEBRUARY, 1858.

*Members present :*

The Honorable J. B. BENNETT, in the Chair.

The Honorable John Hood

The Honorable T. H. Power.

John Carter, Esq., barrister-at-law, called in, and examined.

113. *By the Chairman.*—What is your profession?—I am a barrister.

114. To what particular branch of the law have you directed your attention chiefly?—

Real property and conveyancing.

115. You have been some time in the colony, have you not?—Nearly three years.

116. Have you been engaged during the whole of that time in the practice of the profession?—Yes.

117. Have you had much experience in the titles of land in this colony?—Yes.

118. As well as at home?—I have had considerable practice at home also.

119. Am I correct in assuming that the expense of conveyancing in this colony arises from the expense of investigating the title and the expense of the conveyance?—Yes, but principally from the title.

120. Investigating the prior title?—Yes.

121. And also the expense of the conveyance?—The conveyance itself is sometimes expensive, but in common cases it costs only six or seven guineas.

122. The expense may be divided into these two branches—title and conveyance?—Yes, the title forming the greater portion of the expense.

123. Do you consider that, if it were possible to avoid the examination of prior titles, a purchaser would avoid much of the expense of conveyancing?—Undoubtedly.

124. You have seen this Bill which is before the committee, entitled "An Act for the Transfer of Land," have you not?—I have not been able to go into it; my time at present is so taken up by private practice, that I have not had sufficient leisure to go through it. I can only speak generally as to conveyancing law, and also offer suggestions with reference to the amendment of that law. I cannot speak at present with reference to the contents of this Bill.

125. What is your opinion as to the means, if any, of avoiding the present expense of the examination of titles?—I think the best mode would be to constitute a court, presided over by a commissioner or a judge, who should give proper notices describing particular properties, and requiring claimants of any interest in that property to come forward. After an interval of a proper period an order might be issued, having the effect of a Crown grant, which order would have to be registered by the proper officer. Afterwards transfers might be made in a very simple form, and in such a manner as to avoid the necessity of investigating the prior title on each dealing with the property.

126. That is in reference to the title as it exists at the present day?—Yes; future Crown grants may be taken to the registrar before their delivery to the grantees.

127. That would be a measure in fact for the quieting of titles?—It would establish titles, and I think contemporaneously with the measure, the period for limitation should be shortened.

128. What length of time does your experience in this Colony lead you to suppose would be a reasonable time?—That is more a question for the Legislature than for myself; it depends in a great measure upon the habits of the people generally. About 1843 I find some of the greatest objections to titles. I think ten or twelve years would be a very fair period. If a man has not looked after his interest for ten years, I think the title of the holder should be recognised.

129. That is, upon the assumption that he is of age and under no legal disability?—Yes, in every case, according to the state of the title, the notice would have to be varied.

130. Then you have in fact commenced at the commencement; you would first quiet a man's title before you got him upon the register?—Yes.

131. Do you consider that a matter of that sort would be best effected by a separate court, or by appointing a judge in connexion with the Supreme Court for that purpose?—I think it should be a separate court.

132. Do you find any additional advantage in a separate court over a judge of the Supreme Court?—The separate court would be required for two or three years only, after which time the titles would probably get upon the register to the Supreme Court. It would scarcely be worth while for this purpose to appoint another judge, and if you appointed another Supreme Court judge, you would have to retain him.

133. Would another judge of the Supreme Court, with the machinery at present in existence, carry out your view?—Not with the present machinery. The machinery must be formed for the purpose. If you have another Supreme Court judge, you must confer on him the same powers as you would on a commissioner.

134. Assuming that the Supreme Court had the power to do this, do you think it would be more convenient as a matter of practice to give it to a judge attached to the Supreme Court, or to form a new court altogether? Of course, as a matter of expense, it would be much cheaper to keep it with the Supreme Court?—I do not see the necessity of having a distinct court, if the sittings be permanent in the Supreme Court. If you appointed another judge, where would he have to sit. I understand the question to be this, whether it would be more politic to have a

J. Carter, Esq.,  
11th Feb., 1858.



J. Carter, Esq.,  
continued,  
11th Feb., 1853.

new judge with powers limited to this particular measure, or to confer on the Supreme Court those powers and appoint another judge.

135. Yes; to confer the powers upon the Supreme Court and appoint another judge?—It is a mere question of machinery. You could give the powers to the Supreme Court and appoint another judge; but if the real property business fell off in two or three years, you would have one judge too many.

136. Would you make it a condition precedent that every man should quiet his title before the commissioner or judge, before you allowed him to come on the register?—He should certainly show his title before he was placed on the register as owner. The advantages of the registry would induce all persons who possibly could get their names placed there to have them so placed. I would not make it compulsory on every person to register his present title.

137. And would the fact of being on the registry after having passed the commissioner or judge be incontrovertible evidence of a good title?—I would have it made so, subject, of course, to the power of persons claiming interests to register a caveat.

138. I am now addressing myself wholly to the legal estate. Do you think it would be expedient to allow persons to register from any given date, leaving their prior title at all times to be examined?—I think not; I think the registry, as far as possible, should be a perfect title.

139. Over the time it covers?—Then observe the frauds that would be committed. A person would sell a registered title, and it would turn out that it was only a partially registered title, and not one covering the whole time from the Crown grant. If I understand rightly, your question is, whether it would be prudent to allow a person to be on the registry, he having for the last five years a good title, but for the previous time there being great objections to such title.

140. No, I have not made myself understood. Suppose a grant from the Crown is issued in 1840, and in 1850 the holder of the land—say ten removes from the Crown—applies to have his name registered; then in 1860 all the removes between 1850 and 1860 will have appeared upon the register. The title from 1850 to 1860 would be indefeasible, but the purchaser would still have to look to the man's title from 1840 to 1850. Do you see any objection to that course, because in twenty years from the opening of the registry all titles would be quieted by limitation?—On the owner proving, at any subsequent time, his title to the property, in the same way as the owner of present property would have to prove his title before he got upon the register, there would be no objection to the subsequent owner being registered.

141. Would there be any objection to allowing any man to register his title, leaving it to the purchaser to take care, when he came to buy, that he had a good title; leaving the title prior to registration open until it had expired by effluxion of time, and letting any man who pleased put a deed upon the registry?—I would only permit the register of a proper title; deeds would not have to be registered, according to my proposal.

142. The way in which it is proposed to be done is to have a duplicate lodged and filed and properly indexed; then what I wish to be understood in is this—do you see any objection to any person registering, he producing a deed to himself, and saying, “There is my conveyance, I wish it registered?”—Without proving the prior links?

143. Without proving the prior links. He then gets registered; several devolutions of the estate may occur afterwards, all these devolutions after the first registration would be indefeasible, but every purchaser would have to look to see that the title prior to the first registration was a good one?—That would be perpetuating the present system. I would suggest that persons should be allowed, on proving a proper title, to go on the register if they pleased; but when once they got on the register, my plan would be to allow of no transfer of their estate, unless it was made by an entry upon the register, and I should say “Until you make a transfer in the books, we do not recognise the devolution.” Then when the owner is once placed on the books and every subsequent devolution appears on the books, that will show the title to be absolute in the last registered owner.

144. From the first registry?—Yes.

145. But I wish to address myself to the title prior to the first registry. I am asking you whether you see any objection to this plan; to let any man put any conveyance he pleases on the registry, but to provide that, from the first registration, every devolution must take place by means of the registry; so that, from the first registration downwards, there need be no examination of title, but each purchaser when coming to buy would still be obliged to see that the title previous to the first registration was good in the man who first registered, and then that would clear itself in twenty years by effluxion of time?—I think allowing a man to register, unless he proved his title first, would give rise to great frauds upon purchasers. Practically, they would never go into the prior title.

146. Would not persons professionally employed do so?—I think professional persons would seldom be employed; purchasers would come to the registry themselves, or by means of law stationers or land agents.

147. Then you would make a man prove his prior title before he came upon the register at all?—Yes; and then every devolution would appear upon the registry, the same as stock in the English funds or shares in a public company, and only in that mode, in my judgment, can you simplify the conveyancing system.

148. Is the liability to fraud the only objection or the leading objection which you have to allowing any man to put his name on the registry?—If it did not give rise to facilities for fraud, it would simply be requiring an increased expenditure in all those matters in which the titles were partially registered.

149. Increasing it in proportion to what—to the present system?—You would have to investigate the title to the property on each dealing with it, as at present.

J. Carter, Esq.,  
continued,  
11th Feb., 1858.

150. Only down to the first registration, which would be less expense than the present system, which makes you search down to the moment of the purchase?—The expense is a question of degree, of course.

151. There would be a similar expense in the man putting his title upon the registry?—Yes, but for that he would get his property improved to a very great extent. Some people have a very great objection to have any dealings with land (owing to the state of the titles), unless they have the Crown grants to themselves; and in many cases persons would give more money for property, if they knew that the title was equivalent to a Crown grant.

152. Supposing a person had a rather voluminous title, which he would not like to have sifted by the court, but which a willing purchaser would take, would you compel him to go before the court before registration?—The registration by him would not be compulsory. I do not think he should be registered, unless he could prove himself to be legally or equitably the owner. Any voluminous title might be kept for a few years, and in a short time could be put upon the registry.

153. May there not be many instances of men not wishing to show their deeds before a court, while a purchaser might be perfectly willing to accept the title, and would like to have his deed upon the registry? May there not be many titles which would pass current amongst many purchasers, and yet not satisfy a court examining so scrupulously as they must into title?—That might be the case with some.

154. Now, with reference to the registry itself; in registering deeds, would you draw any distinction between the legal estate and an equitable interest in it?—I would not.

155. Then what would you register?—Only the name of the owner.

156. Of the equitable owner?—No, of the legal owner.

157. Would you allow the equitable owner to register?—No.

158. Then you would draw a distinction?—I would only allow the legal owner to register.

159. And would you allow any trusts to appear on his title?—Not on the register.

160. Or on the deed itself?—There should not be a registry of assurances, but a register of title; that is the distinction I would make.

161. Do you think it would be judicious to have one simple form of conveyance to pass the legal estate, leaving all equitable interests to be provided for by a collateral deed to accompany it?—Yes.

162. And that simple form alone to be allowed upon the registry?—Yes; it might be entered in a book—"A. B. transfers to C. D. No. 1, on the map, of such a parish."

163. Then in what manner would you protect the beneficiaries, who are the subjects of the collateral deed?—By the entry of a caveat.

164. So form a separate class of registries?—Yes, having a separate registry for caveats.

165. Would you disclose the trusts upon the registry of caveats, or would you merely mention the fact of there being a caveat?—Merely a caveat requiring notice to be given to the person entering that caveat.

166. Would you require any form for doing away with the caveat, or would the mere removal from the registry be sufficient?—The removal from the registry I think should be sufficient. I would assimilate the transfer of land as nearly as possible to the transfer of stock in the Bank of England; they allow caveats there, and give notice to the person that application has been made to transfer, and that a transfer will be made after the expiration of so many days, unless he support his caveat.

167. With respect to the notices; how do you propose that notice should be given to a caveator?—He might leave his address at the time he enters the caveat, and notice could be given by post sent to the address appearing on the entry of the caveat.

168. Would you not make that compulsory?—The registrar's duty would be to give notice to the person entering the caveat.

169. In order to furnish the registrar with the address, would you or would you not make it compulsory upon every person lodging a caveat to give his address with it?—The registrar should not receive the caveat without the address of the person, to whom notice should be sent through the post.

170. Do you think the circumstances of this colony are such as to render notices given in that way dangerous?—I think not.

171. Does your memory serve you with any similar instance in private transactions when notice is given in that way?—Joint stock companies provide in their acts of incorporation, or deeds of settlement, that notices might be sent through the post or delivered, and the same provision might be made with reference to caveats.

172. Have you thought at all as to who would be the persons to lodge caveats, as to any general class of persons?—I would allow any person to lodge a caveat who thought he had any interest in the property referred to in the caveat.

173. You would not compel any *prima facie* title to a beneficial interest to be produced?—No.

174. What step or what act would you make pass the legal estate; would you make the execution or the registration of the conveyance pass the estate?—The registration undoubtedly; because, until any caveat that might exist had been removed, the registrar should not register any conveyance brought to him.

175. That is, registration of conveyances in the form under the Act?—Yes.

J. Carter, Esq.,  
*Continual*,  
 11th Feb., 1838.

176. You would not prevent persons from conveying land, if they pleased, in the present way?—Not with reference to the present titles; but every title, when it once got the register, should be conveyed according to the provisions contained in the Act.

177. Then, would you make the best evidence of conveyance the production of the deed with the certificate of the registrar on it, or would the production of the registrar's book with the entry be the best evidence?—I think a certificate would be the best—a certificate by the registrar that A. B. was the registered owner of a particular property.

178. Would that be effected equally well by having the conveyance, which is very short, in duplicate, each being signed and sealed by the registrar, the one being kept and the other delivered to the purchaser?—The registrar might put a certificate on the duplicate.

179. Would you make the fee simple pass by the transfer on the registry, or by the deed itself?—By the transfer on the registry.

180. Then the validity of that transfer would be of more importance than the conveyance itself?—I would not have conveyances at all.

181. The conveyance is in a very short form, only three or four lines?—That conveyance you might have executed, but it should be simply an authority to the registrar to transfer the property to the purchaser.

182. Then any informality in the registry books would interfere with the title?—It would be the duty of the registrar to see that no informality took place.

183. Then that throws the duty, not upon the owner of the property, but upon some third person?—The owner of the land in his proposed conveyance would have to describe the particular property, and the registrar would see that that property appeared upon the register as belonging to such owner; if it did not, the registrar would not enter it on the register.

184. Supposing it was quite correct, but the registrar made a mistake in his transfer book in entering it, would not a mistake of the registrar or of his clerk be liable to vitiate a man's title?—It would have the effect, perhaps, of vesting all the estate described in the register book.

185. Quite so; it might take another man's title, if the registrar gave a wrong allotment?—So would the transfer of too much stock in the Bank of England vest more than a man was entitled to.

186. Just so; but would not that be avoided by this plan of making the signature and stamp of the registrar upon the conveyance be the completing act, having the conveyance in duplicate, one to be kept by the registrar and indexed properly, and the other to be handed to the purchaser with a certificate?—Then suppose there were any mistake in the conveyance.

187. That is an act of the party, and not of the officer?—Then you at once destroy the parliamentary title, if you allow any error of that sort to be recognised. The method really for simplifying conveyancing seems to me to be this: The person upon the register should be the absolute owner at law and in equity of the land described in books or in maps to be referred to, and caveats to be allowed to be entered by any person having or claiming to have any right to the property. Then the transfer of the land would give the transferee the same right as the person previously on the register had.

188. Is the transfer in the registry books to be the absolute conveyance, according to your idea?—Yes.

189. Then would you make the certificate that would be given the best evidence of such transfer?—It should be the only evidence requisite, save, of course, the identity of the person named in such certificate with the man professing to sell. I would also, on the death of the owner appearing on the register, allow the executors to take the fee, and to become registered as owners. If no executors are appointed, I think a class of persons, who may be called official trustees, should be constituted by the Legislature, who should have power to sell, for payment of the debts of the deceased, and should hold the residue for the heir-at-law. If there were no debts, the official trustee should, on receiving an order from the judge or commissioner, or rather court, transfer to the heir-at-law. I would not give the administrators the right to be registered as owners, save in respect to express or constructive trust estates. The executors should advertise for creditors, and after the expiration of twelve months and on making oath of the payment of all the debts of the deceased, and on having an order from the judge, or commissioner, or the court, they, the executors, might transfer to the heir-at-law or devisees.

190. That would have the effect of supplying a link in the title?—Yes, and it would save all difficulties with reference to wills. A great majority of the questions upon titles arises from wills, and I think this or some similar mode would obviate these objections, and render unnecessary many administration suits, termed by one judge in England suits not for the administration, but for the destruction of the estate.

191. You would prefer a body or board, as it were, being appointed for this purpose, and having an order vesting the property in the board, instead of allowing the judges on each occasion to vest it in a separate person?—I do not think the proper class of persons is to be found in this colony who would act as private trustees. If an owner wished to vest his property in trustees, he would simply appoint them executors of the particular estate he wished them to take.

192. Would you permit a transfer of land to be registered in favor of heirs or devisees without an order from the court—in other words, would you allow the registrar to be the judge?—He would not be in the way that I recommend, namely, that the executors should be on the register.

193. On general principles, do you think it judicious to allow the registrar to be the judge of these things at all?—I do not think it would be necessary that he should have that power

conferred on him, seeing that executors, if named, should be registered on production of the probate; and in other cases the official trustees would be registered, and would not part with the estate, save in one of the modes I have already suggested.

J. Carter, Esq.,  
continued,  
11th Feb., 1868.

194. When you mentioned just now that a certificate of ownership would be a statutable title, of course you meant, subject to any existing caveats lodged against it?—Yes, but that certificate of ownership would not be issued until the caveats previously existing had been removed, but new caveats might be lodged contemporaneously, as against the estate of the transferee.

195. Put the case of a lease. If I leased property to a man for ten years, he would enter a caveat of his lease, and if I wished to sell that property, the registrar would not allow of its transfer without the removal of the caveat?—The lessee's course would be to remove it, and to place another caveat as against the ownership of the transferee, or perhaps the registrar might make the transfer subject to the original caveat.

196. Do you think a certificate of a caveat would be a convenient muniment of title for a leaseholder?—If the registry is to be extended to leasehold property, separate books would be required and a transcript or duplicate of the lease should be registered, and the certificate would be that so-and-so was the owner of the leasehold property mentioned in such a document.

197. Why should you require a duplicate lease?—In order that persons might go and see what conditions the lease contained.

198. The vendor must produce it; a man might not choose to disclose his lease?—Supposing there should be a covenant in that lease, which was illegal, why should the registrar give a title?

199. Then you would make the registrar a judicial officer?—I think he ought to be so, to that extent. You must have a separate set of books altogether, and separate considerations and provisions ought to be made with reference to leaseholders.

200. Why should a duplicate lease be registered?—It would save the production of the lease by the lessee on each dealing with the property leased.

201. A vendor selling his land would have his lease in his possession?—Under the plan which I propose, he would merely have a certificate of ownership of the property.

202. He would have his counterpart lease from his under-tenant in his possession in order to bind his tenant, and if he had got that, what difficulty would there be in his producing the lease. If the certificate in the case of a leasehold is a certificate of leasehold ownership by virtue of a certain lease, I presume that the purchaser would demand of the vendor that he should produce it, and show what the property was at the present day?—Some document should be registered as a protection against alterations being made in the original, or against loss of the original.

203. That would be a protection against forgery?—Yes, and loss.

204. The Bill does not propose to provide for forgeries?—I have said you may have a separate registry for leaseholds, if you like, but of course you will have to go into a few more details in the Bill to meet it.

205. Are you aware that there are clauses in the Bill already to meet that?—I am not, for I have not had time to read the Bill. I am speaking more as to principles than details.

206. With regard to the notice to be given to caveators, am I correct in understanding you to be of opinion that the circumstances of this Colony are not such as to exclude notices being given to the caveators at an address to be lodged with the caveat, leaving it to them to protect their own interests?—I think not. The caveators might give two addresses if they pleased.

207. Then you think it better to throw the onus of protecting his right upon each, individual caveator, than to allow any supposed difficulty to interfere with the entire measure?—Yes.

208. Have you ever had your attention drawn to a proposed method of drawing a will namely, that the testator should convey the property absolutely to trustees, to take effect at his decease, and lodging at the same time in some secure place a declaration of the trusts upon which that is to be held, so that the transfer to the trustees might be registered, and a caveat lodged for the trusts of the will, and nothing more?—I see no advantage in that over making a will and appointing such trustees executors.

209. Might it not have an advantage in this way, that the form is given by the Act, so that the registrar can make no mistake as to the validity of the transfer to the trustees?—The court would have to judge before granting probate, and the probate would be the authority to the registrar to admit the executors on the register as owners.

210. I am speaking of trustees of real estate?—I see no advantage in the mode suggested over the making a will and appointing the proposed trustees executors of the real estate.

211. I am supposing that the principle of making executors of real estate is not carried out. Has your attention ever been drawn to that method of framing a will?—No.

212. Does it appear feasible?—Every benefit which would be attained by this mode would, in my opinion, be obtained by the appointment of executors, but I have not considered the subject in the view you suggest.

213. Is there anything further that you could suggest to the committee with reference to the subject under consideration?—Not that I can at present call to mind, save that personation of registered owners will require to be particularly guarded against.

*The witness withdrew.*

FRIDAY, 28TH MAY, 1858.

*Members present:*

The Honorable J. B. BENNETT, in the Chair.

The Honorable W. Highett

The Honorable T. H. Power.

Charles Bruce Skinner, Esq., examined.

C. B. Skinner,  
Esq.,  
28th May, 1858.

214. *By the Chairman.*—Have you read the evidence given to this committee by Honor the Chief Justice?—I have.

215. Have you any observations to offer to the committee upon the evidence given?—In answer to question No. 3, as regards covenants for title, which was “Do you consider it would be judicious in an Act of this description to set forth a certain form for the simple conveyancing of land, with a clause in the Act providing that what are known as the ‘covenants for title’ should be understood,” the Chief Justice says, “I would say that, instead of simply declaring that such words should have such and such an effect, I should prefer the present law of real property being altered altogether, and very considerably simplified.” I would observe upon that, that that was precisely my view in framing this Bill. The main object of this Bill is to render covenants for title unnecessary; there would be no prior title to render them necessary. I would therefore prefer striking out the three last lines of the 28th section of the Bill, leaving the parties to provide by a separate deed for the state of the title prior to the first certificate under the Bill, where such covenants were necessary, as the last conveyance on which the certificate was granted would always contain the necessary covenants up to that time. On the answer to the 11th question, the Chief Justice observes that this Bill would not be done justice to unless a concurrent measure attended it. I would observe upon that point that that is precisely my view also, and I therefore propose to introduce at the same time a Bill for warranty of title. On this point I beg to refer to the answer to question No. 318 in my former examination, and to section 16 of the Bill, where the words “warranted title” are placed in italics, and I would frame the Bill on the scheme proposed by Mr. Buller in his examination before the select committee on the Registration of Assurances Bill, in May, 1853. That scheme is founded on the Ordnance Act, 5 and 6 Victoria, cap. 94 secs. 5 to 15 inclusive, by which a national warranty of lands sold by the Ordnance officers is established. By sections 5 and 6 the lands are vested in the Ordnance officers free from all prior interests. By sections 12 to 14 purchasers from them also take free from all prior interests, unless such as may be specially excepted. By section 15 persons coming in afterwards, whose interests may have been accidentally overlooked, are entitled to receive compensation out of the fund which would be provided by the premiums paid in by the persons applying for warranty of title. Mr. Buller, Mr. Field, and Mr. Cookson all agree that this would be the best scheme, and say that the Ordnance Act has worked well at home. I think it is the only plan under which security of title could be established and the interests of all persons protected at the same time. Mr. Cookson, in his answer to question No. 257, says that he believes that the risk would be very small and that a small charge for insurance would be sufficient to indemnify the public. I believe myself that it would be a source of great profit to the Government. I beg to hand in a copy of Mr. Buller’s scheme, on which I think the Bill ought to be framed.—[*The witness delivered in the same, which is as follows*]:—

1. “The registered owner of any *land* or tenure shall be entitled to claim to have the property *warranted*.”
2. “The claim shall state the name and addition of the claimant, and give a description of the property, with reference to the entries on the register of the property and the claimant’s name, and be accompanied by an abstract of his title to the property.”
3. “The claimant shall deposit such a sum as the registrar estimates to be probably sufficient to cover his costs of investigating the title.”
4. “The registrar shall then have the title investigated by such counsel and solicitor as he approves, and such title shall be investigated in the usual course, as strictly as if the registrar were a trustee about to advance trust-money on the security of the property.”
5. “The counsel’s opinion for the registrar shall state the requisitions made on the title, how far they are satisfied or not, and what appears to him to be the state of the title, specifying the incumbrances, if any, on the property, and the objections, if any, to the title.”
6. “The solicitor shall certify his examination of the abstract with the abstracted documents; his proceedings to obtain compliance with the requisitions, and other matters to show the performance of his duties in investigating the title.”
7. “The registrar shall furnish the claimant with copies of the counsel’s opinion and the solicitor’s certificate.”
8. “An appeal to be allowed to a judge of a court of equity, where the claimant disputes the accuracy of the counsel’s opinion. The proceedings to be by summons, and the judge’s order to be conclusive on the registrar.”
9. “The registrar shall be authorised to accept the title, subject to the ascertained incumbrances or liabilities of which the claimant does not obtain the discharge.”
10. “The possibility of there being an incumbrance or liability, which is not actually ascertained, not to be any objection to the acceptance by the registrar of the title.”
11. “When the investigation of the title is concluded, the registrar to return to the claimant the balance, if any, of the deposited sum, after the payment thereof of the registrar’s agreed-on or taxed costs of investigating the title, or if the deposited sum prove insufficient, the claimant to pay the difference.”
12. “The title being accepted by the registrar, either free from or subject to any specified incumbrance, the claimant to pay the registrar a premium for the warranty of the title.”
13. “The premium to be a small per centage on the estimated value of the property, say 5s. per cent. in ordinary cases, or a higher per centage to cover any special risk.”
14. “The expense of investigating the title and the premium being paid, the registrar to make an

entry in the index of the property of its having a warranted title, and, on the claimant's request, to make a memorandum to that effect on the grant, which is his title deed.

15. "The warranted ownership of land to be subject only as follows:—

"To the specified incumbrances, if any, against which the title is not warranted.

"To all registered tenures to which the land is servient.

"To occupation leases under three years.

16. "Before a title is warranted, the claimant to advertise his claim to have it warranted, and to give written notice of his claim, where the property is land, to the registered owners of absolute interests and qualified interests affecting the land; and where the property is an absolute interest, to the registered owners of qualified interests affecting the land; and in all cases to the persons having possessory rights affecting the property; and by affixing copies of the notice on the land. Written notices also to be affixed in the register office, and on or near to the doors of churches, chapels, or other public buildings in the parish in which the land lies.

17. "On any person making a just claim to any estate or interest against which a warranty runs, the registrar to make fair compensation to him.

18. "When the registrar fails to make full compensation, the claimant to be entitled to an action or suit against him for the compensation.

19. "The Statute of Limitations, 3 and 4 Will. IV., c. 27, or a shorter period of limitation than is prescribed by that statute, to apply to such claims for compensation.

20. "The warranty not to be absolute for a given period, say three or five years; and to be subject to any claims made during, and substantiated during or after that period."

Such a scheme would meet the objects proposed by His Honor the Chief Justice in his answers to questions 12 and 13. I fully concur with His Honor the Chief Justice in answer to questions Nos. 13 and 17, that the registration should be optional and not compulsory. As to his answers to questions 18 and 19, I would defer to the high opinion of the Chief Justice on this point and alter the Bill accordingly. I have already stated, in my answers to questions 54 to 73, in my former examination, the reason why I thought that a prior abstract might be useful; but it is a mere matter of detail, and I would certainly defer to the opinion of so high an authority as the Chief Justice on this point. My great reason for thinking such an abstract might be useful is stated in the last part of my answer to question 54, in my former examination, as to the danger of purchasers being misled. The same objections seem to have occurred to the Chief Justice in his answer to question 14. As to the question No. 21 in the Chief Justice's examination, I have already said I would adopt Mr. Buller's scheme; that would meet the objection of absent owners, by providing compensation in cases where claims had been overlooked. As to question No. 28, in the Chief Justice's examination, as to whether the commissionership for the quieting of titles ought to be a branch of the Supreme Court jurisdiction, I would refer to the evidence on the Court of Chancery (Ireland) Bill, because there the matter was very fully entered into, and the evidence taken of several of the judges at home on that very point, and the evidence was in favor of having it a branch of the court already in existence, and principally on the ground, if I remember rightly, that it would be difficult to get a person of proper ability to act for a short time in that office, if the court were not made a permanent one. On the answer to the 30th question put to the Chief Justice, this is the only point in which I differ with him. I think that notice ought to be given by the registrar, but merely proceeding from him as a ministerial officer; and it would be the duty of the clerks of the office to see that the notices were issued immediately upon a sale being applied for, in like manner as the clerks in the Bank of England now issue the like notices on the transfer of stock. The bill does not contemplate that the registrar should act judicially in any case—in any single instance, but merely ministerially. I am alluding now to these two lines of the Chief Justice's evidence, "In no case would I allow the registrar to act judicially, nor would I allow him to sell." The bill does not contemplate that he shall either act judicially or sell, in any case. That point of notice has been very much discussed at home, and a great number of witnesses examined upon it, and very eminent conveyancers, who have had a great deal of practice, and they concur fully that it is absolutely necessary that such a notice should issue. The transfers are made in the Bank of England on notice in the same manner, being merely a ministerial act of the treasurer of the Bank of England, who issues the notice, as a matter of course, on a sale being applied for. I wish to follow the system of the transfer of stock as closely as possible, because it has been found to work so well at home, and you will observe that the only conveyancer who has been examined before this committee, Mr. Carter, at once says, in his answer to question 166 and the following questions, that he concurs with the opinion expressed by all those conveyancers examined at home, that notice should be given precisely in the same manner. He says, "I would assimilate the transfer of land as nearly as possible to the transfer of stock in the Bank of England; they allow caveats there and give notice to the person that application has been made to transfer." I wish to follow the same system also. The Chief Justice's principal objection appears to be given in his answer to question No. 41, that he thinks it would mislead, but that has not been found to be the case in the transfer of stock in the bank of England and other public companies, and there is no reason why it should do so in respect to land. In answer to the 42nd question, the Chief Justice objects to the 47th clause of the Bill and approves of the 46th, 48th, and 49th; but, in fact, those are taken from the similar sections of the Trustee Act; and that clause (the 47th) has been found very useful at home, in practice. It is a great protection to the court to have the matter investigated before a master, and Mr. Headlam, in his notes to the Trustee Act, says that, upon that clause being inserted, it was considered to be a very important and valuable addition to the former Act. In answer to the 47th question, the Chief Justice seems to imagine that the intention of the Bill is to make the registrar a judicial officer in some cases. He observes that he is opposed to that altogether; he would make him merely ministerial. I would observe upon that, that he is so; entirely through the Bill there is not one single expression in which he is made to act in any manner judicially.



C. B. Skinner,  
Esq.,  
continued,  
28th May, 1858.

216. Have you not to show a *prima facie* case before the registrar—is that not acting judicially?—That would be, in a sort of summary way, as to the examination of the abstract; but there is an appeal to the Supreme Court. The very object of the fifty-second clause of the Bill was not to make the registrar a judicial officer, but, on the contrary, to compel him to require a vesting order of the Supreme Court, before he allowed a transfer in certain cases; the object being, in fact, to make him purely ministerial, and to protect him in certain cases, such as in the case of death and change of heirship, in like manner as the treasurer of the Bank of England is protected by probate, in case of personalty. With reference to the answer of the Chief Justice to the fifty-third question, I would observe, that the sixty-first section of the Bill applies only to the past titles, as to the covenant to produce title deeds; and, of course, it would be unnecessary, after the property had been registered under this Act. As to the answer to the fifty-fifth question, in which the Chief Justice observes—that he thinks the transfer itself should be effected by the public officer entering in public books the transfer from the vendor to the purchaser, or from the person who conveys to the person to whom it is conveyed, precisely on the same principle as stock is transferred in the Bank of England. I would observe, that that is precisely the case by the Bill, as the duplicate conveyance therein is a mere muniment of title—a protection against fraud. It is, by the twenty-third section of the Bill, provided, that the registration and sealing by the registrar of lands, that is to say, the entry itself, shall make the conveyance valid. The evidence given by those conveyancers that I have referred to, and the different witnesses at home, shows that this duplicate conveyance is not only convenient, but absolutely necessary; for in the first place the one conveyance in the hands of the proprietor of the land is a muniment of title upon which he can borrow money, like a stock certificate; it is precisely the same, no more. Then the fact of each party signing his name to that document, the vendor and purchaser, as provided by the Bill, and then signing over again the duplicate which remains in the registrar's office, is a great check against fraud and protection against personation, which is in fact the great danger in a measure of this kind, as Mr. Carter very truly observes in the last answer of his examination. There you have those documents each signed by the vendor and purchaser, and two witnesses to each signature, which is a great protection. The conveyance itself is in fact a mere muniment of title and secondary evidence of title. The Chief Justice observes, in his answer to the 77th question, “The Bill proceeds on what I think an erroneous principle; it makes the execution of the document the transfer, whereas I would make the entry in the book by the registrar the transfer.” That is the object of the Bill; the Bill makes it so, for the conveyance does not become a valid conveyance until it is entered in the book by the registrar. At the 90th question the Chief Justice observes “the document when registered should be evidence of the owner's title, but should be a public document, and no permission given to remove it out of the office.” I would observe that that is expressly provided for by the 67th section of the Bill. With respect to the answer to the 100th and 102nd questions, the Chief Justice is asked “It is there provided that the registrar shall hold his office during good behaviour?” and he answers “Yes, but no other officer except a judge holds on that tenure.” I would observe that this clause is in fact precisely the same as that regulating the appointment of the registrar under the present Irish Registration Act, and the same as given by Lord Campbell's proposed Registration of Assurances Bill: I followed exactly the words of those sections. With respect to the answer to the 108th question, as to the appointment of trustees for a testator, the Chief Justice seems to object to that; but I would observe on that point, that in the first report of the commissioners of 1850, on which Lords Langdale and Beaumont, Mr. Humffray, and Mr. Baron Rolfe, and others were commissioners, they say, at page 28 of the report, with respect to wills, that they would compel registry of wills within a given time after death; otherwise, that the heir might convey. They observe that the testator should be compelled to provide for the custody of his will, and to appoint proper trustees for the discharge of the duties which would be attached to realty, in like manner as he is now compelled to execute a will of personalty in a particular manner with certain formalities and certain witnesses. They propose that the time given should be two years, and that the heir should register an affidavit or declaration in the same manner as a next of kin now does on administration of personalty. With regard to Mr. Carter's evidence, I have only to observe, that the whole bearing of his evidence tends to a scheme precisely similar to that provided by the Bill now before the committee. I observe that, in answer to the 136th question, he thinks that there should be some investigation of title before placing any party on the registry as owner. In answer to the 137th question, he seems to think that parties should hold a certificate instead of a duplicate conveyance; in fact, this duplicate conveyance is nothing more than a certificate; it becomes a certificate by the entry, and signature, and seal of the registrar upon it, when he returns it to the owner, but it has the additional advantage of being a check on personation, and when the persons come to have a new transfer, they will have to produce the duplicate certificate or conveyance, which will be compared with the one in the registrar's office, which would be a great check against any fraud. It is nothing more than a certificate, except that, in addition to the registrar's certificate, it bears also the signature of both parties.

*The witness withdrew.*

A B I L L

INTITULED

An Act for the Transfer of Land.

**W**HEREAS it is desirable to simplify titles to land in the Colony of Victoria and to facilitate the transfer thereof Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Victoria in this present Parliament assembled and by authority of the same as follows (that is to say) :

Preamble.

1. ESTABLISHMENT OF OFFICE.

I. A public office to be called the Land Transfer Office shall be established in the City of Melbourne and in any other district appointed under this Act and all proper buildings shall be provided for such office.

Office.

II. It shall be lawful for the Governor with the advice of the Executive Council from time to time to appoint a person to be registrar of lands for the said colony and every such registrar shall hold office during good behaviour Provided always that it shall be lawful for the Governor to remove any such registrar upon an address of both Houses of Parliament And in the event of the temporary absence of any such registrar or inability from sickness or otherwise to perform the duties of his office it shall be lawful for the Governor with the advice of the Executive Council to appoint a fit and proper person to act in his stead with full power to do and perform all acts and deeds requisite for the due performance of the duties of such office.

Registrar and assistants.

III. Every registrar of lands to be appointed as aforesaid shall be a barrister-at-law who shall have practised as such for *five* years and

Qualification for office.



*Transfer of Land Act.*

Oath. and every registrar before he enter upon the execution of his office shall take the following oath before one the judges of the Supreme Court "I A B do solemnly swear that I will faithfully and to the "best of my ability execute and perform the office and duties of "registrar of lands (or assistant registrar) according to 'The Land "Transfer Act 1857.'" 5

Clerks. IV. It shall be lawful for the registrar of lands with the approval of the Governor from time to time to appoint such clerks and subordinate officers as may be necessary for the performance of the business of the office who shall be removable at the discretion of the registrar of lands. 10

District registrars and offices. V. It shall be lawful for the Governor with the advice of the Executive Council from time to time to divide the said colony into districts for the purposes of this Act and to appoint a registrar of lands and establish a land transfer office for each such separate district by proclamation to be inserted in the *Government Gazette* at least three months before the commencement of registration in any such district under this Act the limits and boundaries of such district being declared by such proclamation And thereupon this Act and the several provisions thereof shall apply to each district registrar so appointed and to each such district land transfer office And this Act shall be read with relation thereto as if the word "district" had been inserted therein before the words "registrar of lands" and before the words "Land Transfer Office" in each place where those words occur in this Act. 15 20

Resident assistant registrars. VI. It shall be lawful for the Governor with the advice of the Executive Council to appoint any assistant registrar to reside at any place within the said colony for the purpose of receiving any original documents and transmitting the same under seal to the registrar of lands and to receive any fees payable thereon and to make entries thereof and do such other acts therein as are required by the regulations hereunto annexed in that behalf. 25 30

Seal. VII. There shall be kept in each Land Transfer Office a seal of the impression whereof judicial notice shall be taken in all courts without proof of such seal having been impressed or any other evidence relating thereto. 35

Maps and surveys. VIII. The registrar of lands shall with all convenient speed as occasion shall require be furnished from the proper office with accurate copies of all maps and surveys which may have been made of the several counties parishes and municipalities within the operation of his office divided on such scale as may be required. 40

## 2. COMMENCEMENT OF ACT.

Time of commencement. IX. This Act shall come into operation on the 1st day of 1858.

From which registration under former Acts to cease. X. From and after the commencement of this Act registration of all deeds conveyances and other instruments in writing of and relating to lands in the Colony of Victoria under all former Acts relating thereto shall cease and shall be made and have effect in manner as hereinafter provided and not otherwise. 45

## 3. INDICES.

XI. The registrar of lands shall prepare and keep the following set of indices—No. 1 of lands No. 2 of tenures for each county parish or district and township each having its map numbered in allotments to which index No. 1 shall have reference. 50

## 4. CERTIFICATE

*Transfer of Land Act.*

## 4. CERTIFICATE OF LEGAL OWNERSHIP.

XII. Any person having an estate in fee simple or having the first estate of freehold of inheritance in land shall be entitled to have such land registered in index No. 1 and to have himself registered as the owner thereof. Who entitled to.

XIII. The applicant shall leave at the Land Transfer Office the deed or instrument under which he claims title (the execution and attestation thereof being verified on oath) together with a sworn copy thereof and an abstract of the title to the land certified on oath as a full true and correct abstract of such title for the *six* years next preceding the date of such deed or instrument and a plan and local description of the land and shall also leave some proper place of address where all notices may be served upon him. And the said registrar may also require such further information in writing or otherwise or inspection of documents as he may deem requisite and necessary for the purpose of ascertaining the *primâ facie* title to be registered as legal owner. And may submit a case for the opinion of a conveyancing counsel as to such title and as to what persons appear to be entitled to protection by caveat or to be registered as tenants. And may require payment by the applicant of a reasonable fee for that purpose. Proceedings on application for.

XIV. If it appears to the registrar that the applicant has a good *primâ facie* title to be registered as legal owner he shall thereupon (when there appear to be other persons interested) require such notice as he may think fit to be given to all persons entitled to come in and lodge caveats or (at his discretion) may himself cause such caveats to be lodged on their behalf which shall be dealt with and have the same effect as if lodged by the parties themselves. And shall proceed in the same manner with respect to any person entitled to be registered as tenant. And may in his discretion postpone the issue of the grant until the necessary acts have been done for the above purposes. Proceedings of registrar thereon.

XV. The registrar of lands shall on being satisfied as to the *primâ facie* title as aforesaid retain the examined copy and abstract and return the original deed or instrument to the depositor with a memorandum endorsed referring to the grant issued thereon and the date thereof certified by his office seal and signature and shall issue a certificate to the legal owner in the following form and shall register the grantee as owner in index No. 1:— Issue and form of.

Certificate issued from the Land Transfer Office  
Victoria to A.B. of \_\_\_\_\_ as registered owner of the land  
described below. This 10th day of May, 1858.

[*Describe land as in deed and accompany same with plan.*]

*Seal and signature of Registrar of Land.*

The grant being made in duplicate as provided by the 21st section of this Act.

XVI. Provided that no enquiry shall be requisite in case of a Crown grant or warranted title. And when the applicant derives title under any decree or order of the Supreme Court or a judge thereof the registrar of lands may issue the grant and register the owner without requiring any abstract of title prior to such order or decree. Exceptions.  
Crown grant warranted title or order of court.

## 5. TRANSFER OF LEGAL OWNERSHIP.

XVII. The right to the legal ownership in land shall be transferable according to the following form: Form of grant

Thomas

*Transfer of Land Act.*

Thomas Smith of Collins Street Melbourne watchmaker in consideration of five hundred pounds paid to him by Edmund Ellis of Church Street Richmond builder grants to him the land described below.

[Here describe the land by metes and bounds or other local description sufficient to distinguish the same and state the county and parish or township in which the land lies.] 5

Witness our hands this 12th day of June, 1857.

Description and plan annexed. Every such transfer shall be accompanied by a plan of the land transferred drawn on the margin And such transfer and plan respectively shall be signed by the grantor and grantee each signature being attested by two witnesses The place of abode of each witness his calling or business shall be stated but no particular form of words shall be requisite to the attestation Sealing shall not be necessary (except in case of a corporation) nor delivery indenting or any other formality and it shall not be necessary to endorse any acknowledgment of the receipt of consideration money. 10 15

Delivery in duplicate with prior. XVIII. The person claiming registration (or his agent) shall deliver at the Land Transfer Office the transfer executed and attested as aforesaid in duplicate and the prior grant or certificate held by the grantor and shall also leave some proper place of address where all notices may be served upon him The registrar of lands shall thereupon compare the two parts with each other and with the prior grant or certificate and if there be any error therein shall return the same for correction and if correct shall thereupon make a note on each part of the day and hour of receipt thereof and make an entry thereof in the proper places and shall then proceed as follows: 20 25

Note of date of receipt. If no caveat. If caveat. XIX. If no caveat has been entered the registrar of lands shall at once register and return the fresh grant If any caveat has been entered the registrar of lands shall proceed as directed by the 44th section hereof and the rules in relation thereto. 30

Date of registry. Entries. XX. Every such grant shall be registered as of the date of delivery thereof into the office as aforesaid and the registrar of lands shall make such entries thereof as are directed by the regulations in relation thereto and shall then return and deliver to the said 35

Issue of grant. that the grantee is the registered owner of the land with a memorandum of the date of registry and the entries made and affixing his seal of office and signature thereto and shall retain the other part making a like endorsement thereon and marking it as the part deposited in the Land Transfer Office and shall also retain the prior grant or certificate 40

Prior grant cancelled. marking the same as cancelled with a reference to the fresh grant issued thereon or where the transfer is of a portion only of the land comprised in the prior grant or certificate the registrar of lands may either return the prior instrument with a memorandum made with reference to the plan thereon shewing the portion alienated or may retain the same and issue a fresh certificate of legal ownership of the residue of the land to the grantor. 45

Exceptions where land divided. Form of certificate when title passes otherwise than by act of grantor. XXI. When the right to the registered ownership has passed in any manner otherwise than by a grant from the owner himself a certificate of legal ownership shall on the application of the person entitled thereto be issued by the registrar of lands to such person and shall describe the manner in which the grantor became entitled and his connection with the last owner as follows or in other words adapted to the particular case— 50

*Transfer of Land Act.*

Certificate of legal ownership of the land described below issued from the Land Transfer Office Victoria to A B of farmer as heir-at-law of C D of under a vesting order bearing date the 10th day of May 1858 (*or as official assignee of the estate of C D of insolvent under a judge's order bearing date the 10th day of May 1858.*)

Seal and signature of Registrar of Land this 12th day of May 1858.

- 10 The grant being made in duplicate with a schedule and plan as directed by sec. 21.

XXII. Any registered owner of land may also execute a revocable grant or will of land to take effect at his decease in the following form or words to the same effect—

- 15 I A B of Collins-street Melbourne watchmaker grant to C D (or to my son E F) the land described below This grant to take effect at my decease.

Witness my hand this 12th day of June 1857.

- 20 To be followed by a schedule and description as required by the 21st section hereof and signed by the grantor in the presence of and attested by two witnesses as required in the case of a will And the grantor (or his duly authorised agent or attorney) may lodge the same in duplicate with the registrar of lands as directed by section 22 hereof and may at 25 the same time lodge under a sealed envelope or cover endorsed with his name and place of abode and calling or business a memorandum or declaration of trusts executed and attested as required in the case of a will setting forth on what trusts and for what estates and interests he wills the same upon his decease with any directions as to the change of 30 trustees or lodgment of caveats that he may think proper And in such case the registrar of lands shall after proceeding as directed by the 22nd section hereof make a reference thereto in the index of owners and in the index of wills and shall then seal it up in an envelope or cover endorsed as aforesaid together with the memorandum annexed if 35 any and the same shall remain in the Land Transfer Office until the decease of the said grantor (unless previously required to be given up by him) and upon his death the said registrar shall upon sufficient proof by affidavit or otherwise of the death of the grantor and without any vesting order register the said grant and issue a fresh grant to the 40 grantee.

## 6. TITLE OF REGISTERED OWNER.

- XXIII. Every grant of land in the said colony issued registered and sealed by the registrar of lands in manner as herein provided shall be and be deemed and taken to be a good valid and effectual 45 conveyance of the legal ownership thereof as of an absolute and indefeasible estate of inheritance in fee simple in possession as against all persons whomsoever with full power to dispose thereof and to give effectual receipts for any money paid by way of consideration subject only as follows: 50

1. To tenures registered under this Act.
2. To leases not exceeding three years from the making thereof in possession.

3. To

*Transfer of Land Act.*

3. To the state of the title prior to the first transfer of ownership under this Act.

Trusts.

XXIV. And no trusts shall be recognized or allowed to affect the sale or transfer of land either at law or in equity save in manner as hereinafter in that behalf provided. 5

Proviso as to rights of parties *inter se*.

XXV. Provided always that nothing contained in this Act shall affect the rights or remedies of parties interested in the said land as between themselves.

Crown debts judgments *lis pendens* purchase money dower.

XXVI. From and after the date of publication of this Act no Crown debts judgments *lis pendens* or claims for purchase money or right of dower shall attach to or bind the land so as to affect the sale thereof but any persons entitled thereto or interested therein may lodge a caveat as hereinafter provided and shall thereupon in case of sale be entitled to have as to dower one-third share of the sale proceeds of the land to which the same would have otherwise attached invested in such manner and upon such security as may be approved of by the registrar of lands at his discretion and to the rent interest or annual profits thereof for life and in case of Crown debts or judgments or unpaid purchase money to have the sale proceeds or a sufficient portion thereof to satisfy the claim retained in the hands of the registrar of lands and to the like charge thereupon as in or upon the land before such sale. 10 15 20

## 7. EFFECT OF GRANT.

Powers of appointment.

XXVII. Every transfer by grant shall be a valid execution of any power of appointment of land or of new trustees notwithstanding it may have been required that such power should be executed with some additional or other form of execution or solemnity. 25

No seizin &amp;c. necessary.

XXVIII. Every such transfer by grant shall have and take effect without livery of seizin feoffment enrolment prior lease or any other formality and the following covenant for title shall be implied thereby viz.: That the grantor hath good right and full power to convey and assure the said land to the grantee in fee simple free from all incumbrances. 30

Covenant for title.

Joint owners.

XXIX. Where several persons are registered as joint owners their registered ownership shall be held only in joint tenancy and survive accordingly. 35

## 8. TENURES.

XXX. The following interests in land may be registered in the Index of Tenures in the manner hereinafter provided—

Leases.

1. All leases exceeding the term of three years from the making thereof or for a life or lives. 40

Life estates and curtesy.

2. Estates for life or lives under a settlement or will and tenancy by curtesy.

Registration by memorial.

XXXI. The registration thereof shall be made by a memorial made in the form and signed and verified as required by the rules annexed to this Act And the original lease or settlement or in case of a will an office copy thereof certified by the proper officer of the Supreme Court shall be produced to the registrar of lands who shall (after comparing the same with the memorial) endorse thereon the day hour and time on which the memorial shall have been delivered and a reference by number or otherwise to the entry thereof made in his office and shall then attach his seal and signature thereto and return it to the depositor And the said registrar shall cause such entries thereof to be made as are required by the rules annexed to this Act and

Entries.

*Transfer of Land Act.*

and the person claiming registration or his agent shall leave some proper place of address where all notices may be served.

XXXII. The registration of any transfer or assignment of any such tenure shall be made by a like memorial reference being made therein to the former memorial and to the entries thereof in Index No. 2 the endorsement of the registrar of lands being made on the instrument presented for registration. Transfer of tenure.

XXXIII. All such instruments shall (where the equities are equal) have and take effect not according to their respective dates but according to the priority of registration thereof And no trusts claims interests or charges whatsoever shall be recognized or allowed to affect the sale or transfer of any such estate or interest either at law or in equity save in manner as hereinafter in that behalf provided. Priority.  
Trusts, &c.

XXXIV. Upon surrender of any tenure being made to the owner of the land or on merger of a lease or expiry by lapse of time the registrar of lands shall on the application of such owner cause an entry of the determination thereof to be made in the index of tenures. Entry of determination of tenure on surrender merger or expiry.

XXXV. Upon the death of any person on whose life any such tenure depends the registrar of lands may cause such entry to be made on such proof being made before him on oath or otherwise as he may require in the particular case. On death.

XXXVI. In any other case the person deeming himself entitled to have such entry made may apply by motion or petition to the Supreme Court in its equitable jurisdiction and it shall be lawful for such court or a judge thereof to make such order thereon and to award such costs as shall seem meet. In other cases.

XXXVII. Applications under the last two sections may be made either by or on behalf of the registered owner or of the person whose estate shall take effect immediately on the determination of such tenure. On whose application.

## 9. CAVEAT.

XXXVIII. Any person claiming (under any written instrument) any estate or interest in or affecting any land or tenure registered under this Act may protect the same by lodging with the registrar of lands a caveat to stay the transfer thereof and such caveat may be lodged either by the claimant himself or by any practising solicitor or conveyancer of the Supreme Court on his behalf and may be lodged either on his own behalf or on behalf of himself or any other persons claiming under the same instrument. By whom lodged.

XXXIX. And each caveat shall be made in the form required by the rules annexed to this Act and shall specify the land or tenure affected thereby and the name of the owner or tenant and the name and address of the caveator and some proper place of address in Melbourne where all notices may be served And the instrument under which the caveator claims shall be produced to the registrar of lands who shall endorse thereon the day hour and time on which the caveat was lodged and a reference to the entry made thereof and shall then attach his seal and signature thereto and return it to the depositor And every such endorsement so sealed and signed shall be taken and allowed as evidence of the caveat having been lodged and of the time when lodged The registrar of lands shall then cause such entries thereof to be made as are required by the rules annexed to this Act. Form of caveat.  
Endorsement on instrument produced.  
Evidence of caveat lodged.  
Entries.

XL. All such instruments shall (where the equities are equal) have and take priority not according to their respective dates but according to the priority of the caveat lodged thereon. Priority of caveat.

XLI. On

*Transfer of Land Act.*

- Notice to owner. XLI. On any such caveat being lodged the registrar of lands shall (unless the caveat be lodged by or with the assent of the owner or tenant in writing) give notice thereof to the owner or tenant affected thereby by letter sent through the post office to such address as he shall have left for that purpose. 5
- Removal or correction of caveat. XLII. Any person whose estate or interest is affected by a caveat may apply to have the same removed or corrected by motion or petition to the Supreme Court in its equitable jurisdiction and it shall be lawful for such court or a judge thereof to make such order thereon and as to the costs thereof as shall seem meet. 10
- Entry thereon. XLIII. Upon any such order being made for the removal or correction of any caveat or upon any withdrawal or correction thereof by the caveator himself the registrar of lands shall make an entry thereof immediately.
- Notice to caveators on application for transfer. XLIV. Upon any application being made to the registrar of lands for the transfer of land or of a tenure he shall give notice thereof to all the caveators in manner as directed by the rules hereunto annexed And if no caveat has been lodged he may register and issue the fresh grant or transfer at once but if a caveat has been lodged he shall register and issue the same at the expiration of the time fixed by the notice unless a restraining order or injunction has been lodged in the meantime and if such order or injunction be lodged shall abide and await the order of the court thereon. 15 20
- Time during which transfer stayed.
- Proviso Caveats may stand over. XLV. Provided that the registrar of lands may in any case allow any caveat or caveats to be transferred and stand over against the fresh grant or transfer by arrangement between the parties Provided also that in case of a caveat to secure payment of money only the registrar of lands may on the proportion or sum of money mentioned therein being lodged to the credit of the caveator register and issue such grant at once without waiting for the expiration of the time fixed by such notice And where special directions are given in any order or decree of the Supreme Court respecting the mode of dealing with or duration of any caveat the said registrar shall make an entry thereof and act accordingly. 25 30
- Proviso when for payment of money only.
- Or where special directions by order.
10. APPLICATIONS TO SUPREME COURT. 35
- Restraining order on caveat. XLVI. When any such caveat has been lodged it shall be lawful for the Supreme Court in its equitable jurisdiction or any judge thereof upon the application of any party interested by motion in a summary way (without bill) to restrain the registrar of lands from permitting the transfer of any land or tenure or from permitting such transfer until a specified sum of money has been lodged with the registrar of lands to the credit of the caveator or to make such order thereon as shall seem meet and every order upon such motion shall specify the particular land or tenure to be affected thereby and the name of the owner or tenant and the caveat in respect whereof the motion was made Provided always that the said court or the judge thereof shall have full power upon the application of any party interested to discharge or vary such order and to award such costs upon such application as shall seem meet. 40 45
- Discharge thereof.
- Motion on Master's certificate. XLVII. On all applications to the Supreme Court under this Act the person deeming himself entitled to an order may in the first instance exhibit before the master in equity a statement of the facts whereon such order is sought to be obtained and adduce evidence in support thereof and if such evidence shall be satisfactory to the said master he shall at the request of the person applying give a certificate under 50 55

*Transfer of Land Act.*

under his hand of the several material facts found by him to be true and of his opinion that such person is entitled to an order in the form set forth in such certificate and such person may then apply by motion to the Supreme Court in its equitable jurisdiction or a judge thereof  
 5 for an order to the effect set forth in such certificate or for such order as such person may deem himself entitled to upon the facts found by the master.

XLVIII. Any such person may should he think fit present a petition in the first instance to such court or judge for such order as he  
 10 may deem himself entitled to and may give evidence by affidavit or otherwise in support thereof and may serve such person or persons with notice of such petition as he may deem entitled to service thereof.

Petition without such certificate.

XLIX. Upon the hearing of any such motion or petition it shall be lawful for such court or judge (should it be deemed necessary)  
 15 to direct a reference to the master in equity to enquire into any facts which may require investigation or to direct such motion or petition to stand over to enable the applicant to adduce evidence or further evidence or to enable notice or any further notice to be served upon any person or persons.

Powers of court thereon.

L. Upon the hearing of any such motion or petition whether any certificate or report from a master shall have been obtained or not it shall be lawful for such court or judge to dismiss such motion or petition with  
 20 or without costs or to make such order thereupon as may seem meet.

Court may dismiss with or without costs.

LI. Trustees for creditors under a conveyance or assignment executed under and in conformity with the provisions of an Act of the  
 25 Governor and Legislative Council of New South Wales passed in the fifth year of the Reign of Her present Majesty intituled "*An Act for the further amendment of the law and for the better advancement of justice*" may treat the debtor as a trustee under the *Trustee Act of*  
 30 1856.

Trustees for creditors may proceed under *Trustee Act.*

LII. On the death of the sole or last surviving owner of land or of any person dying seized or possessed of any estate in land which would not pass to his executor or administrator by probate or letters of administration it shall be lawful for the Supreme Court in its  
 35 equitable jurisdiction or a judge thereof on the application of the person entitled to such estate or his duly authorised agent in manner as above directed to make an order vesting such estate in the person so entitled and in case he is an infant or of unsound mind in his duly appointed guardian or committee and the order shall express in what  
 40 capacity such person is entitled whether as heir or devisee or how otherwise and shall contain such directions to the registrar of lands as to the lodgment of caveats as to such court or judge shall seem meet And in every such case the registrar of lands may require the pro-  
 45 duction of a vesting order before allowing any change or transfer of the legal ownership or tenancy or any alteration or withdrawal of a caveat and may require an office copy of the vesting order certified and signed by the proper officer of the Supreme Court to be deposited in the Land Transfer Office.

Vesting order of realty on death.

Registrar may require.

LIII. When any order shall be made by the Supreme Court vesting the right to or to transfer or to call for the transfer of the legal  
 50 ownership of land or a tenancy or any estate or interest therein respectively relating thereto in any person or persons in every case the right to transfer the same shall vest accordingly and the person or persons so appointed shall be authorised and empowered to execute all docu-  
 55 ments and powers of attorney and to perform all acts relating to the transfer thereof into his or their own name or names or otherwise to the

Effect of order of Supreme Court.



*Transfer of Land Act.*

the extent and in conformity with the terms of the order and the registrar of lands shall be equally bound and compelled to comply with the requisitions of such person or persons so appointed as aforesaid to the extent and in conformity with the terms of such order as the registrar of lands would have been bound to comply with the requisitions of the person in whose place such appointment shall have been made. 5

LIV. Every order made or to be made by the Supreme Court and duly passed and entered shall be a complete indemnity to the registrar general for any act done pursuant thereto and it shall not be necessary for him to enquire concerning the propriety of such order or whether the said court had jurisdiction to make the same And the registrar of lands may in all cases require an office copy of the order signed and certified by the proper officer of the Supreme Court to be deposited in the Land Transfer Office before acting thereon. 10

LV. Any person having an interest in land under any instrument hereby authorised to be registered or in respect whereof a caveat may be lodged may (or the husband guardian or committee or any person acting for the purposes of this provision as next friend of any such person being under legal disability may on his or her behalf) require any person in possession of such instrument to produce the same at the land transfer office for registration or entry of a caveat thereon and in case of a copy (where the original is lost) to produce the same or permit the same to be produced before a judge for the purposes mentioned in the next succeeding section hereof And in case the person in possession thereof refuses so to do it shall be lawful for any judge of the Supreme Court upon a summary application in its equitable jurisdiction to make such order respecting such instrument or copy and as to the costs of such application and the costs incidental thereto as shall seem meet And it shall be lawful for such judge if he think proper to order that an office copy of the instrument or copy shall be furnished to the applicant at his expense. 15 20 25 30

LVI. Upon a summary application to any judge of the Supreme Court in its equitable jurisdiction by any person alleging the loss or destruction of any instrument to the possession of which he would be entitled or of or under which if the same were in the hands of any other person he might require registration or enter a caveat under this Act and upon such proof by affidavit or otherwise as to such judge shall seem meet of the loss or destruction thereof and that no duplicate is known to exist and upon the production and verification by affidavit or otherwise to the satisfaction of such judge of any copy or writing which might be admissible as secondary evidence of the contents or in the absence of such copy or writing upon such evidence on affidavit of the contents as such judge may deem sufficient it shall be lawful for such judge to make an order that for the purpose of registration or entry by caveat such copy or writing or such affidavit of the contents (as the case may require) may be deposited in the Land Transfer Office and it shall be lawful for any judge before making such order to require and take any evidence upon oath and to require such notices or advertisements to be made as he may see fit and upon such order such copy or writing or such affidavit together with (in either case) the said order may for the purpose of registration or caveat be deposited in the Land Transfer Office and such acts shall be done thereupon by the registrar of lands and the registration thereof or caveat thereon shall be as valid and effectual as if the original had been produced Provided always that such registration of the instrument or caveat thereon shall be effectual only so far as the evidence thereof deposited as aforesaid extends 35 40 45 50 55

Indemnity of Registrar obeying orders.

Office copy to be left.

Production of instruments for registration or entry of caveat on application of parties interested.

Office copy.

On loss or destruction of instruments.

*Transfer of Land Act.*

extends and so far as the same substantially and in all material respects agrees with such instrument.

5 LVII. When any order or rule is made by any such judge or court as aforesaid respecting the delivery or sending of any original document or copy at or to the Land Transfer Office for the purposes aforesaid and the same is not delivered or sent within the time limited such order or rule may be deposited at the Land Transfer Office and the like acts done thereupon (or as near thereto as the circumstances of the case permit) as if the document or copy had been produced.

Where document or copy not produced according to order.

10 LVIII. All applications made to the Supreme Court in its equitable jurisdiction under a statute passed in the sixth year of the reign of Her Majesty Queen Anne and intituled "*An Act for the more effectual discovery of the death of persons pretended to be alive to the*" shall be made on such motion or petition and the said court or judge thereof shall have the like powers thereon as to costs and otherwise as hereinbefore in that behalf provided.

Under 6 Anne c. 18 as to tenants for life.

20 11. MISCELLANEOUS.

LIX. When any mistake shall have been made in any entry the registrar of lands shall rectify the same by a new entry in any such form as may be convenient specifying the day and hour of such correction and the circumstances under which it was made the erroneous entry shall not be erased or obliterated.

Mistake in entries.

25 LX. Any person may by himself or his duly authorised agent or attorney deposit in the Land Transfer Office his last will and testament under a sealed envelope or cover endorsed with his name and place of abode and calling or business and an entry of such deposit shall be made in a book kept for that purpose and the said will shall remain in the office until the decease of the testator (unless previously required to be given to him) and upon the testator's death the registrar of lands shall examine the same and deliver it to the executor first named therein or other person lawfully entitled thereto or in case of doubt to such person or persons as a judge of the Supreme Court shall order and direct.

Will deposit of.

30 LXI. Any person having the custody of title deeds subject to a covenant to produce shall be entitled to free himself from all liability under such covenant by depositing the same in the Land Transfer Office and when called upon to produce the same may give the covenantee notice of such deposit and the covenantee shall upon the production of such notice to the registrar of lands be entitled (on payment of a moderate fee) to inspect and transcribe the same in the Land Transfer Office or to require the production thereof by the registrar of lands according to the terms of the covenant or to have office copies thereof made and certified as such under the seal and signature of the registrar of lands.

Deposit of title deeds where covenant to produce.

45 LXII. Any person may deposit in the Land Transfer Office his power of attorney (relating to land) duly executed and attested by two witnesses thereto and every such power of attorney so deposited shall remain valid and continue in force and shall not be revoked annulled or invalidated by the death bankruptcy insolvency or marriage of such principal or by any other mode of revocation thereof unless and until notice of revocation has been given to the registrar of lands such notice being in writing and stating in what manner such power has been 55 revoked or determined. And such power of attorney shall be so deposited by

Powers of attorney.

*Transfer of Land Act.*

by the principal himself or (in case of his absence) under an order of the judge of the Supreme Court made on the application of such attorney upon proof to the satisfaction of the judge of the absence of the principal and of the due execution of the power of attorney.

Title of volunteers.

LXIII. Every person who shall claim without valuable consideration shall be entitled to the same protection and stand in the same position as the person through whom he takes title. 5

Voluntary conveyances not to be defeated.

LXIV. A voluntary conveyance being duly registered shall not be defeated by any subsequent conveyance for valuable consideration whether such latter conveyance shall be registered or not. 10

Protection by legal title and tacking not to be allowed.

LXV. In any case in which priority might but for this Act have been given or allowed in equity to any estate or interest in lands by reason or on the ground of such estate or interest being protected by or tacked to any legal or other estate or interest in such lands no such priority or protection shall after the commencement of registration under this Act be so given or allowed to any estate or interest in lands except as against any estate or interest which shall have existed prior to such commencement and full effect shall be given by every court of equity to this present provision although the person claiming such priority or protection as aforesaid shall claim as a purchaser for valuable consideration and without notice. 15 20

Grant or transfer to prove itself.

LXVI. Every grant or transfer under the seal of the Land Transfer Office shall prove itself in every court of justice and shall also be *prima facie* evidence of the parties thereto having executed the same at the date therein mentioned without any proof of handwriting. 25

Documents deposited not removable.

LXVII. No document deposited and left in the Land Transfer Office under this Act shall be removed therefrom except in obedience to legal process for the production thereof or to an order of the Supreme Court And in all proceedings before any court of justice for all purposes whatever an office copy of any document memorial or caveat deposited and left as aforesaid shall be received and taken as evidence of the contents thereof Provided always that the party producing the same or his attorney shall before producing the same give reasonable notice in writing thereof to the adverse party And none of the maps indexes or books to be kept at the said office shall be removed therefrom on any account whatever but copies or extracts therefrom certified under the hand and seal of the registrar of lands shall be received in evidence in lieu and place of the original. 30 35

Office copies evidence.

Search of indexes and inspection of documents.

LXVIII. Subject to such regulations as may be from time to time made under this Act any person on application at the Land Transfer Office shall at such times as may be limited by the registrar of lands in this behalf be allowed to inspect and search any of the indexes to be kept at and to examine and inspect any of the documents to be deposited in the Land Transfer Office under this Act and to take extracts therefrom And the registrar of lands shall upon delivery of such requisition as under such regulations may be required and in accordance with such regulations make or cause to be made such searches in any of such indexes and give such negative or other certificate of the results of such searches as by such regulations may be directed in this behalf and every such certificate shall be sealed with the seal of the office and signed by the registrar of lands or an assistant registrar. 40 45 50

Certificate of office search on requisition.

Solicitors protected by obtaining office search.

LXIX. In every case in which but for this Act it would be the duty of any attorney solicitor conveyancer or agent to make any search in any of the indexes to be kept at the Land Transfer Office such person shall as to any search of the result of which the registrar of lands 55

*Transfer of Land Act.*

lands may be required by the regulations for the time being in force under this Act to give a certificate be held to have fulfilled his duty in that behalf by delivering at the Land Transfer Office a proper requisition for such search and obtaining a certificate of the result thereof and shall not be responsible for any error or mistake in the result of such search as stated in such certificate and in all other cases every such person shall stand indemnified in relying on the accuracy of any certificate to be made or given in pursuance of this Act.

10 LXX. Any person feeling aggrieved by the decision of the registrar of lands on any proceeding before him under this Act may (within days after the pronouncing of such decision) appeal to the Supreme Court therefrom and it shall be lawful for the said court or any judge thereof to make such order thereon with such directions as to the payment of costs or otherwise as shall seem  
15 meet.

Appeals to Supreme Court.

LXXI. It shall be lawful for the registrar of lands from time to time to make such regulations as to him may seem proper for and in relation to all or any of the matters hereinafter mentioned namely with respect to the mode and form in which the indexes and books and all entries therein shall be made and kept and the size and description of material on which grants transfers caveats memorials or any documents affidavits powers of attorney or other papers used or deposited under this Act shall be written or printed and the form thereof and the execution or attestation thereof or proof of such execution and before whom and in what manner to be made and as to any notice or advertisements that may be requisite in any proceedings under this Act or as to substitution of service and any special provisions in the case of persons being absent from the colony or of marksmen or persons under disability and as to the proceedings in any case under this Act and as to the fees to be paid to the registrar of lands in respect of all proceedings under this Act and generally for regulating all other matters and things whatsoever connected with the regulation and management of the Land Transfer Office and the execution of this Act not specially provided for and from time to time to alter vary or revoke any such regulations and make any new regulation in relation to the matters aforesaid Provided that all such regulations shall be submitted to the judges of the Supreme Court for approval and no such regulation shall take effect until the same has been approved by them and published in the *Government Gazette* And the regulations so approved of and published shall have the same force and efficacy as if originally annexed to this Act.

Power to make rules.

LXXII. The registrar of lands shall in the month of January in every year send to the chief justice of the Supreme Court a general report of his proceedings under this Act and of the business of the office and shall specify therein whether any and what difficulties have arisen in the operation of this Act or any regulations made thereunder and whether any and what alterations may be expedient and whether the same can or cannot be effected without the aid of the Legislature and may in such report make such observations or suggestions in relation to the matters aforesaid as he may think fit and every such report shall be laid before both Houses within one month after receipt thereof by the chief justice if such Houses be sitting and if not within one month after the next meeting thereof.

Annual report.

LXXIII. In citing this Act in other Acts of Parliament and in all instruments documents and legal proceedings it shall be sufficient to use the expression "The Transfer of Land Act 1857."

Short title.

## 12. PENALTIES.

*Transfer of Land Act.*

## 12. PENALTIES.

Officers &c. penalty  
for neglect of duty.

LXXIV. If any assistant registrar or any clerk or person employed in the said Land Transfer Office shall wilfully or negligently omit to make any entry or to do or perform any other act or duty that may be required of him in the due execution of the duties of his office he shall for every such neglect or omission on conviction thereof before two justices of the peace forfeit and be liable to pay to Her Majesty Her heirs and successors such penalty not exceeding the sum of one hundred pounds sterling as shall be directed by such justices and shall be further liable in damages to the party injured by such neglect or omission to the extent of the loss or injury thereby sustained.

False swearing.

LXXV. If any person shall at any time wilfully forswear himself or state anything contrary to the truth in any affidavit oath affirmation or declaration taken under the authority of this Act or the regulations thereunto annexed he shall be deemed guilty of perjury and shall suffer such punishments as are or may be provided by law for that crime.

Forging or imitating  
seal.

LXXVI. If any person shall forge counterfeit or imitate or cause or procure to be forged counterfeited or imitated or knowingly act or assist in forging counterfeiting or imitating upon any document upon which the seal of the Land Transfer Office is authorised to be impressed the impression or any part of the impression of the seal of the Land Transfer Office or shall knowingly stamp or mark or cause or procure to be stamped or marked or knowingly act or assist in stamping or marking any such document with any forged or counterfeited seal of the Land Transfer Office with the intent to defraud any person whomsoever or shall forge or counterfeit or cause or procure to be forged or counterfeited or knowingly act or assist in forging or counterfeiting the name signature or handwriting of any officer of the Land Transfer Office in any case in which the signature of such officer is authorised to be made or the name signature or handwriting of any person whomsoever to any instrument which is in and by this Act or the regulations thereunto annexed or shall by the exercise of any power therein contained be required or directed to be signed by such person or shall with an intention to defraud any person whomsoever use any document upon which any impression or part of the impression of any seal of the Land Transfer Office shall have been forged counterfeited or imitated knowing the same to be forged counterfeited or imitated or any document the signature of which shall be so forged or counterfeited as aforesaid knowing the same to be forged or counterfeited or if any person shall

or name or hand-  
writing.or party to any  
instrument.or using any such  
document with in-  
tent to defraud.Altering &c. docu-  
ments or entries in  
office books.

Forging grant of land

or power of attorney.

Personating owner  
agent or attesting  
witness

destroy secrete forge counterfeit raze deface or alter any instrument document or paper or any part thereof or any indorsement made thereon or any entry or registry thereof or any book or entry made therein in the said Land Transfer Office with intent to defraud or injure any person or persons or if any person shall forge or alter or shall utter the same knowing the same to be forged or altered any grant or transfer of any land or any interest therein which now is or hereafter may be transferable at the Land Transfer Office or shall forge or alter or shall utter knowing the same to be forged or altered any power of attorney or other authority to grant or transfer the same or shall demand or endeavour to have any such land transferred by the virtue of any such forged or altered power of attorney or other authority knowing the same to be forged or altered with intent to defraud any person whatever or if any person shall falsely and deceitfully personate any owner to the attorney or agent of any owner of land or of any share or interest therein whether

55  
legal

*Transfer of Land Act.*

legal or equitable or the attesting witness to the execution of any grant  
 instrument or document required to be attested under this Act and  
 thereby transfer or cause to be transferred the said land or any share  
 or interest therein either legal or equitable to the injury of any person  
 5 interested therein or if any person shall forge the name or handwriting  
 of any such owner or his attorney or agent or the name or handwriting  
 of any person as or purporting to be a person signing or a witness  
 attesting the execution of any grant instrument or document required  
 to be attested under this Act or as or purporting to be a person signing  
 10 or attesting any power of attorney or authority respecting land or any  
 share or interest therein whether legal or equitable or shall forge the  
 name or signature of any person as or purporting to be a person  
 signing or verifying any caveat or memorial under this Act or shall  
 utter any such grant instrument document power of attorney or  
 15 authority caveat or memorial with any such name or handwriting  
 forged therein as aforesaid knowing the same to be forged or if any  
 person shall without lawful excuse (the proof whereof shall lie upon  
 the party accused) purchase or receive from any other person or have  
 in his custody or possession any forged grant knowing the same to be  
 20 forged every such person shall be deemed guilty of felony and being  
 duly convicted thereof shall incur and suffer such and the like pains  
 and penalties in the law as persons convicted of forging or counter-  
 feiting any deed or wills are subject to by any Act of Parliament.

or forging names  
of owner agent or  
witness.

or uttering.

or receiving or  
having forged  
grant in posses-  
sion.

Punishments.

---

*Transfer of Land Act.*


---

## SCHEDULES.

## MAPS AND INDICES.

Each map is to be distinguished by a letter with the sections thereon numbered consecutively from No. 1 upwards according to the Crown Grants and is to be accompanied by the following set of books which are to be marked with the same letter as the map and opened and kept in the forms given by the schedule annexed:—

Thus Map **A.** is to be accompanied by—

Land Book **A.** being Index No. 1 under the present Act.

Tenure Book **A.** being Index No. 2 under the present Act.

Caveat Book **A.** annexed to Land Book **A.**

Index of Owners **A.**

Index of Tenants **A.**

The memorials of tenures and caveats are to be marked with the letter of the map and the number of the volume and page and deposited in portfolios as they come in and afterwards bound up in volumes marked—

Tenure Roll **A.** vol.

Caveat Roll **A.** vol.

Land Minute Book **A.** vol.

Tenure Minute Book **A.** vol.

} Containing entries of proceedings respecting any  
} land or tenures.

The index of wills is to be kept alphabetically and to contain the name of the testator with a reference to the place where the will is deposited and the date of deposit.

---

MAP **A.**

County

Parish

Portion No.

(a)

(b)

---

Government Road.

			LOT
1	2	3	4
			John Orr.

5	6	7	8
Charles Gore.			

(a) On a fresh entry of a lot or division add here Lot No.                      of a section                      section No.

(b) And the right hand page will be headed "Continued from Land Book **A.** page                      "

LAND BOOK

LAND BOOK A.—PAGE

TRANSFER OF LAND.—k.

MAP

GRANT.		Date of Grant.	Name of Owner.	Tenure Book.	Caveat Book.	Minute Book.	If any part Alienated.	Title Deeds where Deposited.	Notices on whom to be Served.
When Entered.	Duplicate where Deposited. Book. Page.								
May 10, 1858 11 a.m.	...	(Date)	James Orr...	A. p. 10 ...	A. p. 12 ...	Vol. p.			
(Date)	..	(Date)	...	...	...	...	Lot 4 to John Doe, A.I. p. 10.		
Do.	...	Do.	...	...	...	...	Lot 5 to Charles Gore, A.I. p. 20.		
Do.	..	Do.	Robt. Black	A. p. 10 ...	A. p. 40 ...	...			
On the original being given up, on transfer, enter the place of deposit of the original under that of the duplicate.						Reference to any order or proceedings, where the title passes otherwise than by act of grantor; see section 25.		Reference to the abstract and examined copy deposited under section 14. And to any title deeds deposited under section 62.	

Transfer of Land Act.



Transfer of Land Act.

TENURE BOOK A.—PAGE .

Entered in Land Book A.—PAGE .

MAP A.

County  
Parish  
Portion No.

MEMORIAL.		Owner of land.	Date of instrument.	Nature.	Tenant.	Transfer of tenure.
When received.	Where deposited. BOOK. PAGE.					
March 10, 1858. 11 a.m.		James Orr		Lease ..  Will, tenancy for life Transfer of John Doe's lease to Transfer of John Doe's lease to	John Doe  Chas. Orr Chas. Long James Orr (a)	To Chas. Long, May 19th, 1859, <i>infra</i>

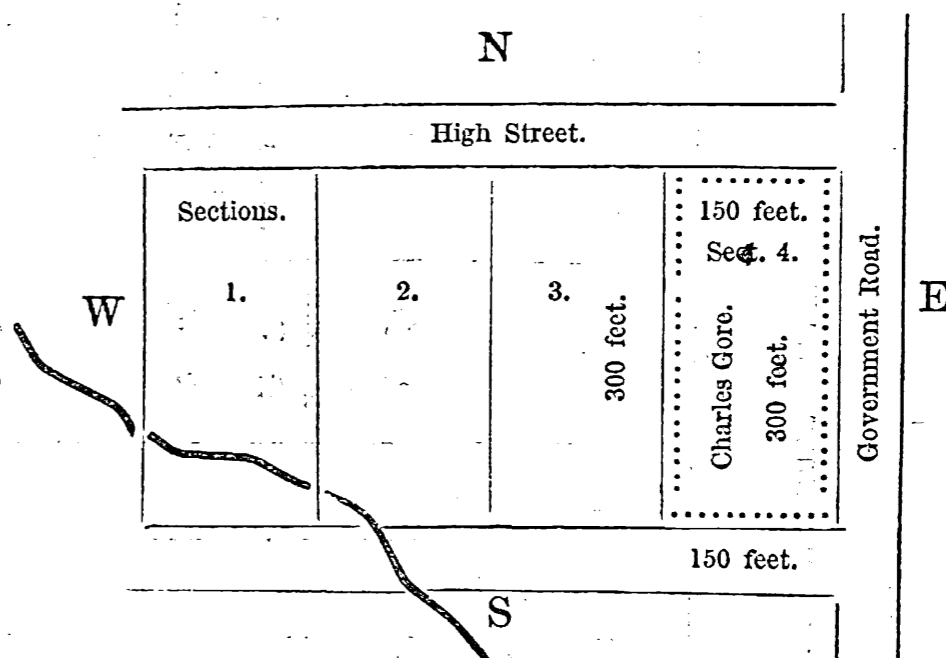
DETERMINATION OF TENURE.			Notices, on whom to be served.
When Entered.	Minute Book.	How Determined.	
	VOL. PAGE.		
	The Minute Book will contain Entries of any Proceedings, under Sec. 34 and 35 of the Act; or a Reference to the Roll or Parcel in which the Order of the Supreme Court, under Sec. 37, may be deposited.	By Death.  By Lapse of Time.  (a). By Transfer to Owner.	

MAP

County  
Parish  
Portion, No.

Owner of Land, John Brown. Land Book **A.** Page  
Tenant, Charles Gore. Tenure Book **A.** Page  
Notices to be served on

Date of Instrument	Nature,	Names of Parties.	Witnesses.	Consideration, if any.	
	Lease for years, commencing ending Not assignable, without consent of Lessor. Ante-Nuptial Settlement	John Brown, Lessor Charles Gore, Lessee		Bonus £  Rent £ payable Quarterly	
	Post-nuptial Settlement in pursuance of Ante-nuptial Agreement, dated Will of	John Brown, Lucy Gore, Trustees Chas. Gore, James Coke  John Brown, Testator.		Marriage  Marriage	Solemnized, May 10th, 1857, St. Peter's Church Melbourne.  Probate Supreme Court, Victoria May 10, 1857, Granted to A. B. and C. D., executors.

Tenants Interest.	Description of Land.
Lessee	If of the whole—"The whole of the Land comprised in the Grant," and no further description is necessary
Tenant for life under the following clause  (Set it out.)	If of part only—"So much of the Land comprised in the Grant as is colored red (or marked in red ink or with a dotted line or otherwise so as to distinguish it) on the following plan :—"  

NOTE.—To be printed at back of Form.

The Memorial of a LEASE shall be signed by the Lessor and Lessee ; and of a SETTLEMENT by the Settlor and one of the Trustees of the Settlement, and the attestation thereof verified upon the oath of one of the attesting witnesses, whose occupation and place of residence shall be stated.

In case of a WILL no such verification shall be requisite; but the memorial shall state, on what day, and to whom probate thereof or administration with the will annexed has been granted by the Supreme Court.

TENURE

Signature

Date

Signature of Registrar of Lands

(Seal)

Entered in Tenure Book A. page

Date and hour of entry

Signature of Officer making the entry

*Transfer of Land Act.*

LAND CAVEAT BOOK **A.**—PAGE .

Land entered Land Book **A.** Page

Owner of Land John Brown

Caveat. When Entered.	Roll.		Name of caveator, occu- pation and residence.	Ground of Caveat.	Notices on whom to be served.	If cancelled, or altered, or deposit made, reference to Minute Book or Roll.
	VOL. PAGE.					
June 10, 1858.			A. B. of Farmer C. D. E. F. G. H.	That John Brown is only mortgagee for £500.  Judgment creditor requires deposit of £147 2s. 3d. debt and costs. Equitable mortgagee requires de- posit of £500 with 8 per cent. interest from the 11th of June, 1858. To be served with notice in case of sale.  Where any order of court has been made on a caveat make an entry in this column under the caveat, of the nature of the order with a reference to the place where de- posited.  If any caveat stands over against a fresh grant by arrangement un- der Section 45, it is to be trans- ferred to the caveats against the fresh grant, and an entry of the transfer made in this column.	On notice being served make a reference to the Notice Book.	If cancelled the entry to be lined through with red ink. If altered to be lined through and a fresh entry made below. If deposit made enter Received £147 2s. 3d. July 15, 1857, (Signature of Registrar-General). And on the deposit being paid out make further reference to the Receipt Book.

TENURE CAVEAT BOOK **A.**—PAGE .

Tenure entered Tenure Book **A.** Page

Tenant, John Doe.

*(Same Form of Entries as in Land Caveat Book.)*

*Transfer of Land Act.*

## CAVEAT.

Name of Caveator.

Residence and occupation.

Name of Landowner.

County.

Nature of Claim.

Parish.

*(See instructions on back.)*

Portion No.

On whom Notices }  
are to be served. }

Name.

Residence.

Occupation.

Lodged with my assent.

Signature of Landowner. (a)

{ Signature of person  
lodging the Caveat.

Witness.

Residence.

Occupation.

Date.

NOTE.—The person lodging the Caveat is requested to see that the following entries are properly made in the office:

Where entered Caveat Book (*A Page 20*).When entered (*July 11, 1850, 2 p.m.*)Where deposited (*Caveat Roll A vol 2, page 10*).By whom entered (*A.B.*)*Assistant Registrar.*

Signature of the Registrar of Lands.

SEAL.

(a) This is when the landowner assents to the caveat being lodged.

INDEX OF OWNERS **A.**

Name of Owner.	Entered Land Book.	Name of Grantee on change of ownership, with date of fresh grant.	Will Book.
Brown John	<i>A Page.</i>	Gore Charles.      Roe Richard. Oct. 10, 1858.      May 10, 1859.  <i>(Where the Grant is of the whole run a line through the owner's name.)</i>	<i>Where any Will has been deposited under Sections 26 or 61.</i>

*Transfer of Land Act.*

## INDEX OF TENANTS A.

Name of Tenant.	Entered Tenure Book.	Date of Entry of Determination of Tenure.	Will Book.
John Doe.	A Page.	(On entry of determination of Tenure insert the date here, and run a line through the name of the Tenant John Doe.)	Where any Will has been deposited under Sections 26 or 61.

## MEMORIAL OF TENURE.

The memorial of a *Lease* shall be signed by the Lessor and Lessee and of a *Settlement* by the Settlor and one of the Trustees thereof And the attestation thereof verified upon the oath of one of the attesting witnesses thereto (whose occupation and place of residence shall be stated) taken before any Commissioner of the Supreme Court appointed for taking affidavits.

In case of a *Will* no such verification shall be necessary but the memorial shall state on what day and to whom probate thereof or administration with the Will annexed has been granted by the Supreme Court.

## FORM OF NOTICE TO CAVEATOR.

(See Sect. 44.)

To A.B. of

Take notice that (*name of owner or tenant*) has applied for a transfer of the land (or tenure) mentioned in your caveat of the                      day of  
And that such transfer will be allowed unless you obtain a restraining order or injunction and lodge the same at this office on or before 12 a.m. of the                      day of  
next or unless you show before me sufficient cause for enlarging the time for that purpose.

## VESTING ORDER.

Every vesting order under the 52nd section of the Act shall (unless an immediate sale be requisite for the purpose of satisfying creditors or for particular purposes) contain a direction to the Registrar of Lands to lodge a caveat on behalf of any person who may come in and claim under any will within a given time fixed by the vesting order according to the circumstances of the case. Such time not to exceed                      years from the death of the deceased if he died within the Colony of Victoria or the Colonies of New South Wales, Van Diemen's Land, South Australia, King George's Sound,                      or New Zealand; or                      years if he died abroad.

1857-8.

---

VICTORIA.

---

P E T I T I O N .

---

LOCAL COURT OF MOUNT ARARAT GOLD FIELD.

---

ORDERED BY THE COUNCIL TO BE PRINTED, 19<sup>TH</sup> JANUARY, 1858.

---

TO THE HONORABLE THE LEGISLATIVE COUNCIL OF THE COLONY OF VICTORIA.

The Humble Petition of the Local Court of Mount Ararat Gold Field

SH EW E T H—

1. That your Petitioners view with deep concern the miseries and privations to which the Miners of this Gold Field are reduced, owing in a great measure to the impossibility of obtaining a proper quantity of vegetable food; the high prices of imported food, the instability of mining operations, and the compulsory idleness or unremunerative employment of a large portion of the population,—causes which, united, produce an amount of social wretchedness and physical suffering painful to witness and impossible to be borne, which force a large proportion of honest and industrious men into semi-starvation, or into debt; which retain women and children in the midst of scenes, and subject to influences destructive alike to domestic happiness, to social standing and respectability, and to religious aspirations, which prescribe a wandering life to the miner, render business unsafe, and the investment of capital in merchandize a mere lottery, and which open as the only outlet for capital a business whose very success depends upon the demoralization of the people, and whose profits are too frequently the price of virtue.

2. That your Petitioners see around them thousands of acres of arable land, the common property of the people; land which is producing nothing, but capable of supplying a large proportion of the material wants of the population of this most important district; wants which we blush to say are in part supplied by a class of people similarly engaged in California, capable also of furnishing thousands of homes to the miners removed from the debasing scenes and influences already alluded to, yet within reasonable distances of the seat of mining operations, and calculated, under judicious arrangements, to absorb and profitably employ a very large population.

3. That your Petitioners pray that your Honorable House, taking these earnest and truthful representations into your most serious consideration, will be pleased to authorize the Local Court of Mount Ararat to take without delay such steps as may be deemed necessary to allow every miner in the possession of a miner's right to occupy and to cultivate one acre of the unalienated Crown Lands in this neighborhood, subject only to removal in the event of the land so occupied being required for mining purposes or for sale.

4. That your Petitioners being themselves miners of several years' standing in this Colony, and the local representatives of the merchants and miners on this gold field, and having moreover the welfare of this Colony and the permanent prosperity of Ararat at heart, consider themselves capable of forming a correct opinion on this matter.

Your Petitioners therefore entreat your Honorable House to take those steps which your Honorable House deems best calculated to effect the object of this our humble petition.

HENRY J. SMITH.  
THOMAS McEWAN.  
J. H. PRITCHARD.  
JAMES RD. MURRAY.  
JAMES DWYER.  
JOHN WOOD.  
CH. NYNLASY.  
J. H. SMITH.

---

By Authority: JOHN FERRES, Government Printer, Melbourne.



VICTORIA.



VOTES  
AND  
PROCEEDINGS  
OF THE  
LEGISLATIVE  
COUNCIL.

SESSION.

1857-8.